

# INSTITUTIONAL APPROACH IN THE FIGHT AGAINST CORRUPTION - ANTI-CORRUPTION BODIES

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## ABSTRACT

Corruption undermines democracy, destroys the rule of law and violates citizens' trust in the institutions of the system. Corruption hampers social and economic development, discourages investors, threatens the market, and at the same time poses a significant threat to security and stability.

Corruption is a major threat to the common values of civilization, creates instability and undermines the foundations of a modern society based on respect for human freedoms and rights and the rule of law.

In the true sense of the word, the international approach in the fight against corruption begins about 30 years ago, with the official overcoming of the block's division. Namely, in the past period, various conventions, declarations, principles, recommendations for combating corruption from a global and regional aspect have been adopted. Most of the acts emphasize the need to build a specialized body for the prevention and repression of corruption.

International experiences show different institutional approaches in building anti-corruption bodies. They range from independent operating bodies with investigative powers, through bodies installed in other institutions, to preventive and auxiliary bodies.

Each of the approaches has advantages and disadvantages, taking into account the specific characteristics of each country. However, there are parameters for measuring the effect of their work, thus opening the way for the implementation of new standards in dealing with corruption.

**Key words:** corruption, anti-corruption bodies, anti-corruption measures, prevention, repression,



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## **INRODUCTION**

The fight against corruption is a complex process that requires the engagement of the whole society, all social groups and various categories.

An essential element in tackling corruption is to strengthen the awareness of the individual, among all citizens, about the harmful consequences of corruption. Right here, at the starting level, the fight against corruption begins, but it requires possession of a system of moral values based on modern civilization achievements, that is possession of internal defense mechanisms that will prevent the acceptance of temptation, that is integrity.

We can not be idealists and say that there is no corruption. Corruption is everywhere, in every society, but the question is to what extent it is present, are the institutions effective in dealing with it, how citizens perceive it, whether social energy is strong enough to permanently reduce space for its presence.

On the other hand, the fight against corruption is not temporal, but it is a continuous process through which it is necessary to constantly finding mechanisms for reacting to new forms of corruptive actions. As an example, Sweden is one of the top ranked countries on the list of Transparency International (among the top five countries), but some studies show that, unlike ten years ago, when corruption was perceived to be at a low level, in the past few years, several bribery cases involving Swedish companies have been registered (<https://thelawreviews.co.uk/edition/the-anti-bribery-and-anti-corruption-review-edition-7/1177244/sweden>). This is in the direction of the need for continuous action in building mechanisms, both for prevention and for repression of corruption.

The fight against corruption requires the existence of an adequate legislative framework and effective bodies/institutions to deal with it. Regarding the legislation, it could be emphasized that under the influence of several international bodies and initiatives, new standards for more efficient fight against corruption are constantly being imposed. These standards serve as a basis for implementing new legal solutions in their own legislation.

The greatest responsibility in tackling corruption have bodies/institutions to deal with it. International acts provide general recommendations for the creation of such bodies, but specific solutions

depend on policy makers in each country. Practice knows different structural solutions, there is no template approach, and it's good because through their results, it creates a space for comparison, and therefore appropriate ranking.

In the continuation of the paper a concrete overview of each structure of anti-corruption bodies will be given, but here it should be noted that regardless of the formal approach in order to have positive results in the work, any anti-corruption body should rely on several principles. Among them, the most important are independence, impartiality, responsibility, integrity, transparency, quality staffing solutions, and satisfactory financial resources.

## **1. International legal bases**

The problem of corruption, as socially harmful behavior that hurts and endangers the most important social goods, values and interests, has been observed from the oldest written legal acts, that is, starting with the Hammurabi Code or decrees of the Roman emperors. But for a truly international contribution to the fight against corruption, we can speak only from the end of the 20th century, with the end of the Cold War.

The UN has a leading role in the international reaction against corruption, namely, Secretary-General Kofi Annan at the International Anti-Corruption Conference held in September 1997 in Lima, organized by UNDP, said: „Corruption is a curse and an attack on the foundations of any civilized society. It undermines morality, democracy, good governance and the rule of law. It swallows resources needed for development. And it is an affront to people who bring high ethical standards to their work and dealings with their fellow human beings and who expect the same in return, in the time-honoured tradition of "do unto others". Corruption is evil and insidious, and must be opposed at every turn.“(<https://www.un.org/press/en/1997/19970905.SGSM6318.html>).

The question of corruption gained international importance in the late 1990s, and was accompanied by the growing debate about the role of specialised anti-corruption institutions. This process has been closely linked with the process of political democratisation and economic liberalisation in many parts of the world, including Eastern Europe, Asia, Latin America and Africa. It is also related to the

efforts of building the rule of law and good governance in many post-authoritarian and post-conflict environments, as economic and political transitions offer fertile ground for corruption.

Namely, in the 1990s occurred eruption with the problem of corruption. Globalization, the strengthening of civic activism, increased freedom of the press, and the lightening development of means of communication were preconditions for a strong international reaction to the problem of corruption. The result of these processes is the adoption of a series of international acts for the prevention and repression of corruption that contained the basics for creating national bodies for the fight against corruption.

In this direction, besides the United Nations Organization, the Council of Europe has a strong contribution, through several acts, including the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption, both since 1999. The Organization for Economic Co-operation and Development (OECD) also contributes significantly, in particular with the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997. Other intergovernmental, non-governmