IACA INTERNATIONAL ANTI-CORRUPTION ACADEMY

Preventing and Combating Corruption in the Eurasian Region

Summary Report of IACA's Anti-Corruption Tailor-made Training for Representatives of Eurasian Economic Union (EAEU) Member States
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The publication was prepared by Dr. Eduard Ivanov, the International Anti-Corruption Academy (IACA).

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Background

The International Anti-Corruption Academy (IACA) is an international organization dedicated to developing and sharing knowledge about corruption risks, creating a basis for new and holistic approaches to anti-corruption education and research, and providing networking opportunities for the stakeholders dealing with research, mitigation, and management of anti-corruption risks.

The Academy provides, on a yearly basis, a variety of standardized trainings: International Anti-Corruption Summer Academy, Regional Summer Academy, Anti-Corruption in Local Governance Training, Procurement Anti-Corruption Training, and "Best Of" Seminars. In addition to thematic programmes, IACA offers tailor-made trainings individually designed to respond to the unique needs of a specific organization, corporation, or institution. The trainings also provide a basis for discussion about existing and future challenges for mitigation of corruption risks in different sectors or regions.

The 2018 Anti-Corruption Tailor-Made Training for Representatives of the Member States of the Eurasian Economic Union, hereinafter the EAEU Training, was co-sponsored by the Government of the Russian Federation. The creation of this Report was inspired by the EAEU training taking place from 24-26 September 2018. The training was delivered by high-level experts from different areas of anti-corruption and compliance, including, *inter alia* (in alphabetical order):

- Dr. Eduard Ivanov, Senior Research Associate, International Anti-Corruption Academy, lectured on *Anti-Money Laundering/Countering Financing of Terrorism and Anti-Corruption Compliance.*
- Alexey Konov, Director of the Anti-Corruption Research and Education Center of the Russian Presidential Academy of National Economy and Public Administration, discussed *Corruption Risk Assessment in Public/Private Sector* and *Public Procurement, Vulnerabilities and Best Practice.*
- Drago Kos, Chair of the Organisation for Economic Co-operation and Development (OECD) Working Group on Bribery in International Business Transactions, shared his expertise in *Public-Private Partnerships in the Fight against Corruption.*
- Martin Kreutner, Dean and Executive Secretary of the International Anti-Corruption Academy, lectured on *International Efforts to Curb Corruption.*
- Lilit Petrosyan, Commissioner of the Commission on Ethics of High-Ranking Officials of Armenia, analyzed *Whistleblower Protection.*
- Andreas Wieselthaler, Director of the Federal Bureau of Anti-Corruption (BAK) of the Austrian Federal Ministry of the Interior, and Verena Wessely, Head of International Cooperation Unit in Prevention, Education and International Cooperation Department of BAK- talked about *International Anti-Corruption Cooperation.*

The training brought together anti-corruption and compliance practitioners from Armenia, Belarus, Kazakhstan, Kyrgyzstan, and the Russian Federation. The training started with an insight into international efforts to curb corruption. Furthermore, international legal instruments were discussed. Additionally, it offered participants deeper and more comprehensive insights into particular topics and areas of anti-corruption and compliance practices such as whistleblower protection, corruption risk assessment, public procurement, public-private partnerships, participatory governance, measures for stakeholders, and civil society involvement in decision-making processes in order to mitigate corruption risks. The training also provided a comparative overview of anti-money laundering/countering financing of terrorism and anti-corruption compliance legal regimes and practices.

Chapter 1: International Efforts to Prevent and Combat Corruption

1.1. International Efforts to Curb Corruption

Mr. Kreutner started his lecture with a question – what is corruptive behaviour? There are various possible answers. Corruptive behaviour can be defined as unethical, (social) deviant, or criminal behaviour, or as human rights violation. All these characteristics are applicable and describe different dimensions of corruptive behaviour.

The lecturer underlined the disruptive role of corruption in the modern world, and quoted Christine Lagarde, Managing Director of the International Monetary Fund (IMF). She had said:

> The world is facing a crisis of trust in institutions across all sectors that shows no sign of abating. In 20 out of the 28 countries surveyed by the Edelman Trust Barometer for 2018, average trust in government, business, NGOs and media was below 50%. There are many reasons behind this heightened sense of dissatisfaction – the long tail of the global financial crisis, a perception that economic rewards are not being shared fairly, and growing anxiety about future job prospects. But when I talk to young people all over the world, one theme comes up repeatedly: corruption![1]

The effective fight against corruption is of significant importance for the successful implementation of the 2030 Agenda for Sustainable Development. The lecturer quoted Antonio Guterres, the UN Secretary General, who had said: "My overriding priorities since taking office are preventing conflicts and crises, and mobilizing efforts to implement the 2030 Agenda for Sustainable Development. […] This brings me to the top of the list of contemporary criminal justice issues: the fight against corruption."[2]

Systemic corruption creates numerous risks and affects governments, private sector, and civil society.

Corruption increases significantly the costs of public and private sectors. Corruption, in average, adds 10% cost to any contract. The situation in public sector is even worse. Corruption, in average, adds 25% to the cost of public contracts.[3] According to the World Economic Forum (WEF) survey, 67 out of 144 economies described corruption as one of the top three challenges to conduct business.[4]

Corruption undermines public trust in government and political institutions. In September 2012 – March 2013 the Transparency International conducted global survey covering 114.000 interviewees in 107 countries. The survey demonstrated impressive results:

- 6 out of 10 state that corruption has increased in the recent three years
- Every 4th reports to have paid bribes in the last 12 months
- 29% of all interviewees inform to have paid bribes to law enforcement officials
- 76% regard political parties as corrupt

[1] Lagarde, C., 2018. There's a Reason for the Lack of Trust in Government and Business: Corruption. Available at: <https://www.theguardian.com/commentisfree/2018/may/04/lack-trust-government-business-corruption-christine-lagarde-imf> [Accessed 17 December 2018].
[2] Guterres, A., 2018. Secretary-General Stresses Need for Joint Action to Combat Corruption, Terrorism, Other Ills, at Commission on Crime Prevention and Criminal Justice. Available at: <https://www.un.org/press/en/2018/sgsm19033.doc.htm> [Accessed 19 December 2018].
[3] Center for Strategic and International Studies (CSIS), 2014. The Costs of Corruption, p. 1. Available at: <https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/140204_Hameed_CostsOfCorruption_Web.pdf> [Accessed 17 December 2018].
[4] World Economic Forum, 2013. The Global Competitiveness Report 2013, p. 33. Available at: <http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf> [Accessed 19 December 2018].

- 54% of all interviewees think their government is largely or entirely run by groups acting in their own interests rather than for the benefit of the citizens[5]

According to the Special Eurobarometer, published in December 2017, 26% of 28,080 respondents from EU Member States think that corruption is very widespread in their countries, 42% think that it is fairly widespread. Only 1% of respondents expressed an opinion that there is no corruption in their countries.[6]

The term "corruption" sounds for everyone like very well known. At the same time, corruption is very complicated social phenomena. Despite of many years of political, legal, and academic debates states cannot develop a comprehensive definition of corruption. In 2003, the States Parties to the United Nations Convention against Corruption (UNCAC) agreed to define in the convention the list of corruption offences instead of general definition of corruption. The chapter III of the UNCAC established obligations of states parties to criminalize bribery of national public officials, foreign public officials, and officials of public international organizations; embezzlement, misappropriation or other diversion of property by a public official; trading in influence; abuse of functions; illicit enrichment; bribery in the private sector; embezzlement of property in the private sector; laundering of proceeds of crime; concealment, and obstruction of justice.

