

**TRANSPARENCY, EFFICIENCY AND
GOOD GOVERNANCE**

**VERSUS
CORRUPTION, OPACITY AND
ANARCHY**

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Basic Definitions

Corruption - abuse of entrusted power for private gain.

- Clientelism/Patronage
- Nepotism
- Negative impacts and consequences of corruption
- The cost of corruption is four-fold: political, economic, social, and environmental.

International Standards

- OECD Recommendations
 - Council of Europe
 - World Bank
 - European Union
 - Transparency International
-
- Triangla of Cooperation:
 - Government – Business - Civil Society

Measurement tools and indicators

- Corruption perception index (CPI)
- Bribe payers Index (BPI)
- Global Barometer
- Corruption Climate – CEE (GfK)
- BEEPS
- Governance index – World Bank

Corruption Perception Index

The Transparency International Corruption Perceptions Index ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. It is a composite index, a poll of polls, drawing on corruption-related data from expert and business surveys carried out by a variety of independent and reputable institutions. The CPI reflects views from around the world, including those of experts who are living in the countries evaluated.

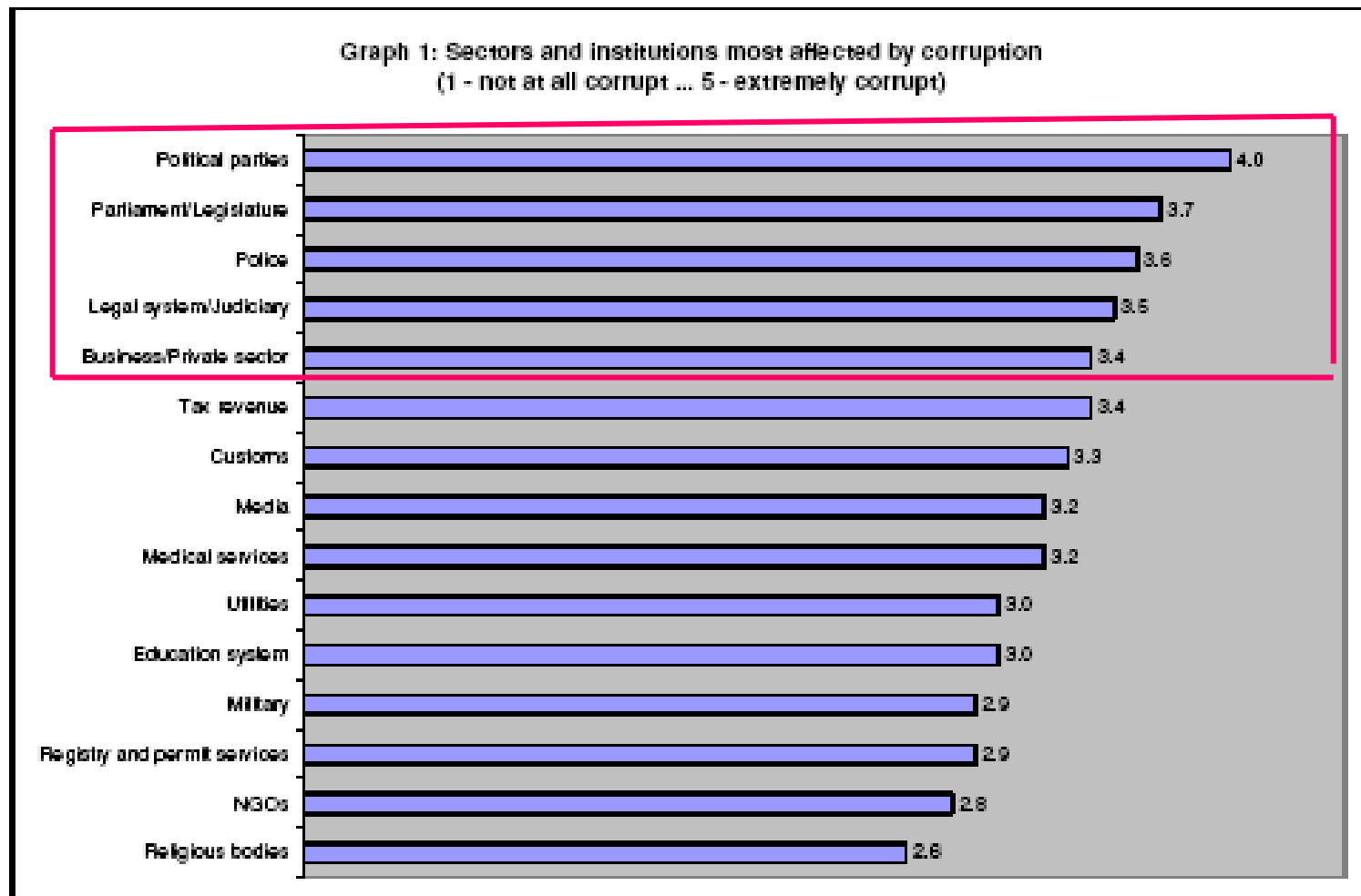
Countries at the top of CPI

Country rank EU(world)	Country	2009 CPI Score	Confidence Range	Surveys used
1(1)	New Zealand	9.4		6
2(3)	Denmark	9.4		6
3(6)	Singapur	9.4		6
4(10)	Sweden	9.3		9
5(11)	Switzerland	9.3		6

Source: TI

What are the most infected areas?

Graph 1: Sectors and institutions most affected by corruption



Source: Transparency International Global Corruption Barometer 2005

Governance Index – World Bank

- Voice and accountability
- Political instability and violence
- Government effectiveness
- Regulatory burden
- Rule of law
- Control of corruption

Principles of Integrity

- **"Transparency"** can be defined as a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes. It is the duty of civil servants, managers and trustees to act visibly, predictably and understandably.

Accountability

Non-discrimination – Fairness

E-government – electronization of agendas

Investigation – Punishment

Trust of Public

Quality of Institutions

Cooperation

Players in anti-corruption efforts

- **Government**
- **Business**
- **Public Administration**
- **Judiciary**
- **Media**
- **Civil Society**
- **General Public**

Obstacles, changing environment

Business to business Corruption

Business Ethics

Organized Crime – Mafia

Distrust of Public

Economic Crisis

International Institutions

OECD: Financial Action Task Force (FATF)

an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering

World Bank

Anti-Corruption Knowledge Resource Center

