Corruption Risk in the Public Sector

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Abstract

The purpose of this article is to assist public sector organizations, including integrity officers and other personnel involved in integrity and anti-corruption efforts, to establish and institutionalize corruption risk management, as well as to empower anti-corruption authorities to exercise preventive functions.

Integrity is a core value that underpins our decisions, actions and behaviors on an ongoing and consistent basis. In concrete terms, for public organizations, the decisions and actions of a person of integrity result in or conduct faithful to the organization's mission, the prevailing value system, and the applicable ethical, legal, and regulatory frameworks. It provides a list of recommendations to achieve this goal and thus prevent an implementation deficit. It also includes the recommendation to seek a balance between control and incentive approaches, as well as to structurally anchor integrity management in the organization (through an integrity committee or office), a list of specific integrity management tools which can be applied by public sector managers to support ethical behavior for themselves and for organizational members.

Key words: Integration, integration management, organization, corruption
J.E.L. classification: D81, D83

1. Introduction

While the vast majority of public officials carry out their duties honestly, all public organizations and institutions face the risk of corruption. Whether in the awarding of public contracts, the collection of taxes or other revenues, the payment of social benefits or any other form of interaction between the state and its citizens, there is always the risk of a public official engaging in corruption through the abusive use of certain powers, knowledge and access to information. Similarly, people who are in contact with public institutions and officials may try to use corruption, for example, to influence or circumvent rules, procedures and decisions..

The challenge for most organizations is to identify where corruption is most likely to occur, develop and implement strategies to prevent it from occurring, and ensure that all of their staff work with integrity to fulfill their mandate. Corruption risk management can contribute to a more neutral and objective delivery of services to the public, limit revenue losses or protect law enforcement operations and human security, to name just a few examples. It is therefore of paramount importance for the rule of law and sustainable development. The United Nations Convention against Corruption requires States Parties to establish effective risk management and internal control systems to promote „transparency and accountability in the management of public finances". Eliminating corruption is also essential to achieving the Sustainable Development Goals (SDGs) and related targets adopted by Member States on 25 September 2015 under the 2030 Agenda for Sustainable Development, which is an action plan for people, planet and prosperity.

Integrated and inseparable, these goals and targets cover the economic, social and environmental dimensions of sustainable development. The integrated nature of the SDGs and the interconnections between them are essential elements in achieving the objective pursued by the 2030 Agenda. It is therefore essential for the achievement of each SDG to eliminate corruption, which is specifically targeted by target 16.5, and to build effective, accountable and transparent institutions at all levels, as called for in target 16.63.

2. Theoretical background

There is no single definition of corruption; the term has a great cultural specificity and its definition within the legal systems of the countries also differs. Despite this heterogeneity, the fundamental forms of corruption involve the abuse of power or influence to gain an advantage, usually related to access to resources. With this broad definition, corruption can take many forms, the differences between which influence the strategies that can be used to prevent or detect it. A selection of terms and types of corruption are provided below to inform further analysis. (Masschalck, 2005)

Big corruption: This term is used when corruption occurs at the level where the rules of the game are defined, involving politicians, and when the rules are defined to achieve a given result.

Systemic corruption: Endemic or systemic corruption occurs when it is an integral and essential part of the economic, social and political system. Systemic corruption is not a special category of corrupt practices, but rather a situation where key state institutions and processes are routinely dominated and used by corrupt individuals and groups, and where most people have no choice but to confront corrupt officials. It can be contrasted with sporadic and more individualized corruption.

Active/passive corruption: involves a mutually beneficial exchange between a person in a decision-making position and another who is likely to benefit from the decisions to be made. It usually takes the form of a financial incentive paid to achieve something, for example, the award of a contract. Active or passive corruption can be a simple one-off transaction or take more elaborate and planned forms, such as rigging tenders, with illicit kickbacks paid into foreign bank accounts, or the purchase of assets such as a house or luxury car for the benefit of the official concerned. However, the essential characteristic of active or passive corruption is that it involves a bribe demanded and/or offered – and accepted.