The most common definition of corruption as "the abuse of entrusted power for private gain" was developed by Transparency International.[7] The lecturer provided participants with various classifications of corruption: grand vs. petty corruption, public sector vs. private sector corruption, ad hoc vs. structural/systematic corruption, active vs. passive corruption, and supply- vs. demand-driven corruption.

The grand corruption causes the most serious damage to the society. According to Transparency International, the grand corruption occurs when a public official or other person deprives a particular social group or substantial part of the population of a State of a fundamental right; or causes the State or any of its people a loss greater than 100 times the annual minimum subsistence income of its people; as a result of bribery, embezzlement or other corruption offence.[8]

No country in the world is absolutely free from corruption. Transparency International publishes on annual base the Corruption Perception Index (CPI) for measuring corruption in various countries.[9] The Index stimulates governments and other stakeholders to develop and implement new effective anti-corruption measures.

The lecturer emphasized that corruption does not only cause economic harm to society. Corruption kills people. On 29 June 1995, the Sampoong Department Store in Seoul, South Korea, completely collapsed, 501 people killed, and 937 injured. The owners of the building

[5] Transparency International, 2013. Global Corruption Barometer. Available at: <https://www.transparency.org/gcb2013/report> [Accessed 27 December 2018].
[6] European Commission, 2017. Special Eurobarometer 470. Available at: <http://www.google.at/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKEwi8yoOc6L_fAhXBblAKHSnSDOQQFjAAegQICRAC&url=http%3A%2F%2Fec.europa.eu%2Fcommfrontoffice%2Fpublicopinion%2Findex.cfm%2FResultDoc%2Fdownload%2FDocumentKy%2F81007&usg=AOvVaw2DbYYZWfP1I44w2qnTL3eU> [Accessed 27 December 2018].
[7] Transparency International, 2011. Corruption Perception Index. Available at:<https://www.transparency.org/cpi2011/in_detail> [Accessed 28 December 2018].
[8] Transparency International, 2016. A Legal Definition of Grand Corruption. Available at:<https://www.transparency.org/news/feature/what_is_grand_corruption_and_how_can_we_stop_it> [Accessed 28 December 2018].
[9] Transparency International, 2018. Corruption Perception Index 2017. Available at: <https://www.transparency.org/news/feature/corruption_perceptions_index_2017> [Accessed 28 December 2018].

bribed governmental officials to avoid local buildings codes.[10] In September 2014, a nine-year-old boy, Rausha Kumar, died at a government hospital in the northern India state of Bihar after being fitted with an empty oxygen cylinder allegedly because his family wasn't able to pay a Rs100 ($1.64) bribe.[11] On 25 February 2018, young Slovak investigative journalist Jan Kuciak and his fiancée were killed in their home. Jan Kuciak investigated alleged political corruption linked to Italian organized crime.[12]

Corruption facilitates organized crime and terrorism. Criminals use corruption relations for the movement of persons and goods across customs and state borders. Corrupt officials support smuggling of migrants at several stages along the journey to Europe.[13] Corruption is one of the prerequisites for non-cooperation in combating other types of crime.

According to Mr. Kreutner, anti-corruption based on four pillars: (I) prevention, (II) education and awareness raising, (III) repression and (law) enforcement, and (IV) international cooperation and Collective Action.

Recognizing the importance of preventive and law enforcement measures in combating corruption, we should not underestimate the role of public-private collaboration and joining forces against corruption. Collective Action initiatives against corruption are becoming a popular form of collaboration between governments, the private sector, and other stakeholders. The World Bank Institute defines Collective Action as "a collaborative and sustained process of cooperation amongst stakeholders. It increases the impact and credibility of individual action, brings vulnerable individual players into an alliance of like-minded organizations, and levels the playing field between competitors."[14]

Anti-corruption is one of the priorities in the current international agenda. The UNCAC established general international legal framework for anti-corruption cooperation. As of 26 June 2018 there are 186 parties, and 140 signatories of the UNCAC.[15] The other international legal instruments important for anti-corruption cooperation in the Eurasian region are the United Nations Convention against Transnational Organized Crime (UNTOC, 2000), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997), the Council of Europe Criminal Law Convention on Corruption (1998), the Council of Europe Civil Law Convention on Corruption (1999), the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime (1990), and the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, and on the Financing of Terrorism (2005).

[10] Shin, P., 1995. Owner Sentenced In Seoul Mall Collapse - Father And Son Convicted Of Negligence, Bribing Officials. The Seattle Times. Associated Press. Available at:<http://community.seattletimes.nwsource.com/archive/?date=19951227&slug=2159756> [Accessed 2 January 2019].
[11] Cassin, R., 2014. Nine-Year-Old Boy Dies because of Unpaid Bribe in India Hospital. Available at: <http://www.fcpablog.com/blog/2014/9/22/nine-year-old-boy-dies-because-of-unpaid-bribe-in-india-hosp.html#sthash.uG1pMsNh.dpuf> [Accessed 2 January 2019].
[12] Cameron, R., 2018. Slovakia grapples with murdered journalist's last story. Available at: <https://www.bbc.com/news/world-europe-43226567> [Accessed 2 January 2019].
[13] Europol, 2016. *Migrant smuggling in the EU*. [pdf] Europol. Available at: <https://www.europol.europa.eu/newsroom/news/europol-launches-european-migrant-smuggling-centre> [Accessed 31 October 2017].
[14] The World Bank Institute, 2008. *Fighting Corruption through Collective Action. A Guide for Business*. [pdf] p.11. Available at <https://www.globalcompact.de/wAssets/docs/Korruptionspraevention/Publikationen/fighting_corruption_through_collective_action.pdf> [Accessed 16 February 2018].
[15] UNODC, 2018. United Nations Convention against Corruption. Available at: <https://www.unodc.org/unodc/en/corruption/uncac.html> [Accessed 3 January 2019].

The UN 2030 Agenda for sustainable development announced 17 Goals and 169 targets.[16] The general aim of the 2030 Agenda is to stimulate actions of governments and other stakeholders in critical areas for humanity and our planet. The target 16.5 is to substantially reduce corruption and bribery in all their forms. However, there is no doubt that corruption can undermine efforts of governments to achieve all the declared goals and destroy trust between governments and society.

The Human Rights Council emphasized the negative impact of corruption on the enjoyment of human rights, stressed that preventive measures are one of the most effective means of countering corruption and of avoiding its negative impact on the enjoyment of human rights, called for the strengthening of prevention measures at all levels, and underlined that one key aspect of preventive measures is to address the needs of groups in vulnerable situations who may be the first victims of corruption. The Human Rights Council also recognized that the negative impact of corruption on human rights and sustainable development can be combated through anti-corruption education, and noted with appreciation the capacity-building activities and specialized curricula had been developed by relevant institutions, such as the United Nations Office on Drugs and Crime and the International Anti-Corruption Academy.[17]

IACA is the first international organization and educational institution to offer global, postgraduate degree programmes for working professionals: the Master of Arts in Anti-Corruption Studies (MACS), and the International Master in Anti-Corruption Compliance and Collective Action (IMACC). IACA also developed numerous open and tailor-made trainings. As of 6 November 2019, the IACA Alumni Network consists of more than 2400 graduates from 161 countries and jurisdictions.

