Rationale and outline of a Corruption Risk Assessment methodology

Paper for comment and decision

Issues:	Preventing corruption effectively and proportionately requires an understanding of the risks a country, sector or institution may face. The foundation for implementing effective preventive measures is therefore the assessment of corruption risks which would enable identification and prioritization of appropriate risk mitigation measures. There is a clear need for governments to shift from a purely rule-based approach to a risk-based approach in applying anti-corruption measures. However a comprehensive methodology on assessing corruption risks hasn't been developed to date. This paper aims to provide insight into existing corruption risk assessment tools and proposes a methodological outline based on experience of the Council of Europe in this field.
Action:	Members of the Network should consider different approaches to conducting corruption risk assessment (CRA) exercises and agree on a set of elements for drawing up a common CRA methodology which may be used by states.
Timing:	Discussions will take place during the 4th meeting of the Network on 17-18 October 2019. Delegations will then be asked to provide their input on the outline of the Methodology. The timing of future work will need to be considered alongside other work priorities.

1. BACKGROUND

1.1. A risk-based approach in the prevention of corruption

1. A risk-based approach in the fight and prevention of corruption means that countries, state authorities, as well as the private sector should have an understanding of the relevant risks to which they are exposed and apply measures in a manner and to an extent which would ensure their mitigation. It therefore consists of the identification, assessment and understanding of risks, as well as the consequent application of appropriate measures.

2. The need to shift to a risk-based approach from a compliance-based one was first recognised in the area of anti-money laundering and combating the financing of terrorism. The Financial Action Task Force (FATF) identified the risk-based approach in its revised 2012 Recommendations as a central element for the effective implementation of all other legislative and institutional measures taken by governments. The FATF thus regards a risk-based approach as not optional, but a prerequisite for effective application of anti-money laundering measures overall. The FATF subsequently issued a number of guidance papers on this topic in order to assist countries to implement the requirements of their Recommendations, but also to help them develop their own guidance for the private sector.

3. Risk management practices enables public and/or private sector authorities to identify areas that need further attention and to focus their efforts and resources where they are most needed and will have most impact. As a result required resources can be more accurately estimated and rely less on approximations. In

the anti-corruption field adopting such an approach would make the development and implementation of preventative measures more accurate, realistic and cost-effective, while reducing the burden on actors that are involved in the fight against corruption.

1.2. Corruption Risk Assessment

4. According to ISO 31000 Risk Management Guidelines a risk assessment is one of the components of a risk management process. The Guidelines provide detailed definitions for the three main stages of risk assessment, which comprise risk identification, risk analysis and risk evaluation; they further provide insight into how risks can be identified and analysed in terms of likelihood and consequences and finally, how they can be evaluated to determine whether additional action is required. Accordingly, a corruption risk assessment (hereinafter CRA) involves first describing how a given governance mechanism functions through a detailed mapping of its individual components. Each component is then studied to identify their shortcomings, which may open the door to corruption. Identified risks are then evaluated for probability of occurrence and the expected impact, so that appropriate mitigation measures can be identified and implemented.

5. CRA differs from many other corruption assessment tools in that it focuses on the potential for - rather than the perception, existence or extent of - corruption. A CRA thus tends to involve the evaluation of the likelihood of corruption occurring and/or the impact it would have if it occurs.

6. The purpose of a CRA is usually to supplement evidence of actual or perceived corruption in a given context in order to optimise anti-corruption strategies and policies or for advocacy purposes. It also requires the collection of quality and up-to-date data, which can serve as a baseline for anti-corruption bodies to track changes over time.[1]

7. Despite its many benefits, CRA often proves to be a difficult exercise requiring significant financial resources, specialised expertise and an incentive for inter-institutional dialogue providing the necessary environment for the discussion of often sensitive subjects. To overcome these challenges, clear criteria for the evaluation of the risk, clear thresholds for assessing the severity of the risk, availability of relevant and up-to-date data as well as the competence of the assessors should be ensured.

8. A CRA can be applied to overarching national strategies and policies, sectorial programmes as well as in individual –public and private sector- institutions or units, even though there are certain differences between CRAs in public and private sectors.