Council of Europe:

The Fight Against Corruption and Organised Crime

Europol

the European Law Enforcement Organisation to improve the effectiveness and co-operation of the EU Member States in preventing and combating terrorism, unlawful drug trafficking and other forms of serious international organised crime
(all EU languages & Russian)

Eurosai: European Organisation of Supreme Audit Institutions

Financialtaskforce.org/

The Task Force on Financial Integrity and Economic Development is a unique global coalition of civil society organizations and more than 50 governments working together to address inequalities in the financial system that penalize billions of people.

openDemocracy.net

Weblogs, forums and articles designed to open up and support participation in debate covering the key political questions of today.

Anti-Corruption Agency

3 potential models:

- **Investigation body – focus on**
- **Policy oriented + Oversight of specific agendas (access to information, asset declaration, party financing,)**
- **Mix of both – investigation + oversight**

Anti-Corruption Agency

Cases of Poland, Latvia, Lithuania, Serbia

Specialized Courts - Spain, Slovakia, ..

Specialized Investigative Units

International cooperation and mutual legal aid

What do we want to influence?

To Reduce clientelism, patronage and corruption in society:

- Increase transparency and accountability of public administration
- Increase control over expenditure of public funds
- Increase efficiency of public administration
- Initiate and uphold a value oriented discussion in business, government and society
- Increase the interest of the public in public affairs
- Increase trust in democracy and its institutes

Methods of work

- Emphasize “solution providing” mission rather than a “awareness raising”(no campaigns)
- Concentration on public policy reform, advocacy (system changes)
- Research
- Coherent statements based on solid expertise
- Intensive work with media
- Individual cases – legal aid
- No-partisan methods – diplomatic negotiations

Current situation

- Weak and non-transparent governance at all levels of state administration
- Lack of personal and political accountability
- Greed, envy and fraud criminal intentions combined with lack of education
- High tolerance to corruption
- The consequence = declining trust in institutions and democracy

Main areas of interest

- Transparency in public finance
 - Public procurement
 - Public budgets – state and local level
 - Distribution of structural funds
- Political corruption
 - Political party financing (intra-party democracy)
 - Legislative process and lobbying
 - Investigation of corruption of elected officials
 - Political influence into state administration

Some findings...

