

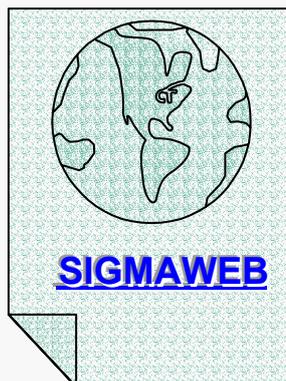
ANTI-CORRUPTION AND INTEGRITY FRAMEWORKS (Issue No. 3)

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Next Update
May-June 2004
will focus on
The New European Union



► Building Integrity Systems and Strengthening Ethical Capacities

Sigma is often asked why it is not more active in the fight against corruption. Although Sigma is in fact active on the anti-corruption scene, it operates in ways that may be less visible than those of other organisations. The main approach of Sigma support to transition countries in the fight against corruption has been through building integrity systems and strengthening ethical capacities.

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Definition and Perception of Corruption

The general consensus is that corruption is one of the symptoms of poor governance. A bulk of literature on corruption has been published in recent years, and new ways of defining and thinking about corruption have been formulated. The following definition of corruption adopted by the World Bank seems useful: Corruption can be described as either *state capture* — i.e. individuals, groups or firms in both private and public sectors have opportunities through bribes to influence the formulation of policies and the drafting of laws and regulations to their own advantage — or *administrative corruption* — i.e. the implementation of existing laws, decrees, regulations, etc. is influenced by bribes paid to officials. Examples of administrative corruption are bribes to gain a licence, to shortcut complex procedures, or to obtain public procurement contracts.

Like other undesirable social phenomena, corruption does not enjoy a good fit with reliable statistics, as it is difficult to gather hard data on the forms and costs of corruption. However, Transparency International (TI), the Berlin-based NGO, publishes annually its *Corruption Perceptions Index*, which contains indicators of perception by a particular society of the occurrence and severity of various forms of corruption occurring within that society. Using this methodology, TI indexes enable countries to compare over time their own ratings with those of other countries. In recent years, the World Bank has also developed work on so-called “*second generation corruption indicators*”. Based on the assumption that a negative correlation exists between the robustness/“impermeability” of public administration systems and the incidence of corruption, the World Bank tests possible relationships between administrative development and corruption.

Administrative Corruption in a Fragile Environment

In transition countries, where working conditions in the administration are poor, *administrative corruption* tends to flourish, and integrity systems, if they function at all, are usually fragile. These poor working conditions include low salary levels (i.e. salary levels that do not permit honest and modest standards of living) combined with limited career prospects (stemming from high levels of instability and politicisation of appointments and promotion at all levels of government and of the public service). This fragility of the administration might also be increased by the transposition of “New Public Management” concepts that tend to contractualise professional relations, foster employment vulnerability, and shorten employment duration. All of these factors combined generate a need for “survival strategies” by employees, which might include various forms of corruption, such as abuse of official power, bribe-seeking, and “ghost employment” to generate multiple salary payments. Such corruption cannot be justified, but it is likely that it will gradually fade away as the average standard of living is raised, social and working conditions in administration improved, and effective anti-corruption strategies implemented. Most of the anti-corruption strategies reviewed by Sigma in recent years have focused mainly on the fight against, and sometimes the prevention of, *administrative corruption*. Without underestimating the importance and negative effects of administrative corruption on society as a whole, these “trees” should not hide the “forest”: effective anti-corruption strategies need to target the interface between the public sector and the private sector, as public officials are rarely bribe-payers.

Growing Potential for State Capture

As countries in Central and Eastern Europe advance in the transition process, their politico-administrative systems take shape and expand their influence. However, as policy-making, law-drafting, and community capacities develop, the potential for *state capture* also grows significantly. State capture, the covert influence of private interests in law-making, policy development and judicial decisions potentially creates quasi-permanent (at least durable) undue economic privileges, biased market mechanisms, and unbalanced economic and social development. The organs of the state can be captured by otherwise legitimate private interests as well as by organised crime. In the latter case, “captured” states can be used as stepping-stones for organised criminal interests to penetrate neighbouring countries, and can also have destabilising regional effects.

