

## Whose money is it anyway? Fiscal transparency and the open society agenda



FREDERICK HADDOX

Decentralization in Central and Eastern Europe and the former Soviet Union means that local governments in the region are handling more responsibility—and more money.

Taxpayers want to be sure that this money is spent correctly. Inefficient or corrupt local governance can hinder development and erode faith in democracy.

Fiscal transparency lets citizens follow their money through the labyrinthian processes of budgeting and spending.

*Local Governance Brief* looks at fiscal transparency theory and practice in the region, with an additional focus on what OSI is doing. This edition attempts to identify good work in promoting openness, and to suggest new areas for intervention.

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## About LGI

The Local Government and Public Service Reform Initiative (LGI), publisher of *Local Governance Brief*, is an international development, policy research, and grant-giving project of the Open Society Institute (OSI). Its mission is to promote democratic and effective government, primarily in Southern and Eastern Europe, the Caucasus and Central Asia. LGI supports public administration reform, decentralization, improvement of governance techniques and public policy formulation.

One of the most challenging issues facing open society in Central and South Eastern Europe, the Newly Independent States, and the new countries covered by OSI activities, is effective, democratic governance. Transition offers many examples of weak states that have been captured by small groups who use public power in pursuit of personal advancement. Good governance means that institutions at the central and sub-national levels listen to, and consult with, society. This can only happen if state institutions want to consult with society, they know how to do so, and they have developed transparent procedures to do so. Meanwhile, citizens must be skilled in articulating and lobbying for their interests.

There is a great deal of social and political learning to be done on both sides of the power divide. Enhancing the capacity of both to work toward solutions to stubborn social problems lies at the heart of LGI's agenda.

**LGI, Open Society  
Institute–Budapest**  
Október 6 utca 12  
H-1051 Budapest  
Hungary

Tel: (+36-1) 327-3100  
Fax: (+36-1) 327-3105

E-mail: [lgprog@osi.hu](mailto:lgprog@osi.hu)  
Web: <http://lgi.osi.hu/>

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Editor in Chief: **Petra Kovács**

Editorial Board: **George Guess, Adrian Ionescu, Gábor Péteri, Violetta Zentai**

Editor: **Gábor Péteri**

Managing Editor: **Tom Popper**

Editorial Advisor: **Ari Korpivaara**

Proofreading: **Aniko Fenyvesi**

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Any comments or submissions should be directed to **Petra Kovács**, [kovacsp@osi.hu](mailto:kovacsp@osi.hu).

For subscription requests, send an e-mail to [LGIpublications@osi.hu](mailto:LGIpublications@osi.hu).

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**Zsuzsa Katona**, Training Consultant

**Meghan Simpson**, Research Associate

**LGI, Open Society Institute–Budapest**

Október 6 utca 12, H-1051 Budapest, Hungary

Tel: (+36-1) 327-3100 • Fax: (+36-1) 327-3105

E-mail: [lgprog@osi.hu](mailto:lgprog@osi.hu) • <http://lgi.osi.hu/>

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# Open governments give better service

*“Opportunities for campesinos to discuss the village budget with the mayor are no longer the answer to lack of fiscal transparency. The problems lie in the cities and the processes of budget watch need to be more sophisticated”*

—The head of a budget watch team in Peru.

Fiscal transparency allows citizens to act like customers, demanding the most value for their money. Transparent operations also make it easier for local governments to deliver that value.

Promoting honest and effective management of public finances by local government is essential to democracy, and this work involves a range of issues, institutions and methods.

This edition of *Local Governance Brief* seeks to map these approaches and give examples of relevant international experience.

The articles in this edition show that the integrity of public finances depends on a combination of a vigilant civil society and a sound institutional framework. Civil society, concerned with lack of fiscal transparency, needs to assess the adequacy of the institutional framework and to campaign for the reform of that framework.

Transparency can be used as an instrument to improve the quality of public services and the efficiency of government while also enhancing the effectiveness of public decisions. Transparency is essential to decentralization, because local autonomy can only be increased if politicians and bureaucrats are made more accountable to their constituents.

Decentralization can also benefit from

the way that involvement of all relevant stakeholders in transparent policymaking processes improves a local government’s decision-making capacity. And, under decentralization, implementation of local policies must also be made transparent—especially now, when the boundaries of the public and private sector are flexible and often changing.

In its exploration of the benefits and challenges of fiscal transparency, this edition begins with an introduction that highlights key issues and questions.

The introduction, which starts on the next page, is followed by features that look at issues such as transparent budget formation, access to public information, transfers between various levels of government, means for enhancing integrity, and the changing role of the auditing process. The final article gives an overview of the work that the Open Society Institute (OSI) is doing in this area. Hopefully, the entire edition will give indications as to what other work OSI should be doing.

There is no single route to improving the accountability of local public service management. This edition describes a variety of institutions, reforms, and practices that, used in combination, can help.

What the Local Government and Public Service Reform Initiative (LGI) would like to do, through this *Brief* and other means of communication, is to help civil society assess the main opportunities for improvement in individual countries and to bring international experience to bear upon the issue.

—Ken Davey and Gábor Péteri

# Introduction: Questions to ask about fiscal transparency

By Ken Davey  
and Gábor Péteri

Keeping local government finances clear is clearly good for democracy. Using fiscal transparency, local stakeholders can help make sure that public funds are used well.

The work of maintaining fiscal transparency at the municipal level is often referred to as “local budget watch.” This descriptive term can help clarify the issue by suggesting three basic questions:

- What is being watched?
- Who is watching?
- How are they watching?

The following paragraphs explain the significance of these questions and give an overview of fiscal transparency by outlining further questions and issues to consider.

## **What is being watched?**

### **Legality and probity**

Is someone stealing my money?

The most traditional focus of budget monitoring is the legality and honesty of revenue collection and expenditure. Matters of fiscal transparency are usually not subject to public discussion, because they are regarded as being highly technical. But transparency is an important factor for development. Reforms lead-

***Matters of fiscal transparency are usually not subject to public discussion, because they are regarded as being highly technical.***

ing to fiscal transparency build democracy by opening up special planning and allocation methods, budgeting procedures, and information sources.

When assessing a local government’s integrity and legal framework for transparency, it is important to ask the following questions:

- Are all revenue, expenditure, and assets properly accounted for? Is there any possibility of embezzlement or theft?
- Has revenue due to the local government been properly assessed and collected? If tax exemptions have been given, are they legal and reasonable?
- Has all expenditure been covered by an authorized budget?
- Have procurement rules been observed? Have purchases of goods and services been subjected to transparent tendering, and have they complied with the resulting contract prices and standards?
- How are budgets implemented? Are budget modifications as transparent as their approval was? Do budget disbursement rules ensure control over

spending? Do cash management procedures guarantee the power of elected bodies over the financial administration?

- Are staff appointments and promotions made by open and competitive procedures, and are qualification requirements observed?
- Are local governments audited by independent, qualified auditors, in conformity with recognized professional standards? Is their scrutiny comprehensive and does it include subsidiary organizations? Are their reports accessible to local councils and the public?

### **Allocation**

Is my money being spent on the right things?

The classical justification for decentralizing responsibility to elected local bodies is that money will be used in accordance with local preferences and priorities. The role of political manipulation or vested interests should be minimized. Mechanism of political representation should be supplemented by direct forms of influence from various community groups.

When assessing allocation, questions to ask include:

- Do budget classifications make clear the purposes for which money is being spent?
- Is fiscal data available for the general public in a simple and understandable format?
- Do fiscal planning procedures allow sufficient time for local decisions? Are all the relevant stakeholders involved in budgeting and is there an effective control over the financial administration?
- Do budget allocations by local governments reflect established policies and strategic priorities?
- Are local budget allocations to individual service institutions, like schools, hospitals, or residential homes, fair and objective?
- Are local budget choices constrained or distorted by fiscal instability and political manipulation, particularly in respect to intergovernmental funding? Are transfers, both for current and capital expenditure, predictable? Are they distributed by objective and transparent formulas, unaffected by bargaining or political favoritism? Are the volume and the distribution criteria covered by permanent legislation or more arbitrary and less stable annual state budget decisions?

### **Efficiency**

Is my money being spent carefully?

Both national and local government are frequently caught between conflicting demands to hold down levels of taxation and to improve standards of public services. This means trying to reduce waste and adopt

efficient methods of service delivery, ambitions often described as the search for “value for money.” Achieving efficiency usually involves forms of benchmarking. Questions that must be addressed include:

- How do the unit costs of local public services compare with those in other localities?
- Are staffing levels justifiable?
- Are administrative overheads reasonable in relation to the overall size of the local budget?

### **Who is watching?**

A variety of groups may be watching the performance of local budgets, albeit from different perspectives. They may include:

- bodies of elected politicians (committees, council fractions, etc.);
- official audit agencies, such as national or regional audit chambers;
- inspectors of individual public services, like schools;
- nongovernmental organizations, like Soros foundations, which are primarily concerned with good governance as components of democracy and human rights;
- NGOs focusing on individual sectors of local public service who are concerned about the adequacy and effectiveness of local expenditure in their specific areas, such as care of the elderly or environmental protection;
- associations of professionals engaged in local government, such as municipal finance directors;
- users of local services, such as parents of schoolchildren or social housing tenants;
- competitors of public service organizations, such as alternative producers of public services.

### **How do they watch?**

The ability of these watchers to scrutinize the performance of local budgets depends on a range of factors. It is important to bear in mind:

- Data presentation and budget classification should be sufficiently detailed. Program budgeting can be used to relate expenditure more clearly to its purpose. Traditional breakdowns by inputs, such as staff salaries, transport, or energy costs, may not show overall expenditure on particular services. These breakdowns also do not show the division between types of service or individual agencies.
- Budgeting rules and procedures should be considered. These impact what issues will be discussed, what happens at what stage, who will be involved in the planning, and how they will be involved.
- There should be good access to fiscal and service performance data. This means public finance should be public, even though town halls may resist demands to show meaningful details of budget allocation or execution, including public contracts.
- Conflict of interest regulations should include codes of ethics, which prevent elected officials and civil servants from committing fraud or issuing personal

favours.

- There should be service performance standards and cost comparisons, which are used as a basis for judging efficiency.
- Reporting systems should be regular and easily available to elected officials and the general public.

### **Conclusions**

To watch is one thing, to act on observations and secure improvements is another.

Internationally, channels of public intervention are constantly developing. Two familiar means of intervention are:

- direct participation, principally through voting in elections but also through the use of public hearings and the representation of service users, such as parents or housing tenants on management committees, boards, etc.;
- exposure and public pressure, through the media, publication of opinion surveys, performance league tables, etc.

An alternative approach associated with experiments

in New Public Management is the insertion of incentives through market choice and competition. For example, parents may be able to choose which school their children should attend and the schools might be funded according to the number of pupils they attract. Alternative suppliers of utilities, like telephones or electricity, can be given access to the same distribution system, to allow fair competition.

None of these approaches alone can guarantee honest and effective management of public finance. Elections may be determined by national rather than local issues. Other forms of participation may be captured by the elite or vested interests. Opportunity for choice may not be equally available to all service consumers. For instance, car owners may have more choice of schools for their children than those without cars. In general, market forces can encourage social segregation and disadvantage.

This is why it is essential to take a range of measures to encourage fiscal transparency as a basic first step in helping ensure efficient government spending.

This edition of *Local Governance Brief* focuses on specific aspects of fiscal transparency and techniques for enhancing this transparency. Our aim is to answer the following questions:

- What are the various key areas to consider when addressing transparent public sector finances, and how they are linked to the open society agenda? (In other words, what is being watched, and how?).
- Why do national and local governments try to enhance, or limit, fiscal transparency?
- How can non-governmental organizations, civic groups, and citizens do more to improve transparency in public sector finances?

***As a means to encourage competitive excellence, schools could be funded according to the number of pupils they attract.***

# Transparency begins with the budget process

Civil society take note: When a government maps out its spending plans, it lays bare its priorities and gives indications of its performance

By Pamela Gomez

Citizens seeking to ensure fiscal transparency may want to start by looking at their national budget, which describes how much revenue the government is expecting and how it will be spent. This kind of information is essential to effective work in combating corruption, promoting respect for human rights, and improving delivery of public services—all issues of profound concern to civil society organizations on the local and national level.

And yet, many stakeholders seem to consider the executive's annual formulation of the national budget to be a closed, mysterious process. Budgeting in the vast majority of countries remains a behind-the-scenes exercise, with limited or no disclosure of useful information to the public, or opportunities for citizen input.

The situation is changing, as civil society organizations become increasingly sophisticated in their understanding of how the problems they wish to address are linked to the budget and other issues of financial management.

Addressing the needs of the local level often means increasing financing on the national level. An appreciation

of how the budget process generally works makes it clear that civil society and other stakeholders can, and should, keep a close eye on government spending plans.

**Budgeting in the majority of countries is a behind-the-scenes exercise, with limited or no disclosure of useful information or opportunities for public input.**

*Pamela Gomez directs a global research project active in 60 countries at the International Budget Project (IBP). The project is intended to promote public access to budget information, improved citizen engagement with the budget, and strengthening of institutions of accountability. The IBP is a unit within the Washington, D.C.-based non-profit, the Center on Budget and Policy Priorities. Gomez's academic background is in economics and international relations, and she has over 15 years experience working in the former Soviet Union and Latin America.*

## BUDGET FORMULATION

### Monitoring possible through entire budget cycle

In most countries, regardless of the specifics of the system, budgeting is a four-stage process:

- 1) The executive *formulates* the budget proposal.
- 2) The legislature debates and *approves* it.
- 3) The executive *implements* the budget.

4) During the *evaluation and auditing* phase, the executive reports on its activities in the year-end report. Meanwhile, the supreme audit institution, the country's highest ranking independent auditing body, reviews the executive's performance to ensure it meets the requirements approved by the legislature in the budget and in the country's budget laws.

It is generally possible to monitor what the government is doing during each of these stages.

In high- and middle-income countries, with strongly developed capacities to administer public services, many nongovernmental organizations have concentrated their work on analyzing budget allocations and spending trends, or on tax policies, with the goal of promoting increased social expenditure.

Traditionally, these civil society organizations have focused on government spending plans during the legislature's consideration of the budget. This high-profile phase of the budget cycle, after the executive has sent its proposal to the legislature for debate and approval, is generally the time when access to information about the budget tends to be best.

Meanwhile, organizations in countries where capacity for financial management is weak have focused not only on analysis of budget policies but also on promoting access to information and encouraging institutional reforms to produce better quality information. Their work has also involved pushing reforms to strengthen the budget's execution, and its evaluation and auditing. Some demands of civil society in these countries include: improved procurement, public expenditure tracking or service delivery report cards, improved transparency of revenue collection, stronger legislative oversight capacity, and stronger external auditing by the country's supreme audit institution.

### Disclosure of information in budget documents

Public access to information plays an important role in efforts to promote accountability. The country's budget documents are key—they should serve as the definitive source for disclosing the government's financial activities to the public.

There are other documents that can be useful. In many countries, a wide range of governmental bodies provide economic and financial information to the public throughout the year. Institutions such as central banks, national statistics offices, ministries, specialized agencies, and state-owned companies may continually release information about the economy's performance, the country's demographics, or their own specific activities and plans.

Nevertheless, the country's budget documents are the place where such economic and financial information must be consolidated, to present to the public a comprehensive picture of the government's fiscal position. The documents must also discuss and disclose any factors that would significantly impact on the government's position in the future.

The key budget documents that should be considered carefully are the pre-budget statement, the budget proposal, monthly or quarterly reports, the mid-year review, the year-end review, and the auditor's report.

The timing of the availability of budget documents has a big impact on accountability and on the possibility for informed citizen participation in budget debates. As noted above, access to information about the budget tends to be the best in most countries during the second phase of budget process: legislative debate and approval.

But in some countries, the executive has shut the public out completely from budget debates, simply by delaying publication of the budget until after the legislature has approved it. This is the case in Angola, Burkina Faso, Egypt, Mongolia, and Timor Leste. In other countries, the executive sharply limits the ability of the legislature and public to analyze and debate the budget by making it public only weeks or days before the new budget year starts. This practice is seen in Bangladesh, Georgia, Jordan, Kenya, Malawi, and Namibia. In some extreme cases, such as China and Ghana, the government typically does not even present the budget until after the budget year starts.

### **Budget formulation**

In most countries, access to information and opportunities for engagement regarding the budget tend to be the most restricted during the first stage of the budget process: the executive's formulation of the draft budget. In some cases, the executive might issue a pre-budget statement, disclosing the overall parameters of the budget during this stage of the budget cycle. But most of the action takes place behind-the-scenes. As the budget is prepared, the ministry of finance usually plays the lead role in overseeing other ministries and coordinating with subnational governments.

Under many systems, the finance ministry will submit the budget to a council of ministers or the prime minister for approval before the document is

## **Six key budget documents**

Two widely used sets of international guidelines on fiscal transparency, the *OECD Best Practices for Budget Transparency*<sup>1</sup> and the International Monetary Fund's *Code of Good Practices for Fiscal Transparency*<sup>2</sup>, identify six key budget documents that all countries should issue:

- **Pre-budget statement:** The executive should release this document at least one month before it sends the budget to parliament. It should disclose the overall spending and revenue levels of the budget and how these can be expected to impact the economy. In some countries, the pre-budget statement is approved by the parliament.
- **Budget proposal:** The executive's annual budget proposal can take the form of a draft bill presented to the legislature, accompanied by a series of supporting documents. The package of documents should provide a comprehensive picture of the government's fiscal position and should explain how planned spending during the year will assist in achieving policy goals. The budget proposal should disclose such things as expected revenues, the value of tax breaks, transfers and grants to other levels of government, subsidies to entities such as public corporations, plans to borrow, delays in making payments due, etc.
- **Monthly or Quarterly Reports:** The executive should issue monthly or quarterly reports showing progress in administering the budget, including the expenditures it has made, the revenues collected, and debt incurred.
- **The Mid-Year Review:** The executive should make available a mid-year review, which is necessary to discuss changes in economic assumptions and how these changes might impact the government's expenditures, revenues, and debt for the remainder of the year.
- **Year End Report:** At the end of the financial year, the executive should issue a year-end report, which is more than a simple financial report. It should serve as the government's principal accountability report to its citizens—providing an update on progress in achieving the policy goals it laid out at the beginning of the year.
- **Auditor's Report:** The annual auditor's attestation report should be issued by a body that is independent from the executive. Auditors will not review every government expenditure, but frequently employ representative sampling to ensure that spending conforms with the requirements approved by the legislature.

1 <http://www.oecd.org/dataoecd/33/13/1905258.pdf>

2 <http://www.internationalmonetaryfund.com/external/np/fad/trans/code.htm>

presented in the parliament. Sometimes, the overall parameters of the budget, including total revenues expected, expenditures, and debt, are also submitted to the council of ministers before the finance ministry determines sectoral and programmatic expenditure ceilings.