1.2. International Anti-Corruption Cooperation: the Austrian Experience

Mr. Wieselthaler and Ms. Wessely shared the Austrian experience of law enforcement cooperation in preventing and combating corruption.

For Austria the international legal basis in the area of investigation and prosecution corruption offences consists of the UNCAC, the Council of Europe Convention on Mutual Assistance in Criminal Matters (1959), the Council of Europe Criminal Law Convention on Corruption (1999), and bilateral agreements.

Chapter IV of the UNCAC established international legal framework for law enforcement cooperation, joint investigations, and mutual legal assistance. Chapter IV of the Council of Europe Convention on Mutual Assistance in Criminal Matters defined general principles and measures for international cooperation in combating corruption, mutual legal assistance, and extradition.

For the prevention of corruption, Chapter II of the UNCAC has significant importance. According to Article 5 States Parties shall collaborate with each other and with relevant international and regional organizations in promoting and developing the preventive measures. That collaboration may include participation in international programmes and

[16] United Nations General Assembly, 2015. Transforming our world: the 2030 Agenda for Sustainable Development. Available at: <http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E> [Accessed 2 January 2019].
[17] The Human Rights Council, 2015. The negative impact of corruption on the enjoyment of human rights. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G15/137/18/PDF/G1513718.pdf?OpenElement> [Accessed 3 January 2019]; The Human Rights Council, 2017. The negative impact of corruption on the enjoyment of human rights. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/191/78/PDF/G1719178.pdf?OpenElement> [Accessed 3 January 2019].

projects aimed at the prevention of corruption. The lecturers provided various examples of such collaboration: European Partners against Corruption (EPAC) founded in 2001 on the initiative of Austria and Belgium, and European contact-point network against corruption (EACN) initiated in 2006 by several European countries including Austria.

Mr. Wieselthaler and Ms. Wessely described the main functions and structure of the Federal Bureau of Anti-Corruption (BAK) of the Austrian Federal Ministry of the Interior, and the role of the Bureau in international anti-corruption cooperation. The BAK has nationwide jurisdiction in the prevention of and fight against corruption, and jurisdiction over the entire public sector. All employees on a federal level have the right to report allegations or suspicious circumstances concerning the list of offences directly to the BAK.

The lecturers shared with participants the BAK's (live-cycle) model in case when corruption offence is committed. There are following stages of the BAK's model:

1. Investigation starts with information gathering, and first investigative steps. The BAK mobilizes necessary resources, and develops strategies.

2. Prosecutor is informed about the progress of investigation. The BAK takes measures, and investigative (structural) knowledge grows.

3. Handover of the case to the prosecutor when investigation is completed. This is a critical stage.

4. The aim of the fourth stage is prevention commitment with the involved organization to convince and point out the advantages as well as the damage caused by ongoing similar cases.

5. At this stage the BAK and the involved organization sign an agreement on a prevention project to build up trust and work together. The BAK provides experience and outside perspective.

6. The final stage includes presentation of a prevention strategy and providing support for its implementation. The good prevention projects and dedicated organizational measures prevent further similar offences.

The BAK coordinates cooperation of security police and criminal police with foreign and international anti-corruption institutions. It acts as the national contact point for Europol, Interpol, OLAF, and other comparable international institutions. The BAK represents Austria in international bodies/forums by providing experts and actively contributing to the work of these bodies/forums. There is a close cooperation between the Bureau and the International Anti-Corruption Academy.

In 2014-16 the BAK successfully implemented in cooperation with the Polish Central Anti-Corruption Bureau and Europol the EU co-funded project on extending the EUROPOL's existing Secure Information Exchange Network Application (SIENA) to anti-corruption authorities. Since 2016 the BAK has taken over the tasks of the EPAC/EACN Secretariat.

The lecturers shared their view on the main Austrian challenges in combating corruption on the example of the "Telecom case", the biggest Austrian corruption case in the last 50 years. The list of corruption offences identified in the framework of the investigation was really impressive. It included abuse of authority, aggravated breach of trust, bribery, false testimony, fraud, illegal payments to political parties and associated organizations, money laundering, stock market manipulations. The outcomes of the case were broad public debate about corruption, several new laws and regulations on media cooperation and media subsidies,

funding of political parties and campaigns, establishing the Parliamentary Investigative Committee.

The "Telecom case" demonstrated an important role of international cooperation for successful investigation of serious corruption offences. The Austrian law enforcement authorities received mutual legal assistance from Cyprus, Czech Republic, Germany, Hungary, Lichtenstein, Singapore, Slovakia, Switzerland, UK and USA.

1.3. Whistleblower Protection

Whistleblower protection has become an important part of any effective compliance programme. However, Armenia is the only country in the Eurasian region which adopted a special law "On the Whistleblowing System of the Republic of Armenia." The experience of local companies in implementing special protection measures into compliance programmes is very limited. In this regard, the lecture of Lilit Petrosyan about whistleblower protection was very useful for participants.

The important role of whistleblower protection has been recognized in international anti-corruption conventions and guidelines.

The 2003 UNCAC did not use the term "whistleblower". However, article 33 of the UNCAC defined reporting person as any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

Article 8 of the UNCAC established that States Parties to the Convention shall, in accordance with the fundamental principles of their domestic law, establish measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions. According to Article 33 States Parties to the Convention shall also consider incorporating into domestic legal systems appropriate measures to provide protection against any unjustified treatment for reporting persons.

Article 22 of the Council of Europe Criminal Law Convention on Corruption of 1999 established obligation of States Parties to the Convention to adopt such measures as may be necessary to provide effective and appropriate protection for those who report the criminal offences established in accordance with Articles 2 to 14 of the Convention or otherwise co-operate with the investigating or prosecuting authorities. Article 9 of the Convention foresees that each Party shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities.

The OECD documents for public and private sector consistently promote whistleblower protection. The OECD Principles for Managing Ethics in the Public Service of 1998 provide guidance to policy makers to review their integrity management systems (instruments, processes and actors). The Principles are an instrument for countries to adapt to national conditions, and to find their own ways of balancing the various aspirational and compliance elements including whistleblower protection to arrive at an effective framework to suit their own circumstances.[18] The OECD Guidelines for Managing Conflict of Interest in the Public Service of 2003aim to help policy-makers and public managers consider existing conflict-of-

[18] OECD, 1998. Principles for Managing Ethics in the Public Service. [pdf] Paris: OECD. Available at: <http://www.oecd.org/gov/ethics/Principles-on-Managing-Ethics-in-the-Public-Service.pdf> [Accessed 29 November 2018].

interest policies and practices relating to public/civil servants, government employees and holders of public office. The Guidelines include recommendations on complaint-handling and the protection of whistleblowers.[19] The OECD Good Practice Guidance on Internal Controls, Ethics and Compliance of 2010 comprising amongst others, the protection of and support for internal whistleblowing.[20] The OECD Guidelines for Multinational Enterprises of 2011 are far reaching recommendations for responsible business conduct that 43 adhering governments – representing all regions of the world – encourage their enterprises to observe wherever they operate. The Guidelines include provisions on the protection of bona fide whistleblowing.[21]

The lecturer highlighted benefits of whistleblowing:

- Safeguarding the public interest
- Promoting a culture of accountability and integrity in both public and private institutions
- Encouraging the reporting of misconduct, fraud and corruption

Some countries have comprehensive and stand-alone legislation on whistleblowers protection. In other countries particular provisions are included in anti-corruption laws, criminal laws, labor laws, or public service laws.

