

COMBATING CORRUPTION IN THE OSCE: THE
LINK BETWEEN SECURITY AND GOOD GOVERN-
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COMBATING CORRUPTION IN THE OSCE REGION: THE LINK BETWEEN SECURITY AND GOOD GOVERNANCE

NOVEMBER 19, 2014

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC.

The hearing was held from 10:02 a.m. to 11:15 a.m. EST in Room SVC 203/202 Capitol Visitor Center, Washington, D.C., Senator Benjamin L. Cardin, Chairman of the Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Benjamin L. Cardin, Chairman, Commission on Security and Cooperation in Europe, Hon. Robert Aderholt, Commissioner, Commission on Security and Cooperation in Europe, Hon. John Boozman, Commissioner, Commission on Security and Cooperation in Europe, and Hon. Sheldon Whitehouse, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Anders Aslund, Senior Fellow, Peterson Institute for International Economics; Dr. Halil Yurdakul Yigitgüden, Co-ordinator of OSCE Economic and Environmental Activities, Organization for Security and Cooperation in Europe; Khadija Ismayilova, Host of “Isden Sonra” (“After Work”), RFE/RL Azerbaijani Service; Shaazka Beyerle, Senior Advisor, International Center on Nonviolent Conflict.

HON. BENJAMIN CARDIN, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. Good morning. Welcome to this hearing of the Helsinki Commission. I particularly want to welcome our witnesses that are here for participating in this very important hearing. Yesterday I had a chance to speak to the Helsinki plus 40 group that was in town from the parliamentary assembly to look at where we need to progress.

At that time, I acknowledge that the Helsinki agreement which will celebrate its 40th anniversary in the next year, has accomplished, I think, much more than was ever thought possible when it was first conceived almost 40 years ago. It has achieved, I think, two basic principles. And that is that good governance and human rights are critically important to stability and growth of a country.

And secondly, the commitments that are made under Helsinki are not just the internal concerns of that country, but are of international concern to those countries that are members of the Helsinki process. So for all those reasons, I think we have been ex-

tremely successful over a 39-year period in bringing about a sea change, not just within the OSCE but also globally.

Today's hearing, I think, is particularly important because it deals with the subject of combatting corruption on the OSCE region, the link between security and good governance. To me, this is the key—an area that has not gotten the same degree of attention as some of the other issues within the OSCE.

It hasn't had quite the attention of the human rights dimension, although we certainly understand that an honest government is a basic right of all the citizens of its country. And it has not gotten the same type of exposure as military security has within the OSCE process. So we very much look forward to the discussion of combatting corruption and how we go about doing it.

Democratic societies function best with a high level of trust in each other and the institutions that underpin democracy. Corruption undermines that trust, and thus undermines the very foundation of democracies. Research has shown a high correlation between failed states and endemic corruption.

That's not to say that every country doesn't have some degree of corruption, including the United States of America. We understand that. But we also understand that those countries that are successful, have in place mechanisms to deal with corruption. They have independent judiciaries, they have a free media that acts as a watchdog against corruption and are committed to dealing with corruption at any level of government.

But unfortunately there are countries within the OSCE that have not made that fundamental commitment. The upheaval and turmoil that we have witnessed over the past couple of years is surely one of the most convincing pieces of evidence that we have to show the link between corruption and security. The spark that lit the fire in Tunisia was a street vendor sick of paying bribes to the police. That's what was the spark in Tunisia.

In Ukraine, the corruption that had plagued that country for decades only intensified recently. And a major component of the Euro-Maidan protests—the revolution of dignity—was the people's disgust with pervasive governmental corruption. With the election of President Poroshenko in May and a new, pro-European parliament elected last month, Ukraine has a real opportunity. While it is not an easy environment given Russia's aggression and de-facto control of parts of Ukraine, some steps have already been taken. But much more needs to be done.

In Russia, corruption and consolidation of power at the center has allowed the Putin government to undermine the legitimacy of its judiciary, silence independent journalists and systematically deprive NGOs of the ability to operate freely.

In Hungary, the U.S. recently announced that six Hungarians were determined to be ineligible to enter the United States under the authority of Presidential Proclamation Number 7750, which makes individuals excludable when there is credible information that those individuals are either engaging in or benefiting from corruption. The head of the Hungarian Tax Authority has publicly stated she is one of the six.

We went to great extremes in the Congress to underscore the individual human rights violations against Sergei Magnitsky and

passed the Magnitsky Act, which made it clear in regards to Russia that we will not allow individuals who have committed gross violations of internationally recognized human rights to visit our country and use our banking system. We did that to underscore our outrage that Russia did not hold those officials accountable—in the Sergei Magnitsky tragedy—accountable for their actions.

But in Hungary, the U.S. administration is using the basic tools it has to exclude individuals from our country that have participated in significant corruption within their own country. There are disturbing trends in Hungary, making it more difficult for civil societies and independent media to report on and combat corruption. This includes the expansion of criminal penalties for defamation using emergency parliamentary procedures and the subsequent threat to use those provisions against those raising concerns about the tax authority and the National Bank.

So we have challenges. And it's not just in one country, two countries and three countries. We have challenges that the OSCE needs to confront. We need to figure out how we can develop the type of strategies that we have in the other baskets in the OSCE within the economic basket as to how we can deal with corruption within the OSCE and be a model for the global community.

With that, I'm pleased that Senator Boozman is here, an active member of the Commission, and I call upon him for any opening comments that he would like to make.

**HON. JOHN BOOZMAN, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. BOOZMAN. Well, I appreciate you holding the hearing, Mr. Chairman, and as you pointed out—and I certainly associate myself with your remarks—the importance of this particular topic. So again, I look forward to the testimony. Thank you very much.

Mr. CARDIN. Well, thank you very much. Again, it's a pleasure to have you here today.

Let me turn to our witnesses. Unfortunately, Ms. Ismayilova is not here. We had invited her to join us today. She's an investigative journalist with Radio Free Europe/Radio Liberty in Baku. She was not able to join us today because of a travel ban imposed on her by the government of Azerbaijan. She has provided a written statement and copies have been distributed and will be made part of our hearing. And we regret that she is not able to join the panel today.

I would like to welcome Dr. Yigitgüden, who has been the coordinator of the OSCE economic and environmental activities since February 2013. He is a former senior Turkish diplomat with extensive experience in the energy sector.

We also have Ms. Beyerle, who is a visiting scholar at the Center for Transatlantic Relations at the School of Advanced International Studies at Johns Hopkins University. She is also a senior adviser with the International Center on Nonviolent Conflict. This year she published a book, "Curtailed Corruption: People Power for Accountability and Justice."

And finally, we have Mr. Åslund, who is the senior fellow at the Peterson Institute for International Economics. He's an expert on

economic policies in Russia, Ukraine and Eastern Europe, and he focuses on the broader implications of economic transition.

The complete bios of all of our witnesses have been distributed and made available to all. And let me start, if I might, with Dr. Yigitgüden.

DR. HALIL YURDAKUL YIGITGÜDEN, CO-ORDINATOR OF OSCE ECONOMIC AND ENVIRONMENTAL ACTIVITIES, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Dr. YIGITGÜDEN. Thank you very much, Mr. Chairman.

Chairman Cardin, Senator Boozman, ladies and gentlemen, it is a pleasure for me to testify today at the U.S. Helsinki Commission to members of the United States Congress. I appreciate the opportunity to be at the U.S. Congress today, and I am privileged to be a part of a hearing on combatting corruption.

Before I continue, may I respectfully ask that my prepared statement, along with the “Information Note on the implementation of the 2012 Dublin Declaration on Strengthening Good Governance and Combatting Corruption, Money Laundering and the Financing of Terrorism” provided earlier to the commission be put into the record?

Mr. CARDIN. Without objection, that report will be put into the record, and without objection, all of the witnesses’ statements will be made part of our record. And you may proceed as you wish.

Dr. YIGITGÜDEN. Thank you very much, Mr. Chairman.

Mr. Chairman, today I testify in front of you in my capacity of the coordinator of OSCE economic and environmental activities. Economic and environmental matters represent an important element of OSCE’s approach to security.

To tackle challenges in this area, my team cooperates on the ground with our current 15 OSCE Field Operations, organizes an annual economic and environmental forum and holds a yearly implementation meeting to assess progress and identify future priorities. The office works closely with the organization’s chairmanship and performs under the guidance of the economic and environmental committee and the secretary-general.

Our activities include anti-money laundering, transport and security, gender-sensitive labor migration, border and customs policies, water management, controlling dangerous waste, climate change, sustainable energy and involving the public in decisions affecting the environment. With other international partners, the OSCE is also an active member of the environment and security initiative.

Today I will concentrate my speech on our work in the area of good governance and combating corruption.

Good governance and transparency affect economic efficiency and growth and thus remain among key elements of the OSCE’s comprehensive approach to security.

The increasing importance of good governance issues requires continuous dialogue. Therefore, adopted in Dublin in 2012 by all participating states of the OSCE, the Declaration on Strengthening Good Governance and Combating Corruption, Money Laundering and the Financing of Terrorism provides the OSCE and my office with a strong mandate. The declaration emphasizes that “good governance at all levels is fundamental to economic growth, political

stability and security.” The document calls upon the OSCE “to continue providing valuable assistance to participating states upon their request, also in sharing among themselves, through the OSCE platform for dialogue, national experiences gained and good practices.”

There is a need to enhance efficiency and transparency of public institutions, implement higher standards of integrity and improve asset declaration systems to identify possible corrupt activities in the OSCE area. I am pleased to note that the OSCE supported training activities to develop increased awareness, professional capacity and knowledge in prevention and repression of corruption and money laundering produced results in 2014. For example, with the assistance of the OSCE, Kyrgyzstan was removed from the Financial Action Task Force grey list.

The OSCE has been selected to chair the newly established Anti-Corruption Working Group in Tajikistan to lead coordination efforts engaging civil society and other public bodies on anti-corruption issues and initiatives. In partnership with the World Bank, we supported towards money laundering and terrorism national risk assessments in Croatia, Montenegro and the former Yugoslav republic of Macedonia this year.

Distinguished members of the commission, money laundering and corruption are interlinked, and oversight and law enforcement authorities must have adequate skills and resources to conduct investigations and prosecutions of these phenomena. Contemporary crimes do not stop at national borders, and cross-border exchange of information becomes essential.

Therefore, one of our flagship events this year was a workshop on cross-border cooperation against corruption and money laundering for government officials from Central Asia, South Caucasus and Eastern Europe that took place in Vienna in early October. The event, co-organized with the United Nations Office on Drugs and Crime and Eurasian Group on Combating Money Laundering and Financing of Terrorism brought together 50 participants from financial intelligence units, anti-corruption and law enforcement agencies, financial institutions and specialized international organizations. Participants and experts discussed links between corruption and money laundering, ways to counter cross-border movements of proceeds of corruption, domestic coordination in identifying, tracing and recovering illicit assets, use of legal persons and other legal arrangements to conceal criminal assets. Participants were also introduced to good practices for the drafting of mutual legal assistance requests as well as the use of regional networks to facilitate co-operation in asset forfeiture and recovery. I would like to express my gratitude to the government of the United States for providing financial support to this event.

The acknowledgement of the negative effects of the lack of appropriate economic governance by the political leaders and policy-makers can be seen in numerous developments in the OSCE area. Therefore, participating states should take advantage of the platform of OSCE offers and its capacity to produce results similar to those mentioned above.

There is a need to enhance transnational cooperation among participating states as well as other international actors in the area

of good governance. We remain convinced that the enhanced efforts should be supported to develop and deliver tailor-made capacity-building activities, to deploy anti-corruption measures, strengthen national financial intelligence units and build additional corruption prevention mechanisms.

Mr. Chairman, by 2015 my office also plans to publish a new OSCE Guide on Combating Corruption. The old one is 10 years old, so we are near to finalizing a new one. It will consist of five parts and 21 chapters written by more than 40 contributors. The OSCE publication is being prepared in close cooperation with the Office of Democratic Institutions and Human Rights, Office of the Special Representative for the Freedom of the Media and major actors in the anti-corruption area, UNODC, OECD, Council of Europe's GRECO group, Anti-Corruption Academy in Vienna and Basel Institute of Governance.

In conclusion, let me assure you that my office, jointly with the OSCE network of field operations and partners, will continue conducting targeted regional and national awareness-raising and training activities. We will also endeavor to mainstream good governance in our other economic and environmental activities by incorporating transparency and anti-corruption elements wherever relevant.

Thank you very much again for the opportunity to serve as a witness at this hearing today. I very much look forward to our discussion and also to our continued cooperation. Thank you very much.

Mr. CARDIN. Thank you for your testimony.

Ms. Beyerle.

**SHAAZKA BEYERLE, SENIOR ADVISOR, INTERNATIONAL
CENTER ON NONVIOLENT CONFLICT**

Ms. BEYERLE. Thank you, Chairman Cardin, for your leadership in drawing attention to corruption, particularly in OSCE participating states. And thank you, Senator Boozman, for coming today and for your interest. I know you both are very busy.

It's an honor to participate in this hearing and to share with you conclusions and recommendations from new research on the positive role of citizens in impacting corruption, including in the OSCE region. It's fitting today that Congress will commemorate the 25th anniversary of the nonviolent Velvet Revolution and will honor the late Vaclav Havel.

Since thousands of jangling keys rang through the air in Prague, citizens continue fighting and impacting corruption and impunity. Around the world and in some OSCE countries, literally millions of people have wielded nonviolent power to gain freedom, freedom from corruption.

The focus of my research is on what civic actors and citizens, exerting their collective power, have been doing to curb corruption as they themselves define it and experience it.

Sixteen cases were documented and analyzed in depth from around the world, including in four OSCE participating states: Bosnia and Herzegovina, Italy, Russia and Turkey.

And recently, as Senator Cardin mentioned, in Hungary, thousands have mobilized against a corrupt, increasingly authoritarian

regime and an Internet tax designed to thwart the free flow of information.

But the good news is that citizens organized in nonviolent campaigns, movements and community initiatives are vital protagonists in combating corruption. And as importantly, these homegrown efforts generally don't require huge amounts of money, nor do they usually need external financial assistance. It's the ingenuity, creativity, resources and voluntary participation of ordinary people that provide the foundation for action. They've achieved notable outcomes, which were summarized in my written testimony.

One example is the Movement to Defend Khimki Forest in Russia, where citizens have stalled the bisection of an old growth state-protected forest from a large highway and illegal development that involves mysterious shell companies around the world and the French firm, Vinci. Both the European Bank for Reconstruction and Development and the European Investment Bank have pulled out of the project, and the Paris prosecutor is now investigating Vinci for financial crimes.

During my research, I asked activists what they need from external actors. They implore the international community, of course including the U.S., EU and OSCE, to look beyond formal NGOs. They say pay attention to and engage directly with civil society organizations and informal civic groups when they visit your countries or seek contact with your diplomatic missions on the ground. We don't need to put them through a convoluted process controlled by NGO gatekeepers to reach you.

