



BUSINESS CONFEDERATION MACEDONIA



# Introducing anti-corruption policies in companies: theory and practice from Slovakia

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## INTRODUCTION

The first precondition which can trigger anti-corruption programme in private enterprises is perception of directors or shareholders of a company that corruption represents a serious harm to company.

For that purpose it is essential to answer the very simple question: *Why corruption matters?* The answer is the same as it would be in case of corruption risks within public sector. In public sector corruption may cause e.g. misuse of public finances (which actually means stealing from each citizen), preferring less qualified people to the more suitable ones at the state positions, preferring one firm to another at the expense of state resources etc. The same applies in the private sector.

No owner or shareholder of the company would like employing someone who is stealing from him, abuses the entrusted money or is prone to clientelistic behaviour. According to the global survey executed by PricewaterhouseCoopers (thereinafter PwC), "companies recognise their vulnerability to corruption – about 63% of respondents indicated that they have experienced some form of actual or attempted corruption". (PwC, 2008, p. 2). Global Economic Crime Survey from 2011 conducted by PwC points out at other serious numbers: 34% of all the companies from 78 countries which participated in the survey were victims of economic crime in last 12 months. What was more interesting, "56% of respondents said that the most serious fraud was an 'inside job'." (PwC, 2011).

Furthermore, no firm would be happy if another one would win a tender only because of its close connection to the decision-maker at the expense of assets expediency or that it won because of making bribery. According to the same global survey, 39% of respondents from companies said that their company has lost a bid because of corrupt officials and 42% said that their competitors pay bribes (PwC, 2008, p. 2).

There is also another significant argument which determines the importance of anti-corruption policy - people are more prone to favour companies which pursue transparent strategy. According to the Millennium Poll on Corporate Social Responsibility which involved 25 000 citizens from across 23 countries on six continents discovered that "people focus on corporate citizenship<sup>1</sup> ahead of either brand reputation or financial factors when forming impressions of companies". (Center for Strategic and International Studies - CSIS, Slovak Foreign Policy Association - SFPA, 2005, p. 24). In numbers, more than 75% of them hold companies totally or partially responsible for avoiding bribery and corruption and further crucial features of corporate citizenship. (CSIS - SFPA, 2005, p. 24).

We can summarize the main risks of business corruption practices as following (Transparency International, 2008):

- criminal offences and financial penalties, imprisonment for directors and managers;
- financial loss to the organisation which is caused by paying out in bribes;
- loss of licences, business reputation and blacklisting, etc.

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<sup>1</sup> e.g. labour practices, business ethics, responsibility to a society at large.

The necessity of dealing with corruption practices of and within companies is, thus, inevitable. Even the global survey results indicated that more than 70% of respondents believed that "a better understanding of corruption would help them [companies] fight corruption, improve corporate social responsibility and enter new markets." (PwC, 2008, p. 2).

Adoption of anti-corruption strategy within an enterprise has a potential to bring benefits to a company. On the one hand, preparation of such a policy would need an extra staff to deal with ethical issues and further costs for programme implementation. However, if such a policy would actually function, the costs for its preparation could be regarded as the investment into future savings which would be otherwise paid on bribery or leaked out due to irresponsibility of employees and, furthermore, initial costs would be also brought back when a company will get more financial opportunities thanks to its reputation improvement due to the fact that it operates with high ethical standards. Even results of a 1999 DePaul University study of 300 large companies indicated that those companies "which made an explicit commitment to follow ethical standards provided more than twice the values to shareholders that companies that did not". (CSIS - SFPA, 2005, p. 25).

To sum up, we can talk about the following potentials (Transparency International, 2008):

- enhancement of a company reputation as a business that trades ethically increases its access to national and international markets;
- better prospects to acquire government business;
- better protection of business against legal penalties, blacklisting or loss of licences;
- encouragement of good working relationships and morale;
- not some bribe payer or receiver but the owners will be in real control of their business;
- better management and saving of money which would be otherwise used for bribery or not earned because of inconvenient business.

In this analysis we offer the overview of the basic instruments to curb corruption in private sector which could help to bring all the above-mentioned benefits into everyone's business.

## 1. DECISION AND COMMITMENT TO FIGHT CORRUPTION AND PREVENT BRIBERY (ADOPTION OF ANTI-CORRUPTION POLICY)

The first step which should be taken in any enterprise with aim to achieve greater transparency is, logically, the initial decision to adopt anti-bribery and anti-corruption policy. Such a decision includes the following steps (Nechala – Remišová - Csanyi, 2006, p. 27):

1. Justification why a company needs and wants to adopt anti-corruption policy.
2. Identification of the obstacles to adoption of such a policy.
3. Raising the proposal on adoption of anti-corruption policy in the highest executive body.
4. Appointing an employee who will be charged with direction of anti-corruption agenda.
5. Creation a working group for development and implementation of anti-corruption policy.
6. Making decision to what extent will be anti-corruption policy made public.

Positively taken decision to execute anti-corruption policy might be followed with **public commitment to fight corruption** or, in the more stronger way, commitment to zero-tolerance to any kind of corruption "Commitment means that the organization shows by its public communications and actions that it will not tolerate corrupt behaviour by its employees or business partners." (United Nations Global Compact - UNGC, 2009). Such a commitment should come from the top of the company and should be declared via various means verbally and in writing: through meetings with employees and public, leaflets or letters to employees and partners/clients, company web-page etc. By the time the commitment is made, some of the feasible measurements should exist too. This means that a company should process these statements into the form of tangible documents which could be easily found by anyone - not just by employees but also by public, possible business partners and clients. This commitment should be followed by preparation of clear anti-corruption policy (see below).