> Countries have different positions regarding the anonymous reporting in public sector. Ms. Petrosyan provided participants with an overview of OECD Member States' legislations on anonymity to public sector whistleblowers. She mentioned that 59 % of OECD Member States (Australia, Austria, Germany, Greece, Hungary, Japan, Mexico, Netherlands, New Zealand, Portugal, Slovak Republic, Slovenia, Switzerland, Turkey, United Kingdom, and United States) allow anonymous reporting. While anonymous reporting is not allowed in 41 % of OECD Member States (Belgium, Canada, Chile, Estonia, France, Iceland, Ireland, Israel, Italy, Korea, Norway).

The lecturer identified best practice criteria for whistleblowing legislation:

- Broad coverage of organizations
- Broad definition of reportable wrongdoing
- Broad definition of whistleblowers
- Range of internal/regulatory reporting channels
- External reporting channels (third party/public)
- Provision and protections for anonymous reporting
- Confidentiality protected
- Internal disclosure procedures required
- Broad protections against retaliation
- Comprehensive remedies for retaliation
- Sanctions for retaliators
- Oversight authority
- Transparent application of legislation

Whistleblowers report violations of various norms related to:

[19] OECD, 2003. Guidelines for Managing Conflict of Interest in the Public Service. [pdf] Paris: OECD. Available at: <https://www.oecd.org/gov/ethics/48994419.pdf > [Accessed 29 November 2018].
[20] OECD, 2010. Good Practice Guidance on Internal Controls, Ethics and Compliance. [pdf] Paris: OECD. Available at: <https://www.oecd.org/daf/anti-bribery/44884389.pdf> [Accessed 29 November 2018].
[21] OECD, 2011. Guidelines for Multinational Enterprises. [pdf] Paris: OECD. Available at: <https://www.oecd.org/daf/inf/mne/48004323.pdf> [Accessed 29 November 2018].

- Fraud prevention
- Workplace safety and health
- Industrial relations and labour
- Bribery of foreign public officials
- Data protection and privacy
- Anti-trust/competition
- Private sector bribery
- Securities and finance
- Intellectual Property
- Environment
- Human rights
- Sanctions and export controls
- Product/service safety
- Cybercrime
- Tax
- Sustainability
- Money laundering and terrorism financing

The lecturer analyzed various measures and incentives encouraging whistleblowers to report. Countries can implement special programmes and trainings, and publish guidelines for awareness raising in governmental authorities. Some countries include in legislation special provisions on follow up. In Canada, the Values and Ethics Code for the Public Sector sets out duties and obligations of senior officers for disclosure of wrongdoing, including notification to the person(s) who made a disclosure in writing of the outcome of any review and/or investigation into the disclosure and on the status of actions taken on the disclosure, as appropriate.[22]

It is also important to provide clear reporting channels, and ensure that criminal sanctions and civil defamation suits do not deter reporting. Taking into account the growing implementation of data protection legislation in many jurisdictions, governments should ensure that this legislation does not impede reporting.

Countries may also consider financial rewards to whistleblowers. Korea's Anti-Corruption and Civil Rights Commission (ACRC) is mandated under Chapter IV of the Act on the Protection of Public Interest Whistleblowers (2011) to provide financial rewards to public and private sector whistleblowers who report internally within their organization or directly to the ACRC. In addition, the Act permits whistleblowers to request compensation for their expenses, such as medical or psychological treatment, removal costs due to job transfer, and legal fees.[23]

An important component of the whistleblowers' protection framework is liability for retaliation. The lecturer provided participants with example of Canadian law. In 2004, the Criminal Code of Canada was amended to introduce a crime of threats or retaliation applicable to all employers and employees in Canada and punishable by a maximum of 5 years' imprisonment. Article 425.1 provides that no employer or person acting on behalf of an employer or in a position of authority in respect of an employee of the employer shall take a

[22] Government of Canada, 2011. The Values and Ethics Code for the Public Sector. [pdf] Government of Canada. Available at: <http://www.tbs-sct.gc.ca/pol-cont/25049-eng.pdf> [Accessed 10 December 2018].
[23] Act on the Protection of Public Interest Whistleblowers. 2011. Republic of Korea: Parliament. Available at: <http://www.acrc.go.kr/en/data/2.%20Act%20on%20the%20Protection%20of%20Public%20Interest%20Whistleblowers.pdf> [Accessed 10 December 2018].

disciplinary measure against, demote, terminate or otherwise adversely affect the employment of such an employee, or threaten to do so.[24]

[24] Criminal Code of Canada. 1985. Canada: Parliament. Available at <https://laws-lois.justice.gc.ca/eng/acts/c-46/> [Accessed 10 December 2018].

Chapter 2: Anti-Corruption Compliance in Public/Private Sector

2.1. Corruption Risk Assessment in Public/Private Sector

During his lecture, Mr. Konov presented an effective model of corruption risk assessment applicable to public and private sector.

According to the lecturer, corruption risk in an organization means possibility of committing corruption offence by an employee of the organization. Corruption risk assessment is a process of identifying, analyzing, and categorizing the risk of corruption.

Mr. Konov referred to two useful sources for the anti-corruption risk assessment: the United Nations Global Compact Guide for Anti-Corruption Risk Assessment,[25] and Regional Cooperation Council's Corruption Risk Assessment in Public Institutions in South East Europe: Comparative Research and Methodology.[26]

The corruption risk assessment should allow to tailor anti-corruption measures in an organization considering existing schemes of corruption offences in an industry/sector. In absence of deep analysis of real corrupt practices and schemes organizations quite often apply the one-size-fits-all approach without any justification of particular measures. Another aim of the risk assessment is to define the list of positions vulnerable to corrupt practices and propose appropriate mitigation measures, including special restrictions for the listed positions. The typical mistake is defining the list of positions just according the hierarchical principle or the very broad interpretation of corrupt opportunities for certain employees.

According to the lecturer, the right approach to the corruption risk assessment includes:

- Describing functions and processes in each unit/department
- Defining the "critical points" where employees have power to distribute the benefits
- Describing possible corruption schemes for each critical point
- Identifying the possible role of employees in each corruption scheme
- Categorizing the corruption risks
- Developing the corruption risk map

The corruption risk map defines the existing or possible corruption schemes and mitigation measures in the critical points. The mitigation measures may include:

- Improving management processes
- Addressing regulatory gaps
- Increasing effectiveness of control measures
- Ongoing monitoring of financial transactions

Mr. Konov proposed eight principles of corruption risk assessment:

- Analysis of management processes, rather than personal qualities of employees
- Concentration on risks of committing corruption offences, rather than on risks of non-compliance with restrictions and prohibitions
- Assessment of corruption risks in all organizational functions

[25] UN Global Compact, 2013. A Guide for Anti-Corruption Risk Assessment. [pdf] UN Global Compact. Available at: <https://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/RiskAssessmentGuide.pdf> [Accessed 10 December 2018].
[26] Selinšek, L., 2015. Corruption Risk Assessment in Public Institutions in South East Europe: Comparative Research and Methodology. [pdf] Available at: <http://rai-see.org/wp-content/uploads/2015/10/CRA_in_public_ins_in_SEE-WEB_final.pdf> [Accessed 10 December 2018].

