



Organised by OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN)
Co-organised and Hosted by the Ministry of Justice of Georgia

EXPERT SEMINAR

INVESTIGATION AND PROSECUTION OF CORRUPTION: BRIBERY, ILLICIT ENRICHMENT AND LIABILITY OF LEGAL PERSONS

25 – 26 September 2012
Batumi, Georgia

AGENDA

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MONDAY, 24 SEPTEMBER 2012

19:30 Welcome dinner hosted by OECD, *Sheraton Hotel Batumi*

DAY 1: TUESDAY, 25 SEPTEMBER 2012

9:00 Opening and keynote address

Welcoming remarks:

Mr. Otar Kakhidze, Deputy Minister of Justice, Georgia

Mrs. Olga Savran, Manager of the Anti-Corruption Network for Eastern Europe and Central Asia, OECD

Keynote Address:

Mr. Otar Kakhidze, Deputy Minister of Justice, Georgia

“Investigating and prosecuting corruption – Georgian experience”

10:00 – 13:00 Session 1: Investigating bribery offences with complex elements

This session will discuss investigated and prosecuted bribery cases involving offences such as offer and promise or solicitation of bribe, cases that involve non-material benefits, and bribery that benefited third persons or was committed through intermediaries. Speakers will be invited to describe how these cases were detected, for instance by using pro-active detection or reports from internal security services in public authorities in question, FIUs and other sources. They will further describe how the investigation was planned and organised, how intelligence and special investigatory means were used to collect direct and indirect evidence, how coordination of law enforcement bodies was organised, which measures were taken for tracing, freezing and confiscating assets in the country and abroad, and how cooperation with foreign jurisdictions, including off-shores, was organised. The speakers would also share their experiences on presentation of such cases in courts, as well as evidentiary problems faced and ways to resolve them.

Moderators: **Mr. Irakli Chilingarashvili**, Head of Legal Unit, Chief Prosecutor’s office, Georgia; **Mrs. Olga Savran**, Manager of the Anti-Corruption Network for Eastern Europe and Central Asia, OECD

Panellists:

Mr. Loïc Guérin, Prosecutor, Court of first instance of Paris, France

Mr. Daniel Thelesklaf, Head, Financial Intelligence Unit, Principality of Liechtenstein

Mr. Irakli Shulaia, Prosecutor, Prosecutor General’s Office, Georgia

Mr. Flemming Denker, former Deputy State Prosecutor, Office for Serious Economic Crime, Denmark

Round-table discussion

Questions to be addressed:

- Have you investigated/prosecuted cases involving offering, promising or soliciting a bribe? What is your experience how to successfully uncover such crimes?

- Have you dealt with cases where a bribe was a non-material benefits? What kind of benefit was it and how did you prove the receipt of it?
- What are the key preconditions and most successful methods to detect complex corruption cases?
- What are the main challenges you face in co-operation with foreign jurisdictions in corruption cases?

11:30 – 12:00 Coffee break

13:00 – 14:00 Lunch

14:00 – 15:30 [Session 2: Criminalisation and Enforcement of the Offence of Illicit Enrichment](#)

This session will look at approaches taken to criminalise illicit enrichment and how this offence is being enforced in various jurisdictions. Speakers will discuss experience and main challenges faced by their countries and institutions in this field through examples of their legislation and cases. Issues discussed will include illicit enrichment vs. presumption of innocence and the right not to testify against oneself, various approaches to reversal of the burden of proof. The use of asset declarations of public officials for investigative and evidentiary purposes and other complimenting elements, such as *in rem* forfeiture actions against stolen property will also be discussed.