Second, threats and repression are the norm rather than the exception. Therefore, protection and solidarity can be critical when activists and their families request it.

Based on my research, allow me to offer these additional recommendations. Some are not new but reinforce good practices underway.

Sometimes civil society initiatives do seek financial assistance, but they want modest amounts for self-organization and capacity-building, not large amounts for formal projects designed by external actors.

Also, the worst thing international actors can do is throw large sums of money at homegrown grassroots civic initiatives or to encourage them to turn into formal conventional NGOs. They don't need that to succeed.

When it's wanted, provide legal and technical support and access to information that civil society may not be able to acquire in their own countries.

A third recommendation is—where censorship and intimidation are rife—amplify civil society voices by supporting their online information and news outlets, alternative satellite television programming and multilingual international outlets such as Radio Free Europe and Radio Liberty. The bill that's now in the Senate to revamp Radio Free Europe and Radio Liberty is exactly the kind of measure that's valuable.

Fourth, use top-down multilateral approaches, such as the United Nations Convention Against Corruption, and democratic mechanisms, in third party countries, such as our own, to support civil society movements and campaigns targeting corruption and

impunity—for example, the aforementioned Paris prosecutor investigation of Vinci and congressional hearings such as the one we are having today.

Lastly, please target global financial corruption. Legislative and institutional measures to curb illicit financial transactions and the conversion of ill-gotten gains into legitimate businesses and properties can disrupt systems of corruption that civil society is fighting in OSCE participating states. I've heard voices from civil society herald the Magnitsky Act. I'd like to thank you, Senator Cardin, and also Senator John McCain, for your efforts to extend the law's reach through the Global Magnitsky Human Rights Accountability Act. And I'd like to share with you that I was present when Sergei Magnitsky's mother, Natalia, received the 2011 Transparency International Integrity Award given to her son after his death. And I will never forget the sorrow that was etched in her face when she came up to the stage to receive the award.

In conclusion, allow me to share a few lessons from this research. First, citizens bring a missing component to the anti-corruption struggle. They bring extrainstitutional pressure to push for change when power holders are corrupt and are unaccountable, and when institutional channels are blocked or ineffective.

Second, traditional top-down approaches are based on a flawed assumption that once anti-corruption structures are put into place, illicit practices will naturally change. But as we know and as we see, unfortunately, that's not always the case. Indeed, how can we expect those benefiting from corruption within institutions to be the ones to curb it?

A third conclusion from my research is that top-down and bottom-up approaches are complementary and definitely not mutually exclusive. Both are needed, and they create valuable synergies.

Lastly, citizens don't fight corruption in the abstract. They do so to overcome poor unaccountable governance, poverty, displacement, organized crime and other forms of oppression and injustice. We can learn from their approach.

In closing, allow me to pay tribute to the leaders, organizers and regular citizens who courageously and creatively are curbing corruption and abuse, one of whom is in the room today from Bosnia and Herzegovina, Srdjan Blagovcanin. They prove that while corruption brings out the worst in people, fighting corruption can bring out the best. Thank you for your attention, and I look forward to your questions.

Mr. CARDIN. Well, thank you very much for your testimony.

Mr. Åslund.

**ANDERS ÅSLUND, SENIOR FELLOW, PETERSON INSTITUTE
FOR INTERNATIONAL ECONOMICS**

Mr. ÅSLUND. Thank you very much, Mr. Chairman, Senators Boozman, Whitehouse. Thank you very much for this opportunity for me to speak on what I consider a very important topic: corruption in Ukraine and how we can defeat it. And my message to you is that it can be done, but it has to be done now (hard and fast) by the new government.

Ukraine today is in a triple crisis. The worst is of course the military aggression from Russia, and that has caused an aggravation

of the financial crisis, but the underlying crisis in Ukraine is its old internal enemy, that is corruption, and that's what I'm going to talk about today. But all these threats need to be fought at once, and Ukraine needs all the international support it can get.

Your words about the importance of good governance today, Mr. Chairman, ring very true with regard to national security for Ukraine. They all go together. Ukraine would not be in this national security crisis without its severe corruption.

Ukraine ranks 144 out of 177 on Transparency International corruption perception index so this is a profoundly corrupt country. The corruption really reached its peak under President Viktor Yanukovich, and indeed, the corruption, together with repression, were important reasons why he was ousted.

The fight against corruption must start at home, and it must start from the top and with a political cleansing of the top. And this process started, as you mentioned, on October 26 when Ukraine elected a new government which has a solid reform majority. Among these 423 new deputies, most are new deputies. They have not been in the old, rather corrupt situation before.

Many, a few dozen of the new deputies are anti-corruption activists. These are not likely to be silenced or bribed. But the new parliament which is soon to convene, it needs now to form a new coalition government, and it should start to act both against the financial crisis and against corruption.

After the politics comes the state. Ukraine's public service is widely considered pervasively corrupt. Cleansing Ukraine from its corruption will require several interrelated measures, and Estonia and Georgia show how you clean up the government.

To begin with, the state needs to reduce its regulatory role by abolishing a lot of old Soviet regulations which have now just been used for extortion. The deputy prime minister, Volodymyr Groisman, said recently that Ukraine has 80 different inspectorates controlling organs and controlling departments, and he argued that at least 60 should be closed down. These organs do not work in order to improve regulation of a state, but they are organs in order to extort money from the citizens and repress them as well.

Minimizing state interference in the economy, whether by privatizing state-owned assets or cutting regulations, reduces opportunities for corruption. In October, Ukraine adopted a law on lustration. It scrutinizes top officials which have served in high positions in corrupt agencies. This entails the creation of an independent commission to scrutinize all top judges and prosecutors in Ukraine because you can't have an independent judiciary that is independently corrupt. It has to be cleaned out from outside.

Since the early 1990s, all the truly rich in Ukraine made their money on gas trade. It functions like this: you buy gas at a low state-controlled price and you sell it currently at a 12 times higher price. In that way, a few billion dollars are made by very few people each year in Ukraine. There's one way of solving it: unify the energy prices. The common objection is that this will have social costs, but give compensation to the poor for the social costs, (real cash compensation); the World Bank is very skillful at doing this. They've done so in more than 30 countries, notably in Latin America, where administration is often worse than in Ukraine. So this

is possible, and it has to be done. This is not a matter of social cost. It's a matter of fighting corruption, because the people that control the gas trade have normally owned Ukrainian politics.

Another source of major corruption is public procurement. The general perception under Yanukovich was that 50 percent was a normal kickback for a public contract. The government officials now say that 20 percent of all public contracts were stolen, which sounds low, but that would be 2 percent of GDP. What is needed is a law on public procurement that it be open and transparent. Such a law has been adopted, and it is important that the new government really implements it.

Of course, the tax system is another major source of corruption. The tax police have been the most repressive organ in Ukraine. A lot of changes need to be done in the tax system to clean it up, simplify it, in particular, abolish the tax police. Taxation should not be a matter of repression. It should be transparent and legal.

Coming to the international side, there are two things that are important. One is the association agreement with the European Union, which is a document of nearly 3,000 pages. It's a laundry list of reform laws that Ukraine needs to adopt. And the European Union is offering technical assistance to get that done. The Ukrainian people have made a choice for Europe, and if they stick with it and pursue reform with determination, they have the best chance to clean out the Augean stables of a long-corrupt system.

The other international organization that plays a major role in Ukraine is International Monetary Fund. So far, it's mainly IMF demands that have done away with corrupt practices such as the strong demand for a decent procurement law. And of course, the United States is the biggest shareholder in the IMF. The United States also engages directly in Ukraine through bilateral assistance, through USAID. It rightly engages in Ukraine's energy reforms, which, as I've mentioned, will be crucial for controlling top-level corruption in Ukraine, and on top of that, improve state finances and energy efficiency and national security.

So my final words are that the United States has a major interest in the economic and legal success of a democratic and friendly Ukraine, and the United States can do a great deal in this regard. Thank you, Mr. Chairman.

Mr. CARDIN. Thanks. Let me thank you very much for your testimony. We've been joined by Senator Whitehouse—it's nice to have him here—and Congressman Aderholt, who is vice president of the parliamentary assembly. So it's good to have our colleagues here, and I thank Senator Boozman for his being here. I know he has the Veterans Committee that's meeting, so thank you for your attention.

I want to comment first, Mr. Åslund, on your point about Ukraine. I was at the Millennium Challenge Corporation's celebration last night of its 10th anniversary. It's a development assistance program that we have in the United States which is pretty consequential. There's significant funds that are made available to try to deal with poverty through economic growth in countries around the world.

But a precondition is that the country must have in place the mechanisms to deal with corruption and good governance. And it's

a competitive fund and the funds are not made available unless we in fact move forward on that. And it has had great success. It's known in our country as one of the most transparent agencies in government. It's consistently ranked number one in that regard.

I'd contrast that to what the United States has done in Iraq. We made substantial funds available for economic growth and saw so much of that siphoned off in corruption and corrupt governance. So you've given a—I thought a very strong list of benchmarks that must be achieved in Ukraine for it to be successful, and that we all are very much engaged in stopping Russia's incursions into Ukraine and doing what we can to help the Ukrainian people be able to maintain an independent country.

We are very much engaged in dealing with their economic needs on the international front. But it seems to me that there has to be a very open, transparent process in Ukraine, and benchmarks and accountability. And that we're not doing the people of the Ukraine any favor if the current changes end like the Orange Revolution ended, without progress being made. So how do we go about setting up that system of accountability and benchmarks so that, in fact, Ukraine—the people of Ukraine at the end of the day will not only have an independent country that is safe from the incursions of Russia, but also one that has good governance so that their people can share the wealth of their country in a fair manner?

Mr. ASLUND. Thank you. This is very much the key question, Mr. Chairman. And my answer to this is what Ukraine needs to do a lot from top down to, front-load the program, do all these major things that can be done straightaway immediately. And to this, we have a problem with the finances. Ukraine now is running out of international reserves. The exchange rate is plummeting. Inflation is rising. The banks are collapsing because of that. At least half of the banks are in fact bankrupt and need to be closed down or recapitalized.

So in this situation you really need to do away with everything that is corrupt on the state budget—clean it out altogether. Otherwise, Ukraine will be in a financial meltdown within, say, four months. So it's really critical. So therefore, Ukraine doesn't have time. The United States, as one of the closest countries to Ukraine, needs to say: You do it now, otherwise you are cooked.

Mr. CARDIN. Dr. Yigitgüden, can you tell us whether—how you're working within Ukraine to deal with following up on some of the points that Mr. Aslund mentioned?

Dr. YIGITGÜDEN. Mr. Chairman, we were continuously contacting the Ukrainian delegation in Vienna at OSCE and Ukraine authorities and our presence in Kiev. Finally, after three visits to the site, meeting with the authorities with the ministry of justice, ministry of interior and the financial intelligence units, we could design a program to work with the Ukrainian authorities. I must say, we are very thankful for the United States; the different agencies from the United States are working closely with the Ukrainian authorities on asset recovery issues. This is very helpful for the government.

And we designed upon their request a project on anti-money laundering and combatting financing of terrorism field. With our presence in Ukraine, we will be assisting the state financial moni-

toring service of Ukraine—this is their financial intelligence unit—in designing and launching a national system for national risk assessments. This system would assist the Ukrainian financial intelligence unit and other relevant government agencies in identifying, assessing and understanding money laundering risks and enhanced capacities for the implementation and the development of national anti-money-laundering and counterterrorism financing regime.

The project will gather national and international experts, forming an expert group that will collect and analyze data for the national risk assessment, covering main financial sectors of the national economy like banking, insurance, stock exchange, et cetera. It will also review, analyze and provide recommendations to design and amend relevant laws, regulations and set parameters to enforce measures to mitigate money laundering and terrorism financing risks.

Key beneficiaries of this project will be the state financial monitoring service of Ukraine and the state training institution for experts on financing monitoring. This morning I received an email that we got a request from Ukrainian side. They want to study the system in Lithuania. So from 1st till 5th of December, we will bring them together with the Ukrainian authorities to work on this field, to learn from their experiences. And we will continue next year to work with the Ukrainian authorities.

Mr. CARDIN. I think that's very helpful. And I applaud your efforts. I think it would be very useful for you to make available to the OSCE community the progress that Ukraine is making on the points that were brought out in Mr. Aslund's testimony. What are they doing about regulatory reforms? What are they doing about procurement and state-owned enterprises, the independence of a judiciary free of corruption? What are they doing about energy sector reform? What are they doing about their tax system?

I think all those are obvious areas that breed corruption. And the solutions may be difficult to achieve politically, but we know that they need to progress toward doing that. So I think the more transparency that we show on that, I could just tell you that, speaking as this senator, we're going to help the Ukrainian people, but we're not going to provide funds that are being used for corruption. And sometimes you have to make some tough decisions if the money isn't getting to where it's intended. So advertising the progress on these fronts, I think, would be extremely helpful to us.

I want to ask one other question if I might, to Ms. Beyerle. You mentioned civil societies, which I think are critically important here, and how we finance civil societies. We have just completed the Berlin plus 10, dealing with anti-Semitism. Ten years ago there was a conference in Berlin that dealt with the challenges in anti-Semitism and an action plan was developed. And as I understand it, the final statement by the chair in office indicated that we must show more economic and political support for civil societies in fighting intolerance and anti-Semitism.

And it seems to me the same challenge is here in corruption, that we do need to do a more effective job in supporting the work done by civil societies. Do you have some specific suggestions as to what the OSCE could do in adding to the strength of the role of civil societies in fighting corruption?

Ms. BEYERLE. Thank you. I do know that the OSCE engages with civil society and that various NGOs can be accredited to be a part of some of the meetings with member state participating countries. And I know that they interact with civil society on the ground in countries and they conduct things like integrity trainings for officials in countries. But my recommendations are really simple, and not very expensive. I would urge the missions on the ground to engage more actively with civil society organizations that are not traditional NGOs, to engage with civic groups that are mobilizing citizens together, to involve them in activities that they do, to give them access to meet with officials who are coming from the OSCE itself, to monitor their status when they face harassment and intimidation. These are the kinds of things that are helpful.

Other things that could be interesting—and Dr. Yigitgüden would be able to answer if it's possible within the parameters of the OSCE, but I do think there is a way to do it—is to encourage more civil society peer exchanges. For example, it was mentioned that there is a plan to bring Ukrainian officials to Lithuania to meet their counterparts at the government level, to learn from their counterparts in Lithuania. That can also be very important at the civil society level. Peer-to-peer exchanges, bring people who are active—who are actively fighting corruption on the ground together from different countries within the OSCE and even with people who have successfully impacted corruption outside the OSCE—to share their experiences and insights.

So in addition, I would suggest—and again, this could be something for the OSCE and other external actors—is to work with civil society groups to produce anti-corruption mechanisms—in which they have provided input. There is a notion that we have in the people power realm of collective responsibility. And we need to bring in to deliberations about what should be done, for example, to reform government ministries—to bring in voices from the citizenry can be very important because they actually have the insights about how corruption functions within a government ministry, or within a government office. They actually have good ideas and good suggestions about how to address it, how to disrupt it. And they actually can play a role, for example, through monitoring of activities that tend to be corrupt.

