





Mitigating the Threat of Corruption in the Private Sector: The Role of Business Principles

Peter Nikolaevich Kobets¹^a, Kristina Aleksandrovna Krasnova²^b, Mátyás Szabolcs³^c
and Andrei Viktorovich Borisov⁴^d

¹Center for organizational support of scientific activity, Federal public establishment «National Research Institute of the Ministry of Interior of the Russian Federation», Povarskaya street, 25 (bldg. 1), Moscow, the Russian Federation

²Department of Criminal Law, The North Western branch of the Federal State Budget-Funded Educational Institution of Higher Education «The Russian State University of Justice», Aleksandrovsky park, 5, Sankt-Petersburg, the Russian Federation

³Faculty of Law Enforcement, University of Public Service, Ludovika tér, 2, Budapest, Hungary

⁴Law Institute, the Federal State Autonomous Educational Institution of Higher Education “Russian University of Transport”, Obraztsova street, 9 (bldg. 9), Moscow, the Russian Federation

Keywords: Criminal Law, Corruption, Bribery, Combating Corruption, Business Principles.


Abstract: The relevance of the study is propelled by the fact that corruption remains a pressing problem in international business. Bribery can only be effectively prevented and eliminated if private sector firms implement anti-corruption management controls. The purpose of this study is to offer insight into the global business principles of combating corruption, as well as to provide a detailed analysis of the impact of corruption on business processes by testing the hypothesis about the negative impact of corrupt practices on the company's reputation and by assessing the reliability of the assumption that the implementation of internationally developed business anti-bribery principles help maintain the company's reputation of integrity. Methods: The authors present a systematic review of Russian and international literature that investigates corruption, identifying the factors of corruption in business and other economic activities. To search for relevant studies, we used Scimagojr, Research Gate, Science Direct, Google Scholar, and Sage Open. Results and novelty: Certain international organizations recognize that corruption and bribery are detrimental to business integrity. Bribery can only be effectively prevented and eliminated if companies and the private sector in general implement anti-corruption management controls as a necessary and essential part of their day-to-day governance on the same basis as economic security controls. Conclusions. Based on an in-depth review of international anti-bribery business principles, the authors conclude that incorporating anti-corruption principles into their daily operations enables them to compete and trade fairly around the world, supporting investment and economic growth, and helping to fight corruption crime at the national and international levels.


1 INTRODUCTION


The fight against corruption remains on the agenda at the supranational and national levels, despite the fact that it affects the life of societies in different countries of the world to varying degrees (Krasnova & Nikonov, 2020). Various literature emphasizes that each socio-political and economic system generates


its own model of corruption, and there is not a single state in which corruption somehow does not exist, although it is indisputable that corruption tends to be more widespread in poor states (Sharifullin, 2020).

The most attention in the specialized literature is traditionally paid to the study of the potential of criminal law remedies in the implementation of anti-corruption policy in business (Zhesterov, 2021; Kurbanov & Krasnova, 2020), based on the

^a <https://orcid.org/0000-0001-6527-3788>

^b <https://orcid.org/0000-0003-1545-8025>

^c <https://orcid.org/0000-0001-6416-1645>

^d <https://orcid.org/0000-0002-3429-7370>

successful experience of Great Britain (Nam, Nguyen, Nguyen & Luu, 2020), USA (Gorshunov, Armenakis, Harris & Walker, 2021; Posthuma, 2021; Liu, Liu, Ullah, Wei & Hu, 2021), China (Yang, Ma & Cui, 2021) and a number of European countries (Brzic, Dabic, Kukura & Podobnik , 2021; Ferris, Hanousek & Tresl, 2021). At the same time, the successful anti-corruption practices of individual states do not cancel out such indisputable statements as that today there is no global consensus on what "corruption" is and that things that are considered to be "illegal corruption" in one country are recognized as a legitimate business practice in another (Bandeira, 2013).

In modern conditions, business representatives, in an effort to avoid compliance risks (that is, regulatory risks that arise for an organization as a result of losses due to non-compliance with legislation), create compliance management systems. They represent internal controls over compliance with legal and corporate anti-bribery requirements. They are usually based on various guidelines proposed by regulators and non-governmental organizations (Kobets & Krasnova, 2020).

2 MATERIALS AND METHODS

In this article, we present a systematic review of documents developed by nongovernmental associations and literature that investigates corruption, identifying the factors of corruption in business and other economic activities. To search for relevant studies, we used Scimagojr, Research Gate, Science Direct, Google Scholar, Sage Open.