There are two interested parties involved, both likely to benefit from the transaction.

Fraud: „Fraud is an economic crime involving deceit, deception, or false pretense by which someone obtains an illicit advantage". Thus, the fact of paying ghost workers, claiming payment for non-existent construction works, recording transactions for the purchase of materials in books that were never carried out are all cases of fraud. There may be collusion between a number of parties, all of whom gain an advantage, but this should still be distinguished from, for example, seeking or offering a revocation for the award of a contract of employment which is then actually executed.

The risk assessment process and the implementation of a mitigation plan includes the following steps:

STEP 1: Establishing the operating environment
STEP 2: Risk identification
STEP 3: Determining priorities
STEP 4: Develop measures or a mitigation plan and choose indicators to measure effects
STEP 5: Implementation of planned measures
STEP 6: Assessing the effect of the measures and proposing recommendations
STEP 7: Adjust process, infrastructure, resources and capabilities

Public sector organizations include public institutions, state bodies or agencies and national anti-corruption authorities. In the case of an organization with abundant resources, the corruption risk mitigation plan may include comprehensive operating procedures with clear audit trails, appropriate levels of supervision and control, and explicit written rules that guide officers on how to apply these procedures. Many government agencies simply do not have the human or financial resources or know-how to implement such comprehensive measures. By embarking on lengthy and often expensive risk identification processes, organizations can end up using all their resources to detect risks, leaving little to implement the necessary mitigation measures.

The purpose of this article is to help public bodies carry out effective risk assessments, within the limits of available resources. It is about finding the most effective ways to implement realistic measures to mitigate the most damaging corruption risks identified by the organization. Organizations may not have sufficient confidence in their own skills or technical abilities to conduct a self-assessment, or the use of a third party may be required by law. In this case, the

organization should seek the assistance of one or more external parties experienced in conducting corruption risk assessments.

The United Nations Convention against Corruption is based on the observation that corruption is an ever-evolving phenomenon that depends on many factors and whose descriptions, in the absence of a single, commonly accepted definition, may vary according to legal regimes. This is why it contains a list of universally recognized manifestations of corruption and leaves each state free to exceed the measures it provides (Paine, 1994):

Active corruption – the act of promising, offering or giving a domestic public official, a foreign public official or an official of a public international organization an undue advantage to do or refrain from doing an act in connection with his duties official.

Passive bribery – the fact that a national public official, a foreign public official or an official of an international public organization requests or accepts an improper advantage to perform or refrain from performing an act in connection with his official functions.

Embezzlement – the theft or embezzlement by a public official of property, funds or securities or anything else of value granted to him under his duties.

Embezzlement in the private sector – embezzlement by anyone who runs a private sector entity or works for such an entity in any capacity.

Malpractice – the act of a public official doing or refraining from doing an act in violation of the law in order to obtain an improper advantage.

Influence peddling–the act of a public official abusing his influence with an administration, state authority or other public authority in order to obtain an advantage.

Illicit enrichment – the substantial increase in the wealth of a public official that cannot reasonably be justified by the legitimate income of the latter.

Money laundering – concealing the origin of money obtained through corruption, often by transfer involving foreign banks or legitimate businesses.

Concealment – the continued concealment or retention of assets derived from acts of corruption.

It should make a distinction between „corruption" and „risk of corruption". While „corruption" refers to the crime that has already been committed, „risk of corruption" is that a corruption crime is likely to be committed. In this sense „corruption"only gives rise to a posteriori measures, while, in the face of a noted „risk of corruption", the measures taken are preventive. This guide focuses exclusively on the risks of future corruption.

3. Research methodology

National and international sources of inspiration were used to write this article: articles, specialized books, OECD recommendations. In order to carry out this research activity, we consolidated our theoretical knowledge acquired during the course hours by collecting data from various sources, especially through documentary research and web explorations, such as conferences or interviews. Along the way, we have noticed a high level of research interest in the risk of corruption in EU countries.