So I'll leave it at that and I would be happy to discuss it further later.

Mr. CARDIN. Well, thank you very much. Senator Whitehouse.

**HON. SHELDON WHITEHOUSE, COMMISSIONER, COMMISSION
ON SECURITY AND COOPERATION IN EUROPE**

Mr. WHITEHOUSE. I'm a former prosecutor. I was the attorney general of my state. And I was the United States attorney, the federal prosecutor for my state. And in addition to the importance of an independent and incorruptible judiciary, it's, to me, equally important that there be prosecutive capabilities so that the independent and honest judiciary have cases before them to work on. That does not seem to be a skill set that has been very well maintained in the Ukraine. It's a skill set that doesn't last very well in corrupt political environments. It's the antithesis, frankly, to a corrupt political environment.

So rebuilding that prosecutive capability seems to me vital. In that regard, both the National Association of Attorneys General and the National District Attorneys Association and the United States Department of Justice have very considerable assets of experience and capability in that area. And I've spoken to those organizations about trying to get more involved specifically in the Ukraine. I think they offer a couple of things. The first they offer is added resources, training, mentorship and so forth.

They also add a bit of a defense, I guess I'd say, against efforts to have the corruption world intrude into and force its effects into these types of decisions, not because—just to use the example of the Ukraine—not just because the Ukrainian prosecutors won't be as honest as any other prosecutor, but because it gives them an additional tool in their arsenal to say, well, you know, I just can't buckle on this because we've got all these folks from out of the country watching and you have to understand that that's just the way it is right now. And I think that gives a boost from anticorruption efforts.

So I would urge that we continue to try to seek the support of what's called NAAG, the National Association of Attorneys General, the NDAA and the Department of Justice in putting that kind of resources in place, on location, in the offices, both to develop the capability and to provide a counterpoint, I guess I'd say, to people who are saying quietly to somebody, you know, you're getting too excited about this. This is, you know, really something that you needn't be looking into so much. And if you really want to protect your budget and your people, you know, I think you'd be making a mistake to concentrate so many of your resources in this case, blah, blah, blah.

That's the way in which the corruption force works its will against prosecutors. And if they're in a position to say, you know, I appreciate that but I've got an office full of people who are going to blow the whistle on it if we try. And it's—don't blame me. This is just the situation we all live in. I think that hardens up the prosecutive capability. So I'd love to hear your thoughts on that and happy to support.

Rhode Island is one of the few states—there are three of them—in which the attorney general is also the district attorney. So we did all of the criminal prosecutions, all the felony prosecutions, most of the misdemeanor prosecutors—everything that wasn't a municipal offense. And so I'm one of the rare people who has actually been a member of the NDAA and the National Association of Attorney Generals and a former U.S. attorney. So I'm very happy to work with you to try to make sure we're steering the resources in that direction. I think it's very important and I'd love to help. So your comments to that.

Mr. ASLUND. Thank you. I presume that's for me. Thank you very much, Senator Whitehouse. I think that this is really critical. As happens now in Ukraine, hardly any of the Yanukovich gang has been properly prosecuted. Who is most easy to pay off? You can guess. The prosecutors have massive power. The best way for them to make money is not to pursue a case. Of course, there might be something that is missing in the case, we don't know, but it's very remarkable none of them has been properly prosecuted.

Ukraine has 10,000 prosecutors, 20,000 judges. Probably both numbers should be halved. It's a very large number if you compare with any Western country. What's important is that they become decent and honest, because this is a pervasively corrupt institution. The top prosecutors appoint the lower prosecutors. Since the top prosecutors have been corrupt for a long time, they make sure that they don't get any unnecessarily honest prosecutors around them.

So therefore, what you need to do is to take out the top. This is what the governing is doing through the new law on lustration. It has sacked approximately 100 top prosecutors. That's where we need to start. Then what you said here, another element is to get the international assistance in that you need to have an international council that assesses prosecutors. It's pretty easy to see if people are corrupt or not in these cases.

This is what East Germany did. They went through all the judges and all the prosecutors. They undertook a complete lustration of the civil service. Ukraine needs to do that, particularly in these two areas—prosecutors and judges. It's not only technical assistance. You really need to have peer-controlled over appointments. There are a lot of Ukrainian-speaking judges in North America, in Canada and the United States. This is a good resource the U.S. and Canada can draw on.

And there are lots—there are thousands of young lawyers in Ukraine who are disgusted by what they see. They have primarily gone into the private sector, to commercial law, in order to avoid being drawn into the dirty legal system. They know the laws. They know how to work as lawyers. So there is a resource. These are the people who should be brought in, but then, of course, they have to be properly paid, and if you make them much fewer, then you could get it done, and this is critical that the United States can help with technical assistance in this area.

Mr. WHITEHOUSE. Well, thank you, and let me thank Chairman Cardin for his leadership in this commission. He's very active, and perhaps this is an issue we could put on our commission docket as something to consider how we can encourage NAAG and (DAA ?) and the Department of Justice to work together to help support this kind of activity, particularly in the Ukraine, but wherever it's a problem.

Mr. CARDIN. Well, let me just thank Senator Whitehouse for that suggestion. We make significant resources available here, and I think perhaps one of the most valuable things we could do is provide the technical assistance, but also the oversight for accountability. I must tell you, we are not going to be too patient on seeing progress made to deal with corruption, nor will the people of Ukraine be too patient here. They have a history of taking things into their own hands in the streets if they're not satisfied about what is happening. So I think it's important that we do that, and I think you're absolutely right. We have the capacity to really help them understand what needs to be done, but just as importantly, evaluate as progress is being made as to whether they're achieving that or not.

Congressman Aderholt.

**HON. ROBERT ADERHOLT, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. ADERHOLT. Thank you, Mr. Chairman. Mr. Åslund, let me just go back to what you were saying about the number of prosecutors and judges in Ukraine. That was—you said 10,000 prosecutors, 20,000 judges?

Mr. ASLUND. Yeah.

Mr. ADERHOLT. Which you said, by Western standards, would be quite high. What contributed to that, and were they given out as just positions that just—sort of give you a little history about that? How that happened or came about?

Mr. ASLUND. Well, it's the old Soviet system. If you look up on the police force, Ukraine has 300,000 policemen. Britain, which is substantially larger, has 120,000 policemen. Part of it is that the Soviet Union, as a share of the population, had the largest number of jail mates—prisoners in the world. The U.S. is also high in this regard, but the Soviet Union was higher. And therefore, you had an overcapacity. The Soviet Union had a murder rate that was the same as in the United States—at the peak, around 1990, of eight, nine murders per 100,000 population. So it was very high, and it hasn't been cleaned up. So this is largely a Soviet inheritance.

Mr. ADERHOLT. So it's a holdover from the Soviet days?

Mr. ASLUND. Yeah.

Mr. ADERHOLT. Of course, as I'm sure you know, President Poroshenko spoke at a joint session of Congress just a few months ago here in Washington, and we very much appreciated his coming and speaking to the joint session. One of the things that would be interesting, as far as President Poroshenko and the prime minister—you know, how committed, in your opinion—and I'll open this up to any on the panel—do you think that they truly are to fighting corruption?

Mr. ASLUND. I do think that they are committed, but they always have other interests. They are both highly competent, and it was a wonderful speech that President Poroshenko gave here to the joint session of Congress, but the truth of the pudding is in the eating. We have to see that they really deliver. In order to be in politics, you have to consider many interests, and the question is how you manage to do it well.

Mr. ADERHOLT. You'd put them on a scale quite high as their—you think they're committed to it. Of course, what happens is another question, but as far as their commitment at this point—you see as—you see them as quite committed?

Mr. ASLUND. Knock wood, that's my view.

Mr. ADERHOLT. Yeah. Any assessment from the other—

Mr. YIGITGÜDEN. I would say there are two ways to fight against corruption. One, to work closely to train prosecutors, financial intelligence units, Ministry of Interior officials and so on. On the other side, to make the legislation simple and understandable for every citizen. Citizens, they don't understand the complexity of legislations. Sometimes, they are, I would say—may be exaggerated—happy to pay bribes to achieve something, to get something, because it's sheer impossible for them to go to—to this difficult legislation, so we should encourage countries in this regard—EU should

play a role to simplify legislations in this region that the people can understand, and it's no room for corruption there.

This will be a best way. We are trying to mainstream our activities, not only working with the authorities fighting against corruption and anti-money-laundering, but also in other areas. We work in the field of customs and transportation trade facilitation with our (booklet?); we organize trainings with best practices from 200 best practices from all over the world. How the customs procedures can be simplified that trade can be facilitated much faster, and there is less space for corruption in customs areas.

Similarly, in the environmental field environmental good governance via the huge network of Aarhus centers, we are increasing the awareness of the ordinary citizens how they can access to the information in the environmental decision-making process, whether the authorities there are corrupt and they give, say, permission without consulting with the population. I think we need to mainstream all activities in all areas that the citizens are aware, first of all, about their rights, and secondly, they have a simple legislation, simple rules that they can understand, and there is no room for corruption. Thank you.

Mr. CARDIN. Thank you. Ms. Beyerle.

Ms. BEYERLE. Thank you. I would second what my two co-panelists said and provide an example. Ukraine and other countries may now face the opportunity—and it's a good opportunity—to change, revamp, reform laws on the books. And laws can be complicated, as was mentioned, or they can be simple. They can also be user-friendly to citizens, or they can prevent or be obstacles to citizens using the laws. So a key law—for example, is the right to information or freedom of information, as we call it in the United States.

The laws can be convoluted, or they can be something that anyone can use. And when it's something that anyone can use, this becomes a tool, a weapon that society can use to fight corruption. And these kinds of activities are what reinforce the top-down efforts that have been described today. So, for example, in India, the Right to Information Act was actually developed through constitutional lawyers and legal experts from civil society, and after a 10-year movement—social movement—it was passed. It is one of the strongest freedoms of information acts in the entire world, and there is now a movement in India—the 5th Pillar movement—training and encouraging citizens to use this on a daily basis to actually thwart corruption that they face in their daily lives.

The corruption that's manifested from the activities that the panelists have discussed—for example, corrupt judges, corrupt judicial systems, corrupt bureaucracies; all go hand-in-hand. Consultation with experts and grass-roots leaders from civil society can provide a different perspective that can be built into the top-down changes that are being developed.

Mr. ASLUND. Sorry—may I add here, many laws have been adopted recently in Ukraine. In the spring, there was the adoption of freedom of information act. In October, last month, a package of anti-corruption laws was adopted. That includes electronic registers for all enterprises. Most big enterprises in Ukraine are owned by anonymous offshore companies, so their real owners are not formally known. That's also true of real estate and property that you

don't know actually who owns it, and now they are demanding to have registers, electronic registers that would be publicly available to everybody. The very important law on prosecution was finally adopted. This was what Viktor Yanukovich was not prepared to accept because in the old Soviet system, the prosecutor was superior to the judge, so the prosecutor could until now go in and change a verdict of the court, which is just the old Soviet system.

And—let's see. What else? Yeah, and of course, law on money laundering has also been adopted every much because of demands from the international community. Also a law on an anti-corruption bureau which has special rights to go after top officials that appear to be corrupt, which several other post-Communist countries have done to clean up because the prosecutors cannot be trusted to deal with top officials. Thank you.

Mr. ADERHOLT. Thank you, Mr. Chairman.

Mr. CARDIN. Let me make an observation, and that is that this hearing has been extremely helpful, and I thank all three of our witnesses for their—for their testimony and more importantly for your contributions to this—to this area. I remember during the early days of our discussions on trafficking in this commission, this commission took up this issue many years ago. And we knew that every country needed to improve, but there were some countries that were problematic in dealing with trafficking. And it took a long time, but we were able to obtain I think objective standards for evaluation. And of course, the United States Congress passed the Trafficking in Persons report, which evaluated the progress being made in every country, including the United States, and pointed out progress where it could be continued, but then established different tiers with consequences if you don't at least reach certain tiers of progress.

I think we need the same effort with corruption. I thought the testimony today has laid out some fundamentals that are—need to be in a country in order to have acceptable institutional protections against corruption—the independent judiciary and prosecutors, or laws on how government deals with procurement, and there are others that may not be present in Ukraine which are pretty clear are necessary in order to have the protections against corruption. And as I said, every country can improve, including the United States. We understand that. So I think such an evaluation might be very, very helpful.

Part of that, of course, is having an independent judiciary and allowing investigative journalists. And once again, I regret that Ms. Ismayilova is not here. Azerbaijan is a friend of the United States. We have a very close relationship on many issues. And I would just urge Azerbaijan to understand the importance of protecting independent journalists and allow independent journalists to be able to carry out their work, and Azerbaijan will be a stronger country as a result of those types of activities. I think that's an important point for us to mention. We have the ministerial meeting coming up in December in Basel. We'll have a transition between the Swiss chair in office and the Serbian chair in office. And I just hope that we would be more visionary as to how we want to elevate the work on this subject, and we look forward to working with you, doctor,

as to how we can underscore that importance and continued ability, the institutional presence in that regard.

I've been informed by staff that Canada this week will be considering a transparency issue in regards to extractive minerals. As you know, we passed a transparency provision here in the United States. Europe has also acted on transparency. When Ms. Beyerle, you mentioned the sources of corruption, we know that trafficking is a source of funds for corruption in organized crime. We know that corruption on the use of the minerals of a country and supporting a corrupt government's sources of corruption, we know illicit drugs and illicit arms, all these are sources that fund corruption. And as Mr. Aslund's pointed out, unfortunately, public service in some countries is a source of corruption.

So I think all this gives us a way to really elevate this issue to a much more important area. And bottom line, it deals with the same principles of Helsinki, OSCE, the security of our country is based upon stable countries around the world, and you can't have stable countries if you don't have good governance; you can't have good governance if you have corruption.

Senator Whitehouse.

Mr. WHITEHOUSE. I'm good.

Mr. CARDIN. Thank you all very much for your contribution.

Mr. WHITEHOUSE. Appreciate this very much.

Mr. CARDIN. Appreciate it very much.

APPENDIX

PREPARED STATEMENTS

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, CHAIRMAN, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

Good morning and welcome to this hearing of the Commission on Security and Cooperation in Europe. We have a panel of distinguished witnesses with us today to discuss combating corruption in the OSCE Region and the link between security and good governance.

Combating corruption may be the most important task we face today.

Democratic societies function based on a high level of trust in each other and the institutions that underpin democracies. Corruption undermines that trust, and thus undermines the very foundation of democracies. Research has shown a high level of correlation between failed states and endemic corruption.

That's not to say we don't have corruption in democracies. We do. But the level of corruption is not as high and having strong institutions such as an independent judiciary and an independent media are integral to keeping corruption in check.

The upheaval and turmoil that we have witnessed over the past couple of years is surely one of the most convincing pieces of evidence that we have to show the link between corruption and security. The spark that lit the fire in Tunisia was a street vendor sick of paying bribes to the police.