3 RESULTS AND DISCUSSION

Corruption risks in business. Currently, the risks associated with corrupt practices are a growing concern for both large and small companies, which face demands to take bribes, both from their competitors acting in a corrupt manner and from their own employees who violate established codes of conduct.

Increased enforcement of bribery laws abroad, record-breaking fines, and the threat of criminal penalties for directors and employees (Zhesterov, 2020) are prompting executives to consider how to step up their anti-corruption efforts. In addition, in modern conditions, the pressure on business is increasing more and more from socially responsible investment funds and indices, which add criteria for

assessing the fight against bribery to their selection procedures almost every year. Development banks and export credit agencies are increasingly imposing prohibitive sanctions on companies that are known to be involved in corruption. As a result, the management of most companies understands the need to protect and promote their reputation for integrity, since not only business partners, but also society as a whole becomes less tolerant of corruption.

Business principles of anti-bribery. In today's environment, companies have the opportunity to respond positively to growing corruption risks and mitigate threats with robust anti-corruption policies. To help companies develop and implement effective anti-bribery policies, international organizations such as Transparency International (TI) and Social Accountability International (SAI) have joined forces to launch Business Principles for Countering Bribery. The development of these principles, which can be introduced into business and other economic activities, was carried out with the participation of many stakeholders in cooperation and with the support of a Steering Committee, which included representatives of the international business community, academia, trade unions and other non-governmental organizations.

Business Principles nowadays play the role of a code of good anti-bribery practice for many companies. They have influenced many local anti-corruption codes, tools and guidelines. Their introduction has stimulated the development of other similar anti-bribery codes. Multinational companies and researchers now look to them as a benchmark. For example, ENKA's Code of Corporate Conduct states that the company has adopted the principle of "zero tolerance for bribery" and is committed to abide by the relevant laws, rules and principles in its "Global Business" section.

Global PACI initiative. At the beginning of the third decade of the 21st century, the Partnering Against Corruption Initiative (hereinafter, PACI) has become the leading platform for discussing anti-corruption issues in the private sector. PACI is based on anti-bribery principles, which are the product of the work of a target group created by member companies of the World Economic Forum (World Economic Forum, hereinafter referred to as WEF) [11, p. 8]. Discussion of the corruption agenda takes place at the WEF's annual meetings, based in Cologne, canton of Geneva, Switzerland. The WEF mission is worded as an aspiration to improve the state of the world. The Forum provides a platform for businesses, governments and civil society to work together on numerous projects and initiatives. WEF

also prepares a series of reports and engages its members in sectoral initiatives.

Today, PACI works with business leaders, international organizations and governments to focus on implementing global anti-corruption agendas. The PACI's goal is to identify innovative anti-corruption approaches and global, regional and sectoral agendas in collaboration with representatives from civil society, academia and governments. In other words, the PACI initiative acts as a global platform based on the above principles and works to ensure that companies can maximize their collective influence in the fight against corruption (Pryazhnikova, 2019).

Currently, guided by the identified needs and interests of its member companies, PACI is taking initiatives to address industry, regional or global issues related to anti-corruption and compliance. Since its inception in 2004, PACI serves as the main CEO-led platform in the global anti-corruption arena, relying on public and private sector collaboration, responsible leadership and technological advancement (Krylov, 2012). The PACI Task Force is a dedicated group of senior leaders who oversee compliance, ethics, strategy and various other corporate functions and create a safe space to interact with peers to implement the core principles underlying PACI principles, improve organizational compliance and raise overall standards of business.

The PACI Principles were revised and updated in 2013 and renamed the PACI Principles for Countering Corruption. The revised PACI principles expand the focus beyond bribery and represent a natural evolution of the goals of the PACI signatory community (Sterhov, 2014). These principles are intended to provide a guiding framework for a business willing to take the lead in combating corruption in all its forms.

The PACI Principles begin with six core aspirational principles that underpin the ongoing pursuit of transparency, honesty and ethical business conduct. They also include a set of implementation guidelines that outline the key steps companies must take to translate their commitments into concrete action. Recognizing the power of multilateral cooperative action in transforming the global, regional and sectoral anti-corruption agendas, the PACI principles also serve as a call to action for companies around the world to join collective action initiatives that increase public confidence in business, ensure fair markets and level the playing field by combatting corruption.