Development of any anti-bribery policy is not so easy. Even Jeremy Brooks, director of private sector programmes at Transparency International, claims that "implementing a programme is much more complex than a simple one-line that says do not bribe." (PwC, 2008). Experts in this field recommend that anti-corruption programme should be preceded by procedure known as **General risk assessment procedure (GRAP)**. The results of the analysis could be even used as the basis for anti-corruption commitment as it would help to provide the arguments for the first step mentioned above - justification of anti-corruption policy. GRAP should, basically, "assess the nature and extent of the risks relating to bribery to which is an enterprise is exposed." (Fox, 2011). Thanks to GRAP, a company can develop the programme which will be accurate to actual situation in it including all the suitable measurements<sup>2</sup>. Risk assessment should cover both internal and external integrity risks. With reference to internal factors, according to Zikmund (2008), auditors should focus on following:

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<sup>2</sup> GRAP reporting template: [http://www.business-anti-corruption.com/fileadmin/user\\_upload/word/General\\_Risk\\_Assesment\\_Reporting\\_Template.doc](http://www.business-anti-corruption.com/fileadmin/user_upload/word/General_Risk_Assesment_Reporting_Template.doc),  
GRAP guidance document download: [http://www.business-anti-corruption.com/fileadmin/user\\_upload/word/General\\_Risk\\_Assessment\\_Guidance\\_Note.doc](http://www.business-anti-corruption.com/fileadmin/user_upload/word/General_Risk_Assessment_Guidance_Note.doc)

- analysis of industry and business operations;
- review of previous frauds committed against or on behalf of the company;
- review of the internal controls structure;
- identification of pressures on performance;
- discussions with management and employees.

Related to external factors, we can talk mainly about the country and sector risks. According to Business principles for countering bribery focused on SMEs, companies should assess following risks (Transparency International, 2008):

- Corruption perception index in the countries in which enterprise wants to do business<sup>3</sup>;
- inclination to bribery in a particular business sector;
- determination of checks needed for appropriate assessment of supplier/client/partner;
- understanding of the laws on business in the country of operation.

## 2. PREPARATION OF ANTI-CORRUPTION PROGRAMME

**Anti-corruption policy or programme** is, in fact, summary of all the anti-corruption commitments and documents articulating "values, policies and procedures to be used to prevent bribery from occurring in all activities under its effective control". (Business anti-corruption portal, 2011). Such a programme should be based on the discussions with employees and trade union and, furthermore, should be specifically tailored to the conditions of a company - its size, location etc. In order to provide the maximum of efficiency, any programme should be interlocked with all the relevant laws<sup>4</sup> (Business anti-corruption portal, 2011). This consistency is necessary for both better enforceability and complexity of this policy.

Besides the main prerequisites (e.g. definitions of corruption and bribery and explanation of particular policy and its scope), the programme should cover also following aspects which were discussed during the process of adoption of anti-corruption policy (Transparency International, 2005):

- identification of a person(s) responsible for monitoring compliance with the programme and its role;
- identification of a person(s) for training and further activities;
- definition of advisory and complaints channels and how will they work;
- how the programme will be communicated to employees and others;
- the process for reporting progress on the programme to top management and others, etc.

The above mentioned paragraphs should serve as the basic framework for the programme. However, this framework should be supported with more detailed guidance including timelines and practical information which could answer questions related to the

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<sup>3</sup> For more information visit [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi)

<sup>4</sup> It should be interlocked with all the laws of the countries in which the enterprise does its business.

implementation phase of the programme. This should embrace an actual integration of anti-corruption policy into organisation structure and assigning responsibilities (Transparency International, 2005).

The following paragraphs will present the main elements which the entire anti-corruption policy should embrace.

### **2.1. Definition of anti-corruption principles**

Definition of main ethical principals should be in detail stated in documents which summarize the strategy of a company. Thus, the emphasis should be put on the following principles and areas which should be also properly treated:

- principles of social responsibility
  - o protection of the company's reputation and property
  - o safety and health
  - o environmental protection
  - o discriminatory practices
  - o sexual harassment
- professional relationships
  - o relationship with stakeholders
  - o relationship with employees
  - o relationship with suppliers and subcontractors
  - o relationship with competitors
  - o relationship with government
  - o relationship with clients and customers
- anti-corruption principles
  - o prohibition of facilitation payments
  - o regulation of inappropriate giving and receiving of gifts, hospitality and expenses
  - o regulating and making transparent political contributions
  - o regulation of charitable contributions and sponsorships
  - o regulation of lobbying activities
  - o regulation of conflict of interest

#### *Facilitation payments*

Facilitation payments are one of the grey areas to which special attention should be paid. Transparency International (2009) defines facilitation payments (also known as 'speed' or 'grease' payments) as small unofficial payments made to secure the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other entitlement. Unfortunately, they became so common and tolerated in many countries that they are seen as normal now (Transparency International, 2008, p. 9). However, this does not change the fact that they are illegal in many countries. Anti-corruption programme should ban such payments.

Facilitation payments are paid by many entrepreneurs because they help arrange things quickly. US law and OECD anti-bribery convention allow payments which are specified as payments for expending routine government actions (obtaining permits and licences, etc.)

(PwC, 2008, p. 15). They are also not aimed at obtaining any gain or business for a company. However, even these payments are forbidden in many countries and companies (PwC, 2008, p. 15).

Related to facilitation payments it is inevitable to realize the difference between facilitation payments and payments for faster service (e.g. first class mail service) - "a legitimate service will be advertised at a set tariff which is the same for everyone, be paid transparently to institutions and a receipt will be provided." (Transparency International, 2008, p. 22). Simply said, facilitation payments are demanded illegally and sometimes under threat and are not in compliance with policy of the institution.

Anti-corruption programme should address this problem very clearly. Most of all, it should emphasize that these payments are nothing more than bribes.