In response to this challenge, Sigma has developed, at the request of the European Commission, a series of baselines against which EU candidate countries have been assessed annually since 1999. While policy formulation and policy evaluation capacities are generally weak in former communist countries, the Sigma assessments have shown that, with some exceptions, robust policy formulation and co-ordination capacities have been improving gradually in most candidate countries. In 2002 Sigma extended this assessment process to Western Balkan countries. Policy-making capacities remain a weak point in most of these countries, making the region as a whole a primary target for state capture.



Country-Specific Capacities and Frameworks

Governments in transition economies receive vast amounts of technical assistance, some of which is aimed directly at fighting corruption. Some “institution-building” assistance, although not specifically labelled as “anti-corruption” support, in fact contributes to the establishment of integrity systems and the construction of barriers to corruption. This is the case, for instance, of assistance programmes aimed at setting up robust public governance systems that match the absorption capacities of recipient countries and respect prevailing administrative traditions. The consideration of country-specific capacities and frameworks is of utmost importance for Sigma support to countries in creating stable and professional civil services, clear administrative procedures, improved expenditure management systems, public procurement mechanisms, and an effective prosecution service, or in carrying out public administration reform in general.

Some technical assistance programmes, on the other hand, while supporting reforms and modernisation, nevertheless create breeding grounds for corruption. It is not uncommon to find decentralisation programmes that pay little attention to either the strengthening of central capacities to steer, monitor and control the decentralisation process or the development of effective local capacity to manage and control the use of funds transferred from central government. While decision-making and implementation are devolved to the local level, often only limited, if any, administrative capacity is available to provide oversight and to control policy implementation. In a recent round of anti-fraud assessment missions to EU candidate countries, Sigma witnessed the extent of institutional and administrative weaknesses of decentralised systems of government in preventing and combating fraud. Another example of this breeding ground for corruption is related to the creation of independent agencies to regulate business areas or enforce public policies. The smooth functioning of these agencies requires robust policy-making, effective management, and efficient control capacities that many governments have difficulty in generating and maintaining, especially in a transition environment. In most cases, the notion of “functional independence” of an agency of government is generally not distinguished from “administrative independence”. This gap can result in structurally unaccountable systems, i.e. agency structures that are systemically vulnerable to fraud, corruption, and other malpractices. Other “advanced” public management solutions and “best practice” strategies have also proved to be difficult to transpose into countries in transition, and in some cases have only succeeded in creating more opportunities for fraudulent practices.

Sigma's Systemic Approach to Fighting Corruption

In recognition of these factors, Sigma has deliberately placed itself “upstream” in its work to fight corruption. This approach is based on the extensive experience of OECD Member countries and on Sigma’s own experience in helping countries in transition to establish, maintain and strengthen their integrity systems. As part of this approach, Sigma supports the development of indigenous *policy-making capacities* so as to limit the opportunity for individuals or groups to attempt state capture in their own self-interest. In the same way, Sigma contributes to the reform of *civil service management* systems, reducing incidences of cronyism and nepotism, two malpractices that provide points of entry for misconduct and patronage and that encourage competent officials to leave the public service while mediocre officials remain. The Sigma Programme also helps to establish *public procurement systems, internal audit and public expenditure management systems* that offer better value for money, promote transparent, fair competition, and ensure reliable contract-performance as well as continuing economic and social development. Sigma’s work in supporting the establishment of *external audit mechanisms* also aims to provide legislative authorities with the capacity to effectively scrutinise the executive branch of government. In accordance with its mandate, Sigma is creating a limited capacity to support central governments in *steering and managing decentralisation processes* so as to put in place efficient and effective decentralised systems that enhance the lives of citizens and taxpayers.

Over the years, Sigma has confirmed the relevance of this “upstream”, systemic approach in building national integrity and fighting corruption. However, Sigma has also identified a fundamental need to build ethical capacities at the individual level, a need that has generally been neglected across the region. The article on “Ethical Competence” included in this issue of *Update* describes in detail a new range of activities, currently being developed by Sigma, aimed at bridging this gap.