The finance ministry generally is given responsibility for maintaining fiscal discipline for the public sector as a whole. Because it is expected to ensure adherence to the country's budget law, and to maintain control of expenditures by other ministries, the finance ministry will be vested with powers that assist in guaranteeing the financial integrity of government. These powers can include the right to regulate public sector accounting standards for national and subnational government, the ability to ensure uniformity and comparability, and the right to decide sectoral or line ministry spending ceilings.

The finance ministry frequently also houses analysts responsible for producing the macroeconomic projections and revenue forecasts necessary for drafting the national and subnational budgets. Producing a budget requires cooperation from other levels of government, and the law must provide a clear delineation of the division of responsibilities

***The finance ministry is responsible for communicating its estimates of the revenues that will be available to subnational governments.***

between levels of government. The process also requires clear laws on the borrowing power of subnational governments and revenue sharing arrangements.

The finance ministry's duty to coordinate budget drafting includes the responsibility to communicate its estimates of the revenues that will be available to subnational governments, to allow these governments to prepare their budgets. The national budget will also contain grants and transfers to subnational governments, and it is important that these be clearly delineated.

These grants generally take the form of: unconditional transfers, which are frequently used to smooth disparities between regions; conditional transfers, which are dependent on standards or conditions in delivery of services; or targeted grants, for specific purposes or programs. (See story, Page 22.)

### ***Budget execution and evaluation***

Once the budget is drafted and approved by parliament, the executive's progress in administering it should be the subject of public monthly or quarterly reports. The government's ability to generate information on budget execution depends on its financial management capacities.

For example, transparent reporting requires a classification and coding system. The system must be able to report on which expenses pertain to which administrative units, such as a ministry or agency, so that it will be possible to trace responsi-

bility for spending to an individual, or group of individuals. The classification system must also disclose the function of expenditure, so that it is possible to separate spending by its purpose, for example, to identify what is expended on health care, education, environmental protection or defense.

Economic classification makes it possible to answer such questions as: How much of the expenditure is destined to civil service salaries as opposed to social benefits? Or, how much of the budget is being spent on interest payments rather than on goods and services?

After the budget is spent, it must be analyzed, and this process ought to produce more information for the public. During the evaluation and auditing phase of the budget cycle, the executive branch should issue a year-end report that not only discloses the government's financial performance, but also how the budget was linked with success in achieving policy goals.

Following the year-end report, a country's independent auditor, the supreme audit institution, should perform a financial audit of the government's accounts. The auditor will produce an opinion about the government's adherence to the country's budget regulations and about how well the government met requirements approved by the legislature in the annual budget. Some parliamentarians and civil society organizations have become highly effective in obtaining audit reports and drawing public attention to the significance of their findings.

Another tool that is potentially useful for civil society is the use of performance or value-for-money audits. (See story, Page 35.) Many audit bodies have begun to use performance audits in addition to their routine annual financial audits, to get a better measure of how well money is spent. Performance audits examine the economy, efficiency, and effectiveness of government programs.

There exists some debate as to whether this type of audit should be encouraged in countries that as yet do not have developed internal financial management capacities. Some experts caution against over-emphasis of these types of audits at the expense of auditing intended to strengthen the country's basic internal financial management systems. But even in countries that are developing their financial management capacities, the findings of a performance audit can frequently attract substantial public attention, and have a significant impact on service delivery.

### ***Access to information laws***

The country's organic laws pertaining to the budget process—or to oversight bodies, such as the supreme audit institution—frequently describe which documents should be published, and when. But to promote budget accountability, it is equally important to adopt access to information laws, and

to make sure citizens can obtain information in practice. (See story, Page 10.)

Much of the budget information that governments are currently producing is apparently withheld from the public.

A 2004 survey of national budgeting practices by the International Budget Project (see box) found that 35 of the 36 countries studied produced such documents as in-year and year-end reports. Yet, in nine of these countries, the government did not disclose in-year reports, and in seven of the countries, the year-end reports were not disclosed.

The results of this survey suggest that many governments could substantially improve budget transparency in their countries, at little or no cost, by taking the simple step of releasing to the public documents they are already producing. And once these documents are released, civil society attention and interest might serve to spur the deeper public sector financial management reforms that might be necessary in many countries to improve the quality or timeliness of information.

Because many public services are delivered by provincial and municipal governments, civil society can benefit from better access to information laws applicable to the subnational level. The highly detailed or disaggregated information needed to trace an individual expenditure, or to track a set of expenditures related to a specific project or program, will generally not be included in a country's central government budget documents.

Freedom of information laws can assist anyone seeking access to information, such as the number of beneficiaries a program has in a particular locale or the geographic distribution of spending. These numbers might not appear in sufficient detail in a country's budget.

And since the ability to generate information is so closely tied to a government's management capacity, demands for more and better information promise to spark an improvement in the services that are vital to the everyday lives of citizens.

## IBP helps citizens get involved in budgeting

One of the best ways for citizens to make sure that they are getting the most out of their government is to figure out what is happening during the budget process. But the process may seem complex, and obtaining information may seem like a daunting task.

The International Budget Project (IBP) was established in 1997, to help civil society and other stakeholders get the knowledge and ability they need to monitor budgeting. The project tries to achieve its ends by partnering with nongovernmental organizations involved in transparency work, by creating networks of these organizations, and by raising awareness of the necessity of budget work.

In its work, IBP has trained thousands of people in scores of countries about how to follow and influence the budget process.

IBP has also produced an *Open Budgets Questionnaire*, which civil society organizations can use to determine how transparent the process is in their country. IBP applied the survey in 36 different countries, and found many cases of problems with transparency, including:

- shortcomings in the need to make the executive budget proposal public;
- few countries monitor or evaluate the budgets once they have been approved;
- governments do not do enough to facilitate public discussion of the budget.

The report, entitled *Opening Budgets to Public Understanding and Debate: Results from 36 Countries*, also recommends solutions for the problems it identifies. The report can be seen on the IBP web site at:

<http://www.internationalbudget.org/openbudgets/index.htm>

# Freedom of information is vital to keeping finances open

FOI laws have become the norm worldwide, but their inconsistent execution requires vigilance from tax payers and civil society

By Helen Darbshire

“Does the Bulgarian Minister of State Administration pay Microsoft from his own pocket?” This provocative headline in the July 2005 newsletter of The Access to Information Program, a Bulgarian non-governmental organization, revealed the frustration of freedom of information activists and members of parliament who had just lost a case before the Bulgarian Supreme Administrative Court. The group had

**The right to know how money is being used by the government is central to the concept of the right of access to information.**

gone to court to get access to a copy of the contract for a \$13.5 million deal between the Bulgarian government and Microsoft and had been sent away empty handed. The grounds were that the contract was confidential and that Microsoft had not given permission for the government to release it. The authors of the article berated themselves for having believed that they could win the case: “[The] Supreme Administrative Court’s decision is astounding in several ways, making the optimists, who believe in the consistency of the court decisions on access to information, look like foolish and enthusiastic activists.” They were also shocked that the public and members of parliament were denied the right to see a contract between the state administration and a private company when such a significant amount of taxpayers’ money was involved in the deal.

The right to know how money is being used by the

*Helen Darbshire is the executive director of Access Info Europe, a Madrid-based human rights organization dedicated to promoting the right of access to information. She has worked on the drafting and implementation of numerous access to information laws in Europe, Latin America, and Africa, and was one of the experts commissioned by the Organization for Security and Co-operation in Europe to draft the Bosnian freedom of information law. She is a founder and current chair of the Freedom of Information Advocates Network. Until 2005, she managed freedom of information and expression programs at the Open Society Justice Initiative.*

## ACCESS TO INFORMATION

government is central to the concept of the right of access to information. Members of the public hand over their tax dollars, euros, forints or lekë, to the government in the same way they transfer power during elections. Information is essential if citizens are going to be able to monitor and participate in the exercise of that power and the good management of those funds. The public has the right to ask: Whose money is it anyway? Transparency goes beyond accountability in that it allows for input into decision making on an ongoing basis, not only during election periods and not only as a reaction to decisions once they have already been taken.

There are two main ways that information enters the public domain: either in response to requests for information filed by members of the public seeking the right of access to information, or through proactive publication of the data by public bodies. Access to information and proactive transparency are two sides of the same coin, even if there are differences in the way they function and the legal regimes that regulate them. Both approaches are increasingly being consolidated as the right of access to information held by public bodies is recognized at the national and international level.

An examination of the development of the right of access to information reveals that the right is still much stronger on paper than in practice. Financial transparency is a problem area in many countries, and the information needed for anticorruption work is still hard to obtain. It is true that exemptions can apply to some data held by government but, as case studies show, much more information can, and should, be made public.

### Global expansion of the right to information

The right to information has both a long and a very recent history: The first access to information law was adopted in 1766, yet the vast majority were adopted in the past 15 years; in 1990 there were just 12 laws, there are now more than 65. That first law, from Sweden, was introduced as part of the freedom of the press act, which granted a right to access official documents.

After this early outlier, development of the right to information can be characterized by three main waves. In the first wave, leading democracies introduced laws on the right of access to government documents or records. For instance, Finland passed a law on the right to information in 1951; the United States

passed one in 1966, with amendments in 1974 following the Watergate scandal; Norway passed its legislation in 1979; and France and the Netherlands passed theirs in 1978.

These laws codified administrative procedures for providing information to the public and focused on administrative bodies, rather than executive, legislative, or judicial bodies. Significantly, these laws enshrine a core principle of the emerging right to information: that requestors do not need to justify their interest in the information sought.

In the second wave, from the 1980s to the early 1990s, democracies in other parts of the world created their own laws supporting the right to information. Countries in this wave include Australia and New Zealand in 1982 and Canada in 1983. European countries adding access to information laws in this period include Austria, Belgium, Denmark, and Portugal. In Australia, Canada, and Portugal, the new laws introduced information commissioners, whose mandate is to oversee implementation and compliance.

The third wave was generated by the seismic political shift that brought down the Berlin Wall: Hungary became the first post-Communist country to adopt a law on "Protection of Personal Data and the Publicity of Data of Public Interest" in 1992. The law became a new model, with its short, 15-day timeframe for receiving information. It also included explicitly defined exemptions and established an oversight mechanism, the Parliamentary Data Protection and Information Commissioner, who must be notified of refusals to provide information.

Throughout the 1990s, the post-communist leadership of Central and Eastern Europe (CEE) and the former Soviet Union adopted access to information laws. From the Baltics to South Eastern Europe to the Caucasus, governments motivated by greater integration in bodies such as the European Union and under pressure to fight the burgeoning corruption that accompanied the rapid shift to market economies, responded to civil society demands for a legal framework to guarantee open government.

In 2000, the international community recognized the emerging, more rigorous standards when it required Bosnia and Herzegovina to adopt an access to information law.

All the post-Communist countries that entered the EU in May 2004 have access to information laws. The same is true of a dozen other countries in the region, including Albania, formerly the most closed country in Europe. Table 1 gives a summary of the laws and constitutions.

The newer access to information laws captured the lessons learned during implementation of earlier legislation. The scope of the newer laws became broader: For example, Bosnia's law covers all branches of government and all bodies performing public functions, and Slovakia's law covers bodies receiving public funds.

**TABLE 1: Access to information laws in Europe**

Country/territory	Constitution Date	Constitution provides for Freedom of Info (FOI) or Access to Info (ATI)*	FOI law Date
Albania	1998	FOI and ATI	1999
Andorra	1993	FOI	none
Armenia	1995	FOI	2003
Austria	1920	ATI	1987
Azerbaijan	1995	FOI	2005
Belgium	1831	ATI	1994
BiH	1995	No provisions	2000
Bulgaria	1991	FOI and ATI	2000
Croatia	1990	ATI	2003
Cyprus	1960	FOI	none
Czech Republic	1993	FOI and ATI	1999
Denmark	1849	No specific provisions	1985
Estonia	1992	FOI and ATI	2000
Finland	2000	FOI and ATI	1951
France	1958	No specific provisions	1978
Georgia	1995	FOI and ATI	1999
Germany	1949	FOI	2005
Greece	1975	ATI	1999
Hungary	1949	FOI and ATI	1992
Iceland	1944	No specific provisions	1996
Ireland	1937	No specific provisions	1997
Italy	1948	No specific provisions	1990
Kosovo	2003	ATI	2003
Latvia	1922	FOI	1998
Liechtenstein	1921	No specific provisions	1999
Lithuania	1992	FOI and ATI	1996
Luxembourg	1868	No specific provisions	none
Macedonia	1991	FOI and ATI	2006
Malta	1964	FOI	none
Moldova	1994	ATI	2000
Monaco	1962	No specific provisions	none
Montenegro	1992	FOI and ATI	2005
Netherlands	1815	No specific provisions	1978
Norway	1814	No specific provisions	1970
Poland	1997	FOI and ATI	2001
Portugal	1976	FOI and ATI	1993
Romania	1991	FOI and ATI	2001
Russian Fed.	1993	FOI	in Oblasts
San Marino	1600	No specific provisions	none
Serbia	2003	No specific provisions	2003
Slovakia	1992	FOI and ATI	2000
Slovenia	1991	FOI and ATI	2003
Spain	1978	FOI and ATI	1992
Sweden	1975	FOI and ATI	1766
Switzerland	1999	FOI and ATI	2004
Turkey	1982	FOI	2003
Ukraine	1996	FOI	1992
United Kingdom	none written	FOI (bill of rights)	2000

\* NOTE: In the column on constitutional provisions, FOI is freedom of information, and ATI is the more specific right to obtain access to information that is held by the government.

SOURCE: Access Info Europe, <http://www.access-info.org>

**TABLE 2: Hungarian legal obligations on electronic publishing of financial management information**

Information that must be published	Must be updated	Method of safekeeping
The annual (elementary) budget of the entity performing public tasks; also its regular report, reports on the execution of the budget in the manner and with the frequency specified by separate legal regulation.	Immediately after any changes	The document is kept in the electronic archive for a period specified under separate legal regulation, but for at least five years.
Summary information concerning the number of employees of the entity performing public tasks. An overview of the wages, fringe benefits, regular benefits, and cost reimbursement of the managers and senior officials, as well as a summary of the type and magnitude of benefits granted to other employees.	Quarterly	The document is kept in the electronic archive for a period specified under separate legal regulation, but for at least one year.
Information concerning the name of beneficiaries of targeted development subsidies that are not normally provided out of the budget of the public entity. The information must include the objective of the subsidy, its amount and the place where the subsidy program is implemented.	Quarterly	The document is kept in the electronic archive for a period specified under separate legal regulation, but for at least one year.
Subject matter of contracts pertaining to: procurement of goods; construction projects; ordering services; sale of assets; utilization of assets; transfer of assets or rights and titles; concessions of a value specified in separate legal regulation; the use of public funds or management of assets belonging to public finances. The information needed is names of the contacting parties, the value of the contract, in the event of contracts concluded for specific periods, and the period of the contract.	Quarterly	The document is kept in the electronic archive for a period specified under separate legal regulation, but for at least one year.
Public information set forth in the Act on Concession, including invitations to tender, the information of tenderers, memos drawn up on evaluation, and results of the tender.	Quarterly	Kept in the electronic archive for a period specified under separate legal regulation, but at least one year.
Payments in excess of HUF 5 million for purposes other than the performance of the basic tasks of the public entity. This applies in particular to grants supporting: social organizations; trade and interest representation organizations of employees; organizations facilitating educational, cultural, social and sports activities of employees and other beneficiaries; and, payments related to tasks performed by foundation.	Quarterly	The document is kept in the electronic archive for a period specified under separate legal regulation, but for at least one year.

TAKEN FROM: Hungary's Act on Freedom of Information by Electronic Means: Publication Scheme III: Information on Financial Management.

The time frame stipulated in the laws for delivering information gradually became shorter, dropping to as few as five days in Estonia.

These trends have been mirrored in Latin American countries: New laws have been adopted as part of democratic reforms in countries such as Mexico (2002) and Peru (2002). Governments in Asia and Africa are becoming increasingly swept up in the global freedom of information movement.

### **Proactive transparency**

The major part of a typical access to information law relates to release of information based on requests for information.

Even while this right is still in development, there is another important front in the war for greater government openness: the promotion of proactive transparency.

Increasingly, access to information laws and other supplementary regulations require governments to release information without requests being filed, and encourage public authorities to take advantage of electronic means of disseminating information, by posting reports and other data on the Internet.

Proactive transparency is top-down, supply driven openness, and, if it is going to function effectively and consistently, it must be supported by detailed legislative regimes.

The aim of proactive transparency is summarized neatly in Article 1 of Hungary's 2005 Law on Freedom of Information by Electronic Means, July 4, 2005:

*With a view to the accurate and rapid information of the public, the objective of this Act is to provide access electronically to the range of public information specified in this Act to anyone without identification and data request procedures, continuously and free of charge.*

The Hungarian law goes on to detail the classes of information that must be made available, including draft legislation, court decisions, and detailed information relating to the organization, staffing, operation, and activities of public bodies. Included in these requirements is much financial data, such as budgets, fees paid for services, "technical description of tenders issued by the entity performing public tasks, their results, and the reasons thereof," and details on contracts.

The requirements of the Hungarian law are shown in Table 2.

It is increasingly common for laws relating to financial management and public procurement—as well as probity laws stipulating declaration of assets or conflicts of interest—to require public authorities to publish information proactively, without having to wait for an access to information request. The focus of civil society groups working on government transparency now includes monitoring compliance with such requirements.

### The right to know in practice: Transparency and silence

On paper, the progress is stunning. In practice the picture is mixed. A major monitoring study of access to information in 14 countries, lead by the Open Society Justice Initiative,<sup>1</sup> found that, in Armenia, Bulgaria, France, Macedonia, Romania, and Spain, 42 percent of requests filed resulted in release of information and other responses in compliance with international norms on access to information. In the new democracies of CEE, the response rates were high, with compliant responses to almost half of the requests filed, for example 48 percent in Bulgaria and 49 percent in Romania.

The glass is half full, but the other half is a vacuum: the Justice Initiative study found that 47 percent of the requests met with complete administrative silence, receiving no response whatsoever, an outcome classified as “mute refusal” by the study (See Figure 1). The level of mute refusals in countries with access to information laws fell to 38 percent, still an unacceptably high rate of ignoring requests from the public.

#### Inconsistent responses

The study also identified a serious problem of inconsistent handling of requests: When the same request was filed twice but by different requestors at different times, the requests received different treatment in 57 percent of the cases. Sometimes the handling of these identical requests was radically different: One request might receive an answer while the other was refused or ignored. Only 20 percent of the paired requests resulted in the same response.