Very important risk information was obtained from public sector employees, information obtained by using the questionnaire method.

This helps raise awareness of the issue and can generate a sense of ownership for future policies. This article uses primary sources. Primary sources are used for a deeper analysis of the more critical corruption risks (or perceived risks). Much of the data presented for the risk assessment was collected from existing sources, although some additional primary sources may be required for the specific system/process analyzed. A careful selection of stakeholders who are consulted as part of the assessment had an important influence on the identification and prioritization of risks. Following the guidance outlined by Hagen-Zanker and Mallett 2013 on how to conduct an evidence review using systematic principles, the approach to identifying relevant sources consisted of three separate tracks: 1) a literature search; 2) seeking relevant advice from key experts; 3) literature capture, which involved hand searching a variety of pre-selected institutional websites. Following all three tracks allowed us to produce a focused review that involved material from a diverse range of sources.

4. Findings

Defining the scope of the risk assessment It is essential to obtain the full cooperation of managers and employees. As a first step, the scope and process of the risk assessment, as well as its potential outcomes, should be discussed with the management team. In preparing the risk assessment, the organization must decide whether it will be comprehensive or focused. In the private sector, identifying all potential corruption risks is often a way to demonstrate the adequacy of a compliance strategy. Perhaps not all public sector organizations need to go through this comprehensive process.

Launching a corruption risk assessment process is dictated by various motivations. A scandal, the results of an audit, a publication in the media or the adoption of a national anti-corruption strategy that requires all public bodies to carry out a risk assessment and develop a prevention plan are as many stimulating factors as possible. Organizations can also try to proactively assess their vulnerabilities to prevent future risks. When such concerns arise, a useful starting point may be to focus on the immediate problems facing an organization. Multiple scandals, a drop in revenue, an increase in citizen complaints or an inexplicable change in an employee's lifestyle: each of these elements can serve as a trigger for the evaluation process. In addition, focusing on visible and identifiable problems can help manage an unfortunate side effect of some anti-corruption efforts, namely the risk of organizational witch-hunting. It is easier to build a consensus among staff about the need to address performance issues rather than a general sense of fear built around the danger of corruption.

Initiating the risk assessment process

All activities require resources, and corruption risk assessments are no exception. The main resources needed are experienced staff and the financial means to obtain external assistance if necessary (facilitators, auditors, forensic accountants, anti-fraud experts, etc.).

Management should also support staff by redistributing workload or temporarily reassigning certain projects to allow team members time to focus on risk assessment. (Cooper, 1982). Organizational processes must have a manager. An essential first step is to decide who will be responsible for the risk assessment process (and for actually carrying it out). Responsibility for assessing the risk of corruption is usually given to a specially appointed group: the working group or task force for assessing the risk of corruption. However, the composition of the team and its position in the organizational hierarchy depends on several factors described below. Activities should be carried out by a working group of staff appointed by management to conduct the assessment and develop a mitigation plan. At this stage, they should be expressly invested with these functions. Otherwise, there is a risk that their direct superiors will not release them from their regular duties, considering the hours they have to devote to the assessment and the mitigation plan as an additional load to fit into their work schedule, only if the program allows them. Larger organizations will need a larger task force and more time to assess risks and develop a plan. Typically, at least several brainstorming meetings are required, followed by two to three months of data collection, analysis, and validation.

Factors that influence the composition of the work group

The size of the organization. Large, complex organizations have different needs than smaller, more flexible organizations. A simple rule of thumb would be that the greater the need for coordination, the more team members should occupy.

The mandate and operational structure of the organization. More complex structures with multiple mandates require an approach that integrates staff from multiple departments and divisions. Conversely, small organizations with a single, well-defined mandate may entrust the assessment of corruption risk to a small team of officers. Very small organizations might even supplement the task force with one or more members seconded from a larger organization.