- Rational allocation of available resources
- Combination of impartiality and understanding of assessed management processes
- Detailed description of corruption risks
- Developing anti-corruption measures based on the corruption risk assessment
- Conducting corruption risk assessment on the regular base

The process of corruption risk assessment consists of several stages. The aim of the first stage is preparation for the risk assessment. This stage includes defining the unit/department responsible for the risk assessment, approval of the risk assessment methodology and timeline by senior management, defining the list of necessary documents, issuing the order or other internal document on the corruption risk assessment.

The second stage is the description of management processes. In the framework of this stage the risk assessment team analyzes internal documents and external environment, describes main business functions and processes, conducts interviews with employees, and identifies prerequisites for corruption in internal documents.

The third stage is the identification of corruption risks. At this stage the risk assessment team should identify critical points in each function. The lecturer emphasized that the best way to identify functions vulnerable for corruption is to think like criminals.

The aim of the fourth stage is analysis of corruption risks. The team members should try to understand how a corrupt employee can obtain personal gain from her/his function, whether she/he can commit corruption offences alone, and if not, who from other employees can be involved and why. Another important question for corrupt employees is how to bypass the existing control mechanisms and procedures. The outcome of this stage is description of corruption risk (passport of corruption risk).

The passport of corruption risk may include:

- Description of benefits distributed in the framework of particular function
- List of potential beneficiaries
- Short and detailed descriptions of possible corruption schemes
- List of employees' positions critical for implementation of corruption schemes
- Description of personal gain that can be obtained by corrupt employees
- Possible ways of illicit payments to corrupt employees
- Internal control mechanisms and procedures in critical points
- Possible ways to bypass the internal control

Corruption risks should be categorized within the framework of the fifth stage. The risk assessment team should assess the probability of occurrence, and the potential impact of occurrence, including legal, financial, reputational, and other possible negative consequences. In the public sector, the possible harm to national security shall be also considered. According to the lecturer, the significance of risk equals to the probability of the risk multiplied by its potential impact (*significance of risk = probability x potential impact).*

The aim of the sixth stage is to develop proposals on mitigation measures. The mitigation measures may include organizational measures, such as detailed regulation of business processes, use of IT-solutions in critical points, implementation of the four-eyes principle, and control measures, such as anti-corruption expertise of internal documents, internal audit, and prevention of conflict of interest.

In the final, seventh stage, the risk assessment team should draft the final report that includes the general register of corruption risks, registers of corruption risks for all functions, proposals on the defining high-risk positions, and proposals on the amendment of the anti-corruption plan.

Mr. Konov shared with participants the Russian experience of corruption risk assessment in public sector. On 13 March 2012, the President of the Russian Federation approved the National Plan for the Fight against Corruption for the Period 2012-2013, which established obligations for all federal government authorities to conduct regular corruption risk assessments, and to define lists of positions in public service which have high level of corruption risk.[27] To support the implementation of the National Plan, the Ministry of Labour and Social Protection of the Russian Federation published the Letter "On conducting corruption risk assessment in the federal government authorities" with the Guidelines for the conducting assessment of corruption risks arising from the performance of functions.[28] The Guidelines paid special attention to the functions of control and supervision, management of state property, the provision of public services, as well as licensing, and registration functions.

In practice, federal governmental authorities define functions vulnerable for corruption based on the criminal statistics, information provided by the law enforcement authorities, publications in media, citizens' appeals, and materials of commissions on compliance with requirements on official conduct and regulation of the conflict of interest. The lists of functions should be approved by the heads of the federal government authorities.

2.2. Public Procurement, Vulnerabilities and Best Practices

The UNCAC defined a general framework for anti-corruption provisions in national public procurement legislation of the States Parties to the Convention. According to Article 9 of the UNCAC, each country is obliged to establish appropriate systems for public procurement, based on transparency, competition, and objectivity in decision-making. An effective system of domestic review, including appeal, the public distribution of information relating to procurement procedures and contracts, and the use of objective, predetermined, and transparent criteria for public procurement decisions are listed among the fundamental anti-corruption safeguards in any national procurement system.

Mr. Konov described distinctive features of corruption offences and shared good practices of corruption prevention in public procurement.

According to the lecturer, the typical aims of corrupt officials involved in the public procurement process are buying luxury goods, obtaining profitable contracts for the companies controlled by their family members or other close relatives, and receiving kick-backs. In many cases corrupt officials buy the luxury goods such as expensive cars or furniture for their offices to demonstrate their important role in the society. When businessmen visit corrupt officials, they should understand that they deal with "serious, solid" persons and be ready for solid kickbacks.

The process of committing corruption offence in public procurement can be divided into three stages. The first stage includes planning and preparation of the offence or several offences.

[27] Decree on the National Plan for the Fight against Corruption for the Period 2012-2013. 2012. Russian Federation: The President of the Russian Federation. Available at: <http://www.kremlin.ru/acts/bank/34928> [Accessed 13 December 2018].
[28] Ministry of Labor and Social Protection of the Russian Federation, 2014. Letter No. 18-0/10/B-8980 with Guidelines for the conducting assessment of corruption risks arising from the performance of functions. [online] Available at: <https://rosmintrud.ru/ministry/programms/anticorruption/9/8> [Accessed 13 December 2018].

As a rule, corrupt officials plan a significant budget of the procurement including their personal gain. To increase the budget and mask over-pricing they often plan for non-standard, long-term work, especially in the construction sector. The typical example is a road construction in regions with a very specific climate. Corrupt official can always explain that the price of work is higher than the usual market price due to specific materials or technologies required under such climatic conditions.

At the preparation stage it is important to define several companies that will participate in the procurement. Corrupt officials can use already existing companies under own control, establish new companies, or "cooperate" with the market participants. Several companies participating in the corrupt deal can help to manipulate prices and demonstrate necessary competition. Depending on the industry, corrupt officials may need "loyal" supporting infrastructure – auditors, lawyers, and technical experts.

At the second stage corrupt officials organize and conduct public procurement. Usually, they include personal benefits in the price of goods or services or formulate the conditions of procurement in such a way that may allow them to accept lower quality services as sufficient services according to the contract. The description of technologies or materials can be very general, and contractors can reduce real costs significantly using the cheaper technical solutions than in the initial calculation. The difference between calculated and real costs can be transferred to the front companies' accounts for the fictitious services, and shared between participants of the corruption scheme.

Another "important task" for corrupt officials at this stage is to exclude from the project other companies participating in the procurement. To achieve this goal corrupt officials have various options. They can:

- Select the non-competitive procurement method
- Officially limit the circle of potential participants of the procurement
- Hide information about the procurement
- Determine the procurement conditions that are unprofitable for the ordinary market participants who are not involved in the corrupt deal
- Determine difficult requirements for the participation in the procurement
- Define the criteria for determining the winner that most probably only the participant involved in the corrupt deal can meet
- Provide for the possibility of canceling the procurement in case of winning an undesirable participant

The procurement conditions in the construction sector can include the requirements to have the particular rare licence that many companies in the industry usually do not have or to have particular equipment. In the academic field it can be the requirement to have particular number of professors among staff. The unprofitable conditions can be changed in the later stages due to new unforeseeable circumstances.

Corrupt officials are not always successful in their "business". Sometimes they shall recognize the victory of independent participants of the procurement because of very high personal risk of the different decision. In such cases, they make the lives of the winners miserable at all stages of the contract execution to prevent their participation in the next procurements.

The lecturer proposed several effective measures to prevent corruption in public procurement. First of all, the detailed legal regulation of the procurement process can reduce the role of

subjective discretion of public officials. Digitization and automation are another important factor that can increase the transparency of the procurement process.