Government budgeting transparency:

- Deficient fiscal structure and no-compliance with the Act on Budgetary Rules
- High mandatory expenses
- Non-compliance with binding expense frameworks a statutory periods for drafting of the GB
- Rules for creation budget
- Insufficient tools to measure the effectiveness of public expenditures
- Structure of the budget does not correspond with the need of modern public funds management
- The existence of government funds is hard to justify
- Complex and user unfriendly budget documentation

Some findings...

Political corruption

- Non-democratic intra-party rules
- Cartelization of parties enforced by Act on PP financing
- Uncontrolled lobbying and legislative process
- Insufficient parliamentary oversight over the executive power and transparent policy making
- Politicisation of state administration – incapable and corrupt (Public Service Act – is still not in place)
- Political influence on investigation
- Inefficient investigation often ends up with „lack of evidence“

Political Corruption - Priorities

6 topics:

Insufficient intra-party democracy

Illegal (hidden) party financing

Conflict of Interests – politics, public administration

Nontransparent legislative process (unregulated lobbying)

Politization of public administration

(Non)investigation of white-collar financial crime and corruption

Public finance – topics

- **Public procurement and PPP projects**
- **Municipal (and regional) property disposition**
- **National subsidies**
- **EU Funds (Struktural funds)**
- **Public budgets (including local)**
- **State-owned companies**

What is...compliance?

- ▶ What exactly is...compliance?

ML1

“Compliance is about acting in accordance with the rules that govern the way we behave. These rules can be externally imposed through laws and regulations or internally defined through policies, procedures and controls”

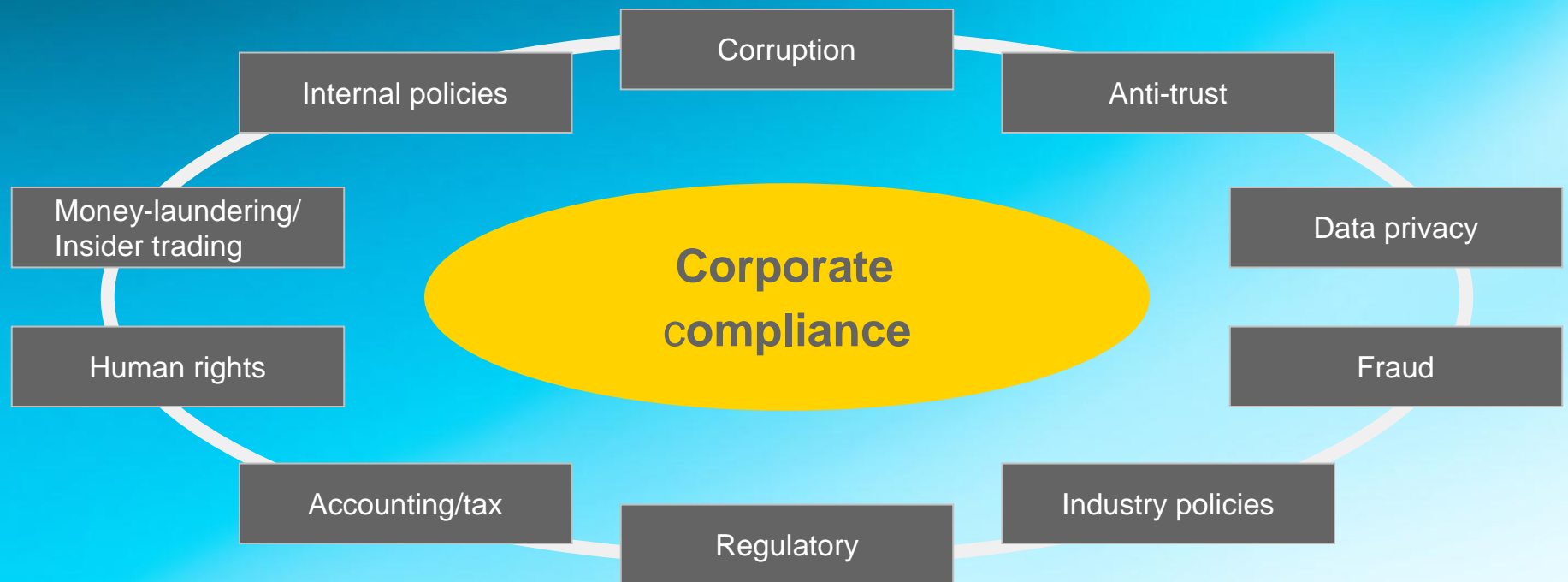
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ML1

Seems like a quote - where does it come from?