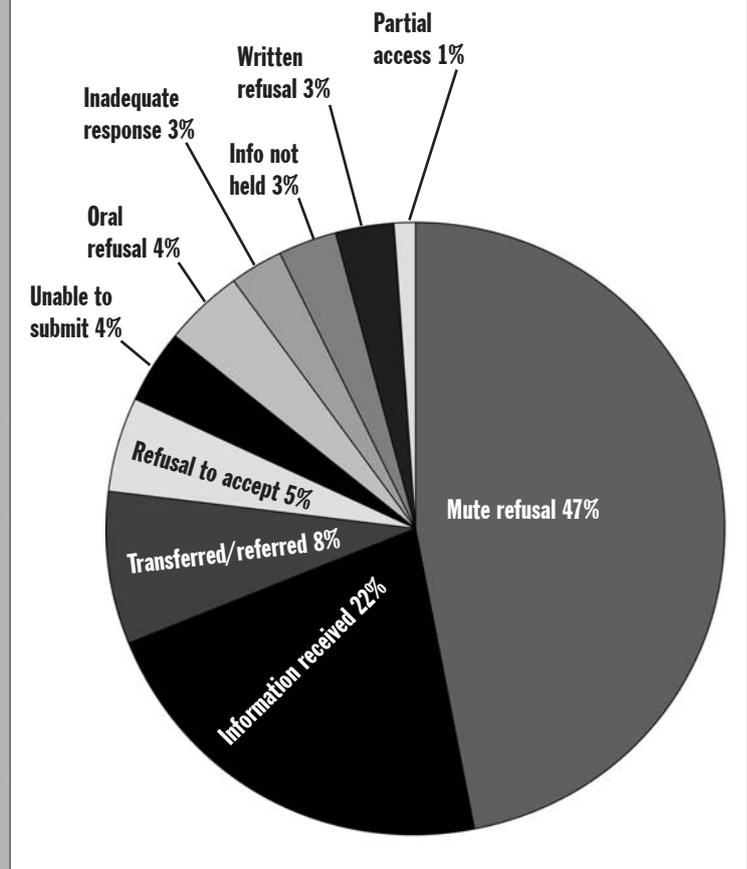
A typical example comes from Macedonia, where a request was filed with the office of the Mayor of the Municipality of Skopje asking:

*What is the length of the road network which the city of Skopje is responsible for, and what resources are allocated annually for their maintenance? Please give us this data for the period 2000-2003 for each year separately.*

This request was submitted twice, once by an NGO requestor and later by a business requestor. The NGO requestor received a detailed answer stating that the Skopje municipality is responsible for 540 kilometers of roads and that the municipality allocates MKD 60 million annually for road maintenance, which is 10 percent of the annual municipal budget. This data was for the period 2000-2003. The NGO requestor was given a contact name if more detailed information was needed.

The business requestor, on the other hand, had her request transferred to the public company responsible for road networks, which provided information on the length of the road network, including detailed data on boulevards, squares, and roads, but not the financial information requested. The outcome for the NGO was *information received*, while for the business the outcome was *transferred*—with a note that part of

**FIGURE 1: Type of government response to 1,926 requests for information in 14 countries**



SOURCE: *Transparency & Silence: 14-Country Access to Information Monitoring Survey*, Open Society Justice Initiative, <http://www.justiceinitiative.org>

the information requested was eventually received.

Follow-up research, including interviews with government officials after the monitoring survey was completed, indicated that such inconsistency was largely caused by failures to ensure proper internal systems for processing requests. These failures could be caused by poor training of staff and inadequate information management systems, rather than a lack of political will *per se*. Whatever the reasons, the failure to respond adequately is a failure of government and is a violation of the right to information.

#### Discrimination

Another serious problem exposed by the study is discrimination in the provision of information. The Justice Initiative found that journalists and civil society representatives obtain information more easily than ordinary citizens, and that there is significant discrimination against those from excluded groups. (See Table 3.)

A matter of particular concern for CEE is that Romani requestors found it hard to get information, and they received both quantitatively and qualitatively

**TABLE 3: Information received by requestors from excluded groups compared with other requestors**

Country	Excluded group requestor (ethnic or socio-economic groups)	Country average information received	Country highest information received/requestor	Excluded group requestor information received
Armenia	Physically handicapped (uses wheelchair).	51 %	80 % (one NGO)	35 % (lowest was business requestor 30%)
Bulgaria	Romani woman (Romani Baht Foundation; presented herself as individual).	48 %	75 % (opposition journalist)	15 %
France	Arab woman.	21 %	30 % (both journalists)	5 %
Macedonia	Albanian ethnic group (male).	16 %	30 % (one NGO and a pro-govt. journalist)	0 %
Romania	Romani man, 25 years old.	49 %	70 % (non-affiliated person)	35 %
Spain	Romani social worker who helps Roma families (request made as an individual).	17 %	40 % (two NGOs)	0 %

SOURCE: Access Info Europe, [www.access-info.org](http://www.access-info.org)

**TABLE 4: Cost of UK Air Force flights taken by the prime minister**

Flight Date	Aircraft	From	To	Total GBP
26-Dec-04	BAe 146	Northolt (Airbase UK)	Bari/Palese Macchie	6,973.00
26-Dec-04	BAe 146	Bari/Palese Macchie	Sharm El Sheikh	6,606.00
30-Dec-04	BAe 146	Sharm El Sheikh	Aqaba	1,468.00
30-Dec-04	BAe 146	Aqaba	Sharm El Sheikh	1,101.00
3-Jan-05	BAe 146	Sharm El Sheikh	Bari/Palese Macchie	8,074.00
3-Jan-05	BAe 146	Bari/Palese Macchie	Northolt	6,606.00

SOURCE: : <http://www.mod.uk/DefenceInternet/FreedomOfInformation/>

worse treatment than other requestors.

In Bulgaria, the Romani requestor received information in response to 15 percent of the requests filed, as compared with a journalist who received answers to 70 percent of their requests. In Romania, a person who presented themselves as a private individual, not affiliated with any particular institution, received answers to 70 percent of requests filed, while a Romani requestor only received answers to 35 percent of their requests.

This poor treatment of Roma was not limited to CEE. In Spain, the Romani requestor received no information whatsoever.

Other ethnic minorities also fared badly: In France an Arab woman received answers to only 5 percent of the requests she filed, and in Macedonia an ethnic Albanian received no information.

Although the Justice Initiative study is based on limited numbers of requests and only provides a snapshot of the situation, it indicates some worrying trends. The right of access to information as a human right must be enjoyed without discrimination.

#### **Access to information by business requestors**

Business requestors also fared poorly in the Justice Initiative survey. This finding is especially relevant to promotion of financial transparency, because fair competition requires equal distribution of information. Overall, business requestors received significantly higher numbers of written refusals than other requestors. Businesses were sent written refusals for 11 percent of their requests, almost three times the next highest figure, 4 percent for NGOs. Business persons also received more mute refusals—a total of 61 percent of submitted requests, significantly higher than the study average for submitted requests of 51 percent.

This surprising outcome may be explained by the low use of access to information laws by business requestors in Europe. In contrast, businesses in the United States are active users of the Freedom of Information Act, and they request a broader range of information than that seen in Europe.

It appears that requests from representatives of small- to medium-sized enterprises often raise suspicions. For example, when asking for data on the number of deaths in the armed forces, the business requestors in Armenia and France were contacted by the Ministry of Defence, which wanted “to discuss the request further.” No one else had their request handled this way.

In Spain, the business requestor asked the Madrid Environmental and Territorial Planning Agency how many urban planning permits had been approved since 1994, how many were rejected, and the reasons for rejection. The requestor received a written refusal stating that the requestor could not have the information without demonstrating an interest. In total, the business requestor in Spain received information in response to just 5 percent of requests. This compares

poorly with the response rate of an NGO, which received answers to 40 percent of its requests for information.

The situation is discouraging, as requests from the business sector for information relating to public tenders and contracts can create pressure for a level playing field. Such pressure can contribute to reducing corruption. And yet the study found that questions related to government probity rarely yielded information. For example, business requestors in the six European countries asked for declarations of ministers' assets, but only in Romania were the requested declarations provided.

### ***The limits of the right to know: National security and protection of commercial interests***

Although it is a fundamental privilege, there are limits to the right of access to information. It is recognized that some information held by the government needs to be reserved in order to protect vital interests, such as national security, or to protect the individual's right to privacy. Other standard exemptions include protection of the decision-making process within government, and protection of commercial confidentiality.

But even limits on classified information are not absolute, and they have to be balanced against the public importance of the information. Much information held by the military may not pose a threat to national security and may be necessary for financial accountability. For example, in a recent release under the United Kingdom's 2000 Freedom of Information Act, the UK Ministry of Defence (MoD) provided costs for use by the UK prime minister of military transport aircrafts operated by Royal Air Force Squadron 32. A sample from the data covering the past 10 years is shown in Table 4.

Another recent MoD posting contains original documents relating to the investigation into the bombing by the IRA of the Royal Marines School of Music at Deal in Kent, UK, on September 22, 1989. Yet another section of the MoD website holds copies of information released following requests for information about unidentified flying objects, which includes logs of all reports of UFOs in recent years. Interestingly this topic was a favorite for early requests under the American Freedom of Information Act after it was adopted in 1966.

### ***Commercial interests vs. procurement transparency***

The need to protect commercial interests is one of the most common reasons for refusing access to government-held information. At the EU level, it is invoked in about 16 percent of the cases in which the European Commission refuses the public access to documents.

The Council of Europe's 2002 Recommendation on access to official documents<sup>2</sup> establishes an access to information exemption for "commercial and other economic interests," and defines these as, "for example, business matters which need to be kept secret for

**TABLE 5: Payments to advisors by Ireland's Department of Finance**

Year	Payee	Amt. paid (EUR)
1999	ABN AMRO and McCann Fitzgerald	46,091
	McCann Fitzgerald	58,734
2000	Arthur Cox Solicitors	200,202
	ABN AMRO and McCann Fitzgerald	264,668
	McCann Fitzgerald	47,081
2001	Sean Burke Solicitors	83,920
	Masons Solicitors	72,200
	Arthur Cox Solicitors	35,424
	ABN AMRO and McCann Fitzgerald	584,466
	A&L Goodbody Solicitors	1,701,658
	McCann Fitzgerald	11,513
2002	A & L Goodbody	326,055
	Gerard Hogan SC	960
	Masons Solicitors	24,017
	O'Donnell Sweeney	102,276

SOURCE: Access Info Europe, [www.access-info.org](http://www.access-info.org)

competition reasons, such as the confidential nature of business negotiations."

Emerging standards indicate that the limits of commercial confidentiality narrow when a private company does business with the government. These companies are in a situation similar to that of elected public officials, who have to accept greater intrusion into their private lives and have to disclose information, such as details of their assets, that other members of society have a right to keep private.

In 2003, the Irish freedom of information commissioner ruled that information in contracts between the government and private companies could be made public, even if it had the potential to damage the competitive edge of that company.<sup>3</sup>

The case arose from a request filed under Ireland's 1997 Freedom of Information Act for a contract between Ireland's Department of Finance and financial advisors, ABN AMRO and McCann FitzGerald Solicitors, that amounted to €850,247, which the commissioner noted was a "large amount of public money."

The total amounts paid had already been made available by the minister of finance (see Table 5), but the requestors wanted details of the contract. The financial advisors objected to the contract being made

public because it would reveal their fee and pricing structure which, they claimed, would give competitors an advantage.

The Irish information commissioner ruled that once the contract had been signed, “The successful tender information lost confidentiality with respect to the fee rates and other details necessary to understand the nature of the services contracted for.” He concluded that this was true, even if harmful to the competitive position of the affected parties: “On balance, the public interest was better served by the release of this information in light of the significant need for openness and accountability in relation to the contract.”

In another precedent-setting case, the Slovenian information commissioner confirmed that procurement contracts between public bodies and private suppliers are public information, except where trade

***The Slovenian information commissioner confirmed that procurement contracts between public bodies and private suppliers are public information.***

secrets that give a competitive advantage are concerned.<sup>4</sup> The case resulted from an information request filed on February 22, 2004 by a member of the public who asked for a copy of the agreement between the municipality and a private

company, ALPDOM Inženiring, for management of apartments blocks owned by the municipality.

The Municipality of Radovljica rejected the request on the grounds that it was confidential under Slovenia’s 1993 Companies Act. The municipality also cited Article 6 of Slovenia’s Access to Information Act, which provides for protection of trade secrets.

The requestor appealed, arguing that the agreement had to be freely available, to allow public participation in the decisions relating to the management of publicly owned housing. A supplementary concern was that a manager of ALPDOM Inženiring was also the deputy mayor of the local municipality, hence there was a clear intermingling of public and private interests.

The information commissioner ruled that the contract should be released. The commissioner cited a number of grounds that reflect comparative standards for public procurement contract transparency:

- information in a contract that does not impact on the competitive market position of the selected provider cannot be considered a trade secret;
- data cannot be defined as a trade secret if other laws require it to be public (in this case the Slovenian Public Procurement Act of 2000);
- data cannot be defined as a trade secret if it relates to violations of law or breaches of good business practices;
- an entire contract cannot be considered a trade

secret as part of the information contained in a contract has to be made public during the bidding process;

- the total financial value of the contract cannot be reserved;
- the object of the tender and description of services/goods to be supplied cannot be reserved;
- supporting references must be made public, as they relate to compliance with the procurement conditions and criteria;
- assessment of eligibility and compliance criteria cannot be reserved, as these are an essential component of awarding a public contract, and the public has the right to know whether the selection procedure has been carried out correctly and whether the selected bidder made the best possible offer.

The information commissioner also noted that, in addition to the above considerations, information may only be considered a trade secret if it has been specified as such by the supplier and if it does not relate directly to the procurement at issue. The commissioner recommended that, if bidders declare large parts of the information they submit to be trade secrets, the contracting agency should exclude the bids. Where contracts contain some genuine trade secrets, the information must be severed, either physically removed or crossed out, or electronically deleted in a password-protected form.

Under standards such as these, the refusal in Bulgaria to release the Microsoft contract, which contains information relating to a major public expenditure of public funds, is a clear breach of the right to know. International norms for fiscal transparency are increasingly clearly defined, but in many transitional democracies the practice still needs to catch up with these norms if the right of access to information is to be fully respected.

## NOTES

1 *Transparency and Silence* published by the Open Society Justice Initiative, [www.justiceinitiative.org](http://www.justiceinitiative.org); report on a study undertaken by the Justice Initiative and its partners to discover how government offices and agencies in fourteen countries—Argentina, Armenia, Bulgaria, Chile, France, Ghana, Kenya, Macedonia, Mexico, Nigeria, Peru, Romania, South Africa, Spain—respond to specific requests for information.

2 Council of Europe Recommendation Rec(2002)2 of the Committee of Ministers on access to official documents elaborates standards for the right of access to publicly-held information; the Council of Europe is in the process of converting the declaration into a binding treaty.

3 Irish Freedom of Information Commission, Case 99183-McKeever Rowan Solicitors and the Department of Finance.

4 Slovenian Information Commissioner, Case No. 020-18/2004/3, date October 28, 2004, Applicant against the conduct and the decision of the Municipality of Radovljica.

# Hungary's legislation helps clarify government finances

'Glass pocket law' is part of a fiscal transparency effort that governments may want to copy

By Kristof Zoltan Varga

With the end of communism in 1990, Hungary's over-sized government began to divest its holdings, and the people began talking about free competition, free elections—and corruption. Some of the earliest scandals of Hungary's new democracy involved deals in which people with connections were enriched through inside information on government property sales. Now that the state has privatized most of its excess assets, the scandals in Hungary revolve around government purchases: Officials have been accused of spending taxpayers' money dishonestly.

While the opportunities for corruption may have changed, public concern about the problem has been constant. The government has responded with several reforms, including a law regulating procurement and rules requiring officials to disclose their assets.

The most recent legislation, the so-called "Glass Pocket Law," is a broad ranging alteration of several other laws that has helped tighten protections against corruption and make the pockets of officials more transparent. One of the more important changes from this law is the way it has opened up the procurement process to enforce transparency on businesses that are contracted by the government. The new law has also forced elected officials to reveal more about their personal finances. None of Hungary's laws sufficiently address the issue of potential corruption in campaign financing, and more reform is needed. Still, Hungary's efforts at addressing corruption are noteworthy, and the country's experiences suggest good practices to other governments.

## The previous legal framework

One of the earlier, and more visible, efforts to address corruption in Hungary's public sector is the legal framework and the changes in the practice of public procurement. Parliament passed the first comprehensive law in this area in 1995, and the public had high expectations. Unfortunately, experience has shown that the framework is necessary, but not enough.

Legislation alone cannot rule out the possibility of cooperation between the agency putting out the ten-

*Kristof Zoltan Varga is in charge of the Local Government Information Network of the Local Government and Public Service Reform Initiative. He is a member of the Budapest City Council.*

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der and a private entity that is "destined" to win the tender because they have friends in government. The result is that a tender can be tailor-made for one particular company, which gains unfair advantage over its competitors in bidding.

Of course the legislation contains provisions for filing complaints and attacking the decision in these cases. Legislators built the system of appeals on the notion that the best guardians of fairness in the procurement process are other companies. Competitors naturally have a vested interest in a fair judgment, and given the opportunity they are likely to file complaints against unfair or illegal decisions. Thus, the thinking goes, competitors for government contracts will effectively police the system.

But the policing has not been as good as could be hoped. Although complaints are numerous, writers of bad tenders pay heavy fines, and it is not unusual for the authorities to declare tender results void, the system is still not effective in diminishing corruption.

Large tenders, such as road building and other construction projects, are especially prone to illegal bidding practices. Tenders of this scale can only be bid for by a handful of companies, and they may seek to maintain higher prices by forming illegal cartels. Cartels divide the market and fix prices, thus eliminating competition in the tendering process.

Another part of Hungary's effort to address corruption has been laws used to monitor the personal wealth of public officials and to prevent conflict of interest. The main vehicle for monitoring the personal wealth of public officials is the personal financial statement that they are required to make public. The system works formally, and has been expanded over the years so that more public officials, and some of their relatives, must make public financial statements.

Unfortunately, the legislation has no real teeth. There are no sanctions for filing incomplete financial statements other than the decline of one's popularity ratings. Furthermore, no infrastructure exists for investigating claims made in financial statements.

## The 'Glass Pocket Law'

The so-called "Glass Pocket Law" (GPL) was enacted as law number 2003\25 in April 2003. Although compounded in a single act, this legislation in reality amends 18 existing pieces of legislation dealing with the use of public funds. The main thrust of the GPL

***Cartels divide the market and fix prices, thus eliminating competition in the tendering process.***

is to increase the transparency of public fund use. Essentially, the GPL says that anyone who wants to be a contractor for the government has to make their business transparent to public authorities. Thus the most important section of the GPL is the one that redefines the boundaries of business secrets.

Before the GPL, contractors, citing laws protecting business secrets, could refuse to supply information on how they spent government money. The GPL makes this practice impossible by allowing public authorities, such as the State Audit Office, to follow taxpayers' money into the books of businesses contracted by the central government or local governments. Subcontractors fall under the same disclosure and access rules.