In many cases, conflict of interest increases the risk of committing corruption offences. In a broad sense, conflict of interest means any link that with a high probability can induce a public official to use the power given by the state to benefit or harm the persons concerned. Conflict of interest regulation is widely recognized as one of the key elements of corruption prevention in public procurement. The general aim of conflict of interest regulation is to prevent a situation in which officials private-capacity interest could improperly influence the performance of their official duties and responsibilities.[29]

According to the lecturer, conflict of interest regulation includes three main elements: prevention, identification, and resolving. Prevention is a system of restrictions, prohibitions, and other measures that do not allow public officials to find themselves in conflict of interest situations. Identification is a system of measures that allows for the timely reception and analysis of information about personal interests. Resolving means a limitation of participation in decision-making (committing actions) affecting personal interests.

It is not easy to identify and confirm a conflict of interest and it is even more difficult to resolve it. Therefore, special attention should be paid to preventive measures. It is important to build a system of restrictions and carefully handle potential conflicts of interest situations. Many existing restrictions in public service were adopted to prevent conflicts of interest. There are bans on receiving gifts, having additional paid jobs, possession of securities, and being in subordination of relatives.

The main instrument for the identification of conflicts of interest is a written declaration. As a rule, public officials are obliged to declare conflicts of interest. Depending on the national law, declarations can be submitted when public officials are appointed to a position, on a periodical basis, and when essential circumstances changed. The lecturer recommended the combination of periodical reporting with situational reporting. The declaration forms should collect data about existing interests and/or conflicts of interest. It can include detailed questions about particular interests.

Resolving a conflict of interest is a complicated process. There are several ways to resolve a conflict of interest: preserving individual interests, strengthening the supervision of actions regarding related persons, suspension from actions regarding related persons, creating barriers to influencing related persons, eliminating interests, and dismissal. Preserving individual interests is possible if expressly provided for by law or if it was approved by an authorizing body. To eliminate personal interest, a public official can terminate other paid activities, return gifts, or sell the "problematic" assets. It should be taken into account whether the official has already received substantial remuneration in the framework of other paid activities from an organization or person. In some cases, the termination of the employment relationship may not be enough.

The periodical internal and external audit can also have positive impact on corruption prevention in public procurement. To increase effectiveness of the audit government agencies can develop indicators of corruption in the procurement process. These indicators can be used by auditors to identify possible misconduct.

[29] OECD, 2003. Managing Conflict of Interest in the Public Service. [pdf], p.15. Paris: OECD. Available at: <http://www.oecd.org/governance/ethics/48994419.pdf> [Accessed 17 December 2018].

The role of civil society should not be underestimated. The information about public procurement should be transparent and publicly available. In this case civil society organizations, and other stakeholders have an opportunity to exercise public control and inform governmental authorities, media, and society in general about possible misconduct. Many infrastructure projects such as road construction, construction of hospitals, kindergartens, schools, stadiums have direct impact on daily lives of many people. There is no doubt that civil society has serious ground to be involved in the public scrutiny, and to cooperate with government authorities in countering corruption.

Finally, the inevitability of punishment for corruption offences, including disqualification of corrupt officials is important for prevention corruption. The successful investigations should be highlighted in the media in order to achieve a general preventive effect.

2.3. Anti-Money Laundering/Countering Financing of Terrorism and Anti-Corruption Compliance: Comparative Aspects

Corruption and money laundering have a lot of connections. In this regard it is not clear why approaches to regulation of AML/CFT compliance and anti-corruption compliance are so different.

According to Dr. Ivanov, regulation of AML/CFT compliance is a typical example of the classic model of legal regulation. International law defines a general framework of AML/CFT compliance. The most important comprehensive international legal acts in this field are the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the United Nations Convention against Transnational Organized Crime of 2000, and the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation (the Financial Action Task Force (FATF) Standards) of 2012. The UNCAC also contains provisions on preventing and combating money laundering. The rules of international law are implemented in national laws and regulations. In total, the FATF framework includes 204 states and territories. The FATF Standards define, in detail, obligations of financial institutions and designated non-financial businesses and professions.

The international anti-corruption law established a general obligation of states to cooperate with the private sector. The obligations of companies and formal requirements for anti-corruption compliance programmes were defined neither in international treaties nor in customary international law. The international soft law consisting of several non-binding standards and guidelines aims to compensate for lack of regulation, and support companies in designing and implementing anti-corruption compliance programmes. Many countries do not have laws and regulations on anti-corruption compliance. In this regard companies in these countries consider foreign laws which have transnational application and compliance programmes of multinational corporations.

The obvious question arises as to whether AML/CFT and anti-corruption compliance are so different that they require two different approaches in legal regulation. From a very simplified point of view, the aim of AML/CFT compliance is to identify suspicious transactions and report them to the authorized governmental agency. AML/CFT compliance is very technical. The aim of anti-corruption compliance is to influence the behavior of staff members and other persons associated with a company to prevent corruption. Companies develop AML/CFT compliance programmes based on relevant legal rules. For anti-corruption compliance programmes, ethical principles and corporate values are of significant importance. At the same time, both types of compliance programmes are aimed at crime prevention. Moreover, a closer look at the structures of compliance programmes demonstrates that several components of AML/CFT

and anti-corruption compliance are quite similar. Both programmes include due diligence, risk management, identification of suspicious transactions, training, monitoring, and evaluation.

As a rule, AML/CFT compliance is mandatory for financial institutions and designated non-financial businesses and professions, while implementation of anti-corruption compliance usually depends on shareholders and general management of companies. The main reasons for companies to implement anti-corruption compliance management systems can be classified into three groups: moral reasons, legal obligations and incentives, and market requirements.

The Russian approach to implementation of anti-corruption compliance is rather an exception. Federal Law No. 273-FZ "On Combating Corruption" established obligations for all organizations acting in the Russian Federation to take measures for the prevention of corruption, such as:

- Appointment of special officers or units responsible for countering corruption in a company
- Cooperation with law enforcement agencies
- Development and introduction of standards and procedures designed to ensure the ethical operation of the organization
- Adoption of a code of business ethics or corporate conduct
- Prevention and resolution of conflicts of interest
- Prohibition of maintaining unofficial accounting and use of forged documents

However, it is too early to say that Russia has been implementing mandatory anti-corruption compliance comparable to AML/CFT compliance. The liability for violation of AML/CFT law is very strict. The Central Bank of Russia may immediately revoke a banking license if a bank does not have an AML/CFT compliance system in place. There is no special liability under Russian law for not having an anti-corruption compliance programme in a company. However, the Prosecutor General's Office, which is responsible for supervising the implementation of anti-corruption legislation, is entitled to order, or request a court order for companies to implement measures in accordance with Article 13.3.

The Ministry of Labour and Social Protection of the Russian Federation published the Guidelines for the development and adoption of measures for prevention and countering corruption in organizations on 8 November 2013.[30] The Guidelines aim to support the implementation of anti-corruption compliance programmes in organizations.

Comparing the legal regulations of AML/CFT compliance and anti-corruption compliance we can always identify pro and contra arguments. The strict hard law approach to the regulation of AML/CFT compliance can be criticized for creating a lot of paperwork for financial institutions. It requires sufficient resources and funding. Some businessmen describe it as a very formal "one-size-fits-all" approach. At the same time, all the legal requirements are very clear. Financial institutions and other entities that have obligations under AML/CFT law can be punished only for violation of formal rules.