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► Albania's Fight Against Corruption

The fight against corruption has been on the agenda of the Albanian Government since 1998, but anti-corruption efforts actually began in 2000 with the establishment of an institutional framework. Implementation of a national anti-corruption strategy — the Action Plan on Prevention and Fight against Corruption — was launched in 2002 and intensified in 2003. Within this institutional and strategic framework, co-operation is continuing and steadily increasing with internal and external auditing bodies, civil society, and relevant international organisations.

Anti-Corruption Institutional Framework

Two specific high-level bodies were established in 2000 with the overall objective of directing anti-corruption efforts in Albania: the Anti-Corruption Unit and the Anti-Corruption Monitoring Board, forming together the **Anti-Corruption Monitoring Group (ACMG)**. In 2001 and 2002 the government strengthened these bodies, with external help from the World Bank, OSCE and USAID, and in particular from the Council of Europe through its PACO project.

The **Anti-Corruption Unit** of the Anti-Corruption Monitoring Group (ACMG) is currently comprised of six civil servants attached to the office of the Minister of State for Coordination.

The **Anti-Corruption Monitoring Board** of the ACMG is composed of the highest level of civil servants. It is currently made up of 17 representatives of ministries and invited representatives of independent state institutions (Supreme State Audit, General Prosecutor, Inspectorate of the High Council of Justice, Ombudsman). Also now included in the Monitoring Board are representatives of civil society — Albanian Coalition Against Corruption (ACAC) — and the business community.

To ensure effective co-operation between the various bodies represented within the ACMG, a network of contact points has been established, i.e. two or three civil servants have been identified in each ministry/institution to serve as the main interlocutors between their institution and the ACMG.

A third body was created in July 2003, when the Minister of State for Coordination, the Prosecutor-General and ACAC signed a Memorandum of Understanding, establishing the **Triangle Commission on the Exchange of Information and Cooperation in Data Sharing in the Area of Corruption**. The Commission aims to increase transparency, strengthen inter-institutional cooperation on the exchange of information, and facilitate the transmission of information to the general public on the various types of corruption, number of denouncements and proceedings of criminal offences, and priorities in the fight against corruption. The Commission also ensures that none of this information is utilised for political purposes.

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National Anti-Corruption Plan on the Prevention and Fight against Corruption

The main function of the Anti-Corruption Monitoring Group (ACMG) is to direct and ensure the implementation of the National Anti-Corruption Plan on the Prevention and Fight against Corruption, which is agreed at a yearly conference. The Third National Conference on the Fight against Corruption, held on 3-4 July 2003, opened up participation in the ACMG to non-governmental actors: the business community, civil society, trade unions, and international organisations (e.g. World Bank, OSCE, UNDP and EC). It underlined the strengthening of state structures in alliance with these partners in the prevention and fight against corruption and enhanced the accountability of all actors. The conference adopted the 2003-2004 Action Plan, which focused on good governance and specific anti-corruption measures within three main areas: law enforcement, prevention, and public education and participation.

Priority Anti-Corruption Activities

The 2003-2004 Action Plan is comprised of seven major initiatives:

- **Simplification of public services:** The Prime Minister established in March 2004 an inter-ministerial working group to simplify and standardise the criteria and procedures of public services offered by all central administration institutions. The findings of this group will provide the basis for necessary legal and regulatory changes aimed at reducing bureaucratic formalities and creating a transparent, controllable and balanced system.
- **Legislation approximation with international standards:** In the framework of the Council of Europe's PACO Albania 2 programme, roundtables were organised from September to December 2003 to review amendments to the Criminal Code and Criminal Procedures Code and complementary laws. A working group on this issue has been set up within the Ministry of Justice, which will present this legislation for adoption in 2004. The Minister of State for Coordination has also set up a working group — including the participation of the Albanian Coalition Against Corruption (ACAC) — to review criminal and civil legislation, and this group has prepared several proposals for amendments to existing legislation.
- **Revision of the legal framework for conflict of interest:** The Anti-Corruption Unit organised in February 2004 a roundtable on the revision of legislation on conflict of interest, in which relevant national institutions and international organisations (OECD, World Bank, EC) participated. These efforts to revise existing provisions in different codes and laws are ongoing.
- **Financing of political parties and election campaigns:** In co-operation with ACAC and the Central Elections Commission, the Anti-Corruption Unit is reviewing the legal dispositions for financing political parties and candidates' electoral campaigns. In February 2004 a roundtable was organised on this topic, aimed at raising awareness and increasing the responsibility of political parties. Unfortunately, participation at the political level was minimal.
- **National survey on the public perception of corruption:** The Anti-Corruption Unit plans to carry out a national survey on the attitude of the general public, public administration and business sector to corruptive practices.