The cooperative or adversarial nature of the relationship between the organization and its stakeholders. The nature of these relationships should be considered when determining whether the working group should include members of stakeholders, the general public or non-governmental organizations. The involvement of these stakeholders and their eventual extent will depend on their relationship with the organization. For example, a customs authority will have a close and ongoing relationship with importing companies and their trade associations (and therefore could consider

including representatives of these companies in the working group as appropriate), while a management fee will have fewer connections with taxpayers. There is no one-size-fits-all solution to creating a well-functioning workgroup. (Maesschalck, 2004)

Skills needed in the work group. In general, the composition of a work group includes members who have: an in-depth understanding of the operation of the organization; skills in law and in internal audit, internal control, human resources or procurement; experience in performing risk assessments; knowledge of the organization's main mandates. Depending on the number of mandates of the organization (and their complexity), one or more officers familiar with the organization's operations should be involved in the process. (Sinclair, 1993)

Necessary resources

Staff time: The time staff members must spend on risk assessment and the skills required to perform the required tasks.

External consultants: Includes travel and consulting costs, which may be paid by the organization or other sources (auditors, forensic accountants, fraud experts, consultants).

Travel: This will vary depending on whether the organization's offices are spread across the country or clustered in one place or city.

Communications: These costs include Internet connection, postal, telephone costs, etc.

Printing and reproduction: Includes the costs of developing data collection tools, reports and other materials.

Supplies and equipment: This is the cost of supplies and equipment (e.g. computers, software packages) that must be purchased or rented as part of the risk assessment.

Many internal auditors perform „risk assessments" on the projects entrusted to them. It is important to understand that a corruption risk assessment at the organizational or divisional level is different from the process carried out as part of an audit. An internal auditor performing a risk assessment uses a risk-based approach to determine which business processes and procedures need to be assessed and then conducts tests to determine the adequacy of the workforce and the extent to which they follow these procedures. Not all procedures are evaluated at each audit cycle. An organizational or divisional risk assessment is much broader. This involves management reviewing the entire operation of the organization to determine where and to what extent there may be risks of corruption. Its purpose is not to ensure hierarchy regarding the level of compliance with existing systems, but to deal with identified corruption risks. Such an assessment may reveal that internal policies and procedures are insufficient for this purpose, even if staff follow them scrupulously. Therefore, by carefully selecting its members, the working group will acquire the necessary practical experience and knowledge of the various activities of the organization.

This will also facilitate dialogue, allowing turn to be kept informed of the group's work. The task force should be chaired by a senior, knowledgeable the task force to gather information from all parts of the organization and this in official who can ensure the active participation of group members and steer the process without the need for direct and constant consultation with his or her hierarchy. Also, if the workforce is geographically dispersed, it is essential to include field agents in the task force. Communication about the creation of the task force.

Experience shows that sometimes staff in an organization misunderstand the process and confuse risk assessment with an investigation. Some may even fear that their position or job may be threatened.

The best way to alleviate these fears is to clearly and regularly communicate to staff information about the process and its expected outcomes, and to ensure that task force members and other staff members can dialogue freely and openly. Initially, the organization's management should issue a directive establishing the task force, appointing its members and briefly outlining the process. It should contain specific information and emphasize that the process is not an investigation. It should also establish rules governing record keeping, document storage and other administrative matters. In this instruction, management must clearly explain to all staff the importance of working with the task force. When external stakeholders are to be consulted, the instruction should specify the affected groups that will participate in the process. If the names of the people outside the organization who will intervene in the process have not yet been established, the instruction must specify that this information will be communicated later in the same form.

Risks of including external stakeholders in the working group it may be reasonable to open the process to external review or to include in the working group actors outside the organization, such as representatives of private sector entities that work closely with the organization and have relevant information.

However, the risks associated with such a decision should be carefully considered. These risks include sharing sensitive information with outsiders (which the task force may not be empowered to do) and leaks (with the risk that the entire process becomes hostage to political power struggles), as well as the practical risks of he could see the talk going everywhere. place or decisions being needlessly delayed. These factors (and other considerations relevant to the organization) should be carefully weighed when deciding whether or not to include external stakeholders in the working group.