In Ukraine, the corruption which has plagued that country for decades only intensified during the regime of Viktor Yanukovich. A major component of the Euro-Maidan protests—the “revolution for dignity”—was the people's disgust with pervasive governmental corruption. With the election of President Poroshenko in May and a new, pro-European parliament elected last month, Ukraine has a real opportunity. While it is not an easy environment given Russia's aggression and de-facto control of parts of Ukraine, some steps have already been taken, but much more needs to be done.

In Russia, corruption and consolidation of power at the center has allowed Putin's government to undermine the legitimacy of its judiciary, silence independent journalists and systematically deprive NGOs of the ability to operate freely.

In Hungary, the U.S. recently announced that six Hungarians were determined to be ineligible to enter the United States under the authority of Presidential Proclamation Number 7750 which makes individuals excludable when there is credible information that those individuals are either engaging in or benefiting from corruption. The head of the Hungarian Tax Authority has publicly stated she is one of the six.

This is clearly an exceptional measure and I'm sure not undertaken lightly. On the contrary, I believe, this reflects on other developments which have made it more difficult for civil society and independent media to report on and combat corruption. This includes the expansion of criminal penalties for defamation using “emergency” parliamentary procedures and the subsequent threat to use those provisions against those raising concerns about the Tax Authority and the National Bank.

I'd like to turn now to our witnesses for their contribution. Unfortunately Khadija Ismayilova, an investigative journalist with Radio Free Europe/Radio Liberty in Baku, was not able to join us today because of a travel ban imposed on her by the Government of Azerbaijan. She has provided a written statement and copies have been distributed. We regret that she is not able to join us here for the hearing.

I'd like to welcome Dr. Halil Yurdakul Yigitgüden, who has been the Co-ordinator of OSCE Economic and Environmental Activities since February 2013. He is a former senior Turkish diplomat with extensive experience in the energy sector.

Next is Ms. Shaazka Beyerle, who is a visiting scholar at the Center for Transatlantic Relations at the School of Advanced International Studies at Johns Hopkins University. She is also a Senior Advisor with the International Center on Non-violent Conflict. This year she published a book, “Curtailed Corruption: People Power for Accountability and Justice.”

Finally, Mr. Anders Aslund is Senior Fellow at the Peterson Institute for International Economics. He is an expert on economic policies in Russia, Ukraine, and Eastern Europe, and he focuses on the broader implications of economic transition.

PREPARED STATEMENT OF HON. CHRISTOPHER SMITH, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Thank you, Mr. Chairman, and to everyone joining us this morning. Combating corruption has been a priority of this Commission almost since its inception, and I am delighted that we are spending some time today with the OSCE Economic Coordinator and our other witnesses to further our understanding of this important topic.

Corruption in the public sector fuels many of the ills that plague OSCE states—among them is certainly trafficking in human beings. In case after case after case, we have seen examples that show corruption was responsible for the border guard turning a blind eye to the victim, and was responsible for police colluding with traffickers to thwart a rescue, and was responsible for the prosecutor refusing to bring charges against a trafficker.

I have been fighting human trafficking for over fifteen years and am the author of the landmark United States' Trafficking Victims Protection Act of 2000, and its 2003 and 2005 reauthorizations. These laws created a bold new strategy that included sheltering, asylum and other protections for the victims, long jail sentences and asset confiscation for the traffickers, and tough sanctions for governments that fail to meet minimum standards. They also created the annual Trafficking in Persons Report, which evaluates nearly every country's progress toward achieving the minimum standards to eliminate trafficking over the previous year.

We have seen enormous progress in so many countries, but fighting corruption remains one of the most difficult—and critical—aspects of combatting human trafficking. Victims need to know that if they come forward, or if they share their stories with prosecutors after rescue, they will be safe and justice will be done. Corrupt government officials need to know that no one is above the law and that their crime of exploiting those they are supposed to protect will not go unpunished.

No country is immune to corruption, including our own. Just this year in Washington, D.C., two policemen were caught in separate instances of human trafficking. One, sadly, took his own life before trial. The other was sentenced to 7 years in prison, with 10 years of supervision after release.

While we all hope that our governments and law enforcement are free of corruption, a lack of prosecutions for corruption can be a bad sign. Ukraine is at a turning point in many respects, not the least of which is whether it will ensure that its public servants are in office to serve the country, rather than their own prurient interests. Ukraine is to be commended for making anti-corruption legislation, which was adopted in October, a priority for the new parliament.

As Dr. Mark Galeotti's¹ research has recently indicated, Russian criminal networks have moved in to take advantage of Crimean port of Sevastopol and the influx of \$4.5 billion in development funds from Russia. Many are concerned that Crimea will become an international center of organized crime. While we must do nothing that implies recognition of Russia's illegal occupation of Crimea, we should do everything we can to hold Russia responsible for any smuggling and trafficking in Crimea—and anything we can to stop it.

¹*Professor of Global Affairs at New York University's School of Professional Studies—Center for Global Affairs* (http://www.vice.com/en_ca/read/how-the-invasion-of-ukraine-is-shaking-up-the-global-crime-scene-1106).

PREPARED STATEMENT OF ANDERS ÅSLUND

Mr. Chairman, I would like to thank you for this opportunity to speak on an important topic, how the new Ukrainian government can fight corruption. At present, Ukraine faces three imminent threats. The greatest threat is of course Russian military aggression. As a consequence of this war, Ukraine is in a horrendous financial crisis, but it also needs to deal with its old internal enemy, corruption. All these three threats need to be fought at once, and Ukraine needs all the international support it can get.

Ukraine is pervasively corrupt. Transparency International ranks Ukraine 144 out of 177 countries on its corruption-perception index. Corruption was at the heart of popular discontent with the deposed regime of former President Viktor Yanukovich, and widespread graft helps explain why the economy stalled in 2012 and 2013. Kiev must tackle this problem urgently.

The scale of the alleged graft under the previous administration is breathtaking. Prime Minister Arseniy Yatsenyuk has accused the Yanukovich regime of stealing \$37 billion from the state—equal to one-fifth of Ukraine's GDP in 2013—during its four years in power. The ouster of Yanukovich in February has created an opportunity to confront corruption in Ukraine.

The fight against corruption must start from the top. Politics must come first. Ukraine's political institutions have been thoroughly corrupted. Oleh Rybachuk, the chief of staff to former-president Viktor Yushchenko, runs a nongovernmental organization that has examined the apparent expenditures and legally declared incomes of the 450 members of parliament who sat from 2007 to 2012. Mr. Rybachuk's NGO found that only a handful of these members could have plausibly claimed to live solely off their official incomes.

Political cleansing at the top is the necessary precondition for Ukraine combating corruption. This process has started. On October 26, Ukraine carried out free and fair parliamentary elections. Out of the 423 deputies, a majority has never been parliamentarians before and a large number of anti-corruption activists were elected. They are not likely to be bribed or silenced. The new parliament is soon to convene and a new coalition government needs to be formed swiftly and start acting to fight both the financial crisis and corruption.

Next comes the cleansing of the state. Ukraine's public service is widely considered pervasively corrupt, as many people who have tried to secure a business license could attest. Cleansing Ukraine of its corruption will require several interrelated measures. Estonia and Georgia have shown the way. To begin with, the state needs to limit its regulatory role by abolishing or merging many state agencies. Deputy Prime Minister Volodymyr Groisman has stated that Ukraine has "80 different inspectorates, controlling organs, and control departments in ministries." He argued that at least 60 should be closed and a maximum of 20 remain.² Minimizing state interference in the economy—whether by privatizing state-owned assets or cutting regulations—reduces opportunities for corruption.

In October, Ukraine adopted a law on lustration, which scrutinizes or ousts officials who have served in high positions in corrupt agencies. This entails the creation of an independent commission scrutinizing all the top judges and prosecutors in Ukraine and dismissing those found to have engaged in graft.

Since the early 1990s, the truly rich in Ukraine have made their fortunes on trade with natural gas, imported from Russia or produced in Ukraine. At present, the domestic price of natural gas produced by state-owned companies is a paltry \$30 per 1,000 cubic meters, while the market price is twelve times higher. Deputy Prime Minister Volodymyr Groisman has said that gas worth \$2.5 billion a year was sold this way under Yanukovich.³ The obvious resolution of this problem is to unify the energy prices at a market level. Then this corruption would finally be eliminated. The deregulation of gas and electricity prices in this case must be seen as a matter of combating corruption, not as a social issue. Poor households could be fully compensated with a minor share of the current budget cost.

Another major source of corruption is public procurement. Under Yanukovich, kickbacks of 50 percent were considered normal. One of the new government officials claimed that the total embezzlement of procurements amounted to only one-fifth.⁴ Public procurement must be made open and competitive. Ukraine has re-

²"Iz 80 inspektsii i kontrol'nykh organov dolzhno ostat'sya maksim 20—Vladimir Groisman," *Pravitel'stvennyi Portal*, July 30, 2014, Available at <http://www.kmu.gov.ua/> (accessed on July 31, 2014).

³*Ekonomichna Pravda*, September 11, 2014.

⁴"Pervy zamministra kabmina Parakyda; Na goszakupkakh vorovalas' kazhdaya pyataya grivna (First Deputy Minister of the Cabinet of Ministers Parakuda: In State Procurement Every Fifth Hryvnia Was Stolen)," *Focus*, October 20, 2014.

cently adopted a law on public procurement requiring open public tenders, and voters should demand their leaders follow that law to the letter. Considering that total public procurement in Ukraine is about \$12 billion a year, and 2 percent of GDP could be kept away from corrupt operators through better procurement this would be a great gain of \$2.4 billion.

The new government should also cut public expenditures, and corrupted subsidies must be eliminated. The tax system also needs to be simplified and the tax police abolished, to shield taxpayers from lawless persecution.

In October, Ukraine also promulgated a package of anti-corruption laws. These laws aimed at a more appropriate definition of corruption, greater transparency, and the creation of a new independent investigating organ, the Anti-Corruption Bureau for the investigation of top level officials suspect of corruption. At the same time, Ukraine tightened its legislation against money laundering.

By signing the Association Agreement with the European Union, Ukraine has committed itself to adopting hundreds of reform laws, while the European Union has committed itself to providing substantial technical assistance in drawing up new laws and reorganizing state agencies. The Ukrainian people have made a choice for Europe. If they stick with it and pursue reform with determination, they will have their best chance to clean out the Augean stables of a long-corrupt system.

The other major international organization that plays a major role in Ukraine is the International Monetary Fund, in which the United States plays a key role in the as its biggest shareholder. The United States also engages directly in Ukraine through bilateral assistance through USAID. It rightly engages in Ukraine's energy reforms which will be crucial not only for state finances and energy efficiency but also for the improvement of governance in Ukraine. The United States has a major interest in the economic and legal success of a democratic and friendly Ukraine.

Mr. Aslund is a senior fellow at the Peterson Institute for International Economics and author of "How Ukraine Became a Market Economy and Democracy" (Peterson Institute, 2009). He is currently completing a book "Ukraine: What Went Wrong and How to Fix It."

PREPARED STATEMENT OF DR. HALIL YURDAKUL YIGITGÜDEN

Mr. Chairman, today I testify in front of you in my capacity of the Co-ordinator of OSCE Economic and Environmental Activities. Economic and environmental matters represent an important element of the OSCE's approach to security. To tackle challenges in this area, my team co-operates on the ground with our current 15 OSCE Field Operations, organizes an annual Economic and Environmental Forum and holds a yearly Implementation Meeting to assess progress and identify future priorities. The Office works closely with the Organization's Chairmanship and performs under the guidance of the Economic and Environmental Committee, a body of representatives of the OSCE's participating States, and the Secretary General. Our activities include anti-money laundering, transport and security, gender-sensitive labour migration, border and customs policies, water management, controlling dangerous waste through to sustainable energy, climate change, and involving the public in decisions affecting the environment. With other international partners, the OSCE is also an active member of the Environment and Security Initiative. Today I will concentrate my speech on our work in the area of good governance and combating corruption.

Global political and economic challenges call for additional efforts in the area of good governance, including measures aimed at increasing transparency, accountability, integrity and sound financial management. Good governance and transparency affect economic efficiency and growth, and thus remain among key priorities of the elements of the OSCE's comprehensive approach to security.

The increasing importance of good governance issues requires continuous dialogue. Therefore, adopted in Dublin in 2012 by all participating States of the OSCE, the Declaration on Strengthening Good Governance and Combating Corruption, Money-Laundering and the Financing of Terrorism provides the OSCE and my Office with a strong mandate to promote good governance principles. The Declaration emphasizes that—I quote—“good governance at all levels is fundamental to economic growth, political stability, and security”—end of quote. The document calls upon the OSCE—I quote—“to continue providing valuable assistance to participating States upon their request, also in sharing among themselves, through the OSCE platform for dialogue, national experiences gained and good practices”—end of quote.

The need to enhance efficiency and transparency of public institutions, implement higher standards of integrity and improve asset declaration systems to identify possible corrupt activities in the OSCE area remains, and we have and will continue working in these areas. I am pleased to note that the OSCE supported training activities to develop increased awareness, professional capacity and knowledge in prevention and repression of corruption and money laundering produced results in 2014. For example, with the assistance of the OSCE, Krygyrstan was removed from the Financial Action Task Group (FATF)'s 'grey list'. The OSCE has been selected to chair the newly established Anti-Corruption Working Group in Tajikistan to lead coordination efforts engaging civil society and other public bodies in anti-corruption issues and initiatives. In partnership with the World Bank, we rendered components of technical support towards money laundering and terrorism National Risk Assessments in Croatia, Montenegro and the former Yugoslav Republic of Macedonia.

Distinguished members of the Commission, money laundering and corruption are intertwined, and oversight and law enforcement authorities must have adequate skills and resources to conduct investigations and prosecutions of these phenomena. Contemporary crimes do not stop at national borders and cross-border exchange of information becomes essential. Therefore, one of our flagship events this year was a workshop on *Cross-border Co-operation Against Corruption and Money Laundering* for government officials from Central Asia, South Caucasus and Eastern Europe that took place in Vienna in early October. The event, co-organized with the United Nations Office on Drugs and Crime (UNODC), and Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) brought together 50 participants from financial intelligence units, anti-corruption and law enforcement agencies, financial institutions and specialized international organizations. Participants and experts discussed links between corruption and money laundering, ways to counter cross-border movements of proceeds of corruption, domestic coordination in identifying, tracing and recovering illicit assets, use of legal persons and other legal arrangements to conceal criminal assets. Participants were also introduced to good practices for the drafting of Mutual Legal Assistance requests as well as the use of regional networks to facilitate co-operation in asset forfeiture and recovery. I would like to express my gratitude to the government of the United States for providing financial support to this event.