9. CRAs have a longer tradition in private than in public sector. Many companies rely on CRA exercises to develop effective compliance programmes as under certain national laws (e.g. the US Foreign Corrupt Practices Act) a robust programme could allow the company to avoid prosecution or to alleviate the penalty for a corruption offence. On the other hand there is a lack of incentive to conduct CRAs in the public sector. Nevertheless, CRA in public sector may have significant benefits such as increased level of public trust or, from the perspective of high level public officials, avoiding the consequences of corruption or integrity incidents in which the officials themselves are not personally involved.

10. The methods and expertise relevant to the CRA process are also similar in private and public sectors, especially in view of technical aspects. The differences usually arise during the risk mitigation stage as applicable measures vary due to the different nature or manifestation of risks in these two sectors. Cost/benefit analysis is also another area of divergence given that public authorities have a duty to uphold social order whereas profitability and the prosperity of shareholders are at center stage in the private sector.

2. THE NEED FOR A STANDARDISED CRA METHODOLOGY

2.1. Rationale

11. Despite the importance and benefits of a risk-based approach and in particular CRA in the prevention of corruption, no guidelines to date has been prepared setting out clear and comprehensive methods to be

[1] Transparency International, *Corruption Risk Assessment Topic Guide' in Gateway Corruption Assessment Toolbox*. Available at: http://gateway.transparency.org/files/uploads/Corruption_Risk_Assessment_Topic_Guide.pdf, last accessed on 11.09.2019.

used when conducting a CRA. Despite mentioning corruption risk assessment as a prerequisite for the effective fight against corruption, the Compliance and Technical Guide to UNCAC does not establish any methodology. Consequently, assessments tend to be carried out as one off exercises each with their own methodological framework which causes them to vary widely in terminology and execution. In this context it is pertinent to develop a solid methodology which can be applied to CRAs in different contexts but also providing a level of flexibility that can be adapted to the specifics of each exercise. Such a Methodology would require a standardized terminology and methodological choices to create unified practices among not only actors within a country but also different national anti-corruption authorities.

2.2. Existing CRA tools

12. Even though a thorough methodology for conducting CRAs hasn't been developed yet, a number of international and national bodies have embarked upon initiatives to try to streamline assessment exercises and consequently developed a number of tools to facilitate the process. These tools vary in content and extent: some provide general guidelines on risk management which can also be applied to CRAs (e.g. ISO 31000:2009 standard); some were developed specifically for the private sector (e.g. (UN Global Compact Guide for Anti-Corruption Risk Assessment) and those that deal with CRAs in both public and private sectors mostly include basic or 'universal' steps that should be taken in this process.

A list containing some of the existing CRA tools are as follows:

- Transparency International: CRA, Topic Guide
- Council of Europe: Project against Corruption in Albania (PACA), Technical Paper, CRA Methodology Guide
- NSW Government: Risk Management Toolkit for the NSW Public Sector (Volume 1, 2 and Executive Guide)
- Independent Commission Against Corruption, New South Wales, Australia: Corruption Risk Management and related contents
- Blais, D.; Schenkelaars, F.: Institutional Risk Assessment - Best Practices Compendium (An-ti-corruption – Integrity Auditing)
- United Nations Global Compact: A guide for anti-CRA
- OECD, UNODC and World Bank: Anti-Corruption Ethics and Compliance Handbook for Business
- UNDOC: Anti-corruption Ethics and Compliance Programme for Business: a Practical Guide
- UNDP: Fighting corruption in water sector
- Transparency International: Global corruption report
- Controlrisks: Assessing Corruption Risks
- Pwc – A Practical Guide to Risk Assessment

13. All these guidelines as well as past CRA experiences should be considered as valuable contributions when developing a standardised methodology.

2.3. Different approaches to CRAs

14. As mentioned above, none of the aforementioned tools attempt to implement a universal approach and thus CRA exercises vary widely and they might adopt one or more of the following approaches:

1) Corruption risks are associated with the set of identified vulnerabilities that enable corrupt practices within a system or process;
2) Identified vulnerabilities are combined with data on perceptions and/or experience of corruption as an indicator for corruption risks;
3) Risk is defined as a factor of the likelihood of corruption multiplied by the impact of corruption;
4) Objective risks (e.g. weaknesses of institutions and regulations) are differentiated from subjective risks (e.g. tolerance to corruption, personal motivations, balancing of costs/benefits, past experiences etc.);
5) Corruption risk is defined as a factor of the level of transparency and level of fairness in a process;
6) Corruption risk is defined as the difference between actual and ideal systems.