The benefits of self-assessment

No one knows more about an organization's procedures and vulnerabilities than those who work for it. The preferred model is a staff-led process that forces the organization to identify and confront its own vulnerabilities and the corruption risks these vulnerabilities create. Staff are in the best position to tailor the assessment methodology to exactly what is needed and to determine what information and data are available or can be collected easily and inexpensively. A self-assessment will also help build or reinforce a culture of integrity within the organization. Additionally, it has been observed that when the risk assessment and development of a mitigation plan is entrusted to an internal working group, the rest of the staff is more inclined to accept the conclusions and implement them. A self-assessment is much more likely to fit seamlessly into the operation of the organization and produce measures to reduce the risk of corruption that are relevant and enforceable.

Potential disadvantages of self-assessment

However, regardless of the goodwill of the management and the skills of the work group, self-assessment has its drawbacks. For example: Staff may be reluctant to point out objectively and openly the types of corruption the organization faces. His hesitations may be motivated by fear of reprisals from colleagues or the hierarchy, or fear of damaging the organization's reputation. Because of this reluctance, the task force risks missing certain forms of corruption to which the organization is highly vulnerable or, if known, not addressing them as a priority.

Having said that, in all circumstances a good knowledge of the sector and the environment in which the organization operates will be essential. An organization with little experience in preventing corruption should consider recruiting someone who can explain what corruption can look like in a range of common situations and who has the skills and experience to work with the organization throughout the process until it implements a plan to reduce the risk of corruption. It is also possible that the initiation of the assessment process is motivated by problems resulting from weak internal controls.

One solution is to use the services of an international advisor not connected to a local or national organization, but with specialist knowledge in substantially relevant areas. Once the working group is established, its members must be provided with the necessary means to carry out their duties. It is recommended that an internal expert or an external facilitator organize a first information session on risk management, its assessment and the reasons why the organization decided to start such a process, as well as the roles of each stakeholder.

To begin, the facilitator should ask the participants what corruption means and explain that the purpose of the mitigation plan is to strengthen existing integrity controls or create new ones. This will identify vulnerabilities and reduce the risk of internal or external people committing actions that could harm the organization financially, operationally and reputationally.

5. Conclusions

Public sector organizations with limited resources will make better use of them if they implement a risk assessment and management process to combat and reduce corruption. By adopting such an approach, they can focus on implementing realistic measures that mitigate the risk that the most likely and harmful corrupt practices will cause them financial harm, damage their reputation or affect their ability to fulfill their mandate. To support the success of the risk

assessment process, a working group consisting of personnel with a wide range of knowledge and skills should be formed and supported by the highest possible authority. In cases where experience or expertise is lacking, or where staff are reluctant to candidly address corruption issues for fear of reprisals from colleagues, the involvement of external consultants can be valuable. Throughout the process, it should be emphasized that the corruption risk assessment is not a witch hunt. The objective is not to eliminate people who are corrupt, but rather to highlight any vulnerabilities that could expose the organization to opportunities for corruption. The purpose of the risk mitigation plan is then to reduce these possibilities and to introduce control mechanisms and measures to remedy the organization's vulnerabilities or to strengthen existing mechanisms and measures.

In order to use their limited resources as effectively as possible to reduce corruption, public bodies should focus their efforts during the assessment process on the priority risks (the most likely and the most harmful) and the most practical countermeasures (the most feasible and more affordable) mitigation.

Monitoring and reviewing the progress and effectiveness of the risk assessment and mitigation plan makes it possible to improve the process and review certain measures.

This guide recommends that public bodies regularly repeat the process and incorporate risk management into their normal operations so that they can deal with the ever-changing corruption risks they face and thus contribute to the achievement of the Sustainable Development Goals , in particular Goal 16 and Target 16.5, which aim to „significantly reduce corruption and bribery in all their forms".

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