Markus Lohmeier; 08/03/2011

Corporate compliance risk universe (excerpt)



Leading practices: compliance management

Compliance culture, compliance goal set, compliance organization		
Prevent	Detect	Act
Rules and regulation	Compliance risk analysis	Disciplinary sanctions
Compliance training	Whistleblowing	Case management
Advisory	Integrity surveys	Remediation
Incentive	Compliance detection audits	
Communication		
Compliance system audits		

Definition – Access to Information

The exercise of right to information enables citizens to keep their governments and public bodies accountable.

Access to information is essential for citizen empowerment.

This can limit, uncover corrupt practices that benefit from opaque practices or obscure regime.

It has developed over time into the most important anti-corruption tool we have

Changes in Paradigm

- In Europe before (20 years ago) information produced by the state was secret, now it is owned by the public
- FoI laws all over the region mushrooming – basically everywhere
- Changes in paradigm – decision-makers want to open files and transparent – they compete among themselves
- Public is more demanding than before
- Lot of trouble-makers requesting unnecessary information - misuse this right

Problematic Enforcement

- Transparency x efficiency - long debate
 - Consequence – overload of information, no chance to understand it right, cope with that--- „we put all on web, you can´t blame us anymore strategy“
- Almost NO enforcement of right to access information
 - It takes years to get court decision to have right to info, no longer relevant for info-seeker. Even after ruling, it is not sure you get information
- Usual excuses NOT to provide information: business secrecy, protection of personal data, security, technical difficulties

More obstacles to freedom of information

- Reality: 90% of information is easily available, 10% sensitive ones – political, economic, strategic remain problematic to obtain
- Weak and non-transparent governance at all levels of state administration – lack of leadership and vision
- Paradox of today – software available, but govt. usually provide no user friendly databases and sites – intentional??
- Lack of easily accessible web-site tool (contracts, national subsidies, EU funds)

Conflict of Interests

**Grey Area of Public-
Private Interface**

Conflict of Interests

- What is conflict of Interests – Definition vs. Practice
- We can define a **conflict of interest** as a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as, say, a public official, an employee, or a professional.,,
- It is crucial to see that a COI is a situation, not an accusation. Being in a COI is not the same as being corrupt, and pointing out that someone is in a COI is not the same as accusing them of bias or lack of integrity.

Principles of Col regulations

- Unregulated conflict of interests increases risks of corrupt practice of public officials
- Different tools to regulate conflict of interests
- - 1) Recognize it;
 - 2) Disclose it;
 - 3) Remove yourself from the decision-making, and ideally from the entire discussion.

Conflict of Interests

Asset declaration

- Important is initial situation
- Declaration of income (public and private)
- Declaration of Business Activities (companies, foundations)
- Declaration of commitments (loans, mortgages,

Key Tools of Col regulations

- Broad range of public officials but well-defined
- Well-defined set of duties of public officials
- Precise limitations, incompatibilities
- Register of interests: unified, updated and understandable database
- Register of interests must be public and user-friendly
- Post-function period
- Easy review and oversight mechanism
- Separate independent body to enforce regulation
- Sanctions

Oversight

- **Oversight Body – Commission**
- **Composition is critical – mix of judiciary, public sector, watchdog NGO, academic is ideal**
- **To make information public**
- **To ensure due process**
- **To control**

Differences between public procurement and standard shopping

- Manager of public procurement is not the final consumer
- Number of people participating in taking decision
- Volume of trade
- Formalized process of decision making (legal norms)
- Public eye

