

## *Executive Summary*

One of the best-known specialised anti-corruption institutions - Hong Kong's Independent Commission against Corruption - was established in 1974. The Commission has contributed significantly to Hong Kong's success in reducing corruption.

Recent international treaties against corruption require their member states to provide specialised bodies dedicated to fighting and preventing corruption. The United Nations Convention against Corruption requires the existence of two types of anti-corruption institutions – a body or bodies that prevent corruption and a body, bodies or persons specialised in combating corruption through law enforcement.

Inspired by the success story of Hong Kong's anti-corruption commission and its three-pronged approach to fighting corruption and also encouraged by international conventions, many countries around the world, including in Eastern Europe, established specialised bodies to prevent and combat corruption. Creating such bodies was often seen as the only way to reduce widespread corruption, as existing institutions were considered too weak for the task, or were considered to be part of the corruption-problem and could therefore, not be part of the solution for addressing it.

Both corruption-prevention and combating corruption through law enforcement involves a large number of multi-disciplinary functions. When considering establishing or strengthening anti-corruption bodies, countries need to consider the full range of *anti-corruption functions*, including:

- **Anti-corruption policy development, co-ordination, monitoring and research on corruption.** These functions include development and co-ordination of anti-corruption strategies and action plans, monitoring and co-ordination of implementation and assessment of the efficiency and effectiveness of anti-corruption measures. Research on corruption helps to see how widespread the corruption is, what areas and sectors are mostly exposed to it. Another important function is to serve as a focal point for international co-operation.
- **Prevention of corruption.** These functions require very diverse measures ranging from the promotion of integrity in public service, prevention of conflict of interest, implementation of asset declaration systems, ensuring integrity in the judiciary and among the elected officials and effective control of political party financing. They also include facilitating the reporting of corruption and the protection of whistleblowers, preventing corruption in public procurement, in the use of public funds and issuing of licenses, permits and certificates, anti-money laundering measures, and promotion of public access to information. Prevention of corruption in the private sector is another important function.
- **Anti-corruption education and raising awareness.** This area includes organising public awareness campaigns, developing and implementing educational programmes for various groups of citizens, media, NGOs, businesses, and the public at large.

- **Investigation and prosecution of corruption-related crimes.** First, these functions aim to ensure a legal framework to effectively prosecute corruption, including dissuasive sanctions for all forms of corruption. Second, they aim to ensure effective enforcement of anti-corruption legislation throughout all stages of criminal proceedings, including the identification, investigation, prosecution and adjudication of corruption offences. In doing so, it is also important to ensure a proper transition between criminal and administrative proceedings. Third, these functions include overseeing inter-agency co-operation and information exchange, on specific cases and outside such cases (among law enforcement bodies and with auditors; tax and customs authorities; the banking sector and the Financial Intelligence Unit; public procurement officials; state security; and others). Fourth, these functions include acting as a focal point for mutual legal assistance and extradition requests. Finally, maintaining, analysing and reporting law enforcement statistics on corruption-related offences is another important function.

Responsibility for the anti-corruption functions listed above should be clearly assigned to existing or newly-created institutions. Both the United Nations and the Council of Europe anti-corruption conventions establish *criteria for effective specialised anti-corruption bodies*, which include independence, specialisation, and the need for adequate training and resources. In practice, many countries face serious challenges in implementing these broad criteria.