The GPL also makes changes designed to make government spending itself more transparent than before. To achieve that end, the law turns the burden of publishing public information over to ministries and agencies. Before the GPL, the same information had to be requested from authorities on a case-by-case basis. The GPL calls for publishing a clearly defined set of information on the Internet, including the budget of the ministry or government agency, the number of staff, most important purchases and develop-

***The name of anyone with a government contract of more than HUF 5 million must be disclosed.***

ment projects, the list of tasks the organization has, the measures they use for evaluating their performance, an organizational chart, etc. This regulation

comes from the recognition of the difference between availability and access—an important distinction in transparency.

Another important change of the GPL is the obligatory disclosure of the names of anyone with a government contract worth more than HUF 5 million (about EUR 20,000). The amount of the contract must also be disclosed. For example, the Budapest City Council has more than 900 contracts posted on its website listing the organizational unit within the Mayor's Office responsible for the contract, the identification number of the contract, the date the contract was signed, the name of the contractor, the type of the contract, the purpose of the contract, and the amount and the date of completion. If one contractor has several contracts within a given year, the value of those contracts has to be added up, and if they exceed HUF 5 million, they fall under the same disclosure rules.

The GPL also deals with transparent management of companies that are majority owned by the state and have a capital exceeding HUF 200 million, or about EUR 800,000. According to the law, officials sitting on the boards of these companies have to make a public financial statement, when they take their positions and then at two-year intervals. The structure of this statement is the same as it is for members of parliament, members of local govern-

ments and certain administrative officials.

The GPL was supplemented with a decree designed to address abuses in executive pay at state-owned companies. Previously, managers of these companies often received oversized salaries and bonuses, so that they had to be paid enormous sums as a severance payment when they were dismissed. Government decree 2173/2003 regulates salaries and severance payments of these managers.

### ***An evaluation of the law***

Three years after its enactment, experiences with the implementation of the GPL are mixed.

There is no doubt that the law increased transparency in the use of taxpayers' money as well as the transparency of the personal financial situation of public officials. It also increased the ability of public authorities to check on state funding and discover irregularities of its use. In one of the most prominent cases, the Competition Authority revealed that several cartels had been formed to benefit from public procurement tenders. The Competition Authority levied an all-time-high penalty on highway cartels in the amount of HUF 7.43 billion (EUR 29,000,000), demonstrating its commitment to fighting corruption.

Still, it might be an exaggeration to say that the GPL has had a real impact on the level of corruption. The authorities' competencies and resources are limited in discovering and prosecuting complex business schemes involving corruption. And some important provisions in the GPL are not backed by sanctions.

One serious problem that the GPL does not sufficiently address is political party financing, which many analysts identify as being at the core of illegal use of government money. There is significant evidence of illegal party funding and corruption in Hungary. The operations and activities of party-based businesses lack transparency and adequate control, and there are no effective enforcement mechanisms to counter illicit bookkeeping in party financing.

The State Audit Bureau can only police the situation on the basis of existing legislation, which is inadequate for controlling the spiraling increase in campaign costs. The Audit Bureau has recommended that the government modify the Law on Parties, to eliminate reporting discrepancies between that law and the Law on Accounting.

Although it has not been proven in court, the most likely source of campaign financing is kickbacks from contractors winning government tenders. This practice not only increases the price of goods and services the government buys but also distorts the allocation of public funding by favoring contractors on the basis of their utility as party campaign financier.

Thus the GPL in itself is unlikely to resolve all the problems of corruption in Hungary. For the law to achieve its objectives, it should be supported by new legislation regulating party financing in a manageable and transparent form.

# Governments find they have more to account for

The need for transparency, and the need to give a realistic view of public debt, make old-fashioned cash accountancy less relevant

By Zeljko Ševic

For years, governments have been keeping track of their money with a simple system that only “adds” cash when it comes in and only “subtracts” cash when it is paid out. While this may seem like a logical approach to public accounting, it gives an imperfect picture of long-term debt and it does not provide all the information that modern taxpayers have come to expect.

Today’s governments need to be transparent, and they need to prove that they are spending money carefully and efficiently. This means governments also need an accounting system that gives complete and realistic information. To address these needs, the public sector in developed countries has been switching over to a system called accrual accounting. Despite the advantages of this system, most countries in Central and Eastern Europe (CEE) and the former Soviet Union (fSU) lack the resources or the political will to make the switch.

Given the new demands on local and national governments to make fiscal matters transparent, it seems clear that accrual accounting will be coming to this region eventually. But citizens and officials must understand why the new system is needed and what is involved in putting it in place.

In many countries in CEE and the fSU, accounting has not yet developed into a profession, and accountants are still bookkeepers. Under the old communist systems, money was supposed to be irrelevant in the economy and it was only supposed to serve as a unit for keeping track of who owed what to whom. Thus the region has had a shortage

*Zeljko Ševic is a professor of accounting, finance and public policy in the University of Greenwich Business School, where he also serves as the director of research, outreach and European affairs. He has been with the university since 1998. Ševic was educated in Serbia, Scotland, the Netherlands, and Sweden, and has held visiting academic positions in Australia, Austria, Japan, the United States, Croatia, Slovenia, Poland, Bulgaria, and at the University for Peace established by the United Nations.*

## INTERGOVERNMENTAL FINANCE

of trained professionals, and many people performing accounting tasks are simply bookkeepers who have been asked to handle more complex work.

The move from bookkeeping to accounting—if one may make this direct progression—may look simple and straightforward, but it has proven to be very difficult to upgrade those who perceive accounting as pure bookkeeping into professional accountants. Both academic and professional literature is full of examples of delayed transformation and resistance from the “old guard,” regardless of the meridian of the place where they live and work.

In CEE and fSU, the limited pool of professional accountants hits the public sector hardest, especially at the local level.

Local governments traditionally have been unsuccessful in attracting and retaining the best talent, so they are often the last to embrace change and embark upon the professionalization of their accounting and finance functions. The situation varies widely from government to government and country to country.

In most of the advanced economies, the public accounting function is already in place or—especially among the post 1980s entrants to the European Union—is being put in place rapidly. In developing and transition economies, the situation is improving, but at a much slower pace and in a smaller scope.

This lack of accounting capacity, at a time of increased demand for transparency in public finance, creates particular havoc. Current models of governing and public policy require a high level of citizen participation in policy processes, and intense engagement with civil society. This is something new for CEE and fSU countries.

Traditionally, the citizens of the region took a back seat in dealing with government finance. The fully sovereign government could impose taxes and other levies. Citizens could not object to taxes, though they often could not see themselves enjoying any of the benefits. This was particularly the case in the region before World War I, but it was also true of regimes that followed.

The emergence of New Public Management, a

***In CEE and fSU, the limited pool of professional accountants hits the public sector hardest, especially at the local level.***

school of governance that demands transparency, spawned modern public-sector instruments, such as performance measurement and performance management. Citizens became serious stakeholders, and they required more information from their government. Officials were asked to show how tax money was spent and to prove that taxpayers got good value for that money.

### **Cash accounting gives way to accrual accounting**

Governments of the region have traditionally used cash accounting. This approach was logical because governments, especially local governments, had to have fully balanced budgets. In the past, only money that was appropriated could be allocated and spent, so public entities were mostly concerned with accounting for cash flow.

Today, even though countries in the region and around the world have accrued large debts, many governments still only count as if money can't go out unless it comes in. Cash accounting captures both the flow of revenue expenditures and the flow of capital and transfer expenditures.

But the cash accounting system does not provide other vital information, such as fixed assets and long-term debt. It also provides insufficient information on the assessment of the overall financial position of the government. The cash flow statement, as the most important and only financial statement

that has to be prepared in such a system, does not give a user any indication of the potential impact and burdens of future periods.

Now, when public finances rely far too much on borrowing, cash accounting does not offer an accurate picture. In many developed countries, around 50 percent of public revenue comes from the issuance of government bonds. Cash accounting alone cannot reveal the burden that is being imposed on future generations. It has become necessary for public entities to include information on outstanding assets and liabilities on their balance sheets, in order to improve public sector financial management.

To meet these needs, governments in more developed countries have been switching to the system of accrual accounting. Accrual accounting recognizes income as soon as it is earned and recognizes expenses as soon as they are incurred. It ignores the timing of cash income from revenues and cash payments for expenses. While the concept may sound simple, this system can provide a more realistic financial picture than the one drawn by cash accounting.

Accrual accounting was first used extensively in Anglo-Saxon countries, where a driving motivation

for accountancy is to keep investors informed about what their company is doing. Such a system naturally requires more openness than the classical European system, where accounting is regulated by law and is mostly motivated by the state's need to collect taxes.

Although it is an imperfect system, which sometimes requires arbitrary allocation, developed countries around the world have recognized the benefits of accrual accounting. But in CEE and fSU, the dominant technique is still cash accounting. Even when officials in the region recognize the need to change their accounting methods, they are hampered by limited resources and the difficulty of initiating system-wide changes.

In Macedonia, an attempt to convert to accrual accounting failed. Perhaps the greatest barrier to success there was a reluctance by civil servants to abandon well-embedded practices of cash accounting. The Macedonian government gave up on its experiment and reverted to the old cash accounting system, but an eventual transition must come.

The difficulty of making the transition to accrual accounting should be expected. In Australia and New Zealand, long efforts to institute the new system only came to fruition as part of a larger government reform package. Now Australia and New Zealand are considered to be among the most advanced governments in the area of accounting.

### **Adjusting a private sector system to meet public sector needs**

The concept of accrual accounting was imported from the private sector and adjusted to meet the needs of the public sector. Under the accrual accounting reporting model, public sector entities are required to prepare the following financial statements: 1) a statement of the financial position; 2) a statement of financial performance; 3) a cash flow statement; and 4) a statement of changes in new assets/equity. The first three statements correspond to the balance sheet, income statement, and cash flow statement that private companies prepare under corporate accounting rules. The fourth statement, on assets and equity, is specific to public sector accrual accounting systems.

In the private sector, where accrual accounting was invented, the most important concept is profit, defined as the difference between total revenues and incurred expenses. But governments and other public sector bodies are not supposed to pursue a profit.

Most public sector bodies operate within allocated budget positions, and they usually do not get paid directly by the beneficiaries. Government capital expenditures and social transfer expenditures cannot be treated as "profit and loss transactions" in accounting terms. Instead, most government transfers are treated as either "capital transactions,"

**Now, when public finances rely far too much on borrowing, cash accounting does not offer an accurate picture.**

which directly reduce capital, or “exchange transactions.”

Accrual accounting requires that flow-based and stock-based information is included in financial statements. This information strengthens a government’s ability to account for resources allocated during the budget process and spent to satisfy the needs of citizens. If it is executed properly, accrual accounting enables the government to have a better picture of its overall financial position and focus on those activities that do not add value.

As the public sector seeks to get better control of cost management, governments find they need to decentralize budget responsibilities and accounting functions. Lower levels of government administrations will have to make more decisions about spending. This kind of decentralization requires supervision and a significant improvement in the quality of cost data. There must be clear, uniform definitions of government activity and expenditures. A straightforward accounting of cost, in conjunction with time, quality, and service, provides information that allows for improved governance.

While local civil servants are being empowered by decentralization, they are also being empowered by a process of delegation. Delegation is the practice of elected officials entrusting regulatory powers to a select group of career civil servants. Because the elected officials are ultimately responsible for the outcomes of the spending, they and the public demand more open accounting. One benefit of this approach is more efficient use of tax revenues.

### ***A slow transition has begun***

Although the trend has been to move from cash to accrual accounting in the public sector, the International Public Sector Accounting Standards Board (IPSASB) has been working on a set of standards for cash accounting. These standards are needed because there are still too many developing countries that do not have the quality resources needed to make the change to the new system.

For now, we can expect a slow, but steady transition from cash to accrual accounting. It is not only governments that must make the adjustment, but citizens too. If society is to take full advantage of

the benefits of accrual accounting, citizens have to be educated in the new system. The average voter should be capable of reading simplified public accounting financial statements, and the government should undertake to communicate information effectively with the wider public.

While cash accounting may be simpler for a citizen to relate to, accrual accounting provides more information and also enables better auditing of not only financial management, but also the overall position of a government or its individual entity. In order to make information more accessible to the general public, the government

or a public organization will have to produce “user friendly” simplified forms of financial reports.

When communicating with citizens, it can help to use performance-based reporting, wherein expenditure items are linked with outputs and costs are clearly linked to how much of a certain activity is performed.

The narrative part of the financial report may be even more important in the public sector, than in the private one. This is especially the case because public sector financial reports reach a wider audience. Although members of the public may have diverse interests, all of them have a genuine right to question the effectiveness and efficiency of the government they are paying for.

Perhaps it is time for the IPSASB to take steps encouraging governments around the world to use accrual accounting, in order to assist convergence and facilitate comparisons between different countries. Some claim that there is no need for various governments to conform to one another, because national governments are primarily responsible to their citizens. But with the advance of globalization, the need for consistent accounting rules grows more important.

Besides, individual citizens will benefit if their governments are ready to provide the more detailed information offered by the system of accrual accounting.

***When communicating with citizens, it can help to use performance-based reporting, wherein expenditure items are linked with outputs.***

# Transparent transfers boost honesty in local government

Basic public services rely on money passed down from the central to the local level, yet these allocations receive scant scrutiny

By Gábor Péteri

Much of the money that is spent on vital public services at the local level comes from grants and transfers from the national government. In countries that belong to the European Union, as well as in candidate countries, funds are also transferred from the EU level to subnational governments, especially in the form of Structural Funds.

Decentralization means greater responsibility at the local level and a need for larger budgets, which are financed with funding that is transferred down from higher levels of government.

These transfers must be kept transparent, because they are a test case for the openness that needs to be

**Regular grants for current budget purposes rarely attract the attention of the media or civic groups.**

maintained on the local level and because they have a strong impact on local service delivery. Any changes in the allocation systems have an immediate and visible impact on service performance. Yet regular grants

for current budget purposes rarely attract the attention of the media or civic groups. All stakeholders can encourage transparency by understanding the importance of monitoring intergovernmental transfers.

Local governments administer services that touch on our everyday lives, such as primary education, health care, water, waste collection, social services, etc. On average, 15-25 percent of public expenditures are used at the subnational level. In Europe, the majority of municipal funds originate from central budgets. So the scale and methods of intergovernmental transfers impact heavily on fiscal transparency.

## Fixing the total

Transfers for local governments are mapped out during the fiscal planning process. The amount transferred is determined by a compromise among competing fiscal policy concerns.

*Gábor Péteri is the editor of this edition of Local Governance Brief and director of development at Local Government Initiative Development Ltd. (LGID).*

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Grants, shared revenues, and subsidies to local governments have three basic objectives:

- providing incentives for efficient spending and utilization of the municipal revenue base;
- guaranteeing sufficient funds for managing local functions according to an agreed level of services;
- supporting regional equalization of communities.

Decisions about fiscal policy must strike a balance between these three objectives, and priorities may change depending on current economic conditions. More restrictive fiscal policies focus on local incentives to increase municipal revenues and reduce expenditure. During leaner budget years, municipalities may call for fiscal guarantees to prevent any cutbacks in national grants. In a period of economic growth, more funds might be used for equalization between affluent and depressed regions.

The total amount of transfers to local governments also depends on the territorial-administrative structures. In fragmented local government systems—like those in the Czech Republic or Hungary—there is a greater need for equalization, because many of the smaller municipalities lack a sound revenue base. Countries with larger municipal units, like Poland, can assign more revenues to municipal governments, which have a more stable economic base.

Laws or policies that regulate transfers and spell out expectations improve transparency and predictability of funding allocations. In Poland, for example, grants for education are determined by specific shares of the national budget. Other countries set the ratio for revenue sharing for at least one election cycle. This is the case in Hungary, where 40 percent of personal income tax is shared with local governments. In other systems, a specific group of national tax revenues is used for municipal transfers.

## Allocation: From discretion toward formulas

Determining the amount transferred to local governments is only the first step. The second basic issue is the way in which transfers and shared revenues are allocated to municipalities, government agencies, or even service organizations.

In the old communist regimes of Central and Eastern Europe and the former Soviet Union, locally provided services were financed through national funds, which were allocated in a highly discretionary way. The total budget appropriations were set during a multilevel bargaining process. The real allocation

decisions during these negotiations were disguised by complex input indicators on labor, material, and other costs of services. Current budget appropriations and capital investment programs were set by ministries. Even line ministries had limited influence on the allocation designed by the ministry of finance.

Since the end of the communist era, the situation has been changing—even in the governments of Central Asia, where decentralization is moving more slowly. As a first step in these countries, the various units of the executive, including ministries and regional governments, are trying to develop some standard principles, to limit the discretion of national budget allocation. Central Asian governments find examples in Russia, where a complex formula is used to divide revenue allocation among the 89 federal-level entities. And Central Asian policymakers are also ready to imitate such practices as “the money follows the pupil,” wherein education is funded per capita.

These first steps can lead to more refined models of fund allocation: In Macedonia, the most recent fiscal decentralization reforms have introduced simple formulas for funding public education services through local governments. Local governments running primary schools get a “basic amount per municipality,” plus funds calculated on a per-pupil basis, weighted by population density coefficient. This is based on the assumption that unit costs of education are higher in sparsely populated areas with smaller schools. In order to keep the stability of school financing, no municipalities can get lower than 85 percent, or higher than 112 percent, of the amount they received the previous year.

These transparent allocation methods need not be limited to schools. Transparency is further improved when funding for more services is incorporated in the formula and the allocation techniques become more sophisticated.

In Slovenia, for example, the level of all local government expenditures is calculated by a transparent and objective formula. When calculating the expenditure of specific municipalities, planners factor in population, length of local roads, area of the municipality, population in school age, and number of elderly. A formula is used to compare the per capita ratio with national averages, and each factor has a different weight. For example, a Slovenian municipality's population is given the highest multiplying coefficient in the formula, with 70 percent.

### **Other formulas for allocation**

The above-mentioned grant formulas seek to fill the gap between estimated expenditures and calculated municipal revenues in a transparent way. Another model focuses on transfers only, leaving the level of local expenditures under municipal control. This method is used in the Czech Republic, Hungary, and Poland. In these countries, general-purpose grants are allocated to local governments by complex formulas.

## **Revenue Watch works to cast out ‘resource curse’**

Countries that are rich in natural resources can be prone to a kind of corruption that creates broad divisions in incomes and stalls economic development.

Revenue Watch Institute, an initiative from the Open Society Institute established in 2002, helps these countries improve accountability for income from natural resources by providing stakeholders information, training, networks, and funding for transparency work.

“Most countries rich with natural resources suffer from the ‘resource curse,’ which leaves them impoverished and misgoverned despite their natural resource wealth,” according to the Revenue Watch website. “Revenue Watch builds the capacity of civil society, the media and the public to monitor how governments are collecting and spending revenues from the production and sale of natural resources.”