Moderator: **Mr. Nikoloz Chinkorashvili**, Head of Anti-Money Laundering Unit, Chief Prosecutor's Office

Panellists:

Ms. Lindy Muzila, Stolen Asset Recovery (StAR) Initiative, United Nations Office on Drugs and Crime

Mr Eric Yang, Principle Investigator, the Independent Commission against Corruption (ICAC), Hong Kong, China

Mr. Saulius Urbanavičius, First Deputy Director, Special Investigation Service, Lithuania

Round-table discussion

Questions to be addressed:

- If there is an offence of illicit enrichment in your country, when and why was it introduced (for instance, compliance with the UNCAC, good practice in other countries, more effective enforcement)?
- Did you in your own practice have cases on illicit enrichment and what were the challenges you were faced with in such investigations/prosecutions?
- In your opinion is it a good tool in corruption investigations, if so what do you think could be benefits for investigator/prosecutor?
- If no, are you familiar with the concept and do you think such an offence would be of benefits for you in practice?
- Does your legal system provide for other avenues of the reversal of burden of proof? If so, describe how it can be done? And share your/your colleagues experience on it application?
- Are *in rem* forfeiture actions against the property possible in your country? Do you use such type of forfeiture in corruption cases? Is it within the competencies of your agency or another (for instance special agency created for such purposes)?

- Did you ever use asset declarations statements submitted by public officials in your investigations/prosecutions of corruption cases? Did it have evidentiary value and were the courts accepting of such evidence?

15:30 – 16:00 Coffee break

16:00 – 17:30 [Working Groups: Simulating an investigation \(part 1\)](#)

This practical exercise will simulate the investigation of a realistic corruption case.

All participants will be divided into 2 Working groups. The work of each group will be divided into two parts: (i) working in smaller investigative teams; and (ii) working within the larger Working group. The participants will be asked to analyse and discuss within their smaller investigative teams the case. Then each investigative team will nominate one presenter who will present the findings of its investigation to the others. Members of other investigative teams will be invited to discuss the presentation of each team.

This exercise will be drawn on the basis of the ACN “Training Manual on Investigation and Prosecution of Corruption Offences”.

20:00 Official dinner hosted by Georgian Ministry of Justice

DAY 2: **WEDNESDAY, 26 SEPTEMBER 2012**

9:30 – 13:00 [Session 3: Investigating and prosecuting corruption of legal persons](#)

This session will discuss practice on investigation and prosecution of legal persons for corruption. Speakers will be invited to describe the type of liability that is established in their country for bribery by companies, and to present examples of real life investigations into corporate bribery. As in the first session, speakers will describe various stages of detection, investigation and prosecution of companies, as well as the sanctions which were imposed by courts in these cases. In particular, it will be shown how corporate bribery can be investigated and prosecuted separately or in parallel with proceedings against natural persons; what triggers corporate liability and how corporate “guilt” can be attributed; liability for lack of supervision.

Moderator:

Mr. Daniel Thelesklaf, Head, Financial Intelligence Unit, Principality of Liechtenstein

Panellists:

Mr. Peter Koski, Attorney, Department of Justice, the United States

Ms. Mirjana Jakovljevic, Deputy Higher Prosecutor, Belgrade Higher Prosecutor's Office, Serbia

Ms. Donata Costa, Prosecutor, Tribunal of Monza, Italy

Mr. Sahib Ismayilov, Prosecutor of the Anticorruption Department with the Prosecutor Generals Office, Azerbaijan

Round-table discussion

Questions to be addressed:

- To what extent corruption in your countries takes place through companies or other legal persons? Is it important to hold companies liable for corruption?
- What are the requirements to hold a company liable for corruption in your country? How efficient these requirements are from the point of view of effective investigation and prosecution?
- If you have investigated or prosecuted corruption involving a legal person, what were the circumstances of the crime and how you succeeded to prove the liability of the legal entity?

11:00 – 11:30 Coffee break

12:30 – 13:00 ***What criteria for performance appraisal of prosecutors and investigators?***

Introduction by **Ms. Assel Satvaldinova**, General Prosecutor's Office of Kazakhstan
Discussion

13:00 – 14:00 Lunch

14:00 – 15:00 **Working Groups: Simulating an investigation (part 2)**

The practical exercise will continue in the plenary format and each Working group will present what was discussed and decided upon at the end of Working groups' session of the previous day. The participants will provide feedback evaluating the way different groups handled the case.