Rules of the International Chamber of Commerce.

In this context, it is also necessary to talk about the rules of the International Chamber of Commerce,

which also contribute to countering corruption in business. The International Chamber of Commerce (ICC) is the largest and most influential business organization in the world. Its global network includes more than 6 million companies, chambers of commerce and business associations in more than 130 countries, covering the entire private sector of economy. The worldwide network of National Committees regularly informs the ICC International Secretariat in Paris of national and regional business priorities. More than 2,000 experts from ICC member companies use their knowledge and experience to develop ICC's position on specific business issues. ICC interacts with the UN, the World Trade Organization, the G20 and other intergovernmental organizations.

The ICC was the first commercial organization to issue anti-corruption regulations, publishing its anti-extortion and anti-bribery code of conduct back in 1977. It updated these rules in 1996, 1999 and 2005 to reflect the adoption of key international legal instruments such as the 1997 Convention against Bribery of Foreign Public Officials, the Organization for Economic Cooperation and Development and the 2003 UN Convention on Corruption. These documents, which are the most important milestones in the fight against corruption, have received active support from the business community. The revised 2011 ICC Anti-Corruption Rules reflect an impressive evolution in the ethics and compliance practices of leading companies. They are based on numerous contributions from ICC National Committees, member companies and experts from the Corporate Responsibility and Anti-Corruption Commission.

The main idea of the ICC Rules for the Promotion of Commercial Negotiation is that the best deals are made between negotiating partners who not only want or need cooperation, but also trust each other. Aimed at small, medium or large businesses across many sectors, ICC rules are a concise set of principles to help negotiators conduct effective commercial negotiations. In today's multicultural business world, it is often difficult for parties to reach a successful mutual agreement due to differences in interests, legal practice, traditions or negotiating styles and experiences. The ICC rules were developed with the assistance of international negotiating experts and are used in the context of a wide variety of different business transactions. The rules are also used as a checklist to consider when preparing for a negotiation, as a basic set of guidelines to be agreed with negotiating partners, or as a guideline for guiding a party's own behavior during the negotiation

process in order to conclude sustainable business deals.

Anti-corruption business principles of the World Federation of Chambers of Commerce. In 2019, The Center for International Private Enterprise (hereinafter, CIPE) and the World Chambers Federation (hereinafter, WCF) of the International Chamber of Commerce (ICC) developed another set of principles to help business associations and chambers of commerce in preventing, identifying and mitigating corruption risks.

CIPE and ICC WCF have developed these principles in light of the unique set of risks faced by business organizations, as well as feedback from business associations, chambers of commerce, and association management and anti-bribery experts from around the world with a focus on emerging markets. These principles complement the CIPE and WCF Joint Governance Principles for Business Associations and Chambers of Commerce, ICC Anti-Corruption Rules for Enterprises and other business guidelines such as Transparency International's Business Principles for Countering Bribery.

These principles apply to associations, chambers of commerce and federations of associations operating at the international, national, regional and local levels that serve as trade bodies representing the collective interests of their business members, whether they are sole proprietorships, companies or other organizations. These principles are voluntary and the implementation of the association's compliance program is based on a risk-based approach, where policies, procedures and controls are reasonable and proportionate to the corruption risks faced by the business association.

It should be emphasized that CIPE and ICC WCF strive to support the efforts of the business community to implement effective anti-corruption measures by providing the business community with a variety of tools.

World Bank Group Business Principles. It is also worth mentioning another anti-corruption tool, the World Bank Group Integrity Guidelines (hereinafter referred to as the Guidelines). This document includes standards, principles and components that are generally accepted by many institutions and organizations as methods of good governance and the fight against fraud and corruption. Their content is based on anti-corruption regulations, in particular: the 2009 OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions; the Anti-Corruption Integrity Compliance Program of the Global Infrastructure Anti-Corruption Center; the

World Economic Forum's Basic Anti-Bribery Principles Partnership Against Corruption, etc.

The Guidelines describe the components of an integrity program that aims to prevent, detect and eliminate corruption, collusion, coercion and fraud (misconduct) within the company. This effective program incorporates all the integrity efforts of the parties and functions as an integral part of daily practices. The guidelines under review are constantly being updated. Thus, the Guidelines should be recognized as reflecting generally recognized standards of corporate ethics and compliance.