The Revenue Watch Institute works by publishing research on resource-rich countries, advocating for transparency, and giving grants to projects addressing the issue.

Research by the organization has included investigative reports on the use of money derived from oil in Iraq.

Advocacy has included lobbying countries to agree to report oil and gas earnings under the Extractive Industries Transparency Initiative. Also, in 2004, Revenue Watch advised OSI Assistance Foundation–Azerbaijan in signing a memorandum of understanding with the BP fuel company on monitoring the Baku–Tbilisi–Ceyhan pipeline.

To find out more, see Revenue Watch's website at: <http://www.revenuwatch.org/>

In Hungary, allocations for local governments are determined according to about 90 different basic indicators, each given different weights. Out of these indicators, 63 are used to decide funding for education.

In Poland, the general grant consists of two basic components. One component takes a fixed percentage of the national budget and divides it among local governments, based on the number of primary and secondary pupils attending schools under their jurisdiction. The per-pupil amounts are weighted according to school type and pupil needs, to account for the differing costs of providing education under different situations. For example, rural schools may cost more to run than urban schools, and students with special needs or a foreign mother tongue may cost more to educate. All together, Poland uses 21 coefficients for deciding the size of education funding. Other factors in the formula determining the size of local transfers

## World Bank book notes a lack of local-level data

An important part of the work of increasing democracy in the countries of Central and Eastern Europe (CEE) is decentralization, which empowers local authorities and brings governance closer to the people.

Along with increased powers, decentralization also gives local governments more responsibilities, for which they are not always prepared. A World Bank publication, entitled *Subnational Data Requirements for Fiscal Decentralization: Case Studies from Central and Eastern Europe*, looks at the weaknesses of the region's local governments in the area of providing information about fiscal activity and recommends measures to address the problem.

Modern local governments need to supply a great deal of data to justify their expenditures and to account for money transferred from the central level to the local level. But, according to *Subnational Data Requirements*, the limited data from local governments in CEE is often a shock to government researchers and international agencies. "They are surprised to find that systems to produce such figures do not exist, and their surprise turns to dismay when they are informed that local governments do not even have information about the socioeconomic characteristics of their jurisdictions, for example, how many people live in their jurisdictions, what their revenue base is, or what their expenditure needs are," the book's foreword says.

The book makes a needs assessment of the situation in Bulgaria, Romania, the Slovak Republic, Slovenia, and Ukraine. These countries are at different levels of decentralization, as the book's findings indicate, but all of them require improvements in the production of local fiscal data. The book tells what these countries are doing wrong, and what they should change to improve data collection.

"Decision makers at the local government level must have adequate information to make policy decisions and allocate limited resources most effectively," according to *Subnational Data Requirements*. "The need for subnational demographic, social, economic, and fiscal data is becoming more evident at a time when subnational governments are involved in national and global objectives of poverty reduction."

The publication can be seen online at:  
<http://www-wds.worldbank.org>

in Poland include the desire to equalize the revenue-raising capacities of local governments.

All these complex formulas require proper statistical and fiscal information, otherwise there would be no way to ensure objectivity in grant allocation. Detailed data is needed for measuring outputs and the capacity of service organizations in a timely manner. This information is not always available at the early stages of annual budgeting, which means that fiscal planning is based on estimates and projections.

Another type of transfer, capital investment grants, are usually highly debated elements of inter-governmental fiscal transfers. Local capital investments are typically funded through various sources, including national, municipal, and private funding, but national grants always play an important role. The transfers are allocated by discretionary decisions or through matching grant schemes. Despite the national strategies, sectoral development plans, and feasibility studies, capital investment grants are always at a higher risk of politically biased decisions than grants for current expenditures.

The first experiences with European Union funds after accession were similar. Within the EU, an additional level of bureaucracy was created and new procedures for domestic planning, programming, and spending were introduced. These planning practices often overwrite the existing regulations on intergovernmental relations. Consequently, national development plans, operative programs, and EU grants should be part of the fiscal transparency framework.

### **The importance of transparency**

Transparent budgeting procedures, and open, legislated methods for distributing national transfers or shared revenues, will have a positive impact on inter-governmental finances. The objectivity of grant allocation formulas limit the discretion and arbitrary character of central decisions. This will make the fiscal conditions of local governments more predictable, and could increase the stability of fund allocation.

Ultimately, these techniques will lead to more equitable public services. Transparent grant allocation formulas clearly show the weaknesses of discretionary decisions by identifying the winners and losers in funding. If grant formulas are properly designed, general grants with local fiscal incentives could lead to higher efficiency in using public funds.

Transparency in municipal grant allocation would also change the political discourse over public budgets. Fiscal policy design will remain open, but negotiations over municipal funding will become more focused. Policy options can be transformed into objective measures and their fiscal impact is easily measurable. This will make local government services more efficient and equitable.

# OECD accentuates the positive to eliminate the negative

The organization offers a framework that can help countries assess and address corruption without relying on simple perceptions

By Tom Popper

When helping countries around the world assess corruption, the Organisation for Economic Cooperation and Development (OECD) tries to look on the bright side, searching for integrity instead of criminals. While this approach may sound a bit starry-eyed, the OECD maintains that data on integrity is more readily available and a better indicator of whether administrators have the tools they need to combat corruption.

“We believe that corruption is not only a single act of one person, it is also a symptom of systemic failure. For that reason, we focus on the systems and check the systems,” said Janos Bertok, the principal administrator of the Public Governance and Territorial Development Directorate in the OECD. According to the OECD philosophy, once a government puts good pro-integrity measures in place, instances of corruption will naturally drop.

For many years, the OECD has helped governments tackle corruption by recommending best practices that ensure the integrity of public officials. More than 60 countries around the world have taken up these practices, and surveys have shown a resulting reduction in corruption in those countries.

Now the OECD is advocating a more advanced system in the effort to fight corruption, using guidelines published in a report called *Public Sector Integrity: A Framework for Assessment* (OECD 2005).<sup>1</sup> Bertok, who co-wrote the report along with Elodie Beth, discussed the OECD’s approach to assessing and addressing corruption in an April 2006 interview. He explained that the OECD’s framework offers a way for citizens and governments to determine what areas are vulnerable to corruption and how much work they need to do to promote integrity. The framework also outlines steps that governments should take to improve their level of integrity.

The concepts described in the OECD’s *Assessment Framework* report are likely to set the tone of efforts to improve government transparency around the world—on the national level and subsequently on the local level.

## INTEGRITY & ANTICORRUPTION

### *The hunt for integrity*

As the executive summary of the *Assessment Framework* report explains, the goal is not to try to measure the exact level of corruption in a country:

“The approach taken in the report is rather to assess ‘the opposite’ of corruption—i.e. integrity. Even if an assessment cannot fully encapsulate the level of integrity in an organization, it can help identify the strengths and weaknesses of specific policy instruments constructing a consistent ‘Ethics Infrastructure’—the institutions, systems, and mechanisms for promoting ethics and countering corruption in the public service.”

The OECD’s approach to measuring the level of transparency differs from that of Transparency International’s Corruption Perceptions Index (CPI). According to Transparency International, “The CPI ranks more than 150 countries in terms of perceived levels of corruption, as determined by expert assessments and opinion surveys.” The CPI is one of the best-known relative measures of corruption, and it has helped Transparency International bring wide public attention to the issue of corruption.

While he acknowledged Transparency International’s good work in awareness raising, Bertok said that indexes based on surveys are not likely to be very accurate.

“The problem with assessing corruption is that corruption is a secret act,” Bertok said. “General indicators, like Transparency International’s index, use perception. These indexes are based on general knowledge rather than actual information. If you use it to find out if there is a problem that’s useful, but if you want to measure progress, they are not as useful.”

Instead of measuring perceptions, Bertok said, it can be best to assess more objective criteria when determining how well officials in a given country respect the need for integrity and transparency.

“Countries are looking for credible information,” he said. “Some of the existing indicators are considered not only unreliable or misleading, but in some cases it is really hard for countries to use them.”

For this reason, the OECD recommends focus-

***“The problem with assessing corruption is that corruption is a secret act. ... Countries are looking for reliable information.”***

—Janos Bertok, OECD

## Anti-Corruption Network helps countries share info

When it comes to corruption, the transition countries of Central and Eastern Europe and the former Soviet Union share similar problems. This means that they can also share similar solutions.

The Anti-Corruption Network is seeking to help the region's countries do more of the positive kind of sharing by increasing cross-border communication and cooperation. It encourages this communication through meetings and by facilitating cooperation, but most of the Network's communication starts with their website.

The site is a conduit to relevant news, the Network's conferences, a database of contacts, and information about anticorruption projects.

The website can be seen online at: <http://www.anticorruptionnet.org>

At meetings organized by the Anti-Corruption Network, representatives of neighboring countries have agreed to establish sub-regional initiatives, in which they cooperate to work for better integrity in their governments.

For example, the Network established the Baltic Anti-Corruption Initiative, which allows for information exchanges between the Baltic countries. And the Network helped establish a so-called "Istanbul Action Plan," which outlines a strategy for combating corruption in Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan, and Ukraine. The Network is also facilitating the realization of that plan.

The Network is supported by the Organisation for Economic Co-operation and Development (OECD), and it serves as the OECD's representative to the Stability Pact Anti-Corruption Initiative. (See story, Page 29) Like that initiative, the Network's goal is to bring people together.

The Anti-Corruption Network's web site explains the importance of this mission: "Much has been done to undertake anticorruption reforms by national governments and in the framework of regional initiatives or international instruments. As a result, corruption is in retreat in some areas. In others it is simply becoming more sophisticated and evasive. The need to build coalitions and capitalise on lessons learned by others is urgent and can save scarce resources."

ing on existing regulations and gauging the level of integrity that is built into the system. "We look for minimum standards that public service officials cannot go below," Bertok said.

These standards apparently vary greatly from country to country.

"There's a significant difference in approach and the stage of development" between Western countries and the transition countries of Central and Eastern Europe (CEE), Bertok said. Still, he added, "There's development in the last 15 years in the CEE countries. There's a huge amount of information available."

Bertok said that CEE countries have gone from secretive leaderships running command economies to much more open societies that appreciate the need to make information about the workings of government public. "I think these are very important developments in CEE countries," he said. "So they are catching up, but you can still see differences."

The new OECD *Assessment Framework* could help CEE countries improve their transparency, according to Bertok, but he also noted that many countries in the region have more basic work to do before implementing all of the recommendations. "The head of the civil service office in Slovakia was very much interested in using this," Bertok said. "Though they found it a little bit too sophisticated."

Still, Bertok maintained that rapid progress is possible. He noted that South Korea, a small country whose government shares some common traits with the transition countries of CEE and the former Soviet Union, has made great strides in encouraging transparency. Bertok explained that Korea enhances its very open, American-style approach to governance through the use of technology.

"In the case of licensing, every submission can be followed on the Internet. You can see why another applicant received a positive response, and you can compare it with your individual case," Bertok said. "This is the same with public procurement. Korea, like other countries, puts all the bids on the Internet."

Korea also thoroughly investigates corruption, and keeps these investigations open to the public. "They immediately publish reports (on corruption) and make them really public and debate them publicly," Bertok said.

The lessons learned by Korea, and other countries with sophisticated integrity policies, were incorporated into the OECD's *Assessment Framework*. "In the development of the *Assessment Framework*, we were working with the most advanced countries, and those countries then adjusted their systems, so it was a kind of mutual cooperation," Bertok said.

The OECD guidelines point out three challenges that countries can face when trying to build their own assessment framework: determining what is measurable; ensuring reliable and consistent assess-

ment results; and ensuring the impact of changes made on the basis of these results.

**What is measurable**

When it comes to determining what criteria to use in assessing the level of corruption, the OECD's *Assessment Framework* report calls for using the most concrete information possible. Because it is hard to measure corrupt dealings that participants try to hide from authorities, the OECD recommends assessing a system based on aspects that are easier to quantify, such as the level of integrity. This means checking to see what safeguards against corruption are already built into the system and then determining whether any other safeguards could be added.

The OECD's *Assessment Framework* report suggests that the following areas can be the focus of the assessments:

- there must be anticorruption policy measures that promote integrity, including legal provisions, codes of conduct, institutions, and special procedures;
- the instruments for integrity policy must be feasible and capable of functioning;
- the integrity policy instruments must effectively achieve their specific initial objectives;
- the policy instruments must be relevant—they must meet the expectations of stakeholders;
- the various elements of the procedures for ensuring integrity must be coherent, and they must reinforce one another and support the aims of the integrity policy.

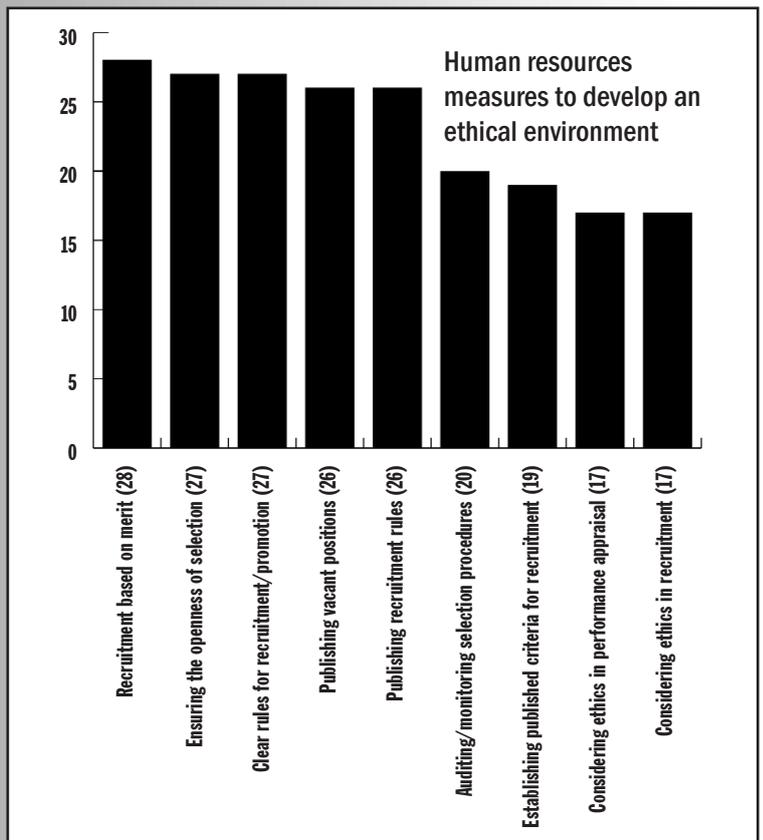
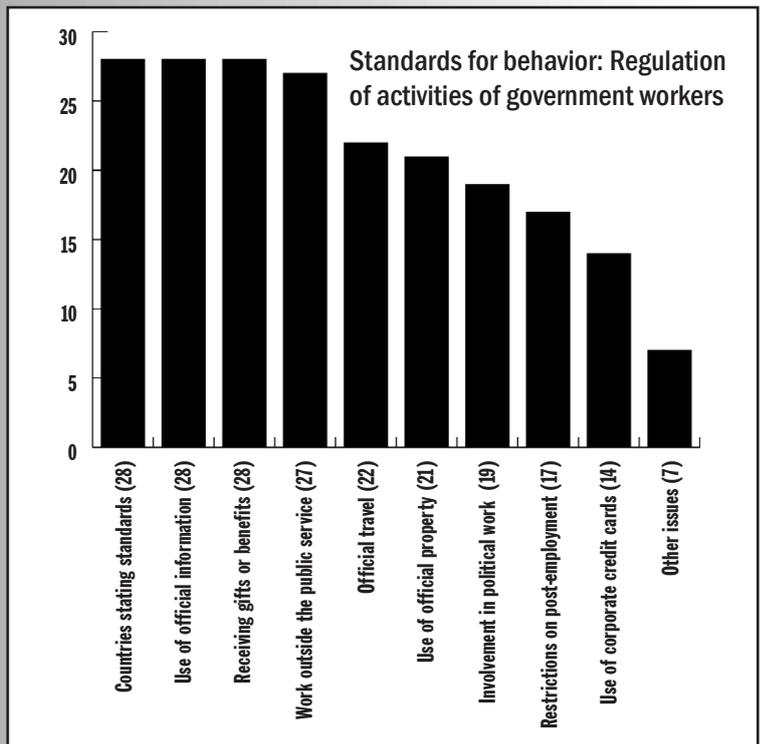
**Ensuring reliable results**

To ensure that the results of a transparency assessment are effective, it is not enough to simply choose the right criteria for measuring integrity. It is also important to decide who should do this work and to define the procedures they will follow. Those conducting the assessment must be impartial and have adequate resources.

Although the OECD's *Assessment Framework* report notes that more stakeholder involvement is better, the report also acknowledges the limitations of such a scenario. According to the *Assessment Framework* report, it is necessary to achieve a "balance between the importance of involving external stakeholders, and the constraints placed on the project, the most common being the need to respect confidentiality, timelines, and budget."

In Canada, where the government changed in January 2006 following corruption scandals in the previous government, the new leadership is dedicated to strong anticorruption measures. "It's a major political issue in Canada," Bertok said. But he added that, because the issue has been politicized, it might not be handled very well. According to Bertok, in their zeal to show the public that they oppose corruption, the new government came up with proposed legislation that is more than 300 pages long and may not be practical to implement.

**Integrity measures in 29 countries**



The Organisation for Economic Co-operation and Development (OECD) surveyed 29 countries about standards to promote government integrity. Among other findings, the survey revealed differences in the types of standards set for behavior of government employees (top) and in human resources aimed at integrity (above). SOURCE: *Building Trust in Government: Lessons From OECD Countries*, by Janos Bertok of the OECD, 2002. (<http://www.iipe.org/conference2002/papers/Bertok.pdf>)

“In Canada, after leaving public office, a person would have to stay out of industries related to their field of government work for five years, and I think this is extreme,” Bertok said. He added that other aspects of the bill seem so severe that they might interfere with the regular workings of government.

The risk that political involvement can skew the process makes it important to use as much objective data as possible, instead of opinions. As the OECD guidelines note: “perceptions are not precise measures of reality. In a highly politicized environment, they might be significantly distorted, and consequently inaccurate. Objective and subjective data need to be combined in order to maximize the reliability of assessment findings.”

Bertok said that Korea handles this task well. “In Korea, they combine institutional analysis with subjective data, and they try to make the subjective information more objective.” Bertok said. He

explained that subjective information on transparency in Korea comes from surveys about perception, similar to the ones conducted by Transparency International. But Korea’s surveys differ in that only people in government are inter-

viewed. Although this data is subjective, it comes from a single source, so any bias should be consistent.

### **Ensuring impact**

Once a government has assessed its level of integrity, any shortcomings must be addressed with practical measures—otherwise the work of making the assessment has been for nothing. A big part of getting government to agree to policies that will improve transparency and increase integrity is to make the results public.