The acknowledgement of the negative effects of the lack of appropriate economic governance by the political leaders and policy-makers can be seen in numerous de-

velopments in the OSCE area. Therefore, participating States should take advantage of the platform the OSCE offers and its capacity to produce results similar to those mentioned above. There is a need to continue fostering trans-national co-operation among participating States as well as other international actors in the area of good governance offering best practices and opportunities to share experiences. We remain convinced that the enhanced efforts should be supported to develop and deliver tailor made capacity building activities, to deploy anti-corruption measures, strengthen national financial intelligence units, and build additional corruption prevention mechanisms.

Most of our work benefits from close co-operation with OSCE Field Operations. Their presence on the ground enables them to collaborate with governmental and non-governmental stakeholders thus assisting their host countries in implementing their commitments in the OSCE's second dimension, thus providing an invaluable contribution to our joint work.

Mr. Chairman, by 2015 my Office also plans to publish OSCE Guide on Combating Corruption. It will consist of five parts and 21 chapters with inputs provided by more than 40 contributors. This OSCE publication is being prepared in close co-operation with ODIHR, Office of the Special Representative for the Freedom of the Media and major actors in the anti-corruption area such as the UNODC, OECD and Council of Europe's Group of States against corruption (GRECO) and Basel Institute of Governance. The topics covered by the Guide will stretch from anti-corruption strategies and bodies, conflict of interest and public procurement regulations to the role of the media, lobbying, mutual legal assistance requests and investigations.

In conclusion, let me assure you that my Office jointly with the OSCE network of Field Operations and partners will continue conducting targeted regional and national awareness-raising and training activities. We will also endeavour to mainstream good governance in our other economic and environmental activities by incorporating transparency and anti-corruption elements wherever relevant.

Thank you very much again for the opportunity to serve as a witness at this hearing today. I very much look forward to our discussion and also to our continued co-operation.

Thank you.

INFORMATION NOTE ON THE IMPLEMENTATION OF THE 2012 DUBLIN DECLARATION ON STRENGTHENING GOOD GOVERNANCE AND COMBATTING CORRUPTION, MONEY-LAUNDERING AND THE FINANCING OF TERRORISM

Introduction

The Ministerial Council Declaration on *Strengthening Good Governance and Combating Corruption, Money-Laundering and the Financing of Terrorism* adopted in Dublin in 2012—MC.DOC/2/12 (Dublin Declaration) reiterates that “good governance at all levels is fundamental to economic growth, political stability, and security. Good public and corporate governance, rule of law and strong institutions are essential foundations for a sound economy, which can enable participating States to reduce poverty and inequality, to increase social integration and opportunities for all, to attract investment and to protect the environment”.

The document enlists commitments of participating States (pS) aimed at enhancing their capacities and strengthening co-operation in combating corruption, money laundering and the financing of terrorism and calls upon the OSCE and its network of Field Operations “to continue providing valuable assistance to participating States upon their request, also in sharing among themselves, through the OSCE platform for dialogue, national experiences gained and good practices”.

Since the adoption of the Dublin Declaration, the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) and the OSCE Field Operations, in co-operation with partner organizations, have assisted pS in implementing relevant commitments stemming from a number of OSCE Ministerial Council and Permanent Council Decisions, as well as on the OSCE Strategy Document for the Economic and Environmental Dimension. Activities have included support in implementation of the United Nations Convention against Corruption (UNCAC), prevention of corruption, promoting integrity in public service, regulatory reform, preventing conflict of interest, national risk assessments in anti-money laundering and countering the financing of terrorism (AML/CFT), leveraging AML to combat trafficking in human beings, implementing the Financial Action Task Force (FATF) recommendations and standards, asset disclosure by public officials, engagement of civil society and the public sector in combating corruption, and others.

These activities have often been cross-dimensional in nature and engaged the OSCE Office for Democratic Institutions and Human Rights, the OSCE Transnational Threats Department and its relevant units, and other offices of the Organization.

Tasked by the Swiss 2014 OSCE Chairmanship, this Note, structured on main components of the Dublin Declaration, is designed to reflect on the OCEEA and the Field Operations activities, while discussing remaining challenges and achieved successes.

Good governance and transparency

CHALLENGES

Citizens expect a State to protect legitimate economic activities from corruption, money laundering and other illegal and criminal practices by establishing clear rules and regulations to govern the economic relationships and consistently enforcing them. The quality of and adherence to these rules have an impact on internal markets, as well as on fostering trust in public and democratic institutions, and attracting foreign investment. Good public and corporate governance are key factors of sustainable economic growth and economic development, thus contributing to national and regional stability and security. In the face of the current global economic difficulties, stronger efforts towards enhanced good governance are particularly needed in the OSCE region and beyond.

It is worth underlining that good governance is not about making ‘correct’ decisions; it is about promoting the respect for key principles in the decision-making process that includes accountability, transparency, participation, respect of the rule of law, responsiveness, equity and inclusiveness, as well as effectiveness and efficiency.

Increasing transparency of public expenditure and budget making procedures, legislative reform, audits and public procurement procedures, are important measures towards garnering participation of citizenry in government and improving trust. However, these transparency measures are ineffective if not made in such a way that they may be understandable and easily accessible to the public. Improving the efficiency of public administration, combined with greater transparency in the public sector and higher standards of integrity in the behaviour of public servants, is es-

sential in strengthening corruption prevention capacities and mitigating corruption-related risks.

The “soft-law” tool of introducing codes of conduct and ethical principles of behaviour for public servants is widely used throughout the OSCE area. In particular, asset declarations, receipt of gifts and employment opportunities prior to, during and after leaving public service—are usually covered in codes of conduct to prevent conflicts of interest.

In September 2014, the Open-ended Intergovernmental Working Group on the Prevention of Corruption of the Conference of the States Parties to the UNCAC encouraged the States Parties “to establish and strengthen asset declaration systems applicable to public officials, aimed at the identification and resolution of conflicts of interest”.⁵

Asset and private interest disclosure by decision makers remains among the essential tools for effectively managing conflict of interest. According to the Organisation for Economic Co-operation and Development (OECD), among the 34 member countries of the Organisation, of which 27 states are the OSCE pS, 86 per cent require their top decision makers in executive and legislative structures to disclose their private assets.⁶ However, less than half of the OECD Member States perform internal audits of the submitted information for accuracy.⁷

Yet, many pS have introduced income- and asset-disclosure systems for public officials. In order for these systems to be effective they first need to contain high risk categories of public officials as well as their family members. Also, oversight authorities and law enforcement must have adequate skills and resources to conduct audits and investigations. Moreover, it is important for countries to engage in cross-border exchange of information on politically exposed persons (PEPs) and for banks to make logical connections between PEPs and known business associates. An asset disclosure system whose accuracy cannot be verified is ineffective.

Conflict of interest legislation still remains underdeveloped in many countries and it may not regulate abuse of authority of public officials in such areas as influence peddling or procedures for awarding public procurement contracts. For instance, business relations or political party affiliations between members of public procurement award selection panels of contracting entities and bidders are often overlooked. Indeed, public procurement is an area particularly prone to corruption, especially in sectors like construction, maintenance services and waste management, owing to deficient control mechanisms and risk management.

Corruption in public procurement procedures siphons off scarce public resources, often results in shoddy public works and erodes the trust of citizens and businesses in government. The level to which a state’s public sector is held accountable through the rule of law and procedures and decisions are made transparent to its citizens, correlates highly with the degree of citizens’ trust, and in turn, the level of stability and security. Public procurement has been identified by the OECD and UNODC as a main risk area sector of significant concern.

A transparent and fair public procurement system is perhaps the most visible measure of a government’s public accountability. In the absence of a transparent and fair system of using public funds, particularly in times of economic downturn, citizens’ trust in government wains and the perception that government funds are being misused or misappropriated dangerously grows.

OCEEA activities in good governance and transparency since 2013:

The OCEEA and several OSCE Field Operations, often in co-operation with the UNODC, have supported efforts to raise awareness and facilitate the implementation of the UNCAC. The below listed workshops were designed and conducted for relevant public officials, civil society and private sector representatives and intended to assist states in preparing for review under the UNCAC. They included, *inter alia*, components dedicated to asset disclosure mechanisms, codes of conducts for civil servants, transparency in public procurement, whistle-blower protection, conflicts of interest and international co-operation.

In April 2013 in Astana, the OSCE, UNODC and OECD co-organised a regional workshop entitled *Sharing Good Practices and Lessons Learned from Development and Implementation of Anti-Corruption Preventive Policies*.

⁵UN Conference of the States Parties to the United Nations Convention against Corruption, Open-ended Intergovernmental Working Group on the Prevention of Corruption, Fifth session, Vienna, 8–10 September 2014, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2014-September-8-10/V1404178e.pdf>.

⁶Transparency International, *Setting a high bar for conduct*, <http://blog.transparency.org/2012/07/19/codes-of-conduct-a-tool-to-clean-up-government/>.

⁷OECD, *Government at a Glance 2013*, 2013, http://www.keepeek.com/Digital-Asset-Management/oecd/governance/government-at-a-glance-2013_gov_glance-2013-en#page3.

In April 2013 in Ashgabat, the OCEEA and the UNODC co-organised a national training on *Mechanisms to Increase Integrity in Public Service and Prevent Corruption and the Laundering of its Proceeds*.

In June 2013, in Jurmala, Latvia, the OCEEA, the OECD Anti-Corruption Network for Eastern Europe and Central Asia and the UNDP co-organised an expert seminar on *Prevention of Corruption, Effective Measures and Their Practical Implementation: Institutional and Sectorial Approaches*. The seminar was followed by a separate workshop for representatives of Central Asian countries on income and asset declaration systems and conflict of interest legislation as tools for preventing corruption.

In September 2013 in Tashkent, the OSCE and UNODC co-organised a two-day national training workshop on *Mechanisms to Increase Integrity in Public Service and Prevent Corruption*.

In March 2014, in Dushanbe, the OCEEA participated in and contributed to a workshop on *Anti-corruption prevention measures—Progress made, future priorities and the role of civil society in the prevention of corruption in Tajikistan* co-organised by the OSCE Office in Tajikistan and the UNODC.

In June 2014, in Tirana, the OCEEA, the OECD, the OSCE Presence in Albania, the UNDP and the UNODC co-organised a regional expert seminar on *Prevention of Corruption—Main Trends and Examples of Successful Practice in Eastern Europe and Central Asia*.

In October 2014, in Vienna, the OCEEA, the UNODC and the EAG held a regional training on *Cross-border Co-operation Against Corruption and Money Laundering*.

SUCSESSES: GOOD GOVERNANCE AND TRANSPARENCY

Regulatory reform in Armenia

In 2012, Armenia's National Center for Legislative Regulation, supported by the *OSCE Office in Yerevan* and several other donors, launched a 2-year Rapid Regulatory Simplification Project which aimed at reviewing and streamlining regulations and increasing transparency in 17 sectors of the Armenian economy. Known as the "*regulatory guillotine*", the reform makes use of best international practices to assess and streamline the national regulatory frameworks affecting business activity and the daily lives of citizens. By the end of 2013, 7 priority sectors had been reviewed and legislation streamlined to reduce "*red tapes*" on businesses and citizens. The overall estimated impact on the Armenian economy is calculated to represent the equivalent to 0.5 percent of national GDP. The project is being continued in its second phase.

OSCE supported Good Governance Resource Centre in Turkmenistan

The *OSCE Centre in Ashgabat*, in partnership with the Government of Turkmenistan, supported the establishment of a *Good Governance Resource Centre* that was officially opened on 1 May 2014 in Ashgabat. Located at the premises of the Ministry of Finance, the *Centre* offers diversified information, conducts educational events and provides expert information on good governance. It also offers access to a library and specialized databases and periodicals. In addition, the *Centre* works with relevant government authorities on developing national legal acts and regulations on AML/CTF measures in compliance with FATF standards. Following recommendations identified on 2 September 2014 at a round table in Ashgabat, a report with recommendations to enhance good governance practices will be submitted to the Ministry of Finance and the Parliament of Turkmenistan later this year. The *Centre* is an innovative initiative within the OSCE context as it provides a long-term approach towards the promotion of good governance practices in Turkmenistan.

Manual on the Role of Responsible Authorities in Preventing Conflict of Interest developed in Albania

In 2013, with the support of the *OSCE Presence in Albania*, the High Inspectorate for Declaration and Audit of Assets and Conflict of Interest (HIDAACI) of Albania developed and published a *Manual on the Role of Responsible Authorities in Preventing and Controlling Conflict of Interest*. The Manual aims to assist 580 responsible authorities in all the central and local public institutions to more effectively detect, prevent and resolve cases of conflict of interest. The publication is intended to be a reference tool for officials, civil society, business community, law students and researchers. It is available on the HIDAACI website and it is being used by its staff for training purposes.

Ukraine goes digital in combating corruption

The *OSCE Project Co-ordinator in Ukraine* assisted local self-government authorities in one of the regions to develop and launch a digitized public service provision system. In 24/7 mode, service recipients (citizens and the private sector) can download the necessary forms and keep track of service requests that have been submitted to a virtual government office. The system makes public service provision more transparent and efficient and thereby significantly reduces corruption risks.

Combating corruption, money laundering and the financing of terrorism

CHALLENGES

The EU Anti-Corruption Report issued in February 2014 identifies corruption as a phenomenon which impinges on good governance, sound management of public money and competitive markets, and, in extreme cases, undermines the trust of citizens in democratic institutions and processes. According to the Report, corruption costs the European economy approximately 120 billion euros per year. *Eurobarometer* survey results show that 76 percent of EU citizens believe that corruption is widespread and 56 percent think that the level of corruption in their country has increased since 2011.⁸

Only twenty OSCE participating States scored 60 or above and ten even had a score of less than 30 on the latest Transparency International Corruption Perception Index where 0 is for “high corruption” perception and 100 is for “low corruption”. The average score among the assessed OSCE participating States is approximately 54.4.⁹

As indicated by the UNODC in September 2014, the importance of preventing corruption through the promotion of good governance has “increasingly come to the fore, notably in the ongoing dialogue on the post-2015 development agenda”.¹⁰ Yet, despite relevant obligations in line with international instruments,¹¹ prevention of corruption has been mostly understood as part of law enforcement activities. This creates a major challenge for the implementation of corruption prevention measures and implementation of the good governance reforms as per the UNCAC and highlighted in the Dublin Declaration.

Fifty six OSCE participating States have ratified or acceded to the UNCAC. Fifty six are members of the Egmont Group of Financial Intelligence Units and all 57 are members of the Financial Action Task Force (FATF) and FATF-style regional bodies.

Although repressive measures alone are not sufficient to tackle corruption in an effective manner, the ability of a judicial system to impose dissuasive criminal sanctions plays a major deterrent role and is a clear sign that corruption is not tolerated. Indeed, several factors can influence the efficiency of law enforcement and prosecution forces in investigating corruption, such as the estimated extent and nature of corruption they must address, the balance with preventive measures, the capacity and resources at their disposal, the potential obstacles to investigations, including the effectiveness of the judiciary. In particular, judicial independence, as well as proper funding of investigative and judicial authorities, is imperative in establishing effective anti-corruption and AML/CTF measures.