#### *Gifts, hospitality and expenses*

Acceptance of gifts is a really tricky area. Employees may be confused what they can accept and what is beyond the boundaries. Is acceptance of chocolate or a pen bribery? Transparency International (2009) suggests the following rule for anti-bribery programme: "Any acceptance of gifts or hospitality whenever they could affect or be perceived to affect the outcome of business transactions and are not reasonable or bona fide should be prohibited". This is applicable in both situation - when receiving and giving gifts. In its publication *Business Principles for Countering Bribery*, Transparency (2008, p. 8) offers also another clarification of difference between acceptability and unacceptability of gifts or hospitality. The authors claim that gifts and other types of advantages "offered openly in the normal course of business to promote good relations and mark special occasions are not bribes". Thus, employees, partners, managers and another stakeholders should be conscious of the difference between above-mentioned kinds of gifts. Anti-corruption policy should clearly set what is and what is not bribery and establish records for this (Transparency International, 2008, p. 8).

Paragraphs devoted to this problem should consider following suggestions (Transparency International, 2008, p. 20):

- at what point does a gift, hospitality, entertainment start being unacceptable? (value, appropriateness, frequency)<sup>5</sup>
- guidance how to act when more valuable presents are given which cannot be rejected (records, charity)
- what kinds of gifts can be given and during what occasions, etc.

#### *Political contributions*

With reference to this grey area it is important to perceive that political contribution as such does not have to mean bribery<sup>6</sup>. However, clear rules must exist. If an enterprise wants to donate to a political party, it should decide about that openly - the decision has to be made with the agreement of the business and not by one person (Transparency International, 2008, p. 9). Moreover, making a contribution should be recorded in writing with transparent

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<sup>5</sup> e.g. difference between a pen and a golden pen.

<sup>6</sup> Giving donations to a political party as a way to contribute to the democracy in a country (Transparency International, 2008, p. 23).

accounting. It may also be published. Logically, contributions should not be paid during negotiations with a government over business affecting particular company.

#### *Charitable contributions and sponsorships*

Regulation of charitable contributions and sponsorships should be treated in a similar spirit that in the case of political contributions. Most of all, any payments to charitable organisations should not be made because of the purpose to win a deal (Transparency International, 2008, p. 9). Moreover, they should not be given to an individual. For this purpose, anti-corruption programme should set clear rules for such contributions, e.g. contributing to organisations which are registered, be careful who is the officer of an organisation or checking who will be the final beneficiary of contributions. Similarly, sponsorships should bring measurable benefits to a business such as more publicity or a stronger brand and not serve as a cover for bribery. Before making sponsorship, an agreement should be made what the company is paying and what it expects to receive in return (e.g. logo on sportswear etc.). Last but not least, all of these contributions should be publicly disclosed (Transparency International, 2008).

#### *Lobbying activities*

A company should set clear rules on how to access lobbying activities. For instance, company representatives should record lobbying meetings with government representatives and should disclose this information when they are asked to. Such rules are parts of some Codes of conduct of the Slovak companies. The code of Železničná spoločnosť Slovensko Inc. (Railway association Slovakia) includes also other rules - it binds itself to execute lobbying on ethical and correct principles and make a list of lobbying meetings with time, name of the person, venue and content of such meetings within their internal audit (Nechala – Remišová – Csanyi, 2006).

#### *Conflict of Interest*

Definition and prohibition of conflict of interests should be clearly stated in written form of anti-corruption policy. Conflict of interest may exist when an employee or a member of his/her family serves in a competitive organisation or in an organisation which has a prospective business relationship with the employee's company (CSIS - SFPA, 2005, p.33-34). Conflict of interest may also exist when or a member of his/her family engages in the same or similar kind of business as the particular employee (CSIS - SFPA, 2005, p.33).

## **2.2. Anti-corruption Code of conduct**

Code of conduct should become a part of anti-corruption programmes and, basically, represent the main minimum guidelines for employees determining their behaviour towards each other and enterprise consistent with the requirements to curb corruption. Simply said, a Code of Conduct should "provide instructions to organisations and individuals on how to act" (Carson et al., 2008).

The main distinctions between the multiple of ethics codes is that some of them are rule-based, meanwhile, the others are value-based. Carson, Baetz and McGill (2008) found out that code items within a sample of companies were either very specific and rule-based or

broad and value-based; ideally they should be very specific and value-based. According to Dr. Smillie, rule-based ethics is not the right one from several aspects: there can never be enough rules to cover everything, moreover, rules can conflict and all of them need interpretation.

It is important to realize the importance of the Code of Conduct. According to the authors of Booklet for business ethics, benefits of adoption of such a conduct are (CSIS - SFPA, 2005):

- increase in employees' loyalty;
- creation of a corporate identity that enhances the name of the brand and attracts customers, partners and employees;
- step towards transparency increase;
- ensures compliance with international regulation of commercial activities what reduces the cost of doing business in a country;
- adoption of ethics codes by many enterprises in a country increases reputation for honest practice of ethical business conduct what creates a more healthy business environment in a country.

However, it is important not to overestimate a role of any Code of Conduct - especially in connection to overall anti-corruption policy. "Most researches suggest that a code is important less for its specific provisions than as part of a program or strategy to encourage responsible business conduct and, moreover, researchers have found relatively little difference between organizations that have a code and those that do not". (U.S. Department of commerce, 2004, p. 109). Hradilová (2004) from SFPA emphasized the importance of the Code of Conduct adoption because it, at least, defines relationships which are not covered in employment agreement and the ethical principles (Hradilová, 2004). However, as she adds, adoption of the Code of Conduct does not have to necessarily mean that a company and its employees will also ethically behave. This should be consequently monitored and enforceable in a proper way.

Somehow or other, Code of Conduct serve as the primary guidelines for employees. Thus, it has to "be a practical, easily accessible document. It should be written in plain language, avoiding technical or legal terms. It should be available in the languages key stakeholders understand."<sup>7</sup> Related to its content, a Code of Conduct should include standards, procedures, and expectations for all level of a business and core beliefs and values of a company (U.S. Department of commerce, 2004, p. 109)<sup>8</sup>.

### *Case study: Slovnaft's strategy of developing and implementing a Code of Conduct*

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<sup>7</sup> For more information about code styles see Driscoll and Hoffman, Ethics Matters, Chapter 8.