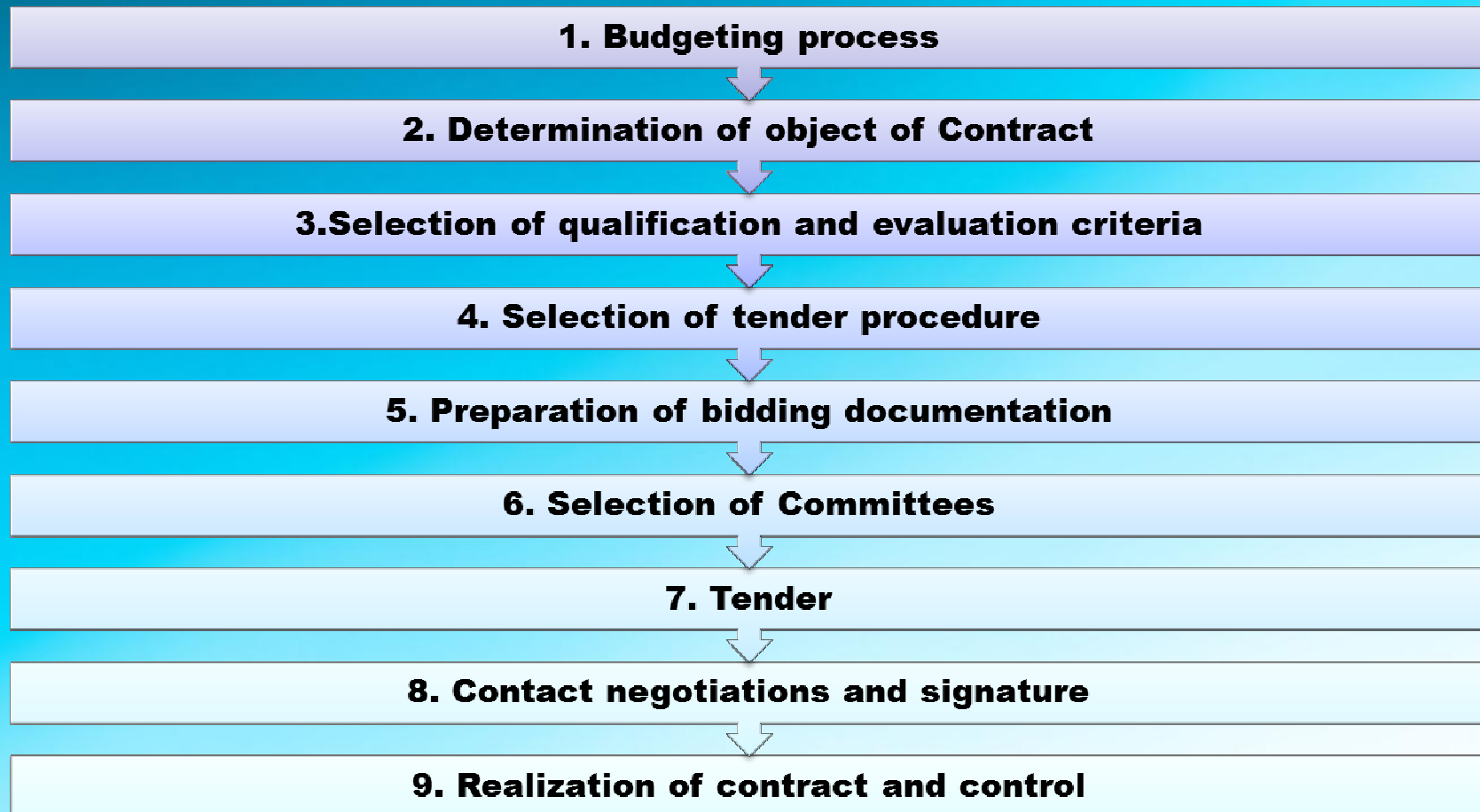
Public Procurement

Public procurement is primarily economic process
(what government buys and at what conditions)

Highly and detailly regulated by legal norms and
Institutions (EC Directives, international best
practices)

Important to remember for public procurement
amendment and reform of procurement infrastructure

Public Procurement Process and Corruption RISKS



The Economical Logic of Public Procurement

- The general aim is increasing economic effectiveness (to use public funds smartly)
- It works when price of external supply (service) is lower than internal (in house) production with the same quality
 - To decide you need to know the price of an in-house production (problem of accounting of public sector which usually only follows expenditures)
- EU regulation – focus on competitiveness and efficiency

Principles of public procurement REFORM

Public procurement should be managed by 5 principles:

- Purposefulness
- Effectiveness
- Economy
- Transparency
- Accountability

What are the Business Principles for Countering Bribery?

