Business Integrity in Eastern Europe and Central Asia

Olga Savran
Manager
Anti-Corruption Network for Eastern Europe and Central Asia

UNCAC CoSP, Side Event, Vienna, 8 November 2017
Outline

• Business integrity in Eastern Europe and Central Asia - *trends*

• Role of governments, business associations and companies - *recommendations*

• Promoting reforms, identifying solutions, monitoring progress - *implementation*
Outline

• OECD Anti-Corruption Network for Eastern Europe and Central Asia – study of business integrity in the region

• Risks, trends, good practices

• Supporting country reforms through capacity building – with the EBRD – and monitoring
To bribe or not to bribe?

Thoughts of a CEO under pressure…

• What are the rules, how much does it cost to comply?
• Will my business survive if I refuse to pay bribe?
• Will bribe help my business to prosper?
• Is there a risk to be caught?
• If so, how serious is the sanction?
• Any other damages?

If the CEO is a person of integrity and/or the risk is high → compliance
OECD/ACN Study on Business Integrity

- **Questionnaires** – to governments, companies (mostly MNEs) and associations, 2013
- Focus group meetings, case studies, regional discussion for **validation**
- **Publication** (trends and recommendations) – 2016
- **Capacity building** seminars, together with EBRD and UNDP, launched in 2017

http://www.oecd.org/corruption/acn/businessintegrity/
Trends: weak enforcement, market incentives

How does your association assess the legal and other risks of bribery and corruption for companies?

- Does corruption present a reputational risk for companies?
  - Weak/light: 13%
  - Moderate: 27%
  - Strong/heavy: 60%

- Do you consider that poor integrity of a company can present a risk in due diligence procedures and business partnership?
  - Weak/light: 7%
  - Moderate: 40%
  - Strong/heavy: 53%

- How heavy is the financial burden of bribes, kickbacks, facilitation payments, contributions to political parties, corporate raiding and other?
  - Weak/light: 20%
  - Moderate: 40%
  - Strong/heavy: 40%

- Do you consider that risk of being sanctioned for corruption is high for companies?
  - Weak/light: 27%
  - Moderate: 27%
  - Strong/heavy: 47%

- How would you assess enforcement of anti-bribery laws in your country?
  - Weak/light: 27%
  - Moderate: 27%
  - Strong/heavy: 47%
## Enforcement of corporate liability, 2010-2013

<table>
<thead>
<tr>
<th>Country</th>
<th>Indict</th>
<th>Convict</th>
<th>Acquit</th>
</tr>
</thead>
<tbody>
<tr>
<td>BiH</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Croatia</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Estonia</td>
<td>27</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>Latvia</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Lithuania</td>
<td>7</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td>Romania</td>
<td>14</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Serbia</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Slovenia</td>
<td>3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>55</td>
<td>25</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Country</th>
<th>Max fine in law (EUR)</th>
<th>Max applied (EUR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td>16 000 000</td>
<td>798 000</td>
</tr>
<tr>
<td>Latvia</td>
<td>32 000 000</td>
<td>6 400</td>
</tr>
<tr>
<td>Lithuania</td>
<td>1 900 000</td>
<td>22 610</td>
</tr>
<tr>
<td>Romania</td>
<td>134 000</td>
<td>35 000</td>
</tr>
</tbody>
</table>
1. Telia Company AB (Sweden): $965 million in 2017
2. Siemens (Germany): $800 million in 2008
3. VimpelCom (Holland) $795 million in 2016
4. Alstom (France): $772 million in 2014
5. KBR / Halliburton (USA): $579 million in 2009
8. BAE (UK): $400 million in 2010
9. Total SA (France) $398 million in 2013
10. Alcoa (USA) $384 million in 2014