“Assessment findings should therefore be placed in the public domain in order to raise awareness, contribute to the public debate and foster accountability,” the *Assessment Framework* report recommends. “For instance, publicizing assessment results of public organizations through mass media generates pressures on low-ranked organizations to initiate efforts to improve their anticorruption programs.”

The goal here is to help create an atmosphere where corruption will be less likely. Often, that means developing a set of regulations that make corruption more difficult, while rewarding integrity and building an atmosphere where government employees feel corruption should be prevented.

“The product is not merely a single document,

the product is an understanding,” Bertok said. He explained that this understanding of the need for integrity must be pervasive among government workers if it is going to be effective. He also noted that differences in workplace culture mean that, what is easily understood in one country may not be so well accepted in another.

One example of these differences is the use of “whistleblowers.”

Since corruption was exposed in the Watergate scandal that eventually led to the resignation of President Richard Nixon in 1974, the United States has added an extensive network of policies designed to enhance government integrity. These policies have included pervasive efforts to encourage and promote the effectiveness of “whistleblowing,” wherein government employees are encouraged to report any inappropriate behavior from their bosses or colleagues—by “blowing a whistle” on wrongdoers, just like a sports referee.

In the United States, whistleblowers are encouraged to come forward by standing policies, which Bertok said are vital to the system. “There must be a clear procedure, such as an ombudsman, allowing for whistleblowing,” he explained.

In much of Europe, however, the use of whistleblowers has not caught on. “In France and Germany, there are legal obligations to report corruption, and yet there are no criminal cases there,” Bertok said.

He concluded that the workplace culture of many European governments does not encourage whistleblowing, so that other instruments are necessary.

The OECD’s *Assessment Framework* report seeks to give countries the ability to determine what instruments are right for them. As the report notes, the Assessment Framework “provides a roadmap to develop assessment methodologies.”

Bertok explained that the OECD approach is not to evaluate governments, but rather to offer them means to investigate and meet their own needs.

“What we try to bring is a new approach. Many international organizations use monitoring to see a country’s performance, but there are similar problems with any single indicator,” he said. “For that reason what we provided is a framework for individual organizations.”

Whichever system an individual country chooses, it must provide for minimum standards of integrity. Only by building integrity can governments reduce its opposite, corruption.

### **NOTE**

1 For more information on this publication, see: [http://www.oecd.org/document/19/0,2340,en\\_2649\\_2011\\_85\\_35822611\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/19/0,2340,en_2649_2011_85_35822611_1_1_1_1,00.html)

**“In Korea, they combine institutional analysis with subjective data. ... to make the subjective information more objective.”**

—Janos Bertok, OECD

# Stability Pact initiative offers framework to fight corruption

SPAI and its secretariat, RSLO, were established to help SEE countries cooperate in efforts to bring integrity to their governments

By Calinescu Cornel-Virgiliu

With low-paid civil servants, a traditional acceptance of bribery, and bureaucracies that are still struggling with some basic reforms, the countries of South Eastern Europe (SEE) are ripe for corruption. To combat this risk, governments in the region have been working to promote integrity, and they have been receiving a lot of help in the last five years from an international effort.

The Stability Pact Anti-corruption Initiative (SPAI) was adopted in Sarajevo, in February 2000, to address a serious threat to the recovery and development of SEE countries.<sup>1</sup>

SPAI helps fight corruption in the region by building upon existing actions, by helping coordinate efforts aimed at promoting integrity, and by soliciting high-level political commitment. It supports new legislation from governments and deeper involvement of civil society.

The SPAI Regional Secretariat Liaison Office (RSLO) has been operating as the executive body of the SPAI since 2003, and this office has already supported scores of training programs, conferences, and forums to address the problem of corruption. RSLO's strength is in encouraging cross-border cooperation, which is why it was influential in developing an SEE-wide ministerial declaration to fight corruption. An analysis of the work carried out by RSLO reveals effective measures to promote a unified, regionwide effort against corruption. Other international organizations might do well to replicate some of this work.

Since SPAI's inception, member states have launched consistent and complex reforms of their institutional and legislative framework for decreasing the levels of corruption and improving the efficiency of governance.

As the Stability Pact countries of SEE approach

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*Calinescu Cornel-Virgiliu, calinescucv@lol.ba, is a regional anticorruption expert, with the SPAI Regional Secretariat Liaison Office (RSLO).*

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European Union membership, they are seeking to meet new standards of openness and fiscal transparency. All of the SPAI member countries have approved national anticorruption strategies and action plans that underline their political commitment to addressing corruption and state capture. Their legal frameworks have, for the most part, been harmonized with European standards set by international conventions: There is now regulation for such sensitive areas as conflict of interest, assets disclosure, access to information, financing of political parties, public procurement, and money laundering. Furthermore, each SPAI member country has begun to establish specialized anticorruption bodies.

The SEE countries still have a long way to go in implementing new legislation and in overcoming specific challenges, such as:

- reforming the judiciary and public administration;
- opposing the negative perception regarding levels of corruption, both from the public and business communities;
- addressing the lack of sound projects dealing with education and public awareness raising;
- correcting the issues of understaffed anticorruption structures and low salaries;
- and promoting appreciation of the important role of preventative anticorruption measures.

### **SPAI's RSLO: A regional anticorruption center**

As SPAI's executive body, RSLO (<http://www.spai-rslo.org>) serves as the focal point for regional anticorruption cooperation in SEE. It works by coordinating cooperation and facilitating dissemination of best practices and lessons learned. RSLO was established in September 2003 and initially funded by the United States Agency for International Development and the American Bar Association's Central European and Eurasian Law Initiative. RSLO's offices in Sarajevo were provided by the Government of Bosnia and Herzegovina. Since becoming operational in 2004, RSLO remains the only center in SEE devoted solely to anticorruption.

Established at the instigation of the countries of the region, RSLO was the first step in a process of conveying ownership and leadership of the SPAI to the countries of the region. One way RSLO promoted regional ownership was by supporting adoption of

*The SEE countries still have a long way to go in implementing new legislation aimed at preventing corruption.*

a Ministerial Declaration on 10 Joint Measures to Curb Corruption in SEE, which was endorsed by the SPAI ministers of justice and home affairs in May 2005 in Brussels.<sup>2</sup>

In the declaration, the ministers agreed to work toward having their countries sign the United Nations Convention against Corruption (see Page 31), to develop strategies and legal frameworks to promote integrity, and to take several other concrete measures.

***In 2004-2006, RSLO organized and participated in more than 65 anticorruption training programs and conferences.***

The declaration also includes a timeline for immediate actions. The level of cooperation necessary to achieve this declaration was made possible by RSLO's structure of representatives from all member countries.

This network has created a multinational and multi-cultural environment for supporting the region's fight against corruption. RSLO tailors its activities to directly support countries as they try to meet the standards and requirements related to the justice and home affairs field in the European Union accession process. RSLO's major focus areas include:

- supporting regional cooperation among anticorruption bodies;
- promoting the approximation of international standards in anticorruption;
- promoting expert networking among government, businesses, civil society, the media, and other stakeholders;
- providing a platform for sharing best practices and exchanging information;
- promoting thematic agendas focused on fighting corruption in vulnerable areas, such as the judiciary, public administration, public procurement, privatization, and financing of political parties;
- developing specific training programs for relevant actors, with seminars for judges, prosecutors, investigators, auditors, governmental officials, and police.

Within these focus areas, in 2004-2006, RSLO organized and participated in more than 65 anticorruption training programs and conferences. RSLO also provides a forum for regional representatives to discuss common anticorruption concerns and a library and other information resources.

### ***RSLO training events***

RSLO concentrates its efforts on enhancing regional cooperation by promoting the exchange of practical information and best practices in anticorruption.

The training events outlined below are designed to achieve several objectives, including: creating a regional framework for exchanging information; enhancing regional cooperation by establishing direct contact among law enforcement officials involved in the fight against high-level corruption; and formulating proposals for improving countries' national legislation and institutional frameworks.

### ***Regional training for prosecutors, enforcement officials***

In October 2004, RSLO organized a start-up regional conference on "Sharing Best Practices in Investigating, Prosecuting and Adjudicating High-level Corruption Cases in SEE Countries." The conference was organized in Montenegro, in cooperation with the Organization for Security and Co-operation in Europe (OSCE) Mission to Serbia and Montenegro, Podgorica Office, and the Montenegrin Anti-corruption Initiative Directorate. The conference was attended by national delegations of specialized prosecutors, judges, investigators and intelligence experts involved in combating high-level corruption from the eight SPAI countries. It offered an opportunity for the attendees to create an informal regional network of specialized experts.

The training included exercises: Participants were split into separate task forces and asked to resolve inconsistencies within criminal legislation that prevented the fight against high-level corruption.

There were also presentations on the experiences of different countries. These focused on:

- existing procedures for identifying high level corruption cases (definition and mechanisms that allow detection of such cases);
- flow of relevant information and the role of the intelligence units/services;
- preliminary investigations;
- cooperation among different agencies;
- setting up a task force and the plan of investigation;
- means and techniques used for investigations;
- special procedural rules that may apply to the investigation/prosecution phase;
- court proceedings;
- legislative loopholes that affect the celerity and efficiency of the process of investigating, prosecuting, and adjudicating high-level corruption cases.

During discussion sessions, participants pointed out that certain inconsistencies within their criminal legislation prevent the efficient use of special investigative means as an effective tool to bring evidence of high-level corruption. The national delegations expressed their interest in follow-up trainings, particularly trainings focused on specific economic and financial areas, such as privatization, public procurement, conflict of interest, and financing political parties.

### ***Study visit for anticorruption prosecutors***

In September 2005, RSLO initiated the first of a series of twinning-type projects designed to share relevant existing capacities within the SPAI countries.

With RSLO's coordination, a team of Montenegrin prosecutors visited the Croatian Prosecutor's Specialized Office on Fighting Organized Crime and Corruption (USKOK) in Zagreb. The week-long event included the participation of two state general prosecutors and two chief special prosecutors on fighting organized crime and corruption from each of

the countries. During the week, the two teams of prosecutors exchanged information on the establishment of the special anticorruption unit, relevant anticorruption legislation, means for special investigation, and personal experiences in investigating and prosecuting complex corruption cases.

#### **Regional training for public procurement experts**

In September 2005, RSLO organized a regional conference on “Efficient Implementation of European Standards in Public Procurement: Legislative Framework and Best Practices.” The event brought together policymakers, judges, and more than 60 experts from public procurement agencies. It was organized in cooperation with the OSCE Mission in Serbia and Montenegro, Podgorica Office, and the Public Procurement Commission from Montenegro.

This regional event brought attention to the public procurement systems and their vulnerability to corruption. A special panel designed and moderated by RSLO representatives discussed the importance of prevention and repression of corruption in public procurement, assessing the available measures and possible changes to be adopted. Participants also shared their views on key issues such as: the victims of corruption within the public procurement system, available channels for complaints, reparation of damages, sanctions, and possible liability.

The participants pointed out the necessity of establishing closer cooperation of the institutions in charge of public procurement internal audit, including departments within the ministry of finance, state audit institutions and the public procurement administration. This approach is expected to ensure more efficient control and monitoring of public procurement systems and to enhance the impact of the preventive mechanisms against corruption. Participants also highlighted the need for better cooperation, coordination, and communication among public procurement agencies, law enforcement agencies, and the judiciary in the process of detecting, investigating, prosecuting, and adjudicating cases of fraud and corruption in public procurement.

Conference participants provided sound inputs for ensuring that the Montenegrin draft law on public procurement is in line with EU directives.

#### **Regional training for state auditors**

In March 2006, RSLO organized an international conference on “The Role of Supreme Audit Institutions from Central and South Eastern Europe in Preventing Corruption,” in cooperation with the State Auditors Institution of the Republic of Montenegro, GTZ and the OSCE Mission to Serbia and Montenegro. One of the meeting’s high-level participants was the chairman of the International Organization of Supreme Audit Institutions (INTOSAI), which is the professional organization of auditing bodies in countries belonging to the United Nations. Also in attendance was the president of the Parliament of the

## **SPAI backs ratification of UN convention on corruption**

The first measure called for in the Ministerial Declaration on 10 Joint Measures to Curb Corruption in SEE is the ratification and implementation of the United Nations Convention against Corruption. The SPAI Regional Secretariat Liaison Office (RSLO), which helped promote the declaration, is also supporting the work of ratifying the UN convention.

The UN convention, and other international frameworks and treaties, provide governments with a comprehensive set of standards that help legislators and policy-makers improve their practices in accordance with good governance principles.

That is why RSLO has helped the SPAI countries to make ratification and implementation of the UN Convention a priority for the region. In addition to supporting ratification as part of the SEE ministerial declaration, RSLO has hosted a number of workshops and pre-ratification conferences designed to provide practical assistance in implementation. The conferences also serve to highlight positive role models for countries that have not yet ratified the convention.

RSLO has also supported ratification of other international treaties addressing integrity and efficiency in government.

Republic of Montenegro and presidents of the supreme auditing institutions in various countries from Central and South Eastern Europe.

The event allowed for mutual exchange of experiences in auditing of public spending in accordance with INTOSAI’s recommendations. Participants also said the event gave a significant impetus for further development of bilateral and multilateral cooperation of supreme audit institutions.

The conference underlined the need for a specific institutional and cultural setting in the fight against corruption. The representatives of the supreme audit institutions—the top auditing bodies in their respective countries—shared the viewpoint that their work has not engendered a sufficient increase of public awareness of the need for institutional accountability. They noted that public managers need to be more receptive of auditors’ recommendations and that auditors should have a role in developing policies that ensure accountability.

#### **NOTES**

1 SPAI members: Albania, Bosnia Herzegovina, Croatia, FYR Macedonia, Montenegro, Moldova, Romania, Serbia. SPAI observers: Bulgaria and UNMIK.

2 See: [http://spai-rslo.org/documents/events/2005/05-11\\_12\\_Joint%20Declaration%20against%20corruption.pdf](http://spai-rslo.org/documents/events/2005/05-11_12_Joint%20Declaration%20against%20corruption.pdf)

# Kazakhstan uses one-stop shops to improve services

By offering one location for many transactions, the government can be more transparent and serve the public more efficiently

By Daniel Serban

The Government of Kazakhstan is battling an image problem.

The 2004 Transparency International Corruption Perceptions Index ranked Kazakhstan at a lowly 122<sup>nd</sup> place out of the 146 countries surveyed. Meanwhile, President Nursultan Abishuly Nazarbayev and other members of his government have faced repeated allegations of corruption, according to news reports and Wikipedia.<sup>1</sup>

In recent years, Nazarbayev, who has been president since 1991, has sought to improve his government's image, as well as the delivery of public services, with a series of reforms. One such initiative, begun in 2005, is the creation of "one-stop shops," single offices that handle 54 types of government transactions and focus on giving good service. The shops are intended to streamline and improve the public's contact with bureaucracy. An analysis of the workings of these offices shows that they are quick and effective. By making application processes more uniform and transparent, the one-stop shops also help to reduce the opportunities for corruption. While some improvements could be made, Kazakhstan's one-stop shops provide a model that other governments would do well to consider.

By making application processes more uniform and transparent, the one-stop shops help reduce the opportunities for corruption.

## Kazakhstan's public service reforms

Over the last five years, the Republic of Kazakhstan has made notable developments in public administration, including the introduction of a politically independent civil service, with merit-based systems for recruitment and promotion, coordinated by the Agency for Civil Service Affairs, which is subordinate to the president. The Civil Service Law has established two major requirements: (a) a code of conduct to improve customer orientation and reduce bureaucracy and reduce corruption; and (b) the requirement for civil servants to declare their

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assets on an annual basis.

Along with this internal pressure for improved services, the government is applying external pressure by publishing civil service quality standards, such as response times, levels of courtesy, tariffs, and complaints procedures in the form of public service charters. These are performance agreements that will be monitored and published, and, importantly, will be constructed with public involvement. Consequently, anticorruption measures are constructively integrated in the overall reform process.

Despite the reform work undertaken in the recent past, Kazakhstan's public has limited faith in the efficiency of their government.

In 2004, a public attitude survey by UNDP<sup>2</sup> showed that:

- only 6.5 percent of the public feel that services are good, compared to 33.7 percent of civil servants at the central level and 21.4 percent at the local level; thus a clear disparity in perceptions exists;
- 42.7 percent of citizens feel services are over-priced;
- 70 percent of citizens feel that the delivery of services is unduly long (compared to 24.7 percent for central civil servants);
- 80 percent of the population feels that the information for public services is vague or not clear;
- the biggest reason for poor services was considered to be bureaucracy.

Nazarbayev's administration has sought to improve the situation with a series of reforms, which were encapsulated by the President's Decree on the Modernization of Public Services (February 2005). These reforms, which have included a 34 percent increase in civil service salaries, are unique among the countries in the Commonwealth of Independent States.

Kazakhstan's government is able to fund these improvements through healthy economic growth spurred by large oil reserves that are now being exploited. Despite positive developments, there is still much to improve in public service, especially in the fields of health and education. And, despite recent increases, the level of payment in the public sector is still a source of dissatisfaction and of lack of motivation for most civil servants.

Another part of the 2005 reform package was the pilot program of one-stop shops in the capital of Astana. Good results from the pilot have encour-

aged plans for more such shops around Kazakhstan in 2006-2007.

The one-stop shops, supported by the European Union through its TACIS program, represent an ambitious attempt to strengthen accountability for public services and to fight corruption. This effort will be more important given Kazakhstan's plans for decentralization. Genuine involvement in the design and delivery of public services presents both major opportunities and considerable risks.

Given the existing public service culture, which still reflects command and control systems of governance, both civil servants and the public will find their mutual involvement in this emerging concept challenging: Citizens are likely to be cynical about making their voices heard, and the civil servants may fear that public scrutiny will expose serious limitations in performance.

But experience in countries such as the United States, the United Kingdom, Australia, Poland, and Hungary have shown that opening up public administration to visible performance standards creates a self-sustaining momentum that subtly increases civil servants' awareness of their public duty. The more tangible the results that are published, the stronger this momentum becomes. The presence of "league tables" and efforts to connect civil servants' pay with performance appraisals help to strengthen a customer orientation in government.

### **The workings of one-stop shops in Astana**

The Ministry of Justice has overall responsibility for overseeing the one-stop shops. The one-stop shops in Astana use the one-window principle. Two shops, on Puskin and Zhubanov streets in Astana, both opened on November 28, 2005. The shops are intended to fight corruption through transparent service and to speed the public's dealing with bureaucracy by offering as many services as possible under one roof.