- Anti-bribery framework for business promoting:
 - Good business practices
 - Risk management
- Apply to companies of all sizes

Scope

- Bribery, not wider forms of corruption
- Bribery wherever it happens including private-to-private
- International and domestic

Specific forms of bribery

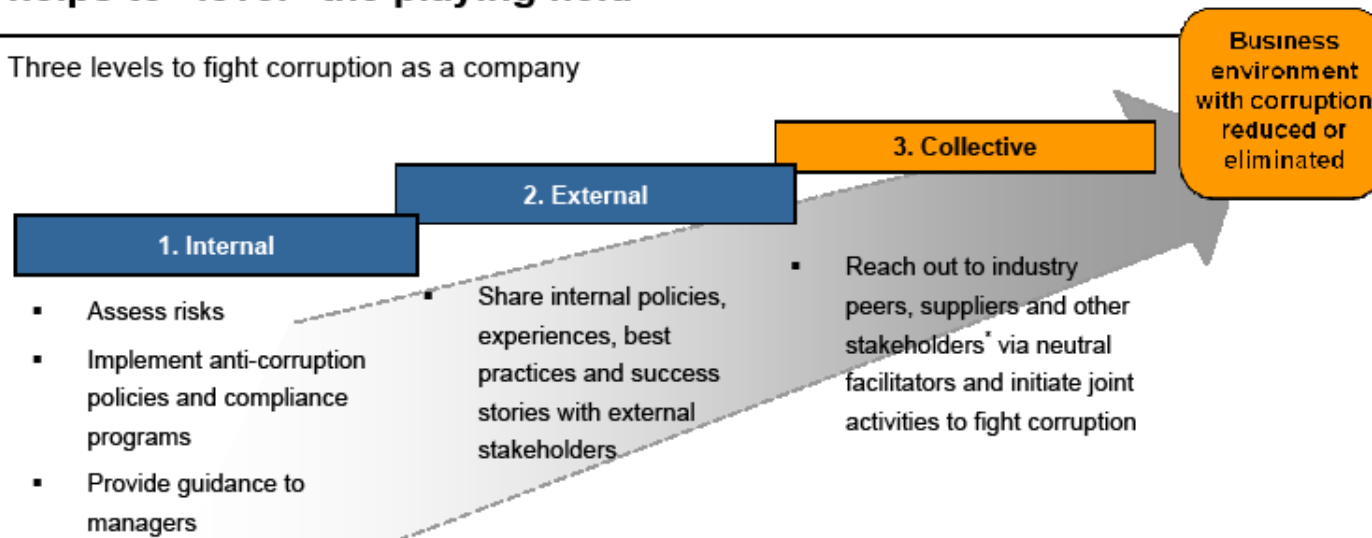
- Political contributions: not to gain contracts; fully disclosed
- Philanthropic contributions: not used for bribery; fully disclosed
- Facilitation payments: they are bribes; work to eliminate
- Gifts, hospitality and expenses: clear guidelines for giving and receiving

Programme implementation

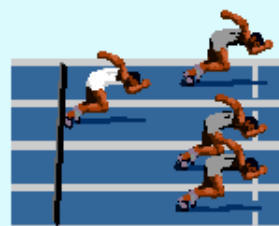
- Organisation and responsibilities
- Human resources
- Training
- Raising concerns and seeking guidance
- Communication
- Internal controls and audit
- Monitoring and review

Collective Action is an advanced step of fighting corruption and helps to “level” the playing field

Three levels to fight corruption as a company



Even companies that have implemented internal measures to fight corruption may fear competitive disadvantages or lack the leverage to change the business environment through their individual action...



Collective Action helps to “level the playing field” and creates a business environment with reduced risk of corruption



* E.g. NGOs, business associations

An example of collective action:
Sector agreement Water Pipes producers, Colombia -
Argentina

The problem:

Corrupt practices in business relations in companies in the sector, with emphasis in their sales to the public sector

The facts:

- 30% Colombians have no access to clean water – country classified as 7th in water sources availability (UN)
- 79% of urban municipalities have no drinkable water

1) Overview of the purpose and benefits

- A mechanism by which an allegation or suspicion of potential wrongdoing or misconduct can be communicated;
- A tool to aid transparency, corporate governance and to encourage proper behaviour;
- Give stakeholders, both internal and potentially external, an opportunity to voice concerns;
- Provide additional opportunities to uncover wrong doing, not limited to external/internal audit.

Examples of whistleblowers protection legislations

Australia: Public Interest Disclosure Act, 1994

Aimed at public sector employees

• **China: Article 41 of the Chinese Constitution**

• Whistleblower protection as a constitutional right for all citizens. It empowers all citizens to report misconduct and forbids retaliation.

• **European Union: Whistleblowers' Charter, 1999**

The Charter establishes the Anti-Fraud Office in the European Commission (EU). It also creates procedures that require EU employees to report misconduct and guarantees due process and protection of the whistleblower if they report misconduct internally. Employees must exercise all internal avenues for reporting misconduct before they can blow the whistle externally and qualify for protection.