4 CONCLUSIONS

Corruption as a social and economic phenomenon is interpreted too ambiguously in different countries and at different levels of legal regulation. As a result, at the global level, a universal approach has not yet been developed that allows to unambiguously identify the impact of anti-corruption programs in the economic sphere. This requires a deeper knowledge of how to properly assess the success in the fight against corruption. The rapid growth in development and use of anti-corruption metrics over the past two decades suggests that corruption and anti-corruption assessments are increasingly recognized as essential tools for analyzing trends and monitoring global, national, regional and local anti-corruption efforts.

While huge resources are invested at various levels in the fight against corruption, documenting and reporting results remains challenging. Limited evidence on the effectiveness of newly developed anti-corruption principles, programs or national strategies may be wrongly recognized as evident of their effectiveness or, on the contrary, failure. In this regard, it is necessary to continue scientific research of methods and tools that objectively measure the impact of anti-corruption programs.

REFERENCES

- Bandeira, G.N., 2013. "Corruption" and social and economic criminal law: Criminology, criminal policy, political science and law & economics – A new idea about criminal liability of legal entities. *In Tékhné.* 11(2). pp. 105-113.
- Brzić, B., Dabić, M., Kukura, F., Podobnik, B., 2021. The effects of corruption and the fraction of private ownership on the productivity of telecommunication companies. *In Technology in Society.* 65.

- Building foundations against corruption: Recommendations on anti-corruption in the infrastructure & urban development industries, 2015. p. 10.
- Ferris, S. P., Hanousek, J., Tresl, J., 2021. Corporate profitability and the global persistence of corruption. *In Journal of Corporate Finance*. 66.
- Gorshunov, M. A., Armenakis, A. A., Harris, S. A., Walker, H. J., 2021. Quad-qualified audit committee director: Implications for monitoring and reducing financial corruption. *In Journal of Corporate Finance*. 66.
- Kobets, P. N., Krasnova, K. A., 2020. Positive experience in combating corruption of international state and non-state organizations in collaboration with representatives of civil society. *In Philosophy of law*. 3(94). pp. 156-161.
- Krasnova, K. A., Nikonov, P. V., 2020. Economic approach to anti-corruption. *In Bulletin of the University of the Prosecutor's Office of the Russian Federation*. 5(79). pp. 113-118.
- Krylov, I. S., 2012. Comparative analysis of the main regulatory mechanisms of global economic processes. *In Comparative policies*. 3(3). pp. 66-84.
- Kurbanov, A. Sh., Krasnova, K. A., 2020. Prevention of Corruption in Business Activities. *In Proceedings for the day of a lawyer in the framework of research activities at the Faculty of Law*. pp. 53-57.
- Liu, T., Liu, Y., Ullah, B., Wei, Z., Xu, L.C., 2021. The dark side of transparency in developing countries: The link between financial reporting practices and corruption. *In Journal of Corporate Finance*. 66.
- Nam, V. H., Nguyen, M. N., Nguyen, D. A., Luu, H. N., 2020. The impact of corruption on the performance of newly established enterprises: Empirical evidence from a transition economy. *In Borsa Istanbul Review*. 20(4). pp. 383-395.
- Posthuma, R. A., 2021. High Compliance Work Systems: Innovative Solutions for Firm Success and Control of Foreign Corruption. *In Business Horizons*.
- Pryazhnikova, O. N., 2019. World Economic Forum and the fight against corruption. Social and humanities sciences. *In Domestic and foreign literature. Series 2: Economics*. 1. pp. 30-43.
- Sharifullin, R. A., 2020. International legal regulation against corruption. *In Current problems of constitutional, municipal and international law*. pp. 135-140.
- Sterkhov, A. P., 2014. Combating fraud and corruption is the most important element in ensuring security and business. *In Bulletin of the Irkutsk State Economic Academy*. 3. pp. 9-15.
- Yang, K., Ma, P., Cui, L., 2021. Subnational corruption and foreign firms' performance: Evidence from China. *In Journal of Business Research*. 123. pp. 106-116.
- Zhesterov, P. V., 2020. Directives: a private opinion of a shareholder representative or "indulgence" from criminal repression of members of the board of directors in companies with state participation? *In Business security*. 6. pp. 22-26.
- Zhesterov, P. V., 2021. The inevitability of criminal liability of legal entities for corruption crimes. *In Business security*. 1. pp. 37-40.