Ensuring the rule of law requires drafting and implementing legislation that regulates selection and promotion procedures, independent oversight, and independent budgets for the judiciary. Investments in judicial and investigative bodies quickly bring returns which is evident in functioning assets seizure and forfeiture systems.

Asset recovery represents one of the major challenges for the OSCE pS in the good governance area. Chapter V of the UNCAC reaffirms that asset recovery, that includes tracing, freezing, confiscation, and repatriation of crime and corruption pro-

⁸ European Commission, *Report from the Commission to the Council and the European Parliament, EU Anti-Corruption Report*, Brussels, 3.2.2014, COM(2014) 38 final, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf.

⁹ Based on statistics provided by the “Corruption perceptions index” which measures the perceived levels of public sector corruption in 177 countries and territories, <http://cpi.transparency.org/cpi2013/>.

¹⁰ UNODC Executive Director Yury Fedotov’s statement at the third International Conference on Small Island Developing States (SIDS), <http://www.unodc.org/unodc/en/frontpage/2014/August/unodc-warns-of-small-island-states-vulnerability-to-corruption-during-global-meeting-in-samoa.html>

¹¹ Notably the UNCAC, Council of Europe anti-corruption legal instruments, including the Resolution (97) 24 on 20 Guiding Principles for the fight against corruption and the recommendations No. R (2000) 10 on codes of conduct for public officials and No. R (2003) 4 on common rules against corruption in the funding of political parties and electoral campaigns.

ceeds stored in foreign jurisdictions is an international priority in the fight against corruption. Modern advancements of financial, transportation and communication infrastructures allow corrupt 'politically exposed persons', among others, to conceal massive amounts of stolen wealth overseas by using differences in legal systems and bank secrecy in some recipient countries.

According to the Report of the Conference of the States Parties to the UNCAC in 2013, "all efforts should be made to conduct a financial investigation into assets illegally acquired and to recover such assets through domestic confiscation proceedings, international cooperation for purposes of confiscation or appropriate direct recovery measures."¹²

A report by the Parliamentary Assembly of the Council of Europe on corruption and tax heavens¹³ refers to the Stolen Asset Recovery Initiative of the World Bank (StAR)¹⁴ and the UNODC that analysed 150 grand corruption cases and found a direct link between large-scale corruption by high-level public officials and the concealment of stolen assets through opaque shell companies, foundations and trusts. The report highlights the root problems concerning tax havens, such as (fiscal) bank secrecy, lack of transparency and effective public oversight, regulatory dumping, predatory tax arrangements and abusive accounting techniques inside multinational enterprises.

Successful conviction of corruption cases, money laundering and terrorism financing crimes—from identification through prosecution, sentencing and finally stolen asset recovery—requires a multi-layered, multi-disciplinary and multi-national approach calling for effective national legislative frameworks, compliant with international standards, as well as co-operation among investigative and financial oversight authorities at national and international levels among Financial Intelligence Units (FIUs), law enforcement and prosecutors.

In addition, improved international co-operation requires further engagement by pS to sign bilateral and multilateral treaties and agreements on assets recovery and co-operation in criminal matters. In this respect, the recent adoption of a directive on the freezing and confiscation of proceeds of crime in the EU is a promising signal.¹⁵ The directive aims to make it easier for national authorities to confiscate and recover the profits made from cross-border and organised crime.

Whistle-blowers' protection in public and the private sectors is also necessary to encourage individuals to come forward with information on corruption. Guarantees must be put in place that a person who discloses to relevant authorities allegations of corruption suffers no retaliation. The Council of Europe has issued the Recommendation no. CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistle-blowers,¹⁶ including a series of principles to guide member States when reviewing their national laws or when introducing legislation and regulations or making amendments as may be necessary and appropriate in the context of their legal systems.

OCEEA activities in combating corruption, money laundering and terrorism financing since 2013:

In the area of anti-corruption, anti-money laundering and combating the financing of terrorism, the OCEEA has worked on assisting pS in the implementation of the main international instruments, in particular the UNCAC, 40 + 9 FATF Recommendations, the UN Convention for the Suppression of the Financing of Terrorism, the UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the 3rd EU Directive on Combating Money Laundering. The Office has closely co-operated with the UNODC, World Bank, the OECD, the Egmont Group, the Council of Europe, the EAG, Basel Institute on Good Governance and others.

¹²UNODC, *UN Convention against Corruption: Progress report 2013*, 25 November 2013, http://www.transparency.org/whatwedo/pub/un_convention_against_corruption_progress_report_2013.

¹³Parliamentary Assembly of the Council of Europe, *Promoting an appropriate policy on tax heavens*, 5 April 2012, <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=18151&lang=EN>.

¹⁴The World Bank and the UNODC, *The Stolen Asset Recovery Initiative (StAR)*, <http://star.worldbank.org/star/>.

¹⁵EU, *Directive of the European Parliament and of the Council on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union*, PE-CONS 121/13, 5 March 2014, <http://register.consilium.europa.eu/doc/srv?l=EN&f=PE%20121%202013%20INIT>.

¹⁶Council of Europe, European Committee on Legal Co-operation (CDCJ), Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistle-blowers, [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2014\)7&Language=lanEnglish&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2014)7&Language=lanEnglish&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383).

In December 2012, the OCEEA launched the “*OSCE Handbook on Data Collection in support of Money Laundering and Terrorism Financing National Risk Assessments*”. A Russian language version has been released in October 2014. The Handbook provides guidelines on improving data collection in an effort to combat money laundering and the financing of terrorism. It is also intended to inspire further dialogue and co-operation among national authorities and other stakeholders to stimulate an exchange of experiences and good practices among states in the OSCE region and to raise awareness of the importance of comprehensive data collection for informed decision-making.

In August 2014, the OCEEA jointly with the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, and the OSCE Transnational Threats Department/Strategic Police Matters Unit released a research paper on “*Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings*”. The paper, which combines research findings from various publications and seminars from 2008 to the present, focuses on trafficking in human beings as a specific type of transnational crime that also gives rise to corruption practices.

From 2013 to date, the OCEEA has supported efforts of the OSCE Field Operations aimed at promoting and offering training based on the “*OSCE Handbook on Data Collection in support of Money Laundering and Terrorism Financing National Risk Assessments*”.

In partnership with the World Bank, the OCEEA has also rendered components of technical support towards National Risk Assessments (NRAs) in Kyrgyzstan (May 2013), Croatia (March 2014), Montenegro (March 2014) and the former Yugoslav Republic of Macedonia (May 2014). A NRA is a process by which countries identify the threat of money laundering activity in their jurisdiction, the vulnerability of the country in terms of its ability to prevent and intercept specific types of illicit financial activity and its resulting impact.

In addition, the following training and capacity building events were organised for relevant officials from Financial Intelligence Units, the Prosecutor’s Office, Ministry of Interior/law enforcement officials, the banking sector and others.

In March 2013, in Tashkent, the OCEEA and the OSCE Project Co-ordinator in Uzbekistan, held an international training on the *revised FATF International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.

In April 2013, in Borovoe, Kazakhstan, the OCEEA in co-operation with the World Bank and Kazakhstan’s Committee for Financial Monitoring, the OSCE Centre in Astana, and the US Embassy in Kazakhstan held a two-day national workshop on the *revised FATF international standards*.

In May 2013, in Bishkek, the OCEEA supported a workshop on *Money laundering risks in Kyrgyzstan* which was jointly organised by the OSCE, the World Bank and Kyrgyzstan’s State Financial Intelligence Service.

In May 2013, in Podgorica, a series of meetings were held with the OCEEA’s participation to further advance the draft of the National Action Plan to Prevent and Suppress Terrorism, Money Laundering and Terrorism Financing.

In October 2013, in Durrës, Albania, a regional conference on *Strengthening Co-operation on AML/CFT and Fighting Corruption in South Eastern Europe* was organised together with the OSCE Presence in Albania, and the Albanian General Directorate for the Prevention of Money Laundering.

In November 2013, in Ashgabat, the OCEEA jointly with the OSCE Centre in Ashgabat organised a national training workshop on *Mechanisms to prevent money laundering*.

In December 2013, in Athens, the OCEEA together with the OSCE Mission to Serbia and the Financial Intelligence Unit of Greece held a working meeting of practitioners from Serbia and Greece to share challenges and good practices in linking anti-money laundering and anti-corruption efforts.

SUCCESSSES: COMBATING CORRUPTION, MONEY LAUNDERING AND THE FINANCING OF TERRORISM

OSCE Guide on Combating Corruption

The OCEEA has established close links with experts from organizations such as the UNODC, OECD, Council of Europe/GRECO, UNCITRAL, Basel Institute on Governance/International Centre for Asset Recovery, the European Commission and International Anti-Corruption Academy as well as with ODIHR and FoM in developing the *OSCE Guide on Combating Corruption*. The topics covered by the *Guide* will stretch from international and regional initiatives, anti-corruption strategies and bodies, conflict of interest and public procurement to role of the media, lob-

bying, mutual legal assistance, investigation, AML and asset recovery. The Guide is expected to be finalized in 2014.

OSCE/OCEEA partnership frameworks in the area of anti-corruption and AML-CFT

Since 2005, the OSCE has the observer status to the Organisation for Economic Co-operation and Development (OECD) Anti-Corruption Network for Eastern Europe and Central Asia (under the Istanbul Anti-Corruption Action Plan).

Since 2006, the OSCE has the observer status to the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG).

Since 2008, the OSCE has the observer status to the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

Since 2011, on a bi-annual basis, the OSCE and the UNODC issue Joint Action Plans.

In March 2011 the OSCE and the International Anti-Corruption Academy concluded a Memorandum of Understanding concerning co-operation.

Since 2012, the OSCE has the observer status to the Egmont Group of Financial Intelligence Units.

Since 2013, the OSCE has the observer status to the Financial Action Task Force (FATF).

In October 2013, the OSCE and the UN Development Programme (UNDP) concluded a Memorandum of Understanding.

Improving public procurement transparency and the prosecution of corruption in Serbia

Since 2013 the *OSCE Mission to Serbia* has continued to focus on assisting the host country with creating a transparent and efficient public procurement system and training law enforcement and prosecutors on investigating alleged violations. The Mission has moderated peer-to-peer meetings among public procurement bodies and law enforcement and prosecutors on enhancing co-operation on identifying risks and sharing timely information on alleged corruption with criminal investigators. The Mission has trained 20 prosecutors in charge of public procurement corruption through specially developed case studies based on past alleged corruption in public procurement in Serbia. In 2014 the Mission has provided support to the development of a NGO-run public procurement transparency website that contains information on tenders, awarded contracts, procurement selection boards and bidders to allow citizens and journalists to track how public funds are spent and potentially identify alleged breaches of conflict of interest.

Monitoring assets disclosures of public officials and AML/CFT: the Greek model

The Hellenic Anti-money Laundering and Counter-terrorist Financing and Source of Funds Investigation Authority serves both as Greece's Financial Intelligence Unit (FIU) as well as its monitoring body of public officials' assets and income disclosures. The Authority is staffed by seconded officials from various ministries and law enforcement agencies and is headed by an independent prosecutor. According to this set-up, the authority can investigate bank accounts and determine whether officials have accurately disclosed their income and assets. In this way corruption and money laundering investigations are handled within the same institution.

Kyrgyzstan removed from the FATF 'grey list' in 2014

Following the *OSCE Centre in Bishkek* assistance, in July 2014, Kyrgyzstan was removed from the FATF's 'grey list' and would no longer be subject to the FATF's monitoring process under its ongoing global process of compliance with requirements on AML/CFT. The decision was announced at the third FATF Plenary meeting in June 2014 in Paris certifying Kyrgyzstan's "demonstrated significant progress" in addressing the strategic AML/CFT deficiencies identified in their mutual evaluation reports and the action plans agreed with the FATF. The OSCE has been assisting Kyrgyzstan in increasing the capacity of the country's financial bodies to adopt modern investigative and countering methods, and implement legislation that addresses the recommendations of the FATF. Moreover, in March 2013, the OSCE Centre in Bishkek opened a new *Training Centre of the State Financial Intelligence Service*, and held several training courses for officers from the Service. More than 400 officers from various ministries and agencies have been trained on modern methods of AML.

Civil society and private sector

CHALLENGES FOR CIVIL SOCIETY

Effective anti-corruption measures require a participatory approach among governments, civil society, business communities and academia to foster citizens' trust and create a social consensus on non-tolerance of corruption. Monitoring the implementation of reforms, engaging in the development of new policies and regulations, evaluating the effectiveness of those already in place, and providing a barometer of public opinion for the government are the main fields of action for civil society actors in corruption prevention. However, non-government organizations across the entire OSCE region still face significant challenges in building a sustainable and balanced dialogue with the government and acquiring access to government information. This prevents civil society to fully play its monitoring and evaluating role vis-à-vis government institutions.

Moreover, it is critical to mainstream a gender-balanced approach when promoting good governance measures as all-inclusive and requiring accountability from state institutions. Persistent gender disparities limit women's ability to fully participate in the decision-making processes in social, economic, and political life. Such gender-based exclusion compromises the prospects for good governance, as well as economic growth and prosperity. Therefore, if not already launched, legal reforms are required to promote gender equality that would enable women, individually or collectively, to participate in the decision-making processes thus contributing to building more equal and inclusive societies. Women participation in civil society activities is an essential component to ensure civic engagement, participatory development and good governance.

Further training of civil society on such issues as conducting statistical surveys, public awareness campaigns, issuing 'shadow reports' and participating in budget making processes is needed to make it a viable and constructive partner to government. Also, many governments require further support in identifying ways in which civil society, the private sector and the public may contribute to their anti-corruption policy measures. Public-private partnerships should be further developed on environmental, humanitarian and other issues, including trade and investment policies. Moreover, business communities, academia and civil society may be involved in awareness raising campaigns and surveys on ease of doing business matters and economic growth policies.

CHALLENGES FOR PRIVATE SECTOR

According to the OECD Istanbul Anti-Corruption Action Plan that includes Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Ukraine and Uzbekistan, "legal gaps remain in many countries with regard to bribery and trading in influence".¹⁷ In addition, "business integrity" is a relatively new issue in the region. The governments are yet to implement systematic measures to promote business integrity while the private sector has a potential to become a strong participant in the fight against corruption.

Bribery, as a basic form of corporate corruption, has detrimental effects on political, economic, social and environmental areas. To address bribery more effectively, legislation should include provisions of criminal liability for bribing public officials, corporate liability for failure to prevent bribery, differentiation between notions of offering, promising, giving, requesting, agreeing to receive and accepting a bribe, as well as envisaging a requirement for corporate entities concerning implementation of "adequate procedures" in order to prevent bribery.