As of today, there are five public entities that offer services in one-stop shops: the Ministry of Finance's Tax Committee, the Ministry of Justice's State Enterprise Center and Department of Justice, the Land Agency's State Enterprise Scientific Center for Land Management, and the Ministry of Internal Affairs' Local Department. A total of 54 types of transactions can be conducted in one-stop shops. These transactions fall into the following seven categories:

- benefits for World War II veterans;
- population registration—which comprises most of the work in these offices;
- civil status;
- legal entities (business) registration;
- real estate property registration;
- tax payment;
- land allotment.

A typical visit to a one-stop shop goes as fol-

lows: When a customer enters the one-stop shop, they are given basic preliminary information about the procedures they will need to undertake. This information is provided in written form (only in Russian), or is provided orally by one of four trained reception staff members. The customer is given a queuing ticket and waits for no more than 15 minutes for an electric panel to display what window she should go to. In the operational area, there are 34 windows, each staffed by a one-stop shop officer who is trained to handle every kind of transaction. The customer goes to the window and gives over her documentation for review by the one-stop shop officer. The customer is then told when to return for the certificate, permit or other services they are seeking.

The documents are sent by rapid mail through the official mail service, so that they arrive to the ministry or agency in charge within one day. Answers on applications vary from one day, for land reference, to 18 days, for business registration.

The entrance/waiting area of the one-stop shops provide such useful services as copy machines, a bank, a notary, and a mini photo studio. There are enough tables and chairs in the waiting room, and three large plasma screens to make waiting more pleasant. There is also easy access for the disabled.

The working hours are 9am-7pm, Monday to Friday, and 9am-1pm Saturday. Typically, a one-stop shops serves about 1,500 clients a day.

The officers of one-stop shops use software that can easily evaluate their work, and the work of their office. The software produces reports on such areas as:

- the number of customers served in each 30 minute period;
- the number of customers served at each window;
- the number of customers offered a certain type of service;
- the queuing time;
- the time spent on preliminary interviews.

### **Areas for improvement**

While the one-stop shops have proven very successful in increasing efficiency and transparency of certain government operations, there are still areas where they could be improved. For example there is a phone number where customers can call from outside to get information, but the operator is performing several tasks, and cannot field all calls quickly. And at the entrance, there are enough forms available in Russian language, but none in Kazakh.

The staff who greets customers at the entrance is trained in customer relations and well prepared to

***The documents are sent by rapid mail, so that they arrive to the ministry or agency in charge within one day.***

**TABLE 1: Targets for standards at one-stop shops**

Indicator	Standard	Target (%)
1. Queuing time	15 minutes	90%
2. Interviewing time	15 minutes	90%
3. Usefulness of information	Very useful	90%
4. Shared information	All	90%
5. Courtesy and politeness	Very courteous and polite	85%
6. Efficiency	Very efficient	80%
7. Service complaints	Immediately by the one-stop shops	80%

take a variety of questions, but they can become overwhelmed. When the entrance/waiting area is crowded, customers sometimes bypass the reception staff and enter the operational area unprepared. In those cases, the interviewing time with one of the one-stop shops officers increases. These officers work behind windows that are not equipped with microphones or speakers, so the operational area can become very noisy, a situation that obstructs good communication between customers and operators.

There is no institutionalized system for giving complaints. Nonetheless, the one-stop shop's manager takes all verbal complaints and tries to respond to them immediately. About 90 percent of the complaints are not about one-stop shop staff, but rather about the work of ministries that must process documents being turned in.

Trouble liaising with the various ministries poses the greatest problems for the one-stop shops. It is not clear to all parties involved what exactly is the relationship between ministries and the one-stop shops, which act as the ministries' face with the public. There have been reports of opposition in the ministries, because officials there prefer the old system, where customers went to different government offices for different types of services. But the old system has been associated with elements of corruption.

A list of indicators, standards and targets for ser-

vice in one-stop shops was developed in February 2006. This list, which is subject to Ministry of Justice approval, was put together with the help of one-stop shops staff and customers, who met in a series of focus groups. The proposed targets are shown in Table 1.

Although the one-stop shops in Astana have accomplished a great deal in the last four months, there is still a need for them to provide further services, including online services. The shops also need to be more visible, through greater contact with citizens and the media.

A basic list of recommendations for the improvement of one-stop shops could be as follows:

- Expand the types of services provided.
- Develop a one-stop shops web page, including electronic forms that can be downloaded.
- Install a simple audio system (microphone and speaker) in each window.
- Train staff in dealing with customers with disabilities—and with difficult customers.
- Set up an automatic answering machine that provides basic information and/or hire a full-time operator to answer calls.
- Produce posters that outline the mission of the one-stop shops, key performance indicators, the complaints process, and the one-stop shop's expectations of citizens—be polite, come prepared, etc. These posters should be prominently displayed in the entry area of the shops.
- Prepare brochures and leaflets with the same content as these posters, in both Kazakh and Russian.
- Prepare and encourage use of customer satisfaction cards.

The rationale behind one-stop shops is to incrementally bring services together from a number of ministries in one place at the oblast/city level. So far, the number of ministries participating has been limited. For example, the Ministry of Interior, which provides a range of services, has opted to offer its services through its own one-stop entities, rather than through an integrated one-stop shop. One of the challenges, therefore, is to integrate such services into a single entity while still making sure that the appropriate ministry or legislation is held accountable. These issues have not been fully overcome, and further consultation among stakeholders is required.

#### NOTES

1 [http://en.wikipedia.org/wiki/Nursultan\\_Nazarbayev](http://en.wikipedia.org/wiki/Nursultan_Nazarbayev)

2 Source: Public Service Reform in Kazakhstan. UNDP, 2004.

# Auditors can be catalysts for local empowerment

By helping stakeholders monitor local government, audits provide transparency needed for decentralization

By Susanna Kasso

Sometimes, the best way to encourage freedom is to put more controls in place. Today's public auditors are doing just this, by offering the kind of regulation that can help liberate local governments.

The countries of Central and Eastern Europe (CEE) and the former Soviet Union (FSU) are using decentralization to increase democracy and bring government closer to the people. This change means giving local governments more responsibilities—and more money to fulfill these responsibilities. If national governments are going to hand down new fiscal responsibilities to the local level, central authorities and the electorate must feel ensured that municipal administrators are using their bigger budgets efficiently and effectively.

Auditors have provided the control necessary to increase trust in local government and to enhance fiscal transparency on all levels. Meanwhile, as governments seek to operate in a more cost-effective manner, public auditors have taken on new roles. Modern techniques, like performance auditing have helped auditors meet the new challenges. This process is promoting greater fiscal transparency and thereby facilitating democracy.

Under communism, career government administrators made all the decisions about governance, and budget data was hidden from the public. At that time, auditors provided more of an internal police function, helping top level administrators find any mistakes or discrepancies in the work of lower-level administrators.

With the changes, new challenges appeared: Elected politicians wanted to seize power from administrators and civil servants, but this approach does not necessarily guarantee greater transparency and accountability, and it may actually decrease responsibility in government. Instead of seizing power, elected officials found they actually had to delegate responsibilities to career government professionals. In theory, the role of elected decision makers is mostly to establish a framework for execution, but, in practice, it is not so easy to delimit the framework from the actual execution.

Auditing systems are addressing these challenges.

## AUDITING

By allowing politicians a certain level of control over administrators, auditors help politicians and administrators find their new roles and share responsibilities.

### **Auditing aids new approaches to government**

Since the 1980's a global reform movement in public management has been underway. Governments have begun to follow the New Public Management school, which encourages a customer-oriented approach to public service.

As governments seek to improve performance while reducing costs, participatory public expenditure management is fast becoming the standard practice in public finance. Taxpayers have come to expect a surgical approach to examining government spending and performance, and this openness assists the work of good governance advocates.

Civil society's role has increased thanks to the global public management revolution, which promotes greater public participation in governance and highlights the need for greater transparency and accountability in public management.

Along with public participation, other techniques that can increase service efficiency include more transparency, diversity of service organizations, and new management forms. The difference that all these approaches bring is a new focus on outputs and outcomes—instead of on processes and structures. This approach has changed the role of auditing.

The audit function traditionally focused on processes and financial control. Auditors measured adherence to rules and the ability to spend within the given budget, but they did not measure the efficiency and effectiveness of spending.

Many governments still act as if an auditor should take a short-term, bureaucratic focus, only looking at how much is spent instead of what is produced. This approach is insufficient for modern governance.

Public auditors now have a broader role to play in clarifying the results-oriented message of governments around the world. Because their evaluations focus on results, auditors make the importance of the final output evident to public administrators.

In the new approach, the public auditor's office, which had sometimes been treated as simply a crotch-

*Taxpayers have come to expect a surgical approach to examining government spending and performance.*

## NGO observers keep Sofia Council on its toes

By showing up at meetings of the municipal council, a group of civil society organizations have helped to open up the process of governance in Sofia.

In a project called Civic Monitoring of the Sofia Municipal Council, experts from various civil society organizations regularly observed the meetings of the council and issued reports on its performance. The project was led by OSI Sofia, in partnership with three Bulgarian NGOs, Access Foundation Sofia, the Civic Association against Illegal Property Construction & Corruption and the BlueLink Foundation.

Members of these groups reported on several problems with the budgeting process but there was also some positive news to report: Apparently influenced by the presence of expert observers, the council in 2004 invited the public to budget discussions—a first in Sofia.

The initial report issued by the project, for the period Oct. 1-March 31, 2004, pointed out several concerns, including that:

- The municipality of Sofia had not adopted a long-term strategy, even though one is called for in the council's regulations.
- The council delayed adoption of its six-month legislative schedule.
- The agenda of standing committees was not posted on web pages.
- The council has not experienced or encouraged interaction with the public, even though it is responsible for inviting the public to discussion sessions.

Perhaps the more serious charge made by the Civic Monitoring project was that the Bulgarian budgeting law was broken because the council adopted the budget without taking into account a long-term strategy, a municipal development plan, or a three-year budget prognosis—all required documents.

The positive news was that the public was finally invited to the discussions of the budget. There were other positive developments after the first six months of observation, including:

- More decisions are being made public via the Sofia Municipal Council's web page.
- The agendas of standing committees are being made public online.
- The Sofia Municipal Council's chairman began holding post-session media briefings.
- The council and civil society members held a roundtable discussion of the first report of the Civic Monitoring project.

For more information, see the web site of OSI Sofia at: <http://www.osf.bg/>

ety obstruction to managers, functions as a special service. In countries seeking to decentralize, new legislation is using audits as an essential tool to allow for controls and checks on all levels.

Just as national-level governments need external auditing, it is essential that local-level governments are externally audited, too. Local decision makers must be made aware of the responsibilities attached to public money. An external auditor can reinforce the idea of responsibility and can use their auditing power to ensure that the local government really is following the autonomous decisions of local stakeholders.

The knowledge that they will be audited regularly improves the performance of local administrators. Regular auditing is also recommended because it gives the government the ability to make corrections in a timely manner.

In the public sector, internal and external auditing play complementary roles. The external auditor reviews the internal auditor's methods and the quality of the internal auditing to determine how much external work is necessary. The external auditor also uses information provided by the internal auditor.

### ***The role of the external audit***

The external audit makes an important contribution to the stewardship of public resources and corporate governance of public services. It is necessary for the segregation of state powers, wherein decision makers are accountable to citizens and the administrators who execute governance are accountable to decision makers.

Under such a system, decision makers have the right and the responsibility to control administrators using tools like a financial audit, which shows how administrators implement decisions and monitors their ability to manage public funds.

Decision makers usually do not have the expertise necessary to perform an audit that certifies the accuracy and correctness of financial statements. For this reason, governments need an independent external audit body that can evaluate financial records, that is independent from the executive level, and that reports to decision makers. The object of an external audit is to produce a professional opinion about the truth and fairness of financial statements in a way that a layman can understand and rely upon.

External auditors give politicians only a short opinion as an audit report. If the report says, that the financial statement of administrators is fair and true, elected officials do not need to take unusual action. If, on the other hand, the auditor makes special comments, it means, that decision makers should exercise their powers to question administrators and perhaps even change the management.

Aside from allowing control of public sector managers, and keeping these managers honest, external audits play another vital role. Elected politicians need to know the quality of public services and the effi-

ciency and effectiveness of spending of taxpayers' money. To meet this need, by the early 1970s, the supreme audit institutions<sup>1</sup> of developed countries began to use performance auditing.

Performance auditing measures the efficiency of government activities. Instead of simply determining where money was spent, a performance audit looks at how money was spent and seeks to determine if it was spent wisely.

**The role of internal audits and internal controls**

The internal audit has different roles and priorities from the external audit, but there is a lot of overlap in what both types of auditors do, and why they do it. The main role of the internal audit is to support management in improving its activity and control system.

Internal auditors are employees of the organization they are auditing, and they work exclusively for that organization. There are generally laws determining the functions of internal auditors, but the implementation of the law differs greatly from organization to organization.

According to the CIPFA "Code of Practice for Internal Audit in Local Government" (2000), an internal audit can be defined as: "An independent appraisal function established by the management of an organization for the review of the internal control system as a service to the organization. It objectively examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient, and effective use of resources."

Although internal auditors are independent from different departments of the organization where they work, they are partly dependent on the top management or the mayor. The top manager approves the audit plan and audit programs, and the internal auditor reports to them. The manager's obligation is to consider the findings of an internal audit and implement recommendations regarding the internal control system. If used well, an internal audit can be a powerful tool for improving management practices.

Both types of audit, internal and external, evaluate the internal control system. The internal control system is the whole framework of controls, financial and otherwise, established by the management in order to carry on the business of the public bodies in an orderly and efficient manner, ensure adherence to management policies, safeguard assets, and secure the completeness and accuracy of the records.

External auditors look at internal control systems to determine whether they prevent or decrease the risk of errors, while internal auditors seek to make ongoing improvements in these systems.

An internal control system is made up of individual components, known as "controls," "internal controls" or "accounting controls." The whole system should be more powerful than the sum of these parts. An effective internal control system establishes a framework for sound financial management.

**Benefits of various types of audits**

Main requirements of public governance	Audit approaches (and how well they fulfill these requirements)	
	Regulatory audit	Performance audit
Transparency refers to the availability of information to the public on all decisions and actions that are made by government. Governments are responsible to make such information clearly understood and accessible.	If the budget laws and regulations applies the principles of transparency and accountability, the audit certification based on this approach ensures not only the accuracy of financial statements, but also maintains citizens' confidence in government. If budget laws do not apply these principles, the audit itself is not able to improve them	Performance audit is able to provide information adequately and make recommendations for improving transparency.
Accountability refers to the way in which government responsibly shares information on: how it intends to make decisions or actions; the actual decisions and actions that it makes; and the result or outcome of such decisions and actions.		Besides financial accountability, a performance audit provides information on activities of government. It provides an objective assessment by focusing on the public results of governance.
Public expenditure management refers to the cyclical set of decisions and actions that governments make in allocating, spending and tracking the utilization of public funds, as well as the overall performance of government agencies in the management of such funds.	In most cases, the evaluation of this principle is not part of regularity (financial type) audit approaches.	This principle is the main objectives of performance audits. This type of audit helps public management to improve their activities and their spending of public money.

In modern local governments, where top managers are asked to do more with fewer resources, it is essential that these managers are able to delegate some tasks. Strong internal controls make it easier for top managers to delegate decisions, because the controls will prevent poor decisions.

A government with weak internal controls is prone to fraud or corruption.

**The types of audit approaches**

Traditional, "regularity" audits ensure accuracy of financial statements and compliance with laws. As governments apply New Public Management approaches, and seek to show that they are getting good value for money, they are relying more on "per-

formance auditing.” This technique requires the auditor to comment upon “three ‘E’s’”: economy, efficiency, and effectiveness of governance.

As they take up this enhanced role, auditors have the new responsibility of making their results clear and meaningful to the many managers targeted by performance audits. In this way, auditors help underline the importance of good performance in all areas of governance.

Governments around the world are being encouraged to take up performance auditing techniques by the International Organization of Supreme Audit Institutions (INTOSAI). According to their informational brochure, “INTOSAI was founded in 1953 as an autonomous, independent, and non-political organization with the aim of promoting the exchange of ideas and experience between its members, the supreme audit institutions of countries around the globe.”<sup>2</sup> INTOSAI acts as the professional organization of supreme audit institutions in countries belonging to the United Nations.

While the INTOSAI Auditing Standards do not have mandatory application, they reflect a best-practices consensus among supreme auditing institutions. Over the years, INTOSAI has established a process for issuing standards and guidelines in areas central to public sector financial management and accountability.

The INTOSAI Auditing Standards define regularity and performance auditing as follows:

“**Regularity audit** embraces:

(a) attestation of financial accountability of accountable entities, involving examination and evaluation of financial records and expression of opinions on financial statements;

(b) attestation of financial accountability of the government administration as a whole;

(c) audit of financial systems and transactions including an evaluation of compliance with applicable

statutes and regulations;

(d) audit of internal control and internal audit functions;

(e) audit of the probity and propriety of administrative decisions taken within the audited entity; and

(f) reporting of any other matters arising from or relating to the audit that the SAI considers should be disclosed.

“**Performance audit** is concerned with the audit of economy, efficiency and effectiveness and embraces:

(a) audit of the economy of administrative activities in accordance with sound administrative principles and practices, and management policies;

(b) audit of the efficiency of utilization of human, financial and other resources, including examination of information systems, performance measures and monitoring arrangements, and procedures followed by audited entities for remedying identified deficiencies; and

(c) audit of the effectiveness of performance in relation to the achievement of the objectives of the audited entity, and audit of the actual impact of activities compared with the intended impact.”<sup>3</sup>

As INTOSAI continues to push for performance auditing, more governments are taking up the technique. Thus, changes in the auditing field are helping to drive changes in other areas of governance, to make governments more open and fiscally transparent. The result is an increase in democracy.

## NOTES

1 “Supreme audit institutions” is a general title given to the main public audit bodies in a country. Due to differences of culture, history and legal systems, these institutions go by a variety of names in various countries.

2 *INTOSAI: 50 Years (1953-2003), A Special Publication of the International Organization of Supreme Audit Institutions* ([http://www.intosaijournal.org/fifty\\_years/INTOSAI\\_50th\\_Anniv\\_English\\_72dpi.pdf](http://www.intosaijournal.org/fifty_years/INTOSAI_50th_Anniv_English_72dpi.pdf)).

3 *INTOSAI Auditing Standards*, Chapter I, paragraphs 1.0.39-1.0.40 ([http://www.intosai.org/Level3/Guidelines/3\\_AudStandComm/3\\_CodEth\\_AudStand2001\\_E.pdf](http://www.intosai.org/Level3/Guidelines/3_AudStandComm/3_CodEth_AudStand2001_E.pdf)).

***Auditors have the new responsibility of making their results meaningful to the many managers targeted by performance audits.***

# Diverse OSI programs equal extensive transparency effort

By Irakli Rekhviashvili

The Open Society network promotes transparent decision making and increased accountability throughout the world.