<sup>8</sup> For the model Code of Conduct visit

[http://www.ethicsrussia.org/images/ModelCodeofBusinessConduct\\_E.docx](http://www.ethicsrussia.org/images/ModelCodeofBusinessConduct_E.docx),

for the Code of Conduct of the leading global company visit

[http://www.pepsico.com/Download/CodeOfConduct/English\\_09.pdf](http://www.pepsico.com/Download/CodeOfConduct/English_09.pdf),

for the sample outline for a Code of Conduct see p. 125-126 at

[http://www.ita.doc.gov/goodgovernance/adobe/bem\\_manual.pdf](http://www.ita.doc.gov/goodgovernance/adobe/bem_manual.pdf)

Slovnaft Inc. is one of the most important and in refinery industry the biggest company in Slovakia with 3500 employees and 3,5 billion Euros in revenues. In the late 1990's it was undergoing a process of transformation from a centrally controlled to a privately owned joint/stock company which was followed by re-examination of its values, mission and strategy (CSIS - SFPA, 2005). For that purpose, development of a company Code of Conduct was a cornerstone of the new company culture (CSIS - SFPA, 2005).

What is more interesting, Slovnaft did not take over the Code of Conduct from the investor but created it within the company itself and developed it exactly to the conditions of Slovnaft (Kampová, 2004). This is a very important way how to make any Code of conduct efficient - to develop it within a company itself. The practice in Slovakia was, however, contradictory (eTrend, 2004). Codes of Conduct were in many companies adopted simply because corporations required them. Thus, many of such conduct were just translated into Slovak and not adjusted to the actual Slovak conditions (eTrend, 2004).

The first Code of Conduct was created in 2002, the second edition was in 2007 and in 2012 the new edition is expected. The process of the 1st Code of Conduct creation was preceded by the interviews with investors, customers, suppliers, public agencies, NGOs and employees who were expected to express their expectations from Slovnaft (CSIS - SFPA, 2005). The process was coordinated by an external consultant which stood behind the whole process and is still an ethical adviser in Slovnaft. Strong support of Slovnaft's leadership was also an extremely important factor for successful preparation and implementation of the code (Nechala – Remišová - Csanyi, 2006, p. 94).

The responsible people for Slovnaft's strategy set the logical subsequence of all the steps which eventually lead to the desired aim - creation and implementation of the Code of Conduct. These steps were (CSIS - SFPA, 2005, 39-41):

1. appointing the working group for the Code of Conduct: team of internal and external experts from a variety of fields.
2. gathering and analysing information
  - internal audit
  - analysis of existing codes of conducts elsewhere
  - survey of employees' satisfaction and their value systems
3. drafting of the Code of Conduct
4. comments and suggestions
5. adoption of the Code of Conduct by executive bodies
6. graphic design and distribution of the document
7. implementation of the code
  - official event,
  - trainings of trainers, managers and employees
  - PR and external and internal media support
  - establishment of The Ethics Council
  - hotline to collect and answer comments and complaints
  - establishment of The Ethics Advisory Service.
8. Surveys: getting feedback

The above mentioned new institutes were founded to supplement the Code of Conduct and to attain that the code will not stay just written on a paper. The Ethics council is a body constituted of Slovnaft's representatives and external experts which solve the ethical problems of employees and investigate individual cases. The Advisory Service is still conducted by an external advisor, an university professor of ethics Ms Remišová, who comes to Slovnaft on some days to listen and to give advice to employees with ethical dilemmas. More about the reporting channels will be described in the section devoted to whistleblowers.

Slovnaft was awarded with the Ethics prize for transparency and corruption elimination Via Bona for its project of ethics code implementation given by one of the largest grantmaking and operational foundations in Slovakia - Pontis foundation. This prize is awarded annually in many categories related to the area of responsible enterprising and company philanthropy in Slovakia<sup>9</sup>.

Also other Slovak companies were awarded with similar prize or with honourable prize in the same category and for similar activities: Accenture Ltd. for its Accenture Ethics & Compliance Program, Skanska for its efforts to adhere to fight corruption in building industry or adoption of the Code of Conduct and preparation of implementation plan within the company.

Related to Accenture Ltd. in Slovakia, it developed an impressive Code of Conduct<sup>10</sup>. In graphically attractive form this code provides all the necessary information for everyone in a very comprehensible and well structured format. It even offers a description of many situations into which employees can get and provides answers and solutions for such dilemmas. This code of conduct also elaborates more the concept of Ethical Fitness - Decision-making Model developed by the Institute for Global Ethics and adjusted to Accenture's conditions. This model asks a short series of questions and the answers for these questions either lead to the "right" decision or help clarify an employee's options and values on which decision should be based. The Code of Conduct also presents another tool for better decision-making called "Five Cs". It is a method which basically encourage people to ask for help. It consists of the following steps: communication, consultation, cross-checking, collaboration and courage. Whistleblowing measures can be also found in the conduct. It describes the channels which a whistleblower can use. What is more important, Accenture put an emphasis on the protection of personal information of a whistleblower.

One of the rewarded companies was GlaxoSmithKline Slovakia Ltd. (GSK) for implementation of anti-corruption measures into internal processes of the firm. According to Dr. Trnovec, Corporate Affairs Director of GSK, the company decided for the fundamental change which rested on clear definition of transparent relationships towards all partners, expert public, government agencies, media, suppliers, NGOs and all relevant stakeholders (Trnovec, 2011).