The soft law as a legal base for anti-corruption compliance in many countries is more flexible. It gives more space to maneuver in designing and implementing anti-corruption compliance programmes but it also means more responsibility. Dr. Ivanov mentioned that the soft law

[30] Ministry of Labor and Social Protection of the Russian Federation, 2013. *Guidelines for the development and adoption of measures for prevention and countering corruption in organizations.* [online] Available at: <https://rosmintrud.ru/docs/mintrud/employment/26> [Accessed 24 November 2018].

approach creates particular problems for companies. They develop compliance programmes based on soft law but can be penalized for non-prevention of corruption under hard criminal law. In the absence of clear legal rules and criteria, room for discretion in the assessment of anti-corruption compliance programmes is huge. In the lecturer's opinion, in countries with corrupt judicial systems such legal uncertainty can even become a prerequisite for other corruption offences, for example, extortion of a bribe by a judge for the positive assessment of a compliance programme.

As a rule, in the field of AML/CFT compliance, regulators and/or financial intelligence units are responsible for the supervision of compliance with AML/CFT laws and regulations. This supervision includes providing financial institutions and designated non-financial businesses and professions with guidance and official clarifications, and conducting supervisory inspections. It can also include a function of the approval of particular compliance-related documents.

For anti-corruption compliance regulation, the supervisory functions of governmental agencies are exceptions. A question about public evaluation of anti-corruption compliance management systems usually arises when a company is going to use it as a defense in a judicial trial. In the lecturer's opinion, the certification of anti-corruption compliance management systems, which nowadays is becoming an international trend, is an attempt to replace supervision in some aspects.

According to the lecturer, supervision in general and supervisory inspections in particular are quite often criticized by private sector for unnecessary bureaucracy and creating additional burdens for business. At the same time, supervisory bodies share responsibility with financial institutions for the quality of compliance programmes.

Companies which provide certification services are not bound by strict legal rules and may use a more flexible approach for the evaluation of compliance programmes. However, the legal significance of certification is not clear. Courts may but are not obliged to consider certificates in criminal, administrative, or civil proceedings.

One officer, unit, or department can be in charge of AML/CFT compliance depending on the size of the financial institution or company, amount of work, and in some cases, on legal requirements. The most typical solutions are to have a specialized AML/CFT unit/department or an AML/CFT unit as part of a compliance or legal department.

In defining a place for anti-corruption compliance in the corporate structure, companies usually choose between three possible solutions. According to the lecturer, they can establish a special compliance unit or department, include anti-corruption compliance on the list of functions of the legal department, or task the security department with handling anti-corruption.

Comparative analyses of AML/CFT and anti-corruption compliance programmes demonstrate that several policies are quite similar. In both types of compliance, companies have to conduct customer/counterparty/third party due diligence and risk assessment. The process of due diligence starts with identification. In AML/CFT compliance, financial institutions and designated non-financial businesses and professions are required to identify their customers, customer representatives, beneficial owners, and beneficiaries. In anti-corruption compliance, companies as a rule conduct due diligence on all their counterparties.

After publication of the new International Standards on Combating Money Laundering, the Financing of Terrorism, and Proliferation (FATF, 2012), mechanisms for the identification of

beneficial owners were implemented in national AML/CFT legislation and compliance programmes of financial institutions and other subjects having obligations under AML/CFT laws.

Russia's AML/CFT law defines a beneficial owner as a natural person who ultimately, directly or indirectly (through third parties), owns (with predominantly more than 25 percent interest in capital) a client, a legal entity, or has the ability to control the actions of the client.[31] All Russian companies are obliged to know their beneficial owners and provide this information to financial institutions and to relevant governmental agencies. The definition of a "beneficial owner" in the Republic of Kazakhstan is similar.[32] The Republic of Armenia adopted a 20 percent threshold[33]. The Republic of Belarus adopted a 10 percent threshold.[34] The definition in the AML/CFT law of the Kyrgyz Republic combines descriptions of beneficial owners and beneficiaries. A beneficial owner (beneficiary) is defined as a person who owns money or property and on behalf of whom and/or at whose expense the client performs an operation (transaction) with money or property, or in accordance with the contract concluded between such a person and the client has the possibility, directly or indirectly, to influence the client's transactions involving money or property.[35] There are two main practical challenges in the process of the identification of beneficial owners: complex corporate structures in various jurisdictions and beneficial ownership based on informal relations and control.

In the case of complex corporate structures, financial institutions usually request that their customers provide information and documents related to the last company in the chain and natural persons/owners of that company. This procedure is sufficient to fulfil the formal requirements of AML/CFT laws. A situation where financial institutions request the documents of all companies in the chain is rather an exception. Available open sources of information such as registers of companies and beneficial owners as well as commercial databases can be used in addition to information provided by the customers. If a customer is not able to provide information about beneficial owners and information from open sources is not available, financial institutions may recognize the executive body of the customer as a beneficial owner or reject opening a bank account or signing a contract.

In both types of compliance, companies pay special attention to the transactions of public officials. AML/CFT compliance programmes contain obligations to identify politically exposed persons (PEPs) and their relatives, and to analyze their transactions. Financial institutions may take measures to identify sources of incomes of PEPs. In anti-corruption compliance, lower level public officials may also be objects of enhanced due diligence.

Risk assessment is a key component for effective AML/CFT and anti-corruption compliance programmes. AML/CFT compliance programmes take into consideration a wide range of risks related to various predicted offences and money laundering typologies. However, according to the lecturer's experience, the risks of money laundering related to corruption, e.g. geographical risks, are usually specifically underlined in guidelines and AML/CFT compliance

[31] Federal Law on Combating Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism. 2001. Russian Federation: Federal Assembly. Available at: <http://www.consultant.ru/document/cons_doc_LAW_32834/>.
[32] Law on Combating Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism. 2009. Republic of Kazakhstan: Parliament. Available at: <https://online.zakon.kz/Document/?doc_id=30466908>.
[33] Law on Combating Money Laundering and Terrorism Financing. 2008. Republic of Armenia: National Assembly. Available at: <https://www.cba.am/Storage/EN/FDK/Regulation_old/law_on_combating_money_laundering_and_terrorism_financing_eng.pdf>.
[34] Law on Measures to Prevent Legalization of Proceeds Gained from Crime, Financing of Terrorist Activity and Proliferation of Mass Destruction Weapons. 2014. Republic of Belarus: Parliament. Available at: <http://base.spinform.ru/show_doc.fwx?rgn=68802>.
[35] Law on Combating the Legalization (Laundering) of Criminal Proceeds and Financing of Terrorist or Extremist Activities. 2006. Kyrgyz Republic: Supreme Council. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/1926>.

programmes. Transparency International's (TI) Corruption Perceptions Index is often considered for geographical risks assessments.

The scope of reporting obligation in anti-corruption compliance depends on the laws of a country. National criminal law can establish obligations to report corruption offences relating to serious or organized crime or having a particular threshold of imprisonment as a liability. In other cases, disclosure of information depends on the compliance policy. In AML/CFT compliance, financial institutions and designated non-financial businesses and professions are obliged to report mandatory controlled transactions in accordance with national laws and to report suspicious transactions as defined in the AML/CFT compliance programme. So, in both types of compliance, we see a combination of binding obligations to report and discretional reporting.