Over the past few years, the network has worked to improve transparency of the revenues that national and local governments derive through the taxing and selling of natural resources. Meanwhile, the Open Society Institute (OSI) and various Soros foundations have built a network of civil society organizations and launched major international campaigns aimed at building public awareness, empowering nongovernmental organizations, and lobbying governments to take up the cause of fiscal transparency.

Through a wide variety of initiatives and programs, OSI is tackling the challenges of fiscal transparency and accountability. Taken together, these efforts comprise a broad-ranging effort on the part of OSI to support more democratic governance by encouraging openness. During a May 2006 meeting in London, people active in diverse efforts to combat corruption and promote good governance met for a first-time effort to map out OSI's transparency and anticorruption activities. (See story, Back Page.)

Among OSI's most recognized transparency initiatives are the Revenue Watch Institute (formerly OSI's Revenue Watch Program), the Publish What You Pay campaign, and support for the U.S.-based International Budget Project and the London-based NGO Global Witness, which works to highlight the links between the exploitation of natural resources and human rights abuses. In addition to these activities, OSI network programs and Soros foundations have been involved in promoting access to information and developing and implementing fiscal transparency projects all over the world.

OSI's fiscal transparency initiatives are based on the following principles:

- clear division of roles and responsibilities;
- proactive information sharing and public availability of data;

*Irakli Rekhviashvili is a project manager for the Local Government and Public Service Reform Initiative, who focuses on projects in the Southern Caucasus and Ukraine. He has worked on anticorruption projects, issues related to transparency, public service provision and policy development. He holds an M.P.A. from Princeton University's Woodrow Wilson School of Public and International Affairs. Rekhviashvili is on assignment in OSI Brussels as policy fellow working on European Neighborhood Policy issues and EU policy towards Central Asia.*

## OSI SUPPORTS TRANSPARENCY

- open revenue generation processes and transparent budgeting;
- clear execution and reporting.

The following paragraphs provide further details about how OSI puts these principles into practice.

### **Clear division of roles and responsibilities**

Developing clear roles and responsibilities for government and the rest of the public sector is crucial for establishing fiscal transparency.

Several OSI programs work to ensure a clear basis for assigning accountability for the design and implementation of fiscal policy. The Local Government and Public Service Reform Initiative (LGI) has launched projects to help national and local governments clearly specify structures and functions of government institutions. At the intergovernmental level, LGI has focused on the transparency of fiscal relations and the distribution of transfers.

The division of responsibilities between different levels of government, and between the executive, legislative, and judiciary branches, has been addressed by many Soros foundations and the various activities of LGI, the Open Society Justice Initiative, and the Revenue Watch Institute policy program.

As a result of OSI's efforts, governments have been able to establish clear mechanisms for the coordination and management of budgetary and extra-budgetary activities. LGI has worked on improving relations between government agencies and civil society organizations, promoting public-private partnerships, and helping public financial institutions interact with nonfinancial public enterprises. Global Witness has investigated government involvement with the private sector and extractive industries through regulation and equity ownership. A primary focus of many Soros foundations has been advocating the need to distinguish the government sector from the rest of the public sector and from the rest of the economy.

A network of policy think tanks (PASOS), established by LGI, has worked on the policy aspects of fiscal transparency and has tried to ensure that public sector policy and management roles are simple, clear, publicly disclosed, and nondiscriminatory.

**Several OSI programs work to ensure a clear basis for assigning accountability for the design and implementation of fiscal policy.**

### **Proactive information sharing and public availability of data**

OSI supported initiatives have worked effectively to ensure that information on fiscal policy decisions is available to the public.

Freedom-of-information work by the Open Society Justice Initiative has contributed to new laws and best practices in many developing countries. The Justice Initiative has also developed the Access to Information Monitoring Tool, which provides a methodology for assessing compliance with access to information norms.

In Estonia, OSI's information program helped create the e-Governance Academy, which has become a leader in promoting e-governance and proactive information sharing throughout the countries of Central and Eastern Europe and the former Soviet Union. Through policy research, capacity building and training projects, LGI has succeeded in providing comprehensive information on fiscal activity and outlining obligations regarding publication of information on the national and the local government levels.

OSI activities addressing access to information issues range from supporting cross-regional and cross-sectoral initiatives, like the Public Integrity Education Network run by the anticorruption NGO Tiri, to country- and sector-specific campaigns, like Iraq Revenue Watch, Revenue

Watch–Azerbaijan, and Revenue Watch–Kazakhstan.

Other OSI access to information projects include: The Human Rights and Governance Grants Program, which funds projects in the fields of access to information, fiscal transparency, abuse of state resources, and transparency in governmental decision making; the International Policy Fellowships program, which in 2005-2006 sponsored research and publications by fellows on access to information issues; the Latin American Program, which worked with the Open Society Justice Initiative, civil society organizations, the media, and governments to promote the adoption of laws and regulations guaranteeing the public access to the information they need to monitor and analyze government policies.

Once freedom of information acts become law, Soros foundations and local partner organizations have established projects to carefully monitor their implementation and assess their effectiveness. These initiatives have not been limited to Central and Eastern Europe, OSI's traditional region of activity, but have also been conducted by OSI programs working with national and local governments in Azerbaijan, Kyrgyzstan, Ghana, Trinidad and Tobago, Sao Tome, Peru, and East Timor. Additional opportuni-

ties for OSI and the Soros foundations network to expand its freedom of information activities include working with national and local governments to publish budget documentation, final accounts, and other fiscal reports on all budgetary and extra-budgetary activities.

### **Open revenue generation processes**

The Revenue Watch Institute's policy program actively monitors the revenues generated from large-scale resource extraction activities, especially in countries and regions where natural resources are an important contributor to gross domestic product. The mission of the Revenue Watch Institute is to improve democratic accountability in these countries by equipping citizens with the information, training, networks, and funding they need to become more effective monitors of government revenues and expenditures. The Revenue Watch Institute works to ensure that the revenues from natural resources contribute to sustainable development and poverty reduction, through the promotion of public finance transparency in resource-dependent countries. Through these activities, the Revenue Watch Institute has helped increase transparency in Azerbaijan, Iraq, Kazakhstan, Kyrgyzstan, Mexico, Mongolia, Peru, and southern and West Africa.

In cooperation with Global Witness and the Publish What You Pay coalition, OSI has educated the public and put pressure on governments to publish information on revenue generation practices. Such projects have been especially effective in countries that are rich in natural resources yet hobbled by poverty and violence because revenues from extractive industries have funded dictatorships, corrupt regimes, and armed conflicts.

Global Witness has had significant success in the field of revenue transparency. Its reports on revenues from oil in Angola; diamonds in Sierra Leone, Liberia, and the Democratic Republic of Congo; and, most recently, gas in Turkmenistan, have been groundbreaking investigations that inspired action by international organizations and developed countries.

LGI's revenue transparency programs have focused on municipal public finance and management activities and have helped Soros foundations and civil society groups carry out additional projects on gas and oil revenues in countries that had very little experience carrying out transparency initiatives. On the local level, LGI's Fiscal Decentralization Initiative and a number of country specific projects, have examined the nature of local government revenues and revenue distribution mechanisms in South Eastern Europe, the Caucasus, and Central Asia.

Revenue transparency projects implemented by Soros foundations in Indonesia, Latin America, and Western and South Africa range from monitoring billion-dollar oil and gas pipelines to examining what local governments do with parking space revenues.

**Once freedom of information acts become law, Soros foundations and local partners have established projects to monitor implementation.**

### **Transparent budgeting, clear execution, and reporting**

Annual budgets are almost without exception the main instrument of fiscal policy at both the national and local levels. OSI and its partner institutions have worked on open budget preparation and execution issues in order to educate the public and build government capacity in developing and implementing budgets. The work carried out by OSI has focused on budget cycle analysis, including formulation, approval, implementation, and auditing. Methodologies for budget monitoring, developed and tested by civil society organizations and government institutions, are now in place in many countries. OSI support for civil monitoring of budgeting procedures will be crucial to sustainability of the results.

Over the past three years, OSI has provided support to the International Budget Project (IBP), which works in many countries and collaborates with organizations that are developing or strengthening civil society capacity to engage in public budgeting. The IBP encourages these civil society budget groups to work together, and helps them to promote transparent budgeting as well as private, public, and multilateral donor investment in civil society budget work.

IBP training, research, and capacity development activities are implemented by local partners, such as the Public Finance Monitoring Center in Azerbaijan, the Public Policy Monitoring Center in Kazakhstan, the Institute for Public Finance in Croatia, and the Budget Information Service at the Institute for Democracy in South Africa. The professionalism of these organizations, and the sustainability of the projects they implement, provide a strong base for fiscal transparency. The IBP has achieved these results by providing training and technical assistance, assessing and advancing civil society efforts to participate and bring transparency to the budget process, ensuring adequate funding for civil society budget activities, acting as an information resource on civil society budget work, and building international and regional budget networks.

OSI network programs and Soros foundations have also contributed to budgetary transparency work. Studies by LGI Budget Watch fellows have illustrated the multi-dimensional nature of the fiscal transparency agenda. LGI is also developing a plan that will allow civil society organizations to carry out audits of local government budgeting and then lobby for legal amendments requiring that audit reports are submitted to local councils or published on the Internet. OSI's Network Public Health Program has conducted resource monitoring and advocacy within the health sector.

### **Initiatives from OSI and others to oppose corruption**

The following are some of the organizations working on the Open Society Institute's efforts to improve fiscal transparency. Some of the information for this article was gleaned from the websites listed here. For further information about these organizations, see their websites:

AfriMap: <http://www.afrimap.org/>

Batory Foundation (Poland): <http://www.batory.org.pl>

Hewlett Foundation: <http://www.hewlett.org>

Open Society Initiative for Southern Africa, Economic Justice program: [http://www2.soros.org/osisa/drupal/taxonomy\\_menu/2/1](http://www2.soros.org/osisa/drupal/taxonomy_menu/2/1)

Open Society Initiative for West Africa: <http://www.osiwa.org>

OSI Bulgaria, Municipal Fiscal Transparency project: <http://en.osf.bg/>

Revenue Watch: <http://www.revenuewatch.org>

Iraq Revenue Watch: <http://www.iraqrevenuewatch.org>

Revenue Watch-Azerbaijan: <http://www.osi-az.org/crw.shtml>

Revenue Watch-Kazakhstan:  
<http://www.kazakhstanrevenuewatch.org>

#### **Soros foundation network programs:**

Network Public Health Program:  
<http://www.soros.org/initiatives/health>

Network Media Program:  
<http://www.soros.org/initiatives/media>

Local Government and Public Service Reform Initiative:  
<http://lgi.osi.hu/>

Open Society Justice Initiative:  
<http://www.justiceinitiative.org>

#### **Strategic partners/grantees:**

Publish What You Pay: <http://www.publishwhatyoupay.org/>

International Budget Project:  
<http://www.internationalbudget.org/>

FUNDAR: <http://www.fundar.org.mx/english/index.html>

TIRI: <http://www.tiri.org>

Global Witness: <http://www.globalwitness.org>

Transparency International: <http://www.transparency.org>

Center for Global Development: <http://www.cgdev.org/>

Soros foundations have funded budgetary transparency projects at both the national and local levels, with national-level work focusing on policy development and implementation and local efforts concentrating on budgetary hearings and capacity building activities. Additional budget activities carried out by OSI programs include developing budgets that take into account gender issues; improving service provision through strategic planning; and Revenue Watch projects that tracked public expenditures, increased the transparency of budgets and the budget development process, and encouraged greater citizen participation in formulating and implementing budgets.

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# LGI NEWS

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## **MMCP and UNDP-PDP collaborate on diversity training**

United Nations Development Programme staff and partners received training in management of diverse communities in a training-of-trainers session, presented by LGI's Managing Multiethnic Communities Program (MMCP) in the city of Osh, Kyrgyzstan during April 3-10, 2006.

The MMCP cooperated with the UNDP-Preventative Development Program (UNDP-PDP) to organize the training, entitled "Introduction to Diversity Management."

After attending MMCP training events in Budapest in late 2005 and early 2006, representatives of the UNDP-PDP pursued cooperation with MMCP to build knowledge and skills among UNDP-PDP staff and partners. Participants in the latest training included project managers, field officers of the UNDP, and representatives of UNDP partner non-governmental organizations from ethnically diverse communities in southern Kyrgyzstan and Tajikistan.

When conducting field research for UNDP Early Warning System reports, and during local-level project development and implementation, these participants are regularly confronted with assorted needs, interests, and perceptions of diverse actors, including representatives of international organizations and NGOs, community leaders, and public officials at multiple levels.

The training for these participants was conducted by core trainers of MMCP, based on materials from the forthcoming MMCP Diversity Management Training Manual series. The program is designed to: raise participants' awareness and understanding of diversity; build their knowledge and skills in diversity management; and enhance their ability to work effectively with diverse actors at the local level.

Sessions and materials were tailored to immediate needs and translated into Russian. Over the course of seven days, participants were introduced to themes like: types of diversity; ethnic diversity and conflict management; diversity and public policy; and instruments for managing diversity, such as power-sharing.

For more information, contact Petra Kovacs, [kovacsp@osi.hu](mailto:kovacsp@osi.hu).

## **Diversity training adapted to local situation in Kyrgyzstan**

Trainers who were taught to teach diversity management by LGI's Managing Multiethnic Communities Program (MMCP) practiced what they had learned by training a diverse group of officials and other stakeholders from Kara-Balta, Kyrgyzstan.

The training, which took place April 24-28, 2006, in the capital city of Bishkek, was implemented by instructors from the Ethnic Development Program (EDP) of the Soros Foundation-Kyrgyzstan. The trainers for EDP had been taught about their subject during a seven-day training-of-trainers session called "Introduction to Diversity Management," which was offered in January 2006 in Bishkek by core MMCP trainers.

MMCP materials designed for this training are being adapted to local environments and repackaged into shorter trainings and seminars for communities across Kyrgyzstan. The aim is to build local leaders' awareness of diversity management and to initiate the development of mechanisms for including the interests of diverse groups in public policy at the local level.

This latest training involved an intensive two-day preparation session, during which EDP trainers designed sessions for their audience; a two-day seminar-training for representatives of Kara-Balta; and a one-day feedback, reflection, and planning session for trainers. The training-seminar covered such topics as: introduction to diversity; diversity and public policy, with a focus on language issues in Kyrgyzstan; decentralization; and a roundtable to discuss opportunities for forming a system of diversity management in Kara-Balta.

For more information, contact Petra Kovacs, [kovacsp@osi.hu](mailto:kovacsp@osi.hu).

## **Applications open for LGI Policy Fellowship**

Applications are being accepted until June 21, 2006 for the Policy Fellowship program of the Local Government and Public Service Reform Initiative (LGI).

Each year LGI selects talented professionals from Central and Eastern Europe and the Newly Independent States to participate in the one-year fellowship program. Fellows work in small teams under the guidance of a well-respected mentor to produce policy-oriented studies on a given topic. The completed studies are impact-oriented and meant to be put to use. Each study contains an advocacy or implementation strategy and concrete policy recommendations.

This year the fellowship is covering two topics:

- "Assessing the 'New Public Management' reforms in Eastern Europe and the former Soviet Union."
- "Spatial Analysis in Addressing Concentrations of Vulnerable Groups."

For more information on the fellowship, or to apply, see the LGI's website, on the home page or at: [http://lgi.osi.hu/documents.php?id=1113&m\\_id=19&bid=6](http://lgi.osi.hu/documents.php?id=1113&m_id=19&bid=6)

# Publications available from LGI

Titles in bold were published in 2004 or later.

## LGI Books

### Managing Multiethnic Communities Program Series (MMCP)

Bíró, Anna-Mária and Petra Kovács (eds.). 2001. *Diversity in Action: Local Public Management of Multi-ethnic Communities in CEE*.

Dimitrijević, Nenad and Petra Kovács (eds.). 2004. ***Managing Hatred and Distrust: The Prognosis for Post-Conflict Settlement in Multiethnic Communities in the Former Yugoslavia***.

Dimitrijević, Nenad (ed.). 2000. *Managing Multiethnic Local Communities in the Countries of the Former Yugoslavia*.

Feischmidt, Margit. 2001. *Bibliography on Ethnic Relations in Eastern Europe*.

Robotin, Monica and Levente Salat (eds.). 2003. *A New Balance: Democracy and Minorities in Post-Communist Europe*.

Tishkov, Valery and Elena Filippova, (eds.). 2002. *Local Governance and Minority Empowerment in the CIS*.

### LGI/ECMI Series on Ethnopolitics and Minority Issues

Daftary, Farimah and François Grin (eds.). 2003. *Nation-Building, Ethnicity and Language Politics in Transition Countries*.

Gál, Kinga (ed.). 2002. *Minority Governance in Europe*.

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## A FINAL WORD

# OSI maps out a broad range of fiscal transparency initiatives

The Open Society Institute (OSI) is employing a broad range of efforts to promote transparency and combat corruption in government.

The extent of these efforts was explored at a May 2006 meeting in London, where OSI's overall work in the field was mapped out for the first time.

The meeting had several objectives: to share information on transparency and accountability work being undertaken by various Soros foundations and network programs; to reflect on how this work fits into and promotes OSI's mission and values; to come up with a long-term policy and strategy for network activities in this area; and to assess arrangements to implement these strategies.

*OSI's interests lie in different aspects of collection, allocation, and disbursement of funds, at the national and local levels.*

A full report on the meeting will be issued by the Revenue Watch Institute (<http://www.revenuwatch.org/>).

The mapping exercise proved that OSI's transparency work addresses a wide variety of issues that go beyond the conventional fiscal policy framework.

Descriptions of many of the specific programs appear on Page 39.

OSI's interests lie in different aspects of collection, allocation, and disbursement of funds, coming from national and local governments—as well as bilateral and international donors and international financial institutions.

The meeting concluded that the network's transparency and accountability activities can be grouped into the following categories:

- natural resource revenue transparency and

accountability—including OSI's participation in the Extractive Industries Transparency Initiative and OSI's sponsorship of the Publish What You Pay campaign;

- foreign assistance transparency and accountability—including multilateral and bilateral aid, and international loans and credits.
- budget transparency and accountability—including revenue and expenditure management, allocation and distribution of funds, service delivery, and procurement.

While the Soros foundations network focuses on these major aspects of the use of public funds, the network also further promotes fiscal transparency at the national, local, and international levels by:

- advocating free access to information on the collection and use of public and international funds, including fiscal policy and the budgeting process;
- securing civil society participation and independent oversight of the use of public and international funds;
- promoting and assisting in policy and public administration reforms to enhance the legal and institutional frameworks for the use of public and international funds.

OSI has identified three critical areas for its future activities to promote transparency: revenue watch; linking transparency with fiscal accountability; and mapping foreign assistance.

Through these activities, OSI network programs, Soros foundations, and partner organizations are demonstrating their commitment to building open societies where public funds are collected, allocated, and used in a transparent manner.

—*Irakli Rekhviashvili*