EXPERT SEMINAR ON
Business Integrity in Eastern Europe
and Central Asia

ROUNDTABLE ON
Business Integrity in Ukraine

SUMMARY REPORT

25-27 January 2017

Kyiv, Ukraine
An Expert Seminar on business integrity in Eastern Europe and Central Asia took place in Kyiv, Ukraine in 25-26 January 2017. Following the Expert Seminar, a Roundtable on business integrity in Ukraine took place in Kyiv, Ukraine on 27 January 2017. These events were co-organised by the Business Ombudsman of Ukraine, the European Bank for Reconstruction and Development (EBRD), the United Nations Development Programme (UNDP) and the Organisation for Economic Co-operation and Development (OECD). The events were hosted by the Ministry of Economic Development and Trade, Ukraine.

This report presents the main highlights from both the Expert Seminar on business integrity in Eastern Europe and Central Asia and the Roundtable on business integrity in Ukraine.
Regional Expert Seminar: Business Integrity in Eastern Europe and Central Asia

Building momentum for business integrity

Very strong demand for participation in the meetings confirmed a growing interest in business integrity among state bodies and the private sector in Ukraine and in other countries in Eastern Europe and Central Asia. Presentations and discussions also demonstrated an increase in business integrity initiatives undertaken by both the state and the private sector. The quality of interventions indicated that the debate is moving away from mutual accusations in corruption between the government and the companies towards identification of practical solutions, good practices and possible joint actions.

The OECD/ACN Thematic Study "Business Integrity in Eastern Europe and Central Asia" provided an important impetus for promoting business integrity in the region by identifying main trends and good practices and by providing policy recommendations for the governments, business associations and companies. It will be important to use the OECD/ACN recommendations as a benchmark to measure progress in the region over time.

Joint efforts of the co-organisers including the OECD, the UNDP, the EBRD and the Business Ombudsman of Ukraine was an example of mutually beneficial cooperation of international and national organisations, where everybody contributed technical knowledge, financial and logistical support.

The joint OECD-EBRD programme Promoting Business Integrity in Eastern Europe and Central Asia that was launched at the meeting will become an important tool to promote and build capacity for business integrity among the governments, the private sector and the nongovernmental sector in Eastern Europe and Central Asia.

Main highlights of the regional expert seminar

Several presentations focused on the role of the governments in promoting business integrity, which can include general efforts to improve business environment, reduce red tape and move to e-governance (Ukraine), to specific measures that can be included in national anti-corruption policies (Romania). Governments can also design specific approaches to promote compliance by companies by studying integrity risks, guiding and helping companies in understanding and facing such risks (Estonia) or by adopting mandatory requirements for companies to develop compliance programmes and providing them with a model of such programmes (Ukraine).

Improving the management and transparency of state owned enterprises (SOEs) is one of the key measures that the governments can do to promote business integrity. Several governments in Eastern Europe and Central Asia have embarked on this task: Lithuania's government is developing a comprehensive set of measures and has created a special state body that is tasked to improve efficiency of SOEs; many SOEs in Ukraine are undergoing fundamental transformation led by the new reform-oriented managers. However, as highlighted by the presentation of Naftogaz Ukraine, better management, effectiveness, transparency and integrity cannot be achieved without establishing clear relations, commitments and obligations between the state and the management of SOEs as prescribed by the OECD Guidelines on Corporate Governance of SOEs.
Providing companies with effective channels to report corruption and to raise complaints about corruption-related problems without fear of reprisal and with a guarantee of a follow-up action is another role of the governments. Two models of such channels – Business Ombudsman (Ukraine and Canada) and High Level Reporting Mechanism (HLRM, Colombia and Panama) were presented and actively discussed. Independence, professional treatment of complaints by companies and examination of systemic challenges were highlighted as important features that allowed the Business Ombudsman in Ukraine to become one of the most trusted institutions by the state and by companies. The HLRM seems to work best in countries where the high level of state administration, e.g. president, is the symbol of trust and integrity, and where such mechanisms focus on one sector, such as public procurement, and avoid politicisation.

Traditionally, companies were seen as victims of corrupt public officials in Eastern Europe and Central Asia. But the understanding that they are also partners in crime, and that they can take an active anti-corruption position is growing in the region. The private sector can play various roles in promoting business integrity. National and international business associations and civil society organisations (CSOs) conduct surveys of corruption risks for companies (ACC Ukraine, Chamber of Commerce in Kyrgyzstan), provide trainings to their members on compliance, and lobby legitimate interests of members in relations with the governments. Business associations and CSOs, such as TI, are developing industry standards; in particular, a presentation on ISO 37001 attracted many practical questions. CSOs also promote business integrity and company compliance through monitoring and oversight, as well as concerted efforts and joint partnerships with businesses and governments. Finally, individual companies can choose compliance as their operational model. While compliance can be an onerous way of resolving corruption conflicts with the governments, more and more owners of companies choose this option as a longer-term development model, as they see how compliance pays-off. Presentations of two such companies – Oriflame Ukraine and Agrofusion – instilled participants with inspiration and confidence that clean business conduct leads to profitable long-term investment.

Finally, participants were also able to practically apply the topics discussed through group work focused on hypothetical case studies. The group work sessions facilitated an interactive discussion among the participants about potential reforms, and could be incorporated in future seminars to allow for a more practical and participatory event.
Next steps

Following this regional event, which launched the OECD/EBRD joint project on business integrity, the implementation of the joint project will start with organisation of several sub-regional seminars that might be followed by targeted country or sub-regional technical assistance, based on requests from the local counterparts. Sub-regions for which seminars may be organised are the Balkans, Central Europe, Eastern Europe, Caucasus and Central Asia. Regarding the themes for these follow-up sub-regional seminars, participants have suggested to focus on the following main issues:

1. Business integrity and compliance programmes for SOEs and MOEs (municipally owned enterprises).

2. Compliance training for the private sector, that can be organised in cooperation with ICC, local chambers, in cooperation with leading MNEs in the countries and involving local companies and suppliers.