- **Independence** primarily means that the anti-corruption bodies should be shielded from undue political interference. Thus, *genuine political will* to fight corruption is the key prerequisite for independence. Such political will must be embedded in a comprehensive *anti-corruption strategy*. The independence level can vary according to specific needs and conditions. Experience suggests that it is *structural and operational autonomy* that are important, along with a clear legal basis and mandate for a special body, department or unit. This is particularly important for law enforcement bodies. Transparent procedures for the *director's appointment and removal*, proper human resources management, and internal controls are important elements to prevent undue interference. Independence should not amount to a lack of *accountability*: specialised services should adhere to the principles of the rule of law and human rights, submit regular performance reports to executive and legislative bodies, and enable public access to information on their work. Furthermore, no single body can fight corruption alone. *Inter-agency co-operation, and co-operation with civil society and businesses* are important factors to ensure their effective operations.
- **Specialisation** of anti-corruption bodies implies the availability of *specialised staff with special skills and a specific mandate for fighting corruption*. The forms and level of specialisation may differ from country to country, as there is no one successful solution that fits all. For instance, the Council of Europe Criminal Law Convention on Corruption clarifies the standard for law enforcement bodies, which can require the creation of a special body or the designation of several specialised persons within existing institutions. International trends indicate that in OECD countries, *specialisation is often ensured at the level of existing public agencies and regular law enforcement bodies*. Transition, emerging and developing economies often establish *separate specialised anti-corruption bodies* often due to high corruption-levels in existing agencies. In addition, these countries often create separate specialised bodies in response to pressure from donors and international organisations.

- **Adequate resources, effective means and training** should be provided to the specialised anti-corruption institutions in order to make their operations effective. *Specialised staff, training and adequate financial and material resources* are the most important requirements. Concerning specialised law enforcement anti-corruption bodies, an important element to properly orient them is *the delineation of substantive jurisdictions among various institutions*. Sometimes, it is also useful to *limit their jurisdiction to important and high-level cases*. In addition to specialised skills and a clear mandate, specialised anti-corruption bodies must have sufficient powers, such as *investigative capacities and effective means for gathering evidence*. For instance, they must have legal powers to carry out covert surveillance, intercept communications, conduct undercover investigations, access financial data and information systems, monitor financial transactions, freeze bank accounts, and protect witnesses. The power to carry out all these functions should be subject to proper checks and balances. *Teamwork* between investigators, prosecutors, and other specialists, e.g. financial experts, auditors, information technology specialists, is probably the most effective use of resources.

Considering the multitude of anti-corruption institutions worldwide, their various functions, and performance, it is difficult to identify all main functional and structural patterns. Any new institution needs to adjust to the specific national context taking into account the varying cultural, legal and administrative circumstances. Nonetheless, identifying “good practice” for establishing anti-corruption institutions, as well as trends and main models is possible. A comparative overview of different *models of specialised institutions fighting corruption* can be summarised, according to their main functions, as follows:

- **Multi-purpose anti-corruption agencies.** This model represents the most prominent example of a single-agency approach based on key pillars of repression and prevention of corruption: policy, analysis and technical assistance in prevention, public outreach and information, monitoring, investigation. Notably, in most cases, prosecution remains a separate function. The model is commonly identified with the Hong Kong Independent Commission against Corruption and the Singapore Corrupt Practices Investigation Bureau. It has inspired the creation of similar agencies on all continents. This model can be found in Australia (in New South Wales), Botswana, Lithuania, Latvia, Poland, Moldova and Uganda. A number of other institutions, for instance, in the Republic of Korea, Thailand, Argentina and Ecuador, have adopted elements of the Hong Kong and Singapore models, but follow them less rigorously.
- **Specialised institutions in fighting corruption through law enforcement.** The anti-corruption specialisation of law enforcement can be implemented in detection, investigation or prosecution bodies. This model can also result in combining detection, investigation and prosecution of corruption into one law enforcement body/unit. This is perhaps the most common model used in OECD countries. This model is followed by the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime *Økokrim*, the Central Office for the Repression of Corruption in Belgium, the Special Prosecutors Office for the Repression of Economic Offences Related to Corruption in Spain, but also by the Office for the Prevention and Suppression of Corruption and Organised Crime in Croatia, the Romanian National Anti-Corruption Directorate, and the Central Prosecutorial Investigation Office in Hungary.

This model could also apply to internal investigation bodies with a narrow jurisdiction to detect and investigate corruption within the law enforcement bodies. Good examples of such bodies can be found in Germany, the United Kingdom and Albania.