15:00 – 15:15 Coffee break

15:15 – 16:00 **Wrap-up session**

Tour de table on main outcomes
Discussion on possible follow-up activities

16:00 Visit to Public Service Hall¹ in Batumi,
followed by visit to the Georgian-Turkish border and the Customs Clearance Zone
(anti-corruption measures "on the spot")

¹ <http://house.gov.ge>

NOTES TO THE AGENDA

Background

The **Anti-Corruption Network for Eastern Europe and Central Asia** (ACN) is one of global relations programmes of the Working Group on Bribery of the Organisation for Economic Co-operation and Development (OECD). Its aim is to support anti-corruption reforms and promote exchange of experience and good practice among the ACN countries, in cooperation with OECD countries and other regions and organisations. More information about the ACN is available at its web site www.oecd.org/corruption/acn.

The ACN organized 2 training seminars for investigators and prosecutors in the framework of its “peer learning” activities. The first seminar on “Effective Means of Investigation and Prosecution of Corruption”, was held in October 2010 in Romania; the second seminar on “Investigation and Prosecution of Corruption: financial investigations and links with money laundering” was held in June 2011 in Ukraine. The seminars became useful training tools for anti-corruption investigators and prosecutors and have generated a lot of interest and support in the region and beyond. It was decided to further elaborate on this topic and to strengthen informal network of the law-enforcement and prosecutorial officials. It is in this context that the third seminar for the same audience is being organized by ACN in cooperation with the Ministry of Justice of Georgia.

Georgia has come a long way from being one of the most corrupt countries in Eastern Europe towards becoming a success story in the fight against corruption. Since the Rose Revolution in 2003, holistic measures were implemented to eliminate corruption. “[Georgia] destroys the myth that corruption is cultural and gives hope to reformers everywhere who aspire to clean up their public services” (*World Bank*). According to the latest “*Eurobarometer*”, 99% of Georgian citizens have never been asked to pay a bribe in 2011. With this result Georgia ranks 1st among European states. TI Global Corruption Barometer shows that 77% of Georgians are satisfied with government’s actions towards fighting corruption.

Georgia has a comprehensive Anti-Corruption Action Plan for 2010-2013. The implementation of this plan is thoroughly scrutinised through implementation monitoring tool and annual implementation reports. Several bodies are designated to take measures against corruption. Among them can be noted the Anti-Corruption Interagency Coordination Council, primarily responsible for many of the preventative measures and the special departments in ***the Chief Prosecutor’s Office -placed within the structure of the Ministry of Justice - investigating and prosecuting general corruption cases***. The Chief Prosecutor’s Office and the Ministry of Justice are also responsible for anti-corruption trainings.

Objective

The seminar aims at sharing experience and good practices among law enforcement officials involved in investigating and prosecuting corruption offences in Eastern European and Central Asian countries and other invited countries, as well as at encouraging law enforcement officials networking.

This seminar is a follow-up to the seminars in Bucharest in 2010 and in Kyiv in 2011.

The thematic scope of the seminar is defined based on areas that have been identified as most challenging by participants of the above-mentioned seminars, as well as in the course of preparing the ACN Work Programme 2013 – 2015. The seminar will focus on the following themes:

- Investigating and prosecuting **bribery offences with complex elements**;
- Investigating and prosecuting **corruption involving legal persons**;
- Criminalizing and enforcing the offence of **illicit enrichment**.

The seminar will include expert presentations, country case studies, and discussions and work in groups.

Participants

The seminar is for investigators and prosecutors from ACN countries representing national authorities in charge of investigating and prosecuting corruption-related crimes.

The Secretariat, in cooperation with ACN contact points and national coordinators of the Istanbul Anti-Corruption Action Plan, will select 1 to 2 participants from ACN countries who would most benefit from the seminar. Each candidate needs to submit a CV (in English or in Russian) in order to enable the organizers to assess their qualification in the light of the issues to be discussed.

Logistical information

HOTEL AND VENUE:

Sheraton Batumi Hotel

28 Rustaveli Street

6000 Batumi, Georgia

<http://www.sheratonbatumi.com>

LANGUAGES:

The working language will be **English**. Simultaneous interpretation into **Russian** will be provided.

MEALS:

Lunches and dinners on 25 and 26 September will be covered by the organizers.

The seminar is made possible thanks to voluntary contributions provided to the ACN by the US State Department, Bureau for International Narcotics and Law Enforcement Affairs, UK DFID and Switzerland SECO.

Contact persons

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