

Preventing and Combating Corruption: Practical Experiences in Berlin

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Preventing and combating corruption effectively and efficiently is particularly important in public enterprises and administrations. It can avert economic disadvantages while also preventing loss of image. When it comes to corruption, attention is focused on the public sector, because the material damage is borne by the taxpayers, and because the effectiveness and credibility of the administration are pillars of polity. It is therefore crucial that measures are taken to minimise risks of corruption.



Preventing and combating corruption

Since a legal definition of the term 'corruption' does not exist, this report uses the description put forward by Transparency International: *Corruption is the misuse of entrusted power for private use or benefit.* This is manifested as contempt of codes of conducts in the broader sense – i.e. of laws, official duties and moral standards – which results in an advantage or reward for the acting person that has a negative impact on the affected enterprises or administrations.

Effective protection against corruption requires measures to be taken for both, preventing and combating corruption. This must be based on three distinct pillars: prevention of violation, detection of violations and reaction to violations. It has been shown that successful measures are based on the opportunity for action. The motivation and justifications of potential offenders are usually too complex – and sometimes also irrational – to serve as a starting point for measures.

Measures for corruption prevention

Existing corruption risks in an enterprise or administration must be examined first, before corruption prevention measures can be extrapolated from the findings. A differentiation can be made between general, organisational risks and specific risks in this step. In relation to adequate corruption prevention, the following risks are substantial:

- a) lack of awareness within the enterprise or administration
- b) no point of contact or a deficient whistle-blower system

- c) lack of risk analysis (i.e. deficient recording of specific corruption risks)
- d) insufficient controls in business processes
- e) improper dealings with or improper conduct as a public official
- f) lack of transparency regarding existing conflicts of interest
- g) no or insufficient regulations on donations and sponsorships
- h) no or insufficient regulations on gifts and rewards

Tried and tested measures for reducing these risks are illustrated below.

Creating the necessary awareness

Given the fact that the subject of 'corruption' has often avoided – and in some places still avoids – a lot of critical scrutiny, fundamental measures are required to raise awareness within the enterprise or administration. The enterprise or administration management taking a clear position against any form of violation of the rules is crucial for credibility – and consequently, success. The 'tone from the top' emphasises to the employees that compliance with the existing laws, guidelines, internal regulations and work instructions are an express expectation of the management – especially with regards to corruption, but not limited to it. It is helpful to record this expectation in writing in a code of conduct where it can be accessed at any time.

While a code of conduct describes the basic tenets of the expected compliant conduct, a separate anti-corruption policy should summarise the requirements for preventing and combating corruption. Some enterprises or administrations may already have individual regulations that deal with aspects of corruption prevention or anti-corruption measures. Collating the necessary regulations in a single anti-corruption policy which also refers to any existing documents has proven feasible.

Establishing universal awareness across the entire enterprise or administration requires the wording to be legally precise and comprehensive while also being easily understood by employees without legal training. Reports on the intranet site or in the employee magazine can help to achieve this. Anti-corruption training for employees in fields of activity at particular risk of corruption is indispensable, and similar training for managers is crucial for strengthening their role model function.

Point of contact or whistle-blower system

It has been shown that questions about proper conduct may arise in relation to corruption risks, even if the policy has been worded carefully. An employee's line manager should be considered the first point of contact (and therefore also the multiplier). Moreover, it is also imperative to appoint a central point of contact for all employees to ensure consistent assessment of detailed questions.

Whistle-blowers seeking to report corruption suspicions should also be able to approach this central point of contact. In order to further lower potential whistle-blowers' inhibitions, it has now become common practice to also establish an office outside of the enterprise that whistle-blowers can contact without their personal details being passed on to the enterprise. The enterprise may prefer to use an external ombudsperson, rather than an online reporting system to this end.

Analysis of the specific corruption risks

An enterprise-wide analysis of possible corruption risks should be conducted on a regular basis. The following questions should be asked and answered by all specialist departments:

- Which field of activity is at risk of corruption in each specialist department?
- How does the specialist department rate the corruption risk?
- Which counter-measures have been introduced or planned to reduce the risk?

Even if the degree of corruption risk the individual specialist departments of the enterprise or administration are exposed to varies, no department should be exempt from the regular enquiry. The objective of the risk analysis is to record the situations already at risk of corruption while also regularly examining – and thinking about – this issue in the specialist departments.

The details of the risk analysis should be designed as practical as possible without encouraging the specialist departments to offer 'automated' responses to the questions. The central unit is responsible for summarising the findings, assessing their plausibility, and reviewing them for any contradiction.

Controls in business processes

While daily routine operations rely on trusting employees to act properly, it is reasonable and necessary to have controls in many places. These serve to determine whether the realised results of each business process match the agreed objective.

- Possible control measures include:
 - multiple-signature principle
 - separation of functions
 - defined approval limits
 - transparency and documentation of transactions
 - personnel rotation

When new controls are introduced, the cost of the controls in question must be reconciled with the intended benefit, and the objective of the controls must be explained to the employees affected by each control; these steps are equally important for the maintenance of existing controls.

Dealings with and conduct as a public official

Historically, Germany has been holding its public officials to a special obligation to fair conduct in the performance of their official duties. It is therefore important to draw attention to the (stricter) legal situation at hand. Depending on the legal form and purpose of the public enterprise, employees may also be deemed public officials. In any case, dealings with public officials should be approached with care to avoid potential situations of conflict (for all parties involved).

Conflicts of Interest

Conflicts of interest – i.e. the conflict an employee may experience when having to decide between the interests of the enterprise or administration and their own interests – should always be avoided in daily working life. Personal association with business partners, e.g. for family reasons, is a reality of life and does not mean or automatically result in official decisions being based on irrelevant considerations. Establishing an obligation to disclose conflicts of interest has proven successful – for the protection of the organisation, as well as the protection of the acting person. Transparency before a decision is made prevents issues at a later stage. This should be complemented with an obligation to notify or approve secondary employment.

Regulations on donations and sponsorships

Necessary regulations on accepting and granting gifts and rewards should be considered a 'core discipline' of preventing and combating corruption.

The following approaches have proven successful:

- categorically prohibiting the acceptance and granting of gifts and rewards in a clearly described approval process with specific permissible exceptions;
- the categorical prohibition covering the broadest scope of advantages possible;
- not limiting the group of beneficiaries to employees, but also including their associates;
- providing exemptions from the general prohibition for gestures of courtesy, e.g. drinks during a meeting.

Regulations on gifts and rewards should aim to avoid any appearance of corruptive conduct or influenceability. However, it is helpful to define permissible exceptions and an associated approval process to increase general acceptance. Otherwise, the desired transparency is at risk for avoidable borderline cases.

Anti-corruption measures

The procedural steps necessary for dealing with any suspected corruption occurring despite extensive preventative measures and employee training should be defined in advance to facilitate a fast response. This should also include the specification of the specialist departments (e.g. human resources, legal) and management bodies that should be involved.

The following points should be observed for specific suspected cases:

- Assess the reported indications while taking due account of the presumption of innocence.
- Comply with the previously defined procedure, including the early involvement of the responsible specialist departments or management bodies, and, if applicable, the decision to involve law enforcement authorities.
- Confidentiality must be maintained with regards to the affected individuals (whistle-blower and the accused).
- Access to files / computer systems may need to be blocked to secure evidence.
- Information should be documented quickly.

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