<sup>9</sup> For more information visit <http://www.viabona.sk/english>

<sup>10</sup> The Accenture's Code of Conduct in Slovak:

[http://www.scss.sk/dvd\\_lpp\\_0384\\_09\\_2010/METODICK%C1%20PODPORA%20Z%20INTERNETU/PODNIKOV%C1%20KULT%DARA/Slovakian\\_AccentureCoBEv411.pdf](http://www.scss.sk/dvd_lpp_0384_09_2010/METODICK%C1%20PODPORA%20Z%20INTERNETU/PODNIKOV%C1%20KULT%DARA/Slovakian_AccentureCoBEv411.pdf)

The Accenture's Code of Conduct in English:

<http://www.accenture.com/SiteCollectionDocuments/PDF/AccentureCodeofBusinessEthicsEnglish5.01-219005.pdf>

It e.g. introduced an electronic system of sample provision which enabled to monitor this provision to particular doctors what in turn allowed to set the clear selection criteria. These allowed to separate the commercial use from the real help to those who really need it (Trnovec, 2011). Another appreciable activity conducted by GSK in its anti-corruption efforts is so called Direction for Third Persons - Corruption Prevention which is submitted to its clients/partners/customers as the compulsory annex to any kind of contract. This direction requires its employees or any other persons acting for or in the name of GSK to secure that all businesses with third persons will be executed in compliance with relevant country laws and with GSK ethical standards. It comprises definitions of relevant concepts and the main provisions. Beneficiary or the second party of the contract is required to accept and agree to perform duties stemming from the directives and the contract as the whole.

### **3. IMPLEMENTATION OF ANTI-CORRUPTION PROGRAMME**

After development all of the abovementioned activities which summarize anti-bribery values of a company and guidance for being transparent and anti-corruption rules, it is necessary to include the tools for its implementation and control mechanism into the programme. This section is devoted to the concrete suggestions for effective implementation stage of the programme. In fact, following tools will ensure that anti-corruption commitment and integrity standards will be put into practice and will not just stay written on a paper.

#### **3.1. Communication and training**

First of all, a company should efficiently communicate the content of anti-corruption policy to employees, partners and even customers. In the current information age an enterprise should exploit internet means as much as possible. A company's webpage and intranet should definitely contain the overall anti-corruption programme and all of its parts - including Code of Conduct and other guidance. This should ensure not only external but, foremost, internal flow of information and communication. The useful tools are also videos featuring elements of the new policy, brochures for staff, CDs, campaigns, departmental meetings etc. (Transparency International, 2005, p. 16). It is important to remember that well communicated strategy constitutes the half of the success. Furthermore, if the programme will be made known to everyone, it may positively effect a business reputation as a company which is determined to fight corruption (Transparency International, 2008, p. 11).

Another precondition for successful implementation of anti-corruption policy is organisation of trainings for employees, managers and directors. These should serve as channels for explaining ethical standards to employees together with clarification of the rules, sanctions and demands on them, especially, in terms of how they should act when they get into ethically non-standard situations. During trainings the means of how to report corruption and where to get advice in ethical dilemmas should be discussed. These trainings should be organised over extended periods of time which ensure effective distribution of relevant information during several meetings (UNGC, 2009, p. 23). Organisers of trainings should be conscious of the fact that boring trainings might be counter-productive. That is why it is

important to organise a really interactive trainings which may provide case of corruption which participant have to act and solve.

One interesting way how to implement one part training without extensive organisation is development of eLearning or electronic course. An example of such a course is Anti-corruption eLearning course developed by the Swedish Ministry of Foreign Affairs and Global Advice Network which focuses on raising companies' awareness of the corruption risks and may provide cases of business interactions at high risk of corruption (Business Anti-Corruption Portal, 2011).<sup>11</sup> Another example of electronic training module is Doing Business without Bribery developed by Transparency International UK which provides best practice anti-bribery training and enables companies to benchmark their own training programmes.<sup>12</sup> On-line Anti-corruption Training Module is a similar training and it is developed by Global Infrastructure Anti-corruption Centre (thereinafter GIACC) which aim is to help users to understand, identify and avoid corruption and to deal with corruption situation properly (GIACC, 2011).<sup>13</sup> Another electronic tool for anti-corruption education might be development of anti-corruption quiz thanks to which one can find out if (s)he is able to avoid corruption situation (see Anti-bribery and Corruption quiz).<sup>14</sup>

Similar training activities can be found also in Slovak companies. For instance, Slovnaft Inc. constituted its own e-learning which provides participants with all the relevant information on ethics behaviour and, then, creates a test with many ethically critical situations which should participants solve. If a participant will not achieve 80% at minimum, (s)he has to go through the test again until (s)he attains the desired number of percents<sup>15</sup>. Similar activities are executed also in Slovak Telekom Inc., in which managers and employees who meet with suppliers and external customers, have certain decision-making power or access to sensitive data are trained through a complex anti-corruption programme. This programme consists of e-learning anti-corruption campaign and personal trainings aiming to increase awareness of bribery and corruption. Each newly-hired employee has to go through e-learning course called Anti-fraud management<sup>16</sup>.

According to the UNGC authors of Reporting Guidance on the 10th Principle against Corruption, both communication and training are considered as the most important actions that can be taken against corruption within the enterprise besides the anti-corruption bribery programme (2009, p. 23).

### **3.2. Development of reporting mechanism**

Establishment of hot-lines and help-lines belongs to well-known anti-corruption tools. Their existence is crucial because they complement the practical implementation of anti-

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<sup>11</sup> For more information visit <http://www.business-anti-corruption.com/tools/training/>.

<sup>12</sup> For more information visit <http://www.e-learningportal.com/tiuk-dbwb.html>

<sup>13</sup> For more information visit <http://www.giacentre.org/onlinetraining/index.php>

<sup>14</sup> For more information visit <http://www.globaladvicenet.com/>

<sup>15</sup> Information acquired via phone conversation with Ms Grossmanová - an ethic employee of Slovnaft.

<sup>16</sup> Information acquired via e-mail conversation with Ms Péterová - a communication specialist of Slovak Telekom Inc.

corruption programme. Both of them have its specific role. Help-lines, basically, help callers “to get advice on an ethical question in advance,” meanwhile, hot-lines serve for reporting “unethical or corrupt behaviour after the act. (PwC, 2008, p. 21). Naturally, such reporting channels should allow reports to be made anonymously (United Nations Industrial Development Organization – UNIDO, 2007). Hot-lines represent also one of the whistleblower channels within a company. By hot-line we also understand e-mail reporting address, postal boxes or filling in reporting forms. Related to these channels, one decision remains to be made: if this channel will be provided internally or externally (depending on the size or financial situation of a company) (UN Global Compact, 2009, p. 27).

Here are the basic rules for all types of reporting mechanism (GIACC, 2008):

- availability and accessibility of mechanism to all employees;
- enough information about the system and how its operation;
- confidentiality and anonymity of reporting;
- proper recording of the report in writing and its keeping for as long as may be necessary to support any criminal proceedings;
- proper investigation of the report by the organisation;
- a whistleblower should be kept informed of the action being taken (to the extent that this information does not prejudice any investigation or endanger the employee or any other person);
- assurance that a whistleblower will not be discriminated who has made a report in good faith;
- assurance of whistleblower protection;

In Slovakia, many companies recognise the importance of having such lines which help employees to deal with ethically critical situations. In the above-mentioned Slovak company Slovnaft Inc. which belongs to the first pioneers of Code of Ethics in Slovakia there are many channels how to help employees to solve their dilemmas or to enable them to "blow the whistle" and report on suspicion of corrupt behaviour. The first possibility is to turn to a direct superior or to HR partner or department of law services. Second possibility is to look for the help from the Ethics Advisory Service lead by external employee who comes to the company on particular days. There are also impersonal ways of how to report corruption behaviour - postal address, e-mail address or hotline with answering machine (this line works 24 hours per day, 7 days per week). The last three channels are conducted by the Ethics Council of the MOL Group (of which is Slovnaft a member). Employees can always use their native language even when communicating with the MOL Ethics Council which is in Budapest. According to information from Slovnaft, the Ethic council in Slovnaft investigates 4 - 5 cases per year, meanwhile, the Ethics Advisory Service helps or gives advice in 150 - 200 cases per year<sup>17</sup>.

In another big Slovak company, Slovak Telecom Ltd. (ST), which was also one the first companies adopting the Code of Conduct, has also many mechanisms how to report on corruption behaviour or to ask for help. It established Ethics Link which is accessible to all its employees and external partners both in Slovak and English (reports in no other language

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<sup>17</sup> Information acquired via phone conversation with Ms Grossmanová - an ethic employee of Slovnaft.

have been reported yet) and is dedicated to reporting. This link has the three forms: phone link, postal address and e-mail address. With reference to the last one, ST has two channels: Tell me! and Ask me! Meanwhile the first e-mail address is designated for reporting, the second address serves exclusively for consultation. Ethical complaints are investigated by an ethical group consisted of Compliance officer and representatives from HR, Security and Corporate communication section. Suspicions of fraudulent behaviour are scrutinized by an investigator from Corporate security section, an investigatory team or, in specific cases, by Working advisory commission appointed by executive management of ST. The Code of Conduct<sup>18</sup> and above-mentioned mechanism for reporting were in ST introduced in 2006.<sup>19</sup>

#### **4. MONITORING AND CONTROL OF ANTI-CORRUPTION PROGRAMME IMPLEMENTATION**

Control and monitoring tools are crucial for any anti-corruption policy because only they can show if this policy is working in practice. A precondition for efficient control is maintaining books and records available which should, simultaneously, properly reflect financial transactions (Transparency International, 2009, p.13). Control can be made both internally and externally. Besides financial operations, internal control should focus also on anti-corruption programme itself and monitor and review its adequacy and effectiveness and implement improvements if appropriate (Transparency International, 2009, p. 14). According to the survey by PwC (2008, p. 19), respondents put internal controls at the top of the list related to the question how corruption was discovered within their enterprise. Internal audits have potential to catch corruption after it occurs. As suggested by Transparency International, internal audits should be carried out regularly to ensure efficiency of the programme.

External control is a voluntary tool for companies. "An independent review of an organisation's programme can provide the organisation with valuable insight into the strengths and weaknesses of its programme." (UNGC, 2009, p. 32). External audits can be useful particularly for small organisations which cannot afford to pay internal auditors. Even if the external audit costs some price, in case of positive results, it can help to enhance the organisation's name and opportunities to do a business because such an organisation will be more respected and attractive for partners. On the other hand, if audit will point at many irregularities and loopholes in implementation of anti-corruption policy, this could serve for subsequent adjustment of problems.

Transparency International developed also another example of evaluation tool – the one that can be used by any company itself. It is so called Self-Evaluation Tool (SET) and allows firms to self-evaluate their anti-corruption programme. SET "is a checklist that enables companies to examine the design of their anti-bribery programme and assess its effectiveness." (Transparency International, 2009b).<sup>20</sup>

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<sup>18</sup> The Code of Conduct was revised in 2011. The actual edition is applicable in all of the companies of Deutsche Telekom Group.

<sup>19</sup> Information acquired via e-mail conversation with Ms Péterová - a communication specialist of Slovak Telekom Inc..

<sup>20</sup> For more information visit [http://www.transparency.org/publications/publications/toolkits/ti\\_set](http://www.transparency.org/publications/publications/toolkits/ti_set)

## 5. PARTNERING AGAINST CORRUPTION

A company in its anti-corruption efforts can reach a better success if it embarks upon collective approach. There are many anti-corruption initiatives across the world, countries or sectors which enable more efficient fight against bribery. Basically, membership in such an initiative provides a company with an opportunity to commit itself publicly to anti-bribery principles which sends a good signal to market and current and potential partners and clients (UNGC, 2006). What is more important, this participation increases the impact of individual action (UNIDO, 2008).

It may seem that these initiatives are more suitable for big companies and corporations but this is not true. SMEs also benefit from participating in these initiatives. The main advantages of joining particular initiatives are (World Economic Forum):

- Access to best practice anti-corruption management system framework, including a suite of implementation tools;
- Demonstration to everyone the seriousness of your company's commitment to avoiding bribery;
- Benefiting from peer exchange;
- Improving and benchmarking a company's systems in relation to global best practice;
- Engagement in collective action with given industry, suppliers and other partners to create a level, ethical playing field in key sectors and markets.