- **Dedicated anti-corruption policy and corruption-prevention bodies.** This model includes institutions that have one or several corruption prevention functions, such as research and analysis, policy development and co-ordination, training and advising on risks of corruption, and recommending improvements. These bodies normally have coordinative functions, but do not have law enforcement powers. Examples of such institutions can be found in such countries as Albania, Azerbaijan, Georgia, France, India, Malta, Montenegro, the Netherlands and the Philippines. Moreover, sometimes specialised corruption-prevention institutions have other specific functions, for instance, to collect and/or control asset declarations of public officials, to control political party financing, or to enforce regulation relative to prevention of conflicts of interest by public officials. In such cases, preventive agencies are entrusted with specific powers, for instance, to conduct administrative inquiries; summon persons; request documents; and impose administrative sanctions. Corruption-prevention institutions in Serbia, Slovenia and the Former Yugoslav Republic of Macedonia are among such institutions.
- **Prevention of corruption by other public institutions.** The prevention of corruption is a very broad area, and a dedicated corruption-prevention body cannot do all the work alone. It is increasingly recognised that specialised units or the management and control structures *within* the *existing* state institutions can play an important role in preventing corruption within their ranks. For instance, public service commissions play an important role in ensuring merit-based and professional public service and its protection from undue political influence, providing public servants with advice on ethical standards and ethics training or collect and control the asset declarations of public officials. Examples are the Council of Ethics for the Public Service in Turkey, the Department of Public Administration and Public Service in the Ministry of Finance in Estonia or the Federal Chancellery in Austria. Some countries have specialised bodies for conflict of interest prevention, ethics and integrity in the public administration or in parliaments, for example, the Office of Government Ethics in the United States, the National Integrity Agency in Romania, the Chief Official Ethics Commission in Lithuania, or the Parliamentary Commissioner for Standards in the House of Commons in the United Kingdom.

Some countries have internal ethics and integrity units in ministries and public bodies to promote or enforce anti-corruption and integrity rules. Self-governing bodies in the judiciary are responsible for ensuring integrity among judges. In fact, this is done in many countries by judicial councils or dedicated ethics commission for judges. Public internal and external audit, tax and other public control bodies can play an important role in prevention and detection of corruption. Central election commissions in some countries play a role in enforcing rules on financing of political parties and electoral campaigns, e.g. the Electoral Commission in the United Kingdom. Business ombudsmen have been established in several countries to, among others, prevent corruption involving companies, e.g. Russia and Georgia.

*Assessing performance* is a challenging task for anti-corruption agencies, and many agencies lack the skills, expertise, and resources to develop adequate methodologies and

monitoring mechanisms. Few agencies have rigorous implementation and monitoring mechanisms in place to trace their performance, and to account for their activities to the public. At the same time, showing results might often be the crucial factor for an anti-corruption institution to gain, or retain public support and fend off politically-motivated attacks. The report recommends that anti-corruption agencies develop their monitoring and evaluation mechanisms to examine and improve their own performance and to improve public accountability and support.

While many anti-corruption bodies created in the past decade have achieved results and gained public trust, the experience in emerging and transition economies shows that establishing a dedicated anti-corruption body alone cannot help to reduce corruption. The role of other public institutions, including various specialised integrity and control bodies, and internal units in various public institutions is increasingly important for preventing and detecting corruption in the public sector. This trend converges with the approach of many OECD countries where specialised anti-corruption units were established in law-enforcement agencies, while the task of preventing corruption in the public sector and in the private sector was ensured by other public institutions as part of their regular work.

The findings of this report are demonstrated by case studies from 19 countries. The case studies provide comprehensive descriptions of selected specialised anti-corruption institutions or preventive institutions operating in different parts of the world and are presented in a comparable framework. The case studies include both the agencies' formal basis for operation and their main achievements in practice. They cover the following countries:

- *Multi-purpose bodies*: Hong Kong, China, Singapore, Latvia, Lithuania, Poland, Indonesia and Botswana;
- *Law enforcement bodies*, including specialised police and prosecution services: Spain, Romania, Azerbaijan, Croatia, Norway and the United Kingdom;
- *Policy co-ordination and prevention bodies*: France, Slovenia, the Former Yugoslav Republic of Macedonia, Serbia, the United States and Brazil.



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