There are many useful resources available to help businesses manage internal and external corruption risks and implementing anti-corruption policies, including Transparency International's Business Principles and the International Chamber of Commerce's Rules of Conduct. A number of industry sectors have also developed sector specific guides, specialist codes of practice and transparent procurement agreements. In addition specialized anti-corruption risk management frameworks have been established to help mitigate against bribe solicitation and demands for 'facilitation payments', including international initiatives such as RESIST (Resisting Extortion and Solicitation in International Transactions) and international legal instruments such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

¹⁷ <http://www.oecd.org/corruption/acn/istanbulactionplan/>

SUCSESSES: CIVIL SOCIETY AND THE PRIVATE SECTOR

Civil society and government partnership in Kazakhstan

In 2012, the OSCE Centre in Astana, in co-operation with the Ministry of Transport and Communications, the NGO “Azamatyk Kuryltay” (*People’s Convention*), as well as with construction companies, local authorities, the World Bank office and Soros Foundation in Kazakhstan began supporting civil society participation in the national and local Transparency and Sustainable Development Expert Councils (TSDECs) for monitoring the “Western Europe—Western China” international road construction project, which crosses five of Kazakhstan’s regions and connects Europe and Asia. Through this project, in 2013 a platform for dialogue and co-operation was created for stakeholders involved in or affected by the construction works along the road. This work helped build the foundations of permanent, self-sustainable TSDEC multi-stakeholders’ structures in the five regions. In 2014 TSDECs were introduced in two additional regions where new road construction projects are envisaged.

OSCE supports anti-corruption efforts in Tajikistan

The OSCE Office in Tajikistan brought together international expertise, key state representatives and civil society to increase knowledge of international anti-corruption standards needed to strengthen economic growth and security. The Office conducted workshops on the essentials of the UNCAC and worked with Transparency International to further support state representatives and civil society organizations. Under the *Development Co-ordination Council*, which is composed of international organizations and donors in Tajikistan, the Office has been selected to chair the newly established *Anti-Corruption Working Group*. The goals of this Working Group are to: (i) support the integration of anti-corruption measures in joint development initiatives between development partners and the government, (ii) provide forum to engage in dialogue between the international community and the government on progress towards meeting the obligations of international anti-corruption treaties and initiatives to which Tajikistan is committed, including, but not limited to UNCAC, FATF, the OECD Istanbul Action Plan, (ii) provide structured co-ordination mechanism with civil society and other public bodies on anti-corruption issues and initiatives.

WORKING TOGETHER FOR PROGRESS

There is still a strong need in the OSCE region for technical support in drafting and revising current normative frameworks that complies with international standards on anti-corruption, AML and CFT. Capacity building measures are also needed to allow the effective enforcement of such standards and norms as well as enhance co-operation at national and international levels.

It is paramount to avoid fragmentation of efforts in preventive and repressive measures to combat corruption, money laundering and the financing of terrorism. In particular, there is a strong need to enhance trans-national co-operation among participating States as well as other international actors, as well as co-ordinate at national level between relevant agencies, central and local authorities.

The OSCE/OCEEA and the OSCE Field Operations have pursued co-ordinated efforts aimed at delivering training activities, raising awareness through national, regional and international events, and providing technical advice and support to drafting and implementing legislation in line with the Dublin Declaration principles. The challenge is to avoid duplication and complement the mandates and on-going activities of other international actors, through joint programming, agreements, and collaborations. Indeed the field presence and the long-standing OSCE confidence-building expertise and platform will continue representing the added value of the Organization vis-à-vis its current and future partners, such as the UN, OECD, Council of Europe, World Bank and others.

Particular attention will be devoted to the promotion of national risk assessment mechanisms among pS to identify vulnerabilities and threats of money-laundering (ML) and financing of terrorism (FT) and strengthen the capacities of Financial Intelligence Units to undertake financial crime investigations on ML/FT and corruption. The OSCE/OCEEA will also continue supporting training activities to develop increased awareness, professional capacity and knowledge in prevention and repression of corruption and ML/FT. The training activities will be designed for public officials and representatives of the private sector and the civil society.

The OCEEA will also continue supporting its partner organizations in awareness raising activities and delivery of training programmes, building upon established contacts, local presence and relevant expertise.

Furthermore, the OCEEA will endeavour to mainstream good governance in its economic and environmental activities by incorporating transparency, anti-corruption

tion and AML/CFT elements where relevant. Good governance aspects, already introduced in the field of cross-border trade and transport facilitation and border management, will also be available in the areas of gender-sensitive labour migration and women economic empowerment. The OCEEA will also devote particular programmatic attention to the activities in the area of corruption prevention, thus also recognizing the importance of the Chapter II of UNCAC on "Preventive Measures".

Also, the OCEEA will continue to work with the OSCE's 15 Field Operations as the latter support their host countries in implementing their good governance commitments, including rendering support in developing anti-corruption and anti-money laundering legislation and guidance.

PREPARED STATEMENT OF KHADIJA ISMAYILOVA

Dear Mr. Chairman, I am grateful to the U.S. Helsinki Commission for holding this very important hearing and for giving me the opportunity to speak about corruption in Azerbaijan.

I am a contributor to Radio Free Europe/Radio Liberty, which is a leading source for independent news for Azerbaijanis, despite being banned on local broadcast frequencies in Azerbaijan. The radio has the leading role in uncovering corruption in the country.

Azerbaijan has joined the Open Government Partnership, initiated by U.S. President Obama and Brazilian President Rousseff in 2012. In a letter of intent in October 2011, Azeri Foreign Minister Mammadyarov informed his American counterpart U.S. Secretary of State Hillary Clinton about Azerbaijan's long history of combatting corruption. Azerbaijan has undertaken number of commitments within the context of its participation in OGP, including access to information. However, in the very same 2012, Azerbaijan has changed its legislation to restrict access to information.

Since June 2012, when the laws "On state registration and state registry of legal entities" and "On commercial secrets" have been amended, information about the founders of commercial legal entities and their shares in the charter capital is considered confidential.

With the same legislative move the law "On the right to obtain information" had been changed. The new version of the law states that information deemed contrary to the purposes of the protection of political, economic, military, financial and credit and monetary interests of the Republic of Azerbaijan, to the protection of public order, health and morality, protection of rights and freedoms, commercial and other economic interests of other individuals, ensuring the prestige and impartiality of the court, shall not be released even following information requests.

These legislative actions were the government's response to a series of journalistic investigations revealing high level corruption and conflicts of interest, including involving the president's family.

The facts cited in those investigations show that the families of the Azerbaijani president and several ministers are beneficiaries of monopolies in most of the non-oil sector of the economy. Thus, the president's daughters control more than 70 percent of mobile communications and one of two backbone internet providers, control assets in the three biggest holding companies (AzEnCo, Pasha Holding and Ata Holding) and several banks. The holdings and companies controlled or linked to the president's family enjoy biggest public contracts. In most of the cases the ownership of the companies has been hidden behind a chain of offshore companies registered in Panama and British Virgin Islands.

Most high-profile visitors to Baku, including members and staffers of the U.S. Congress, stay in the Four Seasons Hotel, which is part of the president's family's company. Over 30 architectural sites, including part of the ancient city wall, were destroyed during the construction of the hotel. This and several other business endeavors of the president's family have cost many ordinary Azerbaijanis their property. The citizens have failed to restore their property rights in the courts of Azerbaijan. Those whom the government has failed to intimidate have sought justice in the European Court of Human Rights.

Even the construction of the National Flag square, which was presented as a symbol of pride for Azerbaijanis, has become an unfortunate example of corrupt practices. The government allocated 30 million AZN (\$38,5 millions) to build "the highest flagpole in the world." The 162 meter-high flagpole kept its supremacy only for several months, as Tajikistan, another OSCE member country also leading in corrupt listings, has built one that is higher by two meters. The contract for building the flag square was granted to AzEnCo, a company owned by President Aliyev's daughters.

Azerbaijan is a part of the Extractive Industry Transparency Initiative since 2004. As in many other global initiatives, the Azerbaijani government uses the membership as an argument against criticisms of corruption. The country is currently under scrutiny by EITI, as one of the main parts of the Initiative—civil society—is paralyzed and cannot serve as a watchdog. In non-oil extractive industries government-linked monopolies have a huge stake. In 2007 the government of Azerbaijan signed a contract to develop six gold and copper mines with a consortium that is co-owned by President Aliyev's daughters.

The oil-related extractive industry is partly under oligarchic control as well. Offshore companies, hiding Azerbaijani names and linked to the State Oil Company's management or the president's family's businesses, appear as partners in joint ventures, winning oil production and trade contracts.

Investigations also reveal that the transportation minister's son and his business partners enjoy exclusive opportunities in the public transportation sector of Azerbaijan. The money, the source of which is highly questionable, is being invested by Mr. Anar Mammadov in lobbying activities in the United States through the Azerbaijan-America Alliance. The lobbying events are attended by number of the U.S. Congress.

Unlike U.S. officials and members of Congress, Azerbaijani officials and members of parliament do not file asset declarations. The Azerbaijani president signed a decree requiring to do so, but none of the officials, including the president himself, has ever filed a declaration, referring to the fact that the Cabinet of Ministers has neglected to create a template for such a document.

The candidates for the presidency and parliament are required to fill in a form declaring their assets, however, this information is not provided. I sued the Central Election Commission for refusing to provide this information.

Investigations reveal that some members of the Azerbaijani parliament own businesses. A constitutional requirement to stop their mandate in case of a conflict of interest is neglected.

Corruption in Azerbaijan undermines not only the well-being of the country's citizens but also endangers the country's independence. Corruption in education and healthcare puts people's lives at risk, and as a solution, they seek remedy in neighboring countries.

You might have heard many times from Azerbaijani interlocutors that the country exists in very difficult geography: it is sandwiched between Russia and Iran. These are the two main destinations for people who fail to find healthcare and jobs in Azerbaijan. Monopolies and corruption in Azerbaijan have created a huge problem with the availability of basic services. According to WHO data, Azerbaijanis pay 70 percent of their healthcare expenses, even though the country claims to provide medical care for free.

The country has failed to establish an insurance system. The Soviet style healthcare management is corrupt, and the failure of the education system and drug monopolies make it impossible for Azerbaijanis to receive even basic medical services in the country. The solution is right there, next door, in Iran. Azerbaijani citizens enjoy healthcare services there at far more affordable prices than in their own country. Iranian government and private clinics attract more Azerbaijanis by providing special promotion packages. According to the Iranian embassy in Baku, every year 800,000 citizens out of a population of ten million Azerbaijanis travel to Iran for healthcare.

Millions of Azerbaijanis still depend on remittances coming from guest workers in Russia—those Azerbaijanis who could not find opportunities in their own oil-rich country and have left to earn their living on the territory of their northern neighbor.

Azerbaijanis will feel the full impact of corruption and mismanagement when the oil money runs out. A devastated economy and environment, in addition to the lack of savings for the future, may become a cause of societal unrest in foreseeable future. Seventy percent of Azerbaijan's budget comes from oil production. Oil is the main commodity of Azerbaijan, making up 92 percent of its exports.

Oil fuels corrupt construction projects, which create temporary employment. The so-called "white elephant" projects like the concert halls for Eurovision or stadiums for the Euro Olympics will hardly return investments and help Azerbaijanis earn a living in the post-oil period.

The state procurement system has become more transparent in the past two years, however it still fails to allow access to information enabling citizens to monitor procurement procedures. Even with minimum access to information, using public sources, journalists have revealed facts of corruption.

Azerbaijani journalists and NGOs combatting corruption pay a personal price for these efforts. The country's broadcast media is under state control, Azadliq newspaper, the only newspaper that publishes investigative reports about the president's family, is barred from nationwide distribution and faces financial difficulties, and RFE/RL, BBC and VOA are banned on local broadcast frequencies. Online penetration is not good enough for the internet to become a substitute for TV. Weekly satellite TV programs from abroad are being jammed. The individual journalists who investigate corruption are being punished by intrusion into their privacy and smear campaigns in pro-government and the ruling party's media, and they are labeled enemies of the state. In some cases the journalists are being subject to enormous libel fines, even in cases when their story was not libelous.

The latest wave of pressure on NGOs has targeted the remnants of the research centers and media support institutions. The bank accounts of those NGOs are frozen, and leaders have had to leave the country or hide.

With the downgrading of the OSCE's mandate inside the country, most of the projects related to media and combatting corruption have stopped. The government of Azerbaijan has not approved any of the media-related proposals of the Baku project coordinator's office.

Investigative journalists in Azerbaijan have done their best to show the government where the problems are. In fact, the system of corruption in Azerbaijan is managed from the top, and top government officials are the main beneficiaries of corruption. Recent reforms made the corruption even more centralized, leaving less room for low-level officials to participate in corruption schemes.

And here I want to mention a positive part of the story. I want to single out the partial reform of the public service, in particular the establishment of so-called ASAN (easy) services. ASAN is an agency of the Azerbaijani government which provides a variety of public services to citizens. Services are made available at public service halls throughout the country. Currently, ASAN endeavors to provide over 50 services at the main location in Baku.

These islands of good governance show that the Byzantine style of business is not a destiny for Azerbaijanis, and that public servants can be professional and effective when they wish. Although there are some open questions related to ASAN procurements, the agency has decreased petty corruption in many areas of service. However, the service is yet to become a nationwide provider of public services and lacks authority in key areas like custom clearances, NGO registration, etc.

Even these islands of good governance though cannot reduce all the risks. Does the Azerbaijani government understand the risks of corruption? It probably does, although the overall system is based on every citizen's contribution to corruption and lies. As Alexander Solzhenitsyn has described in his essay, "Live Not By Lies," the system, designed by the Soviet KGB, depends on everyone's participation. Azerbaijanis are tempted to pay bribes to ease their lives on many occasions every day. The country has failed to complete the land and property registry of the capital city, leaving up to 500,000 households outside the law. Doctors and teachers, who receive \$150 monthly salary, are forced to demand bribes. An analysis of cross-border trade statistics of neighboring countries shows that Azerbaijani customs have hid imported goods worth billions of dollars. The non-registered goods end up in the black market and create illegal businesses. Hundreds of thousands of Azerbaijanis have become forced accomplices of the corrupt system, thus becoming vulnerable and silent, making it easier for the government to suppress and rule.

Here I want to speak on how the global powers of the international community can help Azerbaijanis to stop living by lies.

International institutions must pay more attention to the development of investigative journalism. Bad guys know how important investigative journalism is, and they invest a lot of money in buying out the broadcasters and silencing journalists. Good guys should know its importance as well.

The Azerbaijani government had been successful in jamming hour-long satellite TV programs, but it will be impossible for them to jam 24/7 programming. Azerbaijanis should receive 24/7 TV broadcasts of independent content which will not only inform the citizens on what is going on inside the country, but also become an alternative source of news to what is coming from Russia.

Azerbaijan needs to be held accountable to the Open Government Partnership and fulfill its commitments by granting access to information and by stopping harassment of journalists.