One examples of such an initiative is Partnering against Corruption Initiative (PACI). With reference to PACI, there are no membership fees (World Economic Forum). In case a company is interested in joining this initiative, the following steps should be taken: Chief Executive Officer (CEO) is supposed to sign in PACI anti-corruption statement<sup>21</sup> which stands for a commitment to implementation of anti-corruption programme following the PACI Principles for Countering Bribery<sup>22</sup>. Subsequently, the decision of affiliation a company into PACI is a subject to PACI unanimous PACI board approval (World Economic Forum). There are more than 150 signatories of PACI until April 2012<sup>23</sup>.

PACI is hosted by the World Economic Forum. There are many more examples and types of international business and NGO initiatives which aim is to fight corruption and bribery and support universal business principles, e.g. Business and Industry Advisory Committee<sup>24</sup>, International Chamber of Commerce<sup>25</sup>, Center for International Private Enterprise<sup>26</sup>, Global Infrastructure Anti-Corruption Centre and others<sup>27</sup>.

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<sup>21</sup> For more information visit [http://www3.weforum.org/docs/WEF\\_PACI\\_SupportStatement\\_Form\\_2011.pdf](http://www3.weforum.org/docs/WEF_PACI_SupportStatement_Form_2011.pdf)

<sup>22</sup> For more information visit [http://www3.weforum.org/docs/WEF\\_PACI\\_Principles\\_2009.pdf](http://www3.weforum.org/docs/WEF_PACI_Principles_2009.pdf)

<sup>23</sup> List of PACI Signatories: [http://www3.weforum.org/docs/WEF\\_PACI\\_SupportStatementSignatories\\_2012.pdf](http://www3.weforum.org/docs/WEF_PACI_SupportStatementSignatories_2012.pdf)

<sup>24</sup> Visit <http://www.biac.org/>

<sup>25</sup> Visit <http://www.iccwbo.org/>

<sup>26</sup> Visit <http://www.cipe.org/>

<sup>27</sup> Visit <http://www.giacentre.org/>

Example of a collective action can be found also in Slovakia. Slovak chapter of Transparency developed a proposal for Anti-corruption charter<sup>28</sup> which represented the publicly declared commitment of enterprises to curb corruption. The charter stemmed mostly from Business principles for Countering Bribery developed by Transparency International and Social Accountability International. The charter was signed in 2003 by twenty signatories and three associations of entrepreneurs (Nechala – Remišová - Csanyi, 2006). Unfortunately, this initiative did not work and companies stopped joining the initiative. They were not prepared to accept commitment which arose from the charter. Such an initiative could work in an environment where companies recognize the risk of corruption and benefits of transparent behaviour.

## **6. FIGHTING CORRUPTION IN PROCUREMENT**

Procurement is the area notably prone to corruption practices. Thus, there are many procedures recommended to minimise corruption in procurement. The first thing which should be kept in mind is that, unlike in public sector where procurement serve to public good, procurement in private sector should bring benefits foremost to the company's shareholders (Sourcing Innovations). This does not mean that procurement should not be transparent in both cases. It just evokes that e.g. private sector has to go through less bureaucracy when approving a tender winner, generally follows less bureaucratic procedures, it is not regulated by so many regulations and directives etc. In private sector, there are just three main principles on which procurement is focused: efficiency, cost reduction and time savings (Patel, 2009). This means that in private procurement the winner is a bidder who provides the best quality and can generate the highest value for money. In public sector the cheapest bidder is selected who provides the least tolerable level of quality (Patel, 2009). In some cases, public sector should learn from private procurement practices which are frequently used and verifiably bring benefits.

One example of such practices is the use of electronic auctions (thereinafter e-auctions). What was many times supported by many surveys, e-auctions have a great potential to increase transparency of the procurement process what can positively influence the number of bidders, decrease the costs of the procuring goods/services/works in comparison to the initial anticipated value, decrease time of procurement and less of bureaucracy (transition from paper to electronic documentation). However, it is necessary to emphasize that the above-mentioned benefits are just potentials. Efficiency of e-auctions can be only reached if they are executed properly. The following three preconditions must be satisfied: accurate determination of technical parameters of a procuring good/service/works, securing of competition and equal conditions for all the potential bidders and securing a proper personal capacity to handle the whole process of e-auctions (Beblavá et al., 2011, p. 19). Simply said, e-auctions can be manipulated in the same way as non-electronic procurement. The most crucial precondition for successful handling of electronic procurement is the initial setting out of competitive conditions. One good assumption for using e-auctions in private sector is that, unlike in public sector, companies have a motivation to behave efficiently.

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<sup>28</sup> Visit [http://charta.transparency.sk/charta\\_AJ.pdf](http://charta.transparency.sk/charta_AJ.pdf)

Slovak companies have experiences with procuring through e-auctions. According to Johnson Controls (JC), the leading company in an area of global diversified technology providing its services to automobile and building industries, it used e-auctions many times in the past years when procuring a wide range of goods, e.g. overalls for servicemen, components, bulbs, stationery etc. When answering the question if procurement via these electronic means was worth of it, JC's representative said that they regarded it very useful<sup>29</sup>. However, this satisfaction did not arise in each procurement. It depended on the kind of goods JC was procuring. E.g. in the situation when some good should have been delivered at the end of Slovakia but the winner-supplier was from the other side of the country, the waiting dates were too long. This situation just supports the argument that e-auctions are successful only if the initial conditions are set out well and price is not the only determinant of winning a tender. Great attention should be also paid to non-price criteria as references of suppliers, invoice maturity, implementation period or a discount of an early invoice pay-off.

E-auctions found their application also in the situation when a company called Neografia Inc. Martin was not just looking for a cheapest supplier but for any supplier who could alone meet united requirements of all the individual units within the company (Proe.biz). Neografia was positively surprised with speed of the e-auction, adjustment of suppliers to the company's requirements and suppliers' immediate reactions to the level of competitive services. The company achieved identification of many similar offers within 30-40 minutes instead of the one single bid before the start of particular e-auction. Neografia did not expect the best price at first but after the e-auction execution it gained eventually the significant number of savings (Proe.biz).