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- **Reducing corruption at the local level:** In the framework of the PACO programme of the Council of Europe and in co-operation with ACAC, three regional activities were carried out in November 2003, focusing on the fight against corruption at the local level — with regard to control and audit, local government employees, and transparency and access to information.
- **Raising public awareness and participation:** The Training Institute for Public Administration (TIPA) organised at the end of 2003, in collaboration with the Anti-Corruption Unit, a module on “Ethics and Anti-Corruption” for officials at different levels of the public administration.

Co-operation with Internal and External Auditing Bodies

The Minister of State for Coordination and the Anti-Corruption Unit maintain close relations with the Supreme State Audit (SSA). Every three months the SSA issues bulletins of the audit and recommendations for disciplinary and administrative measures, as well as criminal denouncements. All institutions concerned are obliged to report to the Prime Minister, via the Minister of State for Coordination, on the implementation of these measures.

The Anti-Corruption Unit also cooperates on a regular basis with the General Directorate of Financial Control in the Ministry of Finance, and monitors the follow-up by concerned institutions to the Directorate’s six-monthly bulletins on internal control activities.

Co-operation with Civil Society

One of the main directions of current anti-corruption efforts in Albania is the encouragement of public awareness and participation. In this regard, the decision of the Prime Minister to open up participation in the Anti-Corruption Monitoring Group (ACMG) to the Albanian Coalition Against Corruption (ACAC) and the business community has been significant. In addition, all Monitoring Board meetings are open to the general public and to the media. It is important to mention that ACAC is comprised of more than 160 NGOs, and its participation in anti-corruption efforts has not been limited to its role as a Monitoring Board member. As a close partner of the office of the Minister for Coordination and the Anti-Corruption Unit, ACAC has been active in helping to elaborate the National Anti-Corruption Plan and implement the priority initiatives mentioned above, including the drafting and revision of legislation.

Co-operation with International Organisations

A major partner in the fight against corruption in Albania has been the Council of Europe, through its PACO Albania 2 Programme and its PACO-IMPACT regional project. The Albania 2 Programme contributed to strengthening the capacities of anti-corruption structures, in particular the Anti-Corruption Unit. The PACO-IMPACT project, involving seven countries in South East Europe, supports the implementation of anti-corruption action plans.

Anti-corruption structures in Albania will continue to cooperate with other countries of the region in the framework of the Stability Pact Anti-Corruption Initiative (SPAI). The SPAI Regional Secretariat Liaison Office will serve as a centre for communication, exchange of information and training.

Close co-operation in this area has been maintained with the OECD through its activities involving countries in transition. Staff of the Anti-Corruption Unit participated in several OECD meetings in 2003 focused on reform in the state administration, in particular through the increase in transparency and management of the conflict of interest issue.



The Anti-Corruption Unit has continuous contacts with representatives of the European Commission, OSCE, World Bank, and other organisations involved in the fight against corruption.

Future Focus

Albanian anti-corruption efforts in 2004 will emphasize not only increased transparency and integrity, but also the simplification of public services and the harmonisation and standardisation of legislation. However, the main priority remains the reduction of actions that undermine public trust in the judicial and political systems, the rule of law, economic development, foreign investment and European integration.

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► “Ethical Competence”: A New Capacity-Building Approach

In its work on public administration reform over the years, Sigma has focused increasingly on the need for building integrity systems that support good governance and resist corruption. More recently, we have identified a fundamental need to strengthen ethical conduct in the civil service and in government by addressing the issue of capacity. To meet this need, Sigma has been developing two innovative and interrelated approaches to strengthen both systemic capacity and personal capacity, focusing at the same time on conflict of interest and on what could be called “professional ethics for public officials”.