In the lecturer's opinion, the "technical" part of an anti-corruption compliance programme is very similar to the corresponding parts of AML/CFT compliance programmes. AML/CFT and anti-corruption compliance functions can be exercised by one compliance unit or department. It would help avoid the unnecessary duplication of several procedures (due diligence, risk assessment, analysis of transactions, training) and reduce the costs of the compliance function. In small and medium-sized enterprises (SMEs), one compliance officer can be responsible for both types of compliance. At the very least, cooperation between AML/CFT and anti-corruption compliance officers (units) in a company can create opportunities to prevent crime in a more effective way. The harmonization of AML/CFT and anti-corruption laws, unification of definitions, and technical parts of compliance programmes could be very helpful for financial institutions and companies which have obligations under AML/CFT law.

Chapter 3: Public-Private Partnerships in the Fight against Corruption

In the 21st century, public-private partnerships in the fight against corruption have become more and more important. Drago Kos, Chair of the OECD Working Group on Bribery in International Business Transactions, underlined the role of society's participation in combating corruption and shared best practices of public-private partnerships.

Article 5 of the UNCAC established obligations for each State Party, in accordance with the fundamental principles of its legal system, to develop and implement, or maintain, effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency, and accountability.

Mr. Kos mentioned that a multi-stakeholder approach is important for developing and implementing effective anti-corruption policies in countries. He suggested that when a country is drafting a general type of anti-corruption policy, the following actors have to be included/invited:

- All relevant public institutions
- Relevant representatives of the private sector
- Relevant representatives of civil society (NGOs)
- Relevant representatives of the media
- Well known individuals from the country

However, not all of them have to be present at all times while working on the policy.

When anti-corruption policy is designed and approved, it is useful to organize regular meetings of all relevant stakeholders, including civil society, to:

- Discuss the implementation of the policies in general or in specific areas
- Agree on useful approaches to implementation
- Enhance the level of cooperation and coordination
- Improve efficiency and effectiveness of the implementation
- Decide on new anti-corruption measures and on abandoning the old/ineffective ones

The prerequisites for the implementation of anti-corruption policy in a country are the private sector integrity, trust, and cooperation between the public and private sectors.

The lecturer referred to Article 12 of the UNCAC which calls for cooperation with the private sector and promoting integrity of private entities. He stressed the critical role of corporate integrity for achieving significant improvements in the society's integrity.

The basic elements of private sector integrity are:

- Managements' commitment to fight corruption
- Companies' anti-corruption strategies
- Compliance function in the company
- Proper motivation
- Professional assistance in the area of corporate integrity
- Companies' codes of conduct
- Internal controls
- Involvement of all stakeholders
- Whistleblowing

- Assessment and management of corruption risks
- Adequacy and suitability of the managerial staff
- Transparency and reporting
- Disclosure of actual ownership structure and financial status of companies
- Anti-corruption training and cooperation
- Self-reporting
- Cooperation with law enforcement bodies
- Positive motivation for effective compliance systems
- Voluntary settlements in cases of criminal offences

To explain why private sector integrity is necessary, Mr. Kos presented several findings from the Edelman Trust Barometer:

- Fewer than one in five respondents believe business leaders will tell the truth when confronted with difficult issues
- Only 50% of businesses are trusted to do what is right
- Only 18% of business leaders are trusted to tell the truth
- The "truth gap" is largest in the USA and China
- Multinational corporations in China, India, and Mexico have low trust scores
- Banks enjoy the lowest level of trust (but have some of the most expensive compliance functions)[36]

There are various reasons for unethical behaviour in the private sector:

- Management does not set a good example
- Rules have not been properly explained or justified
- Employees do not have enough work to use up their time and attention
- Employees with low morale, culture, and bad habits
- Management incompetence and the lack of capacity
- Unsuitable employees are being tolerated

To develop an ethical climate in the organization, management should care about the employees. Each employee should understand the objectives of the organization and know what is expected of them to achieve those objectives. Employees should be kept informed on their progress. Trust and respect are important prerequisites for an ethical climate. Employees should feel that they can influence management and have a say in the decisions which affect them. They also have to be sure that the workload and standards required are reasonable and that favoritism is not acceptable in the organization.

A real public-private partnership is impossible without trust between the government and the private sector. Mr. Kos mentioned that governments do not trust the private sector at all. Companies trust their governments even less.

The consequences of lacking trust are:

- Strong orientation of governments towards enforcement
- Tendency for excessive monitoring
- Sanctions for non-existing or weak compliance systems
- Absolute lack of positive rewards for effective compliance systems

[36] Edelman, 2013. *Edelman Trust Barometer*. [online] Available at: <https://www.edelman.com/2013-edelman-trust-barometer/> [Accessed 30 November 2018].

- No real will for cooperation

There is a connection between the level of corruption in a country and the level of trust between the government and the private sector. In the most corrupt countries there is no trust. The higher the level of trust, the lower the level of corruption.

Governments should create positive incentives to promote a culture of integrity and motivate companies to implement anti-corruption compliance management systems. In the lecturer's opinion, countries could adopt legal rules which consider an effective compliance programme as a pre-requisite for entering public procurement processes, additional criteria for winning public procurement contracts, and additional requirements to receive official development assistance or access to export credits.

Analyzing the role of various stakeholders in public-private partnerships, Mr. Kos referred to Article 13 of the UNCAC. In accordance with the Article, States Parties to the Convention shall take appropriate measures to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations, and community-based organizations, in the prevention of and the fight against corruption.

The lecturer highlighted the golden rules on participation in the decision-making process:

- Civil society must have the opportunity and ample time to participate in the legislative process
- If civil society's proposals are not followed, government has to explain the grounds for that
- It is very useful to introduce corruption risk assessment of (at least) new pieces of legislation

Promoting integrity and building trust are hardly possible without access to public information. Decisions blocking access to public information have to be justified and legal grounds have to be cited. Judicial protection of the right to access to public information has to be guaranteed.

Mr. Kos' conclusion was that governments which think they can win the war against corruption without the participation of the private sector and civil society have already failed.

Conclusion

The training at IACA provided a broad overview of international and national efforts aimed at preventing and combating corruption with special focus on the Member States of the Eurasian Economic Union. The Report on preventing and combating corruption in the Eurasian region consists of three chapters and summarizes the main ideas presented in lectures and discussions.

Chapter one highlights the international efforts to curb corruption, connections between corruption and other types of crime, and new challenges for the international community. It gives insights into current trends in combating corruption such as the implementation of new measures to increase transparency and protect whistleblowers.

Chapter two focuses on the implementation of anti-corruption compliance programmes in the public and private sector. It gives an overview of best practices in corruption risk assessment and corruption prevention in the public procurement. Chapter two also includes comparative analyses of legal regulations and the key components of AML/CFT and anti-corruption compliance in business sector.

Chapter three provides readers with good practices for public-private collaboration and promoting integrity in the private sector. It includes an overview of the success factors in building trust and involving various stakeholders.

The report can be used for developing anti-corruption policies and drafting anti-corruption laws and regulations in the Member States of the EAEU, and for designing and implementing anti-corruption compliance programmes in organizations.

The 2019 Anti-Corruption Tailor-Made Training for Representatives of the Member States of the Eurasian Economic Union (EAEU 2019) will take place from 23rd to 25th September 2019 and is co-sponsored by the Government of the Russian Federation. The EAEU 2019 training will be delivered by globally renowned academics and professionals, and will address international regulations, current trends, best practices, and new approaches in the fight against corruption.

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Muenchendorfer Strasse 2
2361 Laxenburg, Austria

+43 2236 710 718 100

mail@iaca.int

www.iaca.int