3. Business ombudsman and other reporting mechanisms.

In addition to the above issues, several other questions were raised for future discussion, including the following: how to ensure compliance leadership; what role can corruption prevention agencies in promoting business integrity, e.g. conflict of interest in business relations at the local level, preventing revolving doors, promoting whistleblowing. It is envisaged that the programme and specific issues for discussion for each sub-regional seminars will be developed based on the preferences and specific needs of the stakeholders in the relevant sub-region and in consultation with the relevant local counterparts in the course of preparation of the seminars by the OECD/ACN and EBRD. UNDP will continue to engage both in Ukraine and regionally with the OECD/CAN and the EBRD, notably on topics on business integrity and more generally on anti-corruption activities, implementation of international obligations, corruption prevention, accountability, transparency and integrity at central and local level.

It was also agreed that the ACN Secretariat will maintain a contact list on business integrity that will be used for informing participants of this seminar and other relevant contacts about upcoming events, publications and other relevant news. The ACN Secretariat would also mail photos and presentations from the meeting to all participants.
National Roundtable: Business Integrity in Ukraine

Highlights from the Roundtable

The interest in the Business Integrity Round Table in Ukraine was rather strong, and the organisers had to limit the number of participants to fit the meeting room and to allow for a manageable discussion. The meeting brought together 30 participants, with only 2 representatives from the government and the rest from the private sector and international organisations. The list of participants is available on request. The discussion in the Ukrainian Round Table focused on two main issues: (1) role of the authorities and (2) role of the private sector in improving business integrity in the country.

Despite the efforts of co-organisers to invite several key state institutions to the round table, only the National Agency for Prevention of Corruption (NAPC) took part in the round table and presented their joint work with UNDP on developing model compliance programs for Ukrainian companies. These compliance programs are mandatory under the National Anti-Corruption Strategy for Ukraine for SOEs and for the private sector companies that take part in the public procurement. The model compliance programs are currently developed using example of successful compliance programs of several Ukrainian companies and with advice of few consultants. When the draft is finalised, the NAPC will organise broader consultations with the business community. Once final, the model plan will need to be registered by the Ministry of Justice. The NAPC explained that the model program will be a simple guidance, and that companies with already existing and working compliance programmes will not need to re-do them to comply with the model program. The representatives of the NAPC also assured the participants that failure to comply with the model program will not be used as another tool to punish companies and to extort bribes from them. Participants agreed that this initiative may become useful, and agreed to take part in the consultations about the final draft.

The participants noted that there are several issues related to the role of the government in promoting business integrity that goes much beyond compliance programmes. Preventing grand corruption through SOEs should be ensured through establishing clear relations between the state and management of SOEs along the OECD Guidelines on Corporate Governance of SOEs. Many examples of extortion of bribery by tax administration that were mentioned during the discussion require serious and urgent attention of the government. Illegal actions of the law-enforcement authorities against companies are equally serious and damaging for the development of entrepreneurship in Ukraine. These, and some other business integrity risks, need to be discussed with the government in order to establish clear objectives and benchmarks to push for reforms. The 4th round of monitoring of Ukraine under the OECD/ACN Istanbul Anti-Corruption Action Plan will provide one opportunity to address these issues.

Regarding the role of the private sector in promoting business integrity, two main views were expressed at the round table. First, companies will only do compliance if it is a financially sound investment. Second, there are already companies in Ukraine that decided to be compliant responding to specific emerging signals. The main group of complaint companies involves Ukrainian representations of multi-national enterprises who are obliged to implement compliance programmes by their headquarters. At the same time, there are also domestic companies that are choosing compliance: exporting companies that work in European markets; companies that work with the EBRD, IFC and other IFIs; some companies such as law-firms or real estate companies decided that compliance provides a more secure development path, even if it may prevent fast growth. These compliant companies are still a minority, and they are suffering from disadvantageous competition with corrupt companies. The discussion focused on how to help compliance champions, what incentives they can be provided by the government, and how to make compliance popular.
The Business Ombudsman made a proposal that addressed several of the above-described issues. The proposal includes the following main points:

- Creation of a National Business Integrity Network for Ukraine (Network) as a business initiative open for companies and business associations, with government primarily as an observer;

- The members of the Network will include companies that would commit to compliance by adhering to a Business Integrity Declaration;

- Business Ombudsman together with international organisations present in Ukraine will act as a facilitator to this Network; the Network will be supported by a light governing structure that will be operating on a voluntary pro bono basis;

- Business associations will be able to nominate their members to the Network and take part in the running of the Network;

- The Network will create a list of compliance champions in Ukraine, and may consider a special certification or awards for its members;

- The members of the Network may consider lobbying for certain recognition and incentives from the state; e.g. fast track in customs or other inspections, lighter review of their integrity background in the context of bids for public procurement, etc.

ACC and EBA in their presentations that followed described the activities that they are already supporting to promote business integrity, and confirmed that their members would indeed benefit from a broader recognition and promotion through the proposed compliance champions’ list.

Participants supported the proposal of the Business Ombudsman and agreed to take an active part in its further discussion and implementation. The Business Ombudsman has outlined the next steps, including consultations with the members of the Business Ombudsman Supervisory Board and broader consultations with the business community.

The OECD and the EBRD warmly welcomed this initiative and expressed their willingness to consider supporting its implementation.