• **United Kingdom: Public Interest Disclosure Act, 1998**

• The Act protects employees in all sectors from dismissal and other forms of retaliation. In a case where a whistleblower receives notice of termination, the burden of proof falls on the employer to show that the dismissal was unrelated to whistleblowing.

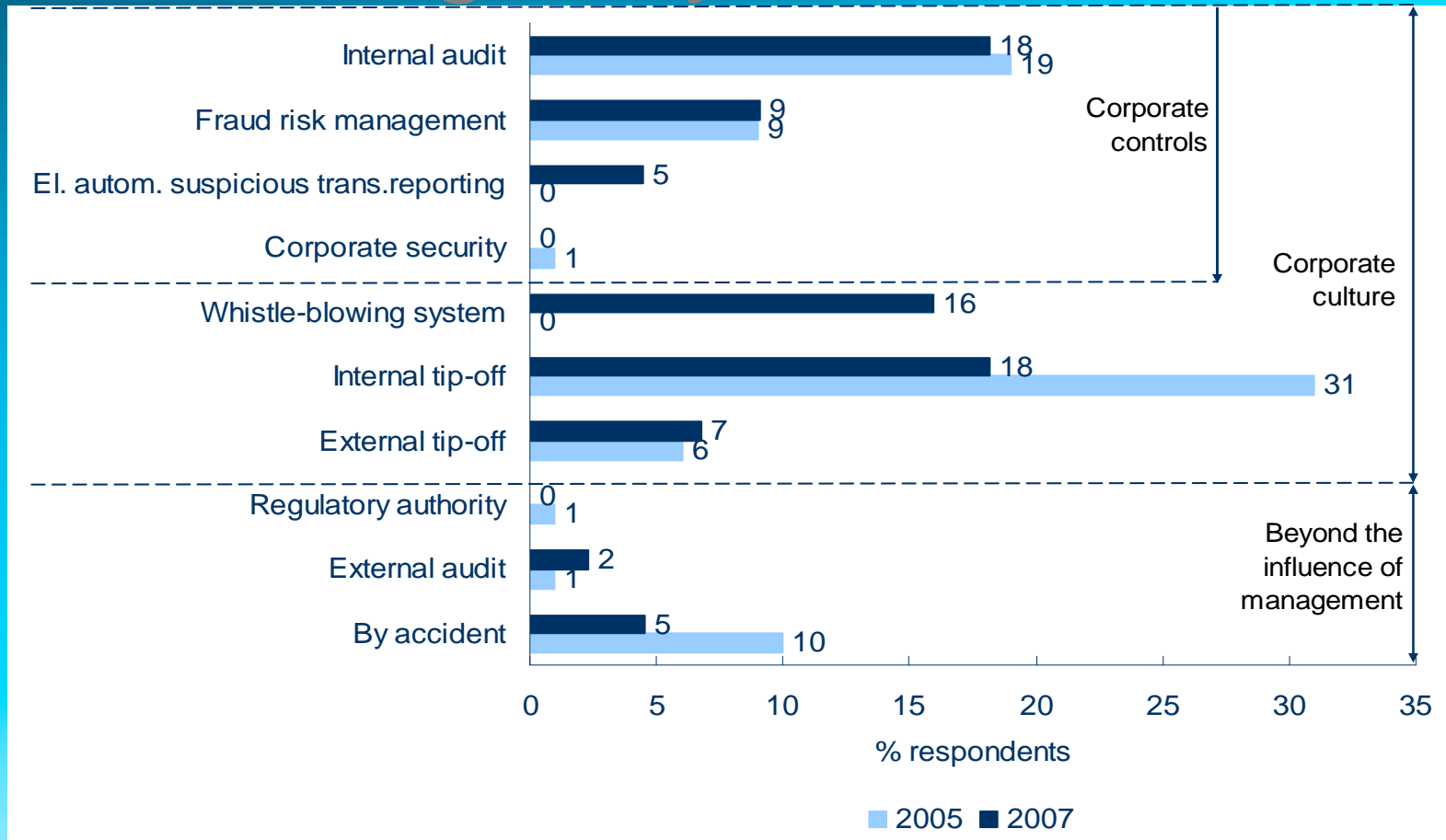
• **United States of America: Whistleblower Protection Act, 1998**

Public sector employees receive protection from retaliation when disclosing information. The Patriot Act of 2001 infringes on some of these protections in cases of national security.