• Expected: Odebrecht - around 1,8 billion
### Trends: Business Integrity Risks

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Companies</th>
<th>Associations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Legal uncertainty and selective application of the law by the law-enforcement and judiciary</td>
<td>3.79</td>
<td>4.40</td>
</tr>
<tr>
<td>2</td>
<td>Insufficient development of competitive environment</td>
<td>3.58</td>
<td>3.20</td>
</tr>
<tr>
<td>3</td>
<td>Poor protection of property rights</td>
<td>3.53</td>
<td>3.80</td>
</tr>
<tr>
<td>4</td>
<td>State capture by business, including illegal lobbying and other forms of influencing the state decisions in favour of business interests</td>
<td>3.26</td>
<td>3.87</td>
</tr>
<tr>
<td>5</td>
<td>Business capture by state, including illegal corporate raiding and other forms of takeover of companies by the state officials</td>
<td>3.21</td>
<td>3.07</td>
</tr>
<tr>
<td>6</td>
<td>Offering, promising and giving bribes and other illegal advantages to the public officials by companies</td>
<td>3.16</td>
<td>3.17</td>
</tr>
<tr>
<td>7</td>
<td>Bribe solicitation by public officials and other ad-hoc demand of bribes in individual cases</td>
<td>3.06</td>
<td>3.93</td>
</tr>
<tr>
<td>8</td>
<td>Private-to-private corruption between companies</td>
<td>3.05</td>
<td>3.14</td>
</tr>
<tr>
<td>9</td>
<td>Rent seeking by public officials and other regular claim of official for economic benefits produced by companies</td>
<td>2.89</td>
<td>3.40</td>
</tr>
<tr>
<td>10</td>
<td>Bribe solicitations by foreign public officials while doing business abroad</td>
<td>2.89</td>
<td>2.80</td>
</tr>
<tr>
<td>11</td>
<td>Financing of political parties by companies, political donations and contributions</td>
<td>2.53</td>
<td>3.33</td>
</tr>
</tbody>
</table>
**Trends:** Risks by branch of administration

<table>
<thead>
<tr>
<th>Companies' top 5 risk counterparts</th>
<th>Associations' top 5 risk counterparts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public procurement...</td>
<td>Licences</td>
</tr>
<tr>
<td>Permits</td>
<td>Public procurement...</td>
</tr>
<tr>
<td>Judiciary</td>
<td>State owned...</td>
</tr>
<tr>
<td>Politicians</td>
<td>Permits</td>
</tr>
<tr>
<td>Tax</td>
<td>Politicians</td>
</tr>
</tbody>
</table>

- **Public procurement...** 3.16
- **Permits** 3.21
- **Judiciary** 3.32
- **Politicians** 3.32
- **Tax** 3.95
- **Licences** 3.73
- **Public procurement...** 3.80
- **State owned...** 3.80
- **Permits** 3.87
- **Politicians** 3.87

57% of cases involved bribes to obtain public procurement contracts.
Trends: integrity risks for SOEs

- Close to politicians
- Unclear governance and management
- Large amounts of resources
- Insufficient transparency and disclosure

- A-c programmes for SOEs
  - Croatia
  - Ukraine

80.11% of total bribes were promised, offered or given to SOE officials
Trends: companies have rules on paper, but do not use them in practice

Does your company have conflict of interest rules for its board members, management and employees?

- No: 32%
- Yes: 68%

How many times these rules were applied over the past 2 years?

- 1 to 5: 22%
- Never: 78%

53% of cases involved corporate management or CEOs.
Trends: associations

• Several active associations: research, training, codes for industry, protection of individual cases, participation in dialogue with governments

• Few collective action: Clear Wave (Lithuania), a new example – UNIC in Ukraine

✓ Important link to Business Ombudsman
Recommendations: governments

• Give priority/host to business integrity
• Criminalization of corruption, enforcement
• Incentives for compliance programmes (e.g. compliance programme as defense)
• Prevention business interests in politics
• Integrity in SoEs
• Safe reporting channels
• Protection/compensation of whistleblowers
• Corporate governance rules/disclosure
Recommendations: business associations

- Studying of corruption risks – link to policy
- Training and methodological support
- Support to individual companies
- Channels for reporting corruption
- Industry standards
- Collective actions
Recommendations: companies

**Integrity policies**
- Risk assessment
- Integrity policy
- Conflict of interest rules
- Standards on gifts/political contributions
- Third parties/partners
- Disclosure

**Enforcement**
- Compliance officers
- Internal control
- Audit and reporting
- Whistleblowers
- Training
Monitoring

- Soft peer pressure on countries
- Learning about new good practices
- New policy recommendations
- Message to the world

- Questionnaires
- Country discussions
- Publication 2020

- training
THANK YOU

WWW.OECD.ORG/CORRUPTION/ACN

OLGA.SAVRAN@OECD.ORG