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Conflict of interest lies at the heart of professional ethics in all professions, and is so fundamental that most ethics codes — and certainly those applying to public officials — could be condensed into two simple rules: “Avoid conflict of interest” and “Act responsibly”.

These rules are simpler to say than to put into practice. Public officials at all levels may be capable of recognizing conflict of interest concepts in the abstract words of the law, but may fail to recognize a real conflict of interest embedded in a real situation. Opinions may also vary radically as to what constitutes “responsible” conduct in a particular case, and a specific action may be seen as responsible by some and irresponsible by others — it is often a matter of judgment. Nevertheless, whenever an official makes a wrong judgment, in the absence of corrupt intention, his/her “ethical competence” could be seen as being deficient.

A new Toolkit for Managing Conflict of Interest

Sigma has contributed to the development of a new approach that clarifies difficult conflict of interest issues and places them in an operational context. This work appears in a new Toolkit for Managing Conflict of Interest, which complements the OECD’s recent Guidelines for Managing Conflict of Interest in the Public Sector.

The *Toolkit* provides a range of pilot-tested generic resources to help officials in their efforts to increase integrity and promote good governance in the public sector, particularly in relation to the public sector/private sector interface. The tools themselves, provided in generic form, are based on examples of sound conflict of interest policy and practice drawn from various OECD Member countries.

The *Toolkit* therefore focuses on specific techniques, resources and strategies which can be developed, adapted and applied for use in any country to:

- **identify, manage, and/or prevent** conflict of interest situations more effectively; and
- **increase integrity in official decision-making** that could be compromised by conflict of interest situations.

The *OECD Guidelines for Managing Conflict of Interest in the Public Sector* represent a key accompaniment to the *Toolkit*, providing a detailed explanation of issues and solutions as well as a practical policy reference. The *Guidelines* and *Toolkit* are available online in a range of languages (see box below).

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Conflict of interest is both a straightforward and complex matter. While a conflict of interest situation is in principle easy to define — in the public sector a ‘conflict of interest’ arises “*when a public official has private-capacity interests which could improperly influence the performance of [his/her] official duties and responsibilities*” — establishing and enforcing effective policy frameworks to control conflicts can be a very complex task. To resolve a specific conflict, establishing relevant facts, applying law and policy, and distinguishing between ‘actual’, ‘apparent’, ‘real’, and ‘potential’ conflict situations usually require both technical skills and a fundamental understanding of many issues and points of view. For example, many people have different views as to whether a conflict of interest is the same as corruption.

The *Toolkit* — and the OECD *Guidelines for Managing Conflict of Interest in the Public Sector* on which it is based — takes the position that conflict of interest is not necessarily corruption, which is best understood as “*(actual) abuse of public office for private advantage*”. However, a serious conflict of interest does in fact have the potential to be corrupt conduct. Sigma promotes the view that public officials need effective training in how conflicts can be correctly identified, appropriately managed, and effectively resolved in practice; mere knowledge of the relevant law, while necessary, is not sufficient.

A New Approach to Professional Ethics Training for Public Officials

As part of its work in the area of ethics, Sigma is in the process of developing an innovative approach to capacity-building, which includes the launch of a new Public Sector Ethics Resource Project. This project intends to provide a CD-ROM-based package of integrated video, documents, and Internet-based materials tailored to the particular situations of specific countries. It will be possible to use the Ethics Resource in several ways — as skills training on ethics/integrity and anti-corruption subjects, management decision-making support, reference and research, new policy development, and public information. The training component could be linked to an assessment process, which would document the learning achieved by participants in a formal training application. A particular focus in 2004 will be on meeting the needs of officials who will have responsibility for the control of EU funds in the immediate future.

These materials are based on an original version of the Resource, which was given a very positive assessment by participants of two OECD/Baltic Anti-Corruption Initiative (BACI) regional workshops held in Vilnius, Lithuania, in 2003. In addition to video materials, a range of country-specific materials — relevant law, policy and case studies — will be included in each version of the Resource. In this way, the materials-development process itself will contribute to the training of trainers in the use of the Resource, and will also provide significant skills transfer to local participants, enabling the development of other versions of the Resource for other purposes over time. While the production of video materials in particular is normally a very costly and complex process, the reuse of tested video materials, translated into local languages and adapted to local issues and approaches, will result in considerable savings in development costs and time.