15. A combination of the second and third approaches provides the most objective and comprehensive criteria for both identifying corruption risk factors and measuring their severity. However, when designing a methodology it should also be noted that the variety of causes and nature of corrupt practices necessitate a certain level of adaptability to the specific environment where the assessment takes place, i.e. country, sector, institution, project, process.

3. PROPOSED FRAMEWORK FOR A CRA METHODOLOGY

3.1. Key definitions

16. The terminology used in this proposal is mainly based on the terms and concepts defined in the ISO 31000:2009 "Risk management – principles and guidelines", ISO 31010:2009 "Risk management - risk assessment techniques" as well as the CoE AML/CFT National Risk Assessment Methodology.

The following are the key terms and concepts of this methodology:

Threat – is a person or group of people, an object or an activity with the potential to cause damage to, for example, the state (at all levels), society, the economy, the financial system, companies, etc. In the corruption context this includes persons who perform unethical or illegal acts of corruption for personal gain, their facilitators and/or intermediaries, their gains, as well as past, present and future corrupt practices.

Damage event (or damage incident) – is an occurrence or episode in time when a given threat materialises and causes harm (damage) to an object or objects. In the context of this methodology the damage event is the act of the corruption offence (that is the act of bribery, embezzlement, etc).

Vulnerability – those things that can be exploited by the threat or that may support or facilitate its activities. In the CRA context vulnerabilities represent weaknesses in anti-corruption framework, mechanisms and controls or certain features of a country. They may also include the features of a particular sector, institution, a product or type of service that make them attractive for corruption purposes.

Consequence –is the effect of corruption activity on the financial, economic, social and governmental systems, as well as the human rights of individuals, should the damage event materialise. A comprehensive matrix of consequences shall be developed and annexed to a risk assessment methodology.

Likelihood – is broadly defined as "the chance of something happening". For purposes of this methodology, likelihood can be used in different contexts with its main use with regard to the likelihood of occurrence of corruption events (damage events).

Risk – is defined in the broad sense as the "effect of uncertainty on objectives" (ISO definition). In the corruption context, risk corresponds to the combination of the threats and vulnerabilities existing within a system, multiplied by the consequences that may arise when the damage event occurs.

Risk Assessment – is a systematic process of evaluating the potential risks or hazards that may be involved in an activity or undertaking. A CRA is a (diagnostic) exercise which seeks to identify weaknesses within a system which may create an enabling environment for corruption and the potential impacts of acts of corruption.

Risk management **–** is defined in accordance with the ISO 31000 standard as "co-ordinated activities to direct and control an organisation with regard to risk"[2] . According to ISO, the risk management framework includes procedures, practices, assignment of responsibilities, sequence and timing of activities, which serve as tools to control the risks that can affect the organisation's ability to achieve its objectives., Risk assessment is an essential component of the overarching risk management process as it provides information and insight to decision makers about the existing risks within an organisation and how they should be managed.

Risk description – is defined in accordance with the ISO 31000 standard as a "structured statement of risk usually containing four elements: sources, events, causes and consequences".

[2] International Organization for Standardization, *Risk management: Principles and guidelines* (ISO 31000:2009). Available at: https://www.iso.org/obp/ui/#iso:std:iso:31000:ed-1:v1:en, last accessed on 19.09.2019.

Risk treatment – "process to modify risk" According to ISO "risk treatment" can also be substituted with "risk mitigation" and other synonyms. For the purposes of this methodology the term "risk treatment" is used to characterise all actions by authorities to modify the level of identified risks.

3.2. Stages of a CRA

17. According to ISO 31000:2009 risk assessment includes three processes:

Risk identification: a process that involves finding, recognizing and describing the risks that could affect the achievement of national, institutional or organisational objectives. Assessors can use historical data, theoretical analysis, informed opinions, expert advice, and stakeholder input to identify risks.

Risk analysis: a process that is used to understand the nature, causes and level of the identified risks. It is also used to study impacts and consequences of corruption and to examine the efficiency AC controls that currently exist. Possible causes contributing to occurrence of corruption can stem from internal, external, operational and individual vulnerabilities.

As for measuring the severity of the identified risks, CRA needs to take into consideration both the relative frequency of corrupt practices and the scale of their effect in order to determine with a view to determine which risks are likely to have the greatest impact on the desired outcomes. For instance, the health sector in a country may be characterized by a large amount of petty bribery, frequent theft of medicines for sale on the commercial market, and also instances of fraud in major procurements. A rigorous risk assessment must look at both the frequency and magnitude of these incidents in order to assign them different levels of priority.