In this section we offer further recommendations for efficient procurement which are suitable also for public procurement (GIACC, 2008)  
<http://www.giaccentre.org/procurement.php>:

- using non-restricted competitive tendering when possible (restricted tendering should be used only in certain and well justified circumstances with properly set criteria);
- using independent assessor who monitors the process ensure greater transparency;
- proper due diligence which establish the risk of corruption in appointing a particular tenderer;
- anti-corruption notification – the tender documentation which notifies all tenderers that anti-corruption measures are being adopted for procurement process and that they will be contractually bound to comply with those measures, and that any corruption may have the results as civil or criminal penalties or that any corruption conviction will be disclosed to public;
- ensuring that submission will be sealed until the official opening date;
- notice of opening of submissions;
- public and monitored opening;
- careful selection and identification of evaluators;
- fair and transparent evaluation criteria;

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<sup>29</sup> Information acquired via phone conversation with Johnson Controls' representative.

- determination of the terms of contract set out in the tender documentation.

Another measure leading to better transparency of procurement between private and public sector is called Integrity pact. Integrity pacts<sup>30</sup> were developed by Transparency International. They associate companies which voluntarily agree to curb corruption related to public contracting. Development of Integrity pact "consists of a process that includes an agreement between a government or government department and all bidders for a public sector contract and it should have support from government officials and be monitored by civil society." (Transparency International, 2009). In this pact, rights and obligations to the effect that neither side will pay, offer, demand or accept bribes to obtain the contract are set out. "In addition, bidders are required to disclose all commissions and similar expenses paid by them to anybody in connection with the contract. If violations occur then sanctions will apply." (Transparency International, 2009).

According to Transparency surveys, Integrity pacts are workable and applicable to the many local legal structures and "to the different degrees in which governments are willing to proceed along the lines set forth here." (Transparency International, 2009).

## 7. ACCESS TO INFORMATION - INFORMATION OPENNESS

### *Information about a company's anti-corruption efforts*

It is always up to companies to decide to what extent they would publish their intentions to behave transparently and fight against bribery and corruption. The fact is that more publicity about high ethical standards within a company might increase the value of a company brand and attract new business partners or customers. On the one hand, this disclosure of information about a company anti-corruption strategy generates a pressure on it to actually and appropriately implement promised anti-bribery policy. On the other hand, if a company will not stick to proclaimed policy, it would cost it a stain on its reputation.

Disclosure of the Codes of Conduct is a common practice in the USA meanwhile many Western European countries disclose these conduct just for their employees. Transparency International Slovakia study on private sector, however, indicates that the Code of Conduct belongs to significant marketing tools which contribute to building-up of customers' trust in a company (Nechala - Remišová - Csanyi, 2006). The company which holds it Code of Conduct back is losing this competitive advantage (Nechala - Remišová - Csanyi, 2006).

### *Voluntary publishing of information*

If a company wants to be really proper in its disclosure activities, it should definitely publish clear information on shareholders of a company, contact information, annual reports and a clear statement of its activities. As we have already mentioned above, in case of sponsorship activities a company should publish which subjects it sponsored (what kind of organisations

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<sup>30</sup> Example [http://www.ethicsrussia.org/index.php?option=com\\_content&view=article&id=78:declaration-of-integrity-in-business-conduct&catid=69:resources&Itemid=171](http://www.ethicsrussia.org/index.php?option=com_content&view=article&id=78:declaration-of-integrity-in-business-conduct&catid=69:resources&Itemid=171)

or political parties). It should definitely declare such information because this improves credibility of a company and points at its efforts to behave honestly and openly.

Companies may also consider publishing their supplier contract with the government as an evidence of mutually beneficial relationship. Also, managers' salaries might be published in a joint stock company with significant minority shareholders to win their trust that managers are not running the company for their own benefit.

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## SUMMARY

The process of building integrity system within companies requires determination of a company leadership and duly elaborated anti-corruption programme. The essential part of the whole process is to realize the seriousness of corruption risk. It is sufficient to look at the surveys which examine the real consequences of corruption behaviour for businesses. All of them indicate that corruption can bring a serious harm to a business name, its financial situation or cost a business its financial opportunities or winning tenders. Moreover, it might critically hurt morality and ethics of employees what would results in even more dreadful consequences. For these reasons the leadership of a company should develop an integrity system.

The whole process starts with a company's commitment that to follow ethical standards. This is followed by setting out the steps of an anti-corruption strategy. Concrete anti-bribery recommendations should be based on a risk assessment determining the corruption risks, in particular so-called grey areas.

The implementation of anti-corruption policies should be assisted by experts who are able to bring sufficient experience and impartiality into process. Naturally, all stakeholders in the company should be included.

Codes of conduct are the well-known personifications of anti-corruption policy. Their role is important but without creation of further supplement bodies or mechanism they would not serve their purpose. There are many mechanisms which represent the monitoring and implementation phase of anti-corruption policy. Related to their implementation, any company should provide its employees with a proper reporting mechanism such as hotlines or helplines which enable whistleblowing activities. With reference to monitoring phase, a company should carry out internal audits which can reveal how anti-corruption policy works in practice. Besides internal audits, external control is also reasonable as it provides a company with independent monitoring which could fortify the name of a company even more.

Two heads are more than one. This saying is applicable also in this situation. Joint initiatives of a group of companies contributes to better promotion and advocacy of credibility of anti-corruption measures across both particular country and world. Partnerships also promote better sharing of best-practices and enable benchmarking.

A transparent company should also not omit that transparency in procurement processes is an important element of each anti-corruption programme. Electronic auctions are one of the best ways to achieve its goals.

Last but not least, companies should bear in mind that disclosure of information is important also in private sector because it influences the partners' and customers' view of a company. A proper disclosure of information is important particularly in situations when an enterprise supports or sponsors other organisations, political parties or politicians. In this case, disclosure of relevant information would preclude unpleasant scandals.

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