In developing the Ethics Resource, Sigma experts will work in partnership with relevant civil service agencies, anti-corruption organisations, and institutes of public administration. After pilot testing and evaluation, it is envisaged that these materials would support major elements of a national strategy for the delivery of training to large numbers of public servants and public officials, and for the transmission of anti-corruption information to the general public.

The first such development is currently being undertaken in conjunction with the Special Investigations Service of Lithuania, in a project jointly sponsored by the United Nations Development Programme (UNDP), the Government of Lithuania, and the European Commission.

More information about these and other Sigma initiatives and materials can be obtained by contacting Sigma: <mailto:sigma.info@oecd.org>

Stability Pact Anti-Corruption Network, including the OECD *Toolkit for Managing Conflict of Interest*:

http://www.anticorruptionnet.org/acncgi/user_side/projects.cgi?lang=en&site_type=graphics&come_from=projects&search=1&country_id=110. (Electronic versions of the *Toolkit* are also available in various languages for downloading from this site.)

OECD publications on Ethics in the Public Service, including *OECD Guidelines for Managing Conflict of Interest in the Public Sector*:

http://www.oecd.org/findDocument/0,2350,en_2649_34135_1_119820_1_1_1,00.html

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► Hungary's Glass Pocket and other Anti-Corruption Measures

The Glass Pocket Programme

The Hungarian Government's "Glass Pocket Programme" was adopted by Parliament in April 2003 as part of a legal package on transparency and control in the expenditure of public resources and the use of public-owned property. This programme has resulted in the modification of a dozen laws, including those regulating state finance, the capital market, public procurement, protection of personal data, the State Audit Office and the Civil Code.

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The main objectives of the "Glass Pocket" are to ensure that public expenditures — and the state economy as a whole — are transparent and well controlled, that public resources are spent in a legal manner, and that the general public has access to important economic and financial data. With regard to data access, one measure of the Programme requires that all data on non-normative, goal-oriented subventions for development projects must be published on the Internet, specifying the amount of the grant and identifying the beneficiary. Another measure ensures that all contracts of more than 5 million HUF are likewise made public. Ministries and subordinate budgetary bodies are required to publish assessments of their activities carried out in previous years, even including information on official travel, vehicles and mobile phones. All published data required in the framework of the Glass Pocket Programme have to be accessible for a period of five years.

A Corruption-free Public Service

Hungary has taken several steps to ensure that the civil service — and other public services such as the armed forces — is free of corruption.

Declaration of assets: As a means of ensuring the morality of public life and preventing corruption in the public service, Hungarian civil servants and employees of the armed forces, among other public servants, are obliged to periodically declare their finances, as well as those of their immediate family. As this declaration is obligatory, it represents one of the conditions for employment; if a candidate for public service refuses to comply, he/she is automatically ineligible for the position. According to the same regulation, financial declarations at the end of each period are compared with previous declarations. Depending on its content, an extraordinary declaration may be permitted for special cases enumerated in the law, which also entails a special control procedure. All of these data on the declaration of assets are managed by the Civil Service Control Office within the Ministry of the Interior. A government resolution sets out the functioning of this declaration and the management of relevant data in a very detailed way. The data are stored in an electronic registration system for a period of ten years.

Rules of incompatibility: Civil servants are permitted to have second jobs or carry out other professional activities only with the permission of their public service superiors. High-level civil servants, such as managers, are forbidden to have any other employment, other than activities related to science, art, education, etc. In the event of incompatibility, the civil servant must make a declaration and, at the demand of his/her superior, modify the situation within 30 days. Once this period expires, if no changes have been made, the civil servant's legal status is cancelled.

Codes of Ethics: As public sector employees in Hungary have several different types of legal status depending on their functions, a variety of ethics codes are being elaborated. The Ministry of Defense has already published the code of ethics for employees of the armed forces. As for the civil service, the trade unions are now taking the first step, by preparing a proposal for a specific ethics code applicable to civil servants.

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