PREPARED STATEMENT OF SHAAZKA BEYERLE

Thank you Chairman Cardin and Co-Chairman Smith for your leadership in drawing attention to the threats and injustice caused by corruption, in particular in OSCE participating States. It's a deep honor to participate in this hearing and a pleasure to share with you conclusions and recommendations from new research on the positive role of citizens in impacting corruption, including in the OSCE region.¹⁸

Today the U.S. Congress will commemorate the 25th anniversary of the non-violent Velvet Revolution and will honor the late Vaclav Havel by unveiling a bust of him in the Freedom Foyer. Since the sound of shaking keys rang through the air in Prague, citizens continue to fight and impact impunity. Over the past 17 years, around the world and in some OSCE countries, literally millions of people have wielded nonviolent power to gain freedom—freedom from corruption.

During this testimony, I will cover three points: (1) the role of citizens and civil society in the anti-corruption equation; (2) recommendations on how the U.S., EU and the OSCE can assist participating States to help create an enabling environment for civic anti-corruption initiatives; and (3) what the broader anti-corruption struggle in the OSCE region can learn from organized civic initiatives targeting graft and impunity. I hope that this brief overview will stimulate your interest and prompt questions.

The following testimony is based on an international, evidence-based, research project I conducted to identify, document and distill general lessons from organized, sustained civic initiatives wielding people power to fight graft and abuse, gain accountability and win rights and justice. It examined the skills, strategies, objectives and demands of such civic initiatives, rather than the phenomenon of corruption itself. The focus was on what civic actors and citizens—together exerting their collective power—did or are doing to curb corruption as they themselves define and experience it. Sixteen cases were documented and analyzed in-depth from among the following countries: Afghanistan, Bangladesh, Brazil, Egypt, Guatemala, India, Indonesia, Kenya, Mexico, Philippines, South Korea, Uganda, and the OSCE member countries, Bosnia and Herzegovina, Italy, Russia, and Turkey. Please refer to the Appendix for a summary of the cases and their outcomes.

The good news is that citizens—organized in nonviolent campaigns, movements and community initiatives—are vital protagonists in combatting corruption. As importantly, these are homegrown efforts that do not involve huge financial outlays. Most don't seek financial support from external sources. It's the ingenuity, courage, resources, and voluntary participation of ordinary people that provide the foundation for action. They have achieved notable outcomes, for example in the OSCE region:

Resignation of Nedžad Branković, the Prime Minister of the Federation of Bosnia and Herzegovina halfway through his term (2009);

Over 1000 businesses to date publicly refusing to pay extortion money to the Cosa Nostra mafia in Palermo, Italy (ongoing);

Judicial investigations, trials and verdicts to undermine the links between the state, organized crime, elements of the police, *gladios* (paramilitary groups linked to state security institutions), and parts of the private sector in Turkey (1997);

Targeting corruption and impunity in Russia to prevent the bisection of an old-growth, state-protected woodland outside Moscow for a large highway and illegal development involving the French firm, Vinci (ongoing).

For your information, the latter Movement to Defend Khimki Forest in Russia is employing both nonviolent action and legal measures. The European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) pulled out of the project. In June 2013, Sherpa, the French human rights lawyers' group, along with other European NGOs, filed a formal complaint of corruption against Vinci with the Paris Prosecutor. In October 2013, the Prosecutor announced the opening of a preliminary enquiry into financial crimes. While it's not possible at this juncture to know the outcome, as a result of this movement, earlier this year most of the forest has not been destroyed (1700 hectares out of 2000 hectares) and felling came to a standstill.

And recently in Hungary—thousands mobilized against a corrupt, increasingly authoritarian government and an internet tax designed to thwart the free flow of information.

During my research, I asked some civic actors what they needed from external actors. Here are a few of their replies. First, the *international community (of course*

¹⁸My testimony is presented in a personal capacity. It does not reflect the views of the entities to which I am professionally affiliated.

including the U.S., EU and OSCE) should look beyond formal NGOs and pay attention to civil society organizations and informal civic groups leading nonviolent campaigns and movements against corruption. They have valuable input about top-down efforts to combat corruption as well as insights about what is actually happening on the ground. On a positive note, Evgenia Chirikova, the leader of the Movement to Defend Khimki Forest, has testified before the U.S. Congress and European Parliament.

Second, *be open to engaging with civil society and homegrown movements and campaigns in capital cities and diplomatic missions on the ground* (when such contact is sought by them). Grass-roots civil society leaders can be included in government-sponsored international forums and received in capitals, while embassies and missions can genuinely interact with them.¹⁹ For example, the Czech Ministry of Foreign Affairs created the “Transformation Policy Unit” to “enable embassies to support democratization, human rights and transition-related projects in countries with repressive regimes.”²⁰

Third, civic anti-corruption actors implore the international community to *provide protection and solidarity (when they request it)*. Threats and repression are the norm rather than the exception. Moreover, there are wider strategic benefits to international attention and condemnation of crackdowns. Protecting civic actors can potentially empower many more citizens. Solidarity can make repression backfire. It thwarts corruptors’ objectives to paralyze civic dissent; create public fear, despair and apathy; prevent unity among anti-corruption networks and organizations; and obstruct alliances with other nonviolent struggles, for example, for democracy, gender equality, minority rights, and land rights.

Based on my research, allow me to also offer these additional recommendations. Some are not new, but reinforce good practices already under way. *In cases where civil society initiatives seek external funding, provide donor support for self-organization and capacity-building in the civic realm* that supports home-grown approaches and taps pre-existing social networks and relationships. The worst thing international actors can do is throw large sums of money at homegrown, grass-roots civic initiatives and encourage their institutionalization into formal, conventional NGOs. What can be of help in some circumstances are flexible, small grants that enable experimentation, pilot efforts, an expansion of outreach and activities, and peer-to-peer learning exchanges among civil society actors in-country and across borders.

When it is wanted, provide solidarity, legal and technical support, and access to information that civil society may not be able to acquire in-country. Information is often a critical asset for anti-corruption civic initiatives. For example, attention from global personalities, as well as legal measures and beneficial ownership investigations carried out by international civil society organizations were invaluable for the Movement to Defend Khimki Forest.

Amplify civil society voices through various outlets. For instance, where in-country civic entities investigating corruption are blocked from the media, and provide support for alternative modes of communication, such as online civil society information and news outlets, satellite television programming, and multi-lingual international outlets such as Radio Free Europe/Radio Liberty and Deutsche Welle. I understand there is hope for a bill to revamp RFE/RL that cleared the House of Representatives and is now in the Senate.

Recognize that top-down multilateral instruments (including the United Nations Convention Against Corruption) and democratic mechanisms in third-party countries can both directly and indirectly support civil society movements and campaigns targeting corruption and impunity. For example, the Paris Prosecutor investigation of Vinci, hearings in legislative bodies such as the one today and others in the European Parliament, and decisions taken by multilateral institutions (including the European Investment Bank and European Bank for Reconstruction and Development) can disrupt and expose corruption targeted by grass-roots civic initiatives, protect civil society, and undermine malfeasance.

Target global financial corruption. Legislative and institutional measures to curb illicit financial transactions, money laundering and the conversion of ill-gotten gains into legitimate businesses and luxury properties can disrupt the overall system of corruption that civil society is combatting in OSCE participating States. Voices from civil society herald the Magnitsky Act. They call for the Act’s application to be rig-

¹⁹Two excellent resources for such engagement are: *A Diplomat’s Handbook for Democracy Development Support*, 2nd ed. (Washington, DC: Council for a Community of Democracies, 2010) Veronique Dudoquet and Howard Clark, *Nonviolent Civic Action in Support of Human Rights and Democracy* (Brussels: Directorate-General for External Policies, Policy Department, European Parliament, May 2009)

²⁰A Diplomat’s Handbook for Democracy Development Support, 29.

orous and wish it would be extended both in terms of scope and countries. I'd like to thank you, Senator Cardin, and also Senator John McCain, for your efforts to extend the law's reach through the Global Magnitsky Human Rights Accountability Act. I was present in the hall when Sergei Magnitsky's mother, Natalia, received the 2011 Transparency International Integrity Award, given to her son posthumously. I'll never forget the sorrow etched in her face, in spite of her composure and dignity.

In conclusion, allow me to summarize what we can learn from grass-roots, civil society campaigns and movements impacting corruption. First, *citizens can add extra-institutional pressure to push for change—when powerholders are corrupt and/or unaccountable and institutional channels are blocked or ineffective*. Traditional top-down approaches were based on a flawed assumption that once anti-corruption structures are put in place, illicit practices will change. Those who are benefitting from corruption are expected to be the ones to curb it. This helps us to understand why, in spite of so many top-down efforts, success is often elusive. Even when political will exists, it can be thwarted, because too many people inside the corrupt system have a stake in the crooked status quo.

Second, *we can learn new strategies from citizen engagement and action that go beyond the traditional carrot versus stick approach*. Graft and abuse function in systems. They are not simply a collection of random dishonest transactions.²¹ I found that citizen movements and campaigns developed strategies and actions that: (1) disrupted systems of corruption (2) empowered and protected reformers and integrity champions inside the state who inevitably faced corrupt, often hostile, vested interests; (3) empowered honest individuals caught in venal systems to say no, that is, to avoid engaging in corruption. At the same time, these civil society initiatives often pursued longer-term goals of changing behaviors, practices and general norms regarding corruption.

Third, *top-down and bottom-up approaches are complementary (not mutually exclusive)*. Both are needed and together, they create synergies. Citizen engagement and action can:

- Empower and protect honest powerholders and integrity champions pursuing accountability, reform and change from within the system;

- Empower and protect honest state officials caught in a system of corruption to refuse to go along with it, i.e., noncooperation with corruption;

- Create political will to enact policies, laws and administrative mechanisms to curb illicit financial flows and/or to implement them;

- Contribute to changing behaviors, practices and general norms regarding corruption and, potentially, illicit financial flows.

Fourth, *citizens do not fight corruption in the abstract*. Rather, it's linked to widely shared grievances and venal practices that produce collective outrage or harm regular people in their everyday lives. Fifth, *citizen action targeting corruption is most often found in societies enduring poor governance, poverty, low levels of literacy, and severe repression, the latter perpetrated by the state, paramilitary groups, or organized crime*. This finding, corroborated by research from the nonviolent resistance, democracy and development realms, overturns the misconception that citizen engagement is dependent on various conditions, such as civil liberties, a functioning democracy, relatively sound levels of social and economic development, political space for dissent, etc.

In conclusion, I'd like to honor the leaders, organizers and regular citizens who are combatting corruption in spite of intimidation and repression. They prove that while corruption brings out the worst in people, fighting it can bring out the best. Thank you, Chairman Cardin and Co-Chairman Smith.

²¹My preferred definition of corruption is: a system of abuse of entrusted power for private, collective, or political gain—often involving a complex, intertwined set of relationships, some obvious, others hidden, with established vested interests, that can operate vertically within an institution or horizontally cut across political, economic and social spheres in a society or transnationally. This systemic definition was developed by the author, who wishes to credit for inspiration, points made by Maria Gonzalez de Asis, World Bank, in an unpublished, working paper.

November 17, 2014

Azerbaijan

RFE/RL's Azerbaijan Service has a long history of exposing corruption within the Azerbaijani government. RFE/RL reporter Nushabe Fatullayeva teamed up with contributor and investigative reporter Khadija Ismayilova on a series of investigative reports that linked family members of President Ilham Aliyev to several massive financial corruption schemes. Subsequently, Ismayilova has become a target of smear campaigns and spurious legal investigations that, most recently, have prevented her from testifying on corruption issues before the U.S. Congress and in other international fora.

The Azerbaijani Service hosts a web portal, "Korrupsiometr," that provides information on the latest laws and regulations in the country, lets Azeri lawyers respond to audience questions on anti-corruption issues, and serves as a discussion forum for people impacted by corruption.

Ukraine

The Ukrainian Service has launched a nationally-broadcast television program, "Schemes," that examines various deals and allegations of corruption that helped spark the Euromaidan movement. The program exposes the lavish lifestyles of former senior Ukrainian officials and documents various government employees receiving gifts.

Widely-seen episodes have exposed financial misappropriations of former minister Mykola Zlochevsky and excessively lavish lifestyles of former oil and gas officials Serhiy Katsuba and Yevhen Bakulin.

Armenia

RFE/RL's Armenian Service routinely exposes corruption, conflict of interest, abuse of power in the country. A Service journalist recently uncovered a story about Armenian oligarchs exploiting local resources for big gain while penalizing small farmers. Another story shed light on the Yerevan city government's excessive—and ultimately wasted—expenditures that inflamed environmental and anti-corruption activists alike.

In October, an RFE/RL story exposed the potentially illegal income of a top state Justice Ministry official, Mihran Poghosian, who has been the source of public criticism for questionable accumulated wealth while in state service.

Uzbekistan

The Uzbek Service worked with Sweden's SVT public television broadcaster in 2013 to publicize documents that demonstrate alleged links between Gulnara Karimova, the daughter of Uzbek President Islam Karimov and Swedish telecoms giant TeliaSonera. In the documents, TeliaSonera is asked to pay hefty bribes in exchange for protection from government agencies and an infusion of new clients, and Karimova appears to be personally dictating the terms of the negotiations.

Russia

RFE/RL's Russian Service helped uncover the massive corruption, environmental damage, and toll on local residents and migrant workers that surrounded Russia's preparations for the 2014 Winter Olympics in Sochi, with its "Sochi: Outside The Arena" investigative report.

Belarus

RFE/RL's Belarus Service is the only media working in Belarus to report on corruption cases in detail—in cities such as Homel, where the mayor, two vice mayors and several top police officials have been arrested on corruption charges, and in state-owned industries such as the oil company "Belneftekhim," a wood-processing factory in Babruisk, and a food plant in Minsk.

Bosnia

RFE/RL's Sarajevo bureau launched a multimedia project that investigated cases of failed privatizations of state-owned enterprises in Sarajevo, Mostar, Banja Luka and other Bosnian cities.

A Balkan Service report also looked into the failed privatization of the "Aluminij" plant in Mostar, one of Bosnia's biggest exporters. The company, which once employed several thousand workers, now only has several hundred employees and is facing closure.

Another report exposed a massive customs and tax fraud case in Bosnia that has subsequently led to the arrest of Kemal Caušević, the former director of the Bosnian Indirect Taxation Authority (UIO), along with 39 others, mostly tax officials accused of abuse of power, tax evasion and money laundering.

Kosovo

The Balkan Service has dedicated a web page, “Monitor Corruptus”, to its coverage of the fight against government corruption in Kosovo. The page features a link that allows viewers to upload content directly to the site, and provides a direct link to the Kosovo Anti-Corruption Agency that enables users to report corruption cases directly to the agency.

The Service is also working with the Center for Investigative Journalism (CIN) on a series of reports on issues related to corruption that have been featured on the Service’s regional and national programs and re-used by other media outlets throughout the region.

Macedonia

The Balkan Service’s Macedonia Unit, in cooperation with local NGO’s, created a series of reports as well as a special web page on corruption connected with the Macedonian government’s “Skopje 2014” project. As a result, other media outlets in Macedonia have begun to report on corruption linked to the Skopje 2014 project, and the government has been forced to admit that the cost of the project exceeds the amount previously reported.



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