
REPORTS OF THE PROGRAMME

GROUP 1

EFFECTIVE MEASURES FOR GATHERING INFORMATION TO DETECT AND INVESTIGATE CORRUPTION OFFENCES

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I. INTRODUCTION

Corruption nowadays is sophisticated and is usually done in secret by a group of persons domestically or across borders. Hence, gathering information is very crucial on the part of *Law Enforcement Agencies* (LEA) as the outcome of the prosecution and adjudication of a case is solely based on the quality of investigation conducted and credibility of evidence gathered. For the above-stated reason and after a series of lectures from professors and visiting experts, study tours and individual presentations, our group was formed to discuss and share challenges and best practices in our respective countries on the topic above.

Effective measures to gather information, including facilitating reports from the public and use of publicly available information; special investigative techniques such as undercover operations, electronic surveillance and communications interception; other investigative techniques etc.; protection of whistle-blowers and/or witnesses; and information sharing and cooperation among relevant agencies (domestic and international) were therefore discussed.

II. CHALLENGES DURING DETECTION AND INVESTIGATION OF CORRUPTION

Owing to the fact that corruption offences are often committed in secret without leaving any trace or evidence, it is quite burdensome proving these offences in court. For the said reason, whistle-blowers play a very important role in the fight against corruption.

Considering the contributions of a majority of the group members, it was noted that in many jurisdictions very little or nothing has been done to protect whistle-blowers and witnesses. They are normally put in such a situation that they fear for their lives, the lives of their family members, their jobs and so on. They therefore shy away from rendering much needed help to the various bodies involved in the fight against graft.

It was also discussed that gathering initial information for further investigative activities normally takes a lot of time. Considering the fact that most corruption-related crimes demand quick response, investigators and prosecutors therefore need access to information from public registries and databases to make their work easier.

Members of the group exchanged their experiences on special investigative techniques that are being used during investigation of corruption-related crimes. During discussion it was concluded that undercover operations are the most important among investigative activities and techniques for obtaining strong,

relevant and admissible evidence during pre-trial investigation.

In most jurisdictions court warrants are necessary for undercover operations. In some countries like Brazil, the time limit for such court warrants is only 15 days, which is not sufficient for investigation.

In some countries, there are laws granting immunity from investigation and prosecution to top-officials such as parliamentarians. They are therefore reluctant to make amendments to the laws granting them such immunity.

Among other challenges, it was also mentioned that obtaining evidence through Mutual Legal Assistance requests and international cooperation is highly important for investigation, but it takes a lot of time before these requests are responded to. Another problem is the refusal by states to conduct criminal procedures requested because of the different provisions in their criminal legislation.

III. BEST PRACTICES

During active discussions members of the group agreed on some of the best practices of their counterparts that should be used as examples for possible improvement of their domestic criminal justice systems.

The use of a centralized database for investigators could make gathering of necessary information at any stage in a criminal proceedings an easier and faster process. Introducing electronic asset disclosure and e-procurement systems could also help to achieve a high level of transparency.

Amendments must be made to existing laws to cater for anonymous reports and their admissibility in courts. Leniency programmes and plea agreements with offenders could also be introduced to encourage more reports on corrupt activities.

It is recommended that the use of complex undercover activities and techniques for gathering evidence, such as electronic surveillance, undercover audio and video recording of suspects, wiretapping, physical surveillance, communications interception, installation of video recording in offices and houses of suspects, communications interception by installing audio recording devices on the clothes or other items of suspects, and interceptions of e-mail communications should be encouraged.

The use of confidential agents for gathering information and further disclosure of criminal schemes and organizations are also considered.

It is also recommended by most of the countries to adopt special legislation regarding whistle-blowers' protection, which will underline necessary procedures for involving and protecting whistle-blowers and witnesses, especially by limiting the number of parties in the criminal proceedings who have access to the identities of whistle-blowers. Furthermore, holding court sessions in camera, distorting the voices of witnesses when they testify, providing immunity from civil and criminal lawsuits for witnesses, provision of penalties for those who harm whistle-blowers, security of job tenure of witnesses, giving benefits such as housing facilities, free medical treatment and so on while serving as a witness were all considered.

IV. CONCLUSIONS AND RECOMMENDATIONS

Improving the welfare of citizens is impossible without structural reforms in many areas. Reforms of criminal justice systems should become the key priority for every government. It may increase professional standards for judges, prosecutors and investigators, and improve efficiency of investigation of corruption-related crimes. It is therefore recommended that the following provisions shall be adopted:

1. It is necessary and beneficial to construct a system that promotes whistle-blowing while being cautious of the possibility of receiving false information.
2. It is important to notify the public of the whistle-blower protection unit so as to develop their confidence in reporting corruption and as a means of sensitizing them about the dangers of making a

false or malicious report.

3. Governments should establish central databases for LEA and apply electronic asset disclosure and transparent e-procurement systems.
4. There is a need for amendments to criminal procedural legislation to provide LEA with possibilities of conducting all possible types of undercover activities.
5. It is necessary to exchange experiences and best practices among LEA officers through international seminars, trainings, conferences and workshops.