

Programmatic Cooperation Framework for
Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus



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by the Council of Europe

Anti-Corruption Directorate
with the Prosecutor General
of the Republic of Azerbaijan

INVESTIGATION AND PROSECUTION OF LEGAL ENTITIES AND ASSET RECOVERY

19-20 November 2015, Baku

Anti-Corruption Directorate with the Prosecutor General of the Republic of Azerbaijan
10A Sattar Bahlulzade str., AZ1108

19 November 2015

9:30 – 10:00 Introductory remarks

Orkhan Isayev, Head of Organisational and Informational Department of the
Anti-Corruption Directorate with the Prosecutor General of the Republic of
Azerbaijan
Edmond Dunga, Project Advisor, Council of Europe

10:00 – 11:30 Criminal liability of legal entities:

- Theory of corporate liability: basis for corporate liability, whose actions, whose intent, strict liability;
- Most common types of legal entities involved in corruption/money laundering/economic crime;
- Most common methods of criminal activity (e.g. direct/indirect bribery through country subsidiaries, money laundering schemes, trading with insider information);
- Most common ways of evasion of administrative and criminal liability (how do companies hide what they are doing: e.g. use of anonymity vehicles such as nominees or bearer shares; using off shore locations and tax havens, etc.).

Speakers:

- Martin Polaine, Council of Europe Expert
- Nimisha Agarwal, Council of Europe Expert

11:30 – 11:45 Coffee break

11:45 - 12:45 Criminal liability of legal entities in Azerbaijan

12:45 – 13:45 Lunch

13:45 – 15:30 Strategies and tools for investigating corporate criminal activity – good practices

- How to start a case (sources of initial intelligence/information; proactive v. reactive investigations);
- Difference/similarities between investigating individuals v. corporations
- Sources of information and evidence during investigation;
- Covert v. overt part of the investigation (what activity should be taken and when);
- Use of financial investigators/analysts;
- Companies located;
- Cross border component (use of international cooperation)
- Connection between the investigation against individuals (both where individual is a member of staff and where he/she is external, for instance, an agent or intermediary) and against a legal entity;
- Intel/evidence 'interface' and use of special investigative means in the context of corporate crime;
- Challenges/potential difficulties of internal investigations and of disciplinary proceedings against staff where criminal investigation follows/is likely to follow;
- Confidential/privileged relationships (for instance, position re company's in-house/external lawyers).

Speakers:

- Martin Polaine, Council of Europe Expert
- Nimisha Agarwal, Council of Europe Expert

15:30-15:45 Coffee break

15:45 – 17:15 Criminal prosecution of legal entities-challenges and good practices (e.g. Possibility of continuing of criminal prosecution against legal entity in case of dropping charges against individual)

Speakers:

- Martin Polaine, Council of Europe Expert
- Nimisha Agarwal, Council of Europe Expert

20 November 2015

9:30 – 11:00 Asset tracing and recovery:

- When to start looking;
- Where to look;
- Connection between tracing evidence of criminal conduct and tracing of assets (i.e. one investigation);
- When to seize;
- What to seize;
- International cooperation;
- Proving criminal origin of assets;
- Extended and substitute forfeiture;
- MLA requests re; restraint and confiscation where differences (property-based/value-based) between the states involved.

Speakers:

- Martin Polaine, Council of Europe Expert

11:00 – 11:15 Coffee break

11:15 – 12:15 Civil forfeiture (how it works, advantages and disadvantages v. criminal forfeiture, inter-relationship with civil [in personam] proceedings)

Speakers:

- Martin Polaine, Council of Europe Expert

12:15 – 12:45 Introduction to group work on a hypothetical case study

12:45 – 14:00 Lunch

14:00 – 16:00 Group work

16:00 – 16:15 Coffee break

16:15 - 17:15 Discussion of group work results

17:15 Concluding remarks