Risk evaluation: a process that is used to analyse the formerly identified vulnerabilities and the estimated impact of risks with a view to determine whether or not a specified level of risk is acceptable or tolerable. A sample risk evaluation matrix is provided below:

MATRIX OF ASSESSING THE SEVERITY OF CORRUPTION RISKS		IMPACT OF THE RISK					
		Very severe	Severe	Average	Low	Very low	No impact/ negligible
FREQUENCY OF MATERILASTION OF THE RISK	materialized in the past and highly probable in the future	Very high risk	Very high risk	Very high risk	High risk	High risk	Moderate risk
	materialized in the past and still probable in the future	Very high risk	Very high risk	Very high risk	High risk	High risk	Moderate risk
	highly probable in the future	High risk	High risk	High risk	Moderate risk	Moderate risk	Low risk
	still probable in the future	Moderate risk	Moderate risk	Moderate risk	Low risk	Low risk	Low risk

Risk mitigation: a process which aims to adopt measures in order to reduce the potential frequency and/or effect of the identified behaviours. Such measures can include strengthening internal processes, addressing risky conditions in the external environment, or both.

3.3. Data gathering modules

18. The data-gathering process of the CRA is comprised of three main sub-components (modules) and an initial background research phase. The information gathering should involve all actors which take part in the anti-corruption framework and possess the relevant information.

19. *Desk review*: The assessors should gather information from international and domestic sources (public and non-public, if such is accessible) which may be relevant to the risk assessment. The research may relate to threats, vulnerabilities or contain other relevant data on the context in which the risk assessment is taking place.

20. *Analysis of cases:* This module is aimed at analysing statistics and data concerning corruption cases at various stages of case-maturity, including administrative or disciplinary stages, investigation stage, those pending before courts and finally, cases that were finalised with convictions. However, the difficulties of interpreting the phenomena observed must be kept in mind. For example, a low number of convictions might indicate low levels of corruption or poorly functioning law enforcement. Therefore, while the data obtained through case analysis is clearly valuable, its relevance as an indicator of corruption is limited.

21. *Surveys*: Surveys targeting users of public services, the officials that provide them or the general public are widely-used methods of seeking information on corruption. Surveys may focus on:

- Perceptions of corruption, usually meaning people's stated beliefs about the incidence of corruption;
- Experiences of corruption, which consist of statements of persons or entities on their own experiences or the incidents they witnessed or heard of;
- Attitudes towards corruption, meaning statements about what practices people regard as corrupt, and/or how negatively or positively they evaluate certain types of corrupt practices.

22. Surveys vary from mass surveys designed to obtain statistical data (large sample group, simple questions) to smaller targeted user surveys designed to secure qualitative/descriptive evidence (smaller sample group, more detailed questions, focus groups etc). It must be noted that conducting mass surveys at an acceptable quality level can be costly. Unless questionnaire design is highly sophisticated and the interpretation of the results is conducted by competent experts, the benefits gained through mass surveys may be insignificant. Therefore it is recommended that surveys conducted at a reasonable cost should be designed as smaller-scale exercises targeting specific groups of users or providers of public services, with questions posed in a pedagogical manner as they allow the collection of more in-depth information

4. CONCLUSION

23. A shift towards a risk-based approach from a purely rule-based one has been steadily gaining momentum in the fight against economic crimes, with a number of international organisations making the shift to risk-based assessment practices.

24. Indeed, CRA lies at the core of an effective risk management process, providing insight into not only the prevailing corruption risks within a system but also how their impact can be analysed in terms of likelihood and consequences as well as the corresponding mitigating measures. A CRA can be applied to overarching national strategies and policies, sectorial programmes as well as in individual –public and private sector- institutions or units.

25. Even though a number of tools have been developed with a view to streamlining the assessment process, a thorough methodology for conducting CRAs hasn't been developed yet. The existing tools in this regard vary greatly in approach and execution, resulting in CRAs being conducted as one off exercises displaying a lack of consistency.

26. This paper proposes a preliminary methodological framework and terminology for a comprehensive CRA tool and welcomes the experiences and good practices of members of the Šibenik Network of Corruption Prevention Authorities to this end.