• **United States of America: Sarbanes-Oxley Act, 2002**

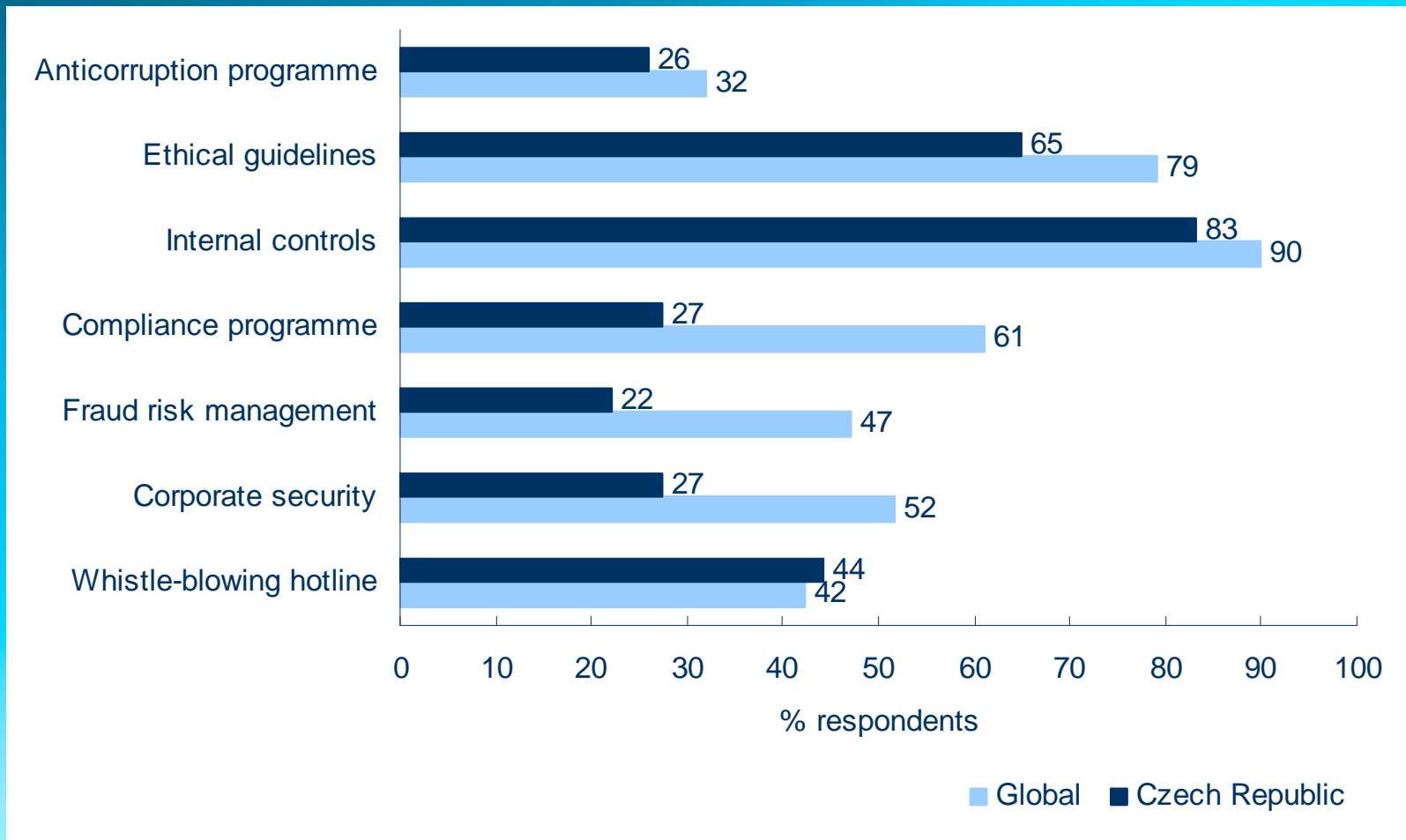
Section 301 ("Public Company Audit Committees") of Title III of the Sarbanes-Oxley Act of 2002 expands the area, including establishing the following whistleblowers in the private sector. establishing procedures for (a) the receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls or auditing matters, and (b) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

7) Means by which fraud was originally detected



Source: PwC Global Economy Crime Survey

8) Selected control measures



Source: PwC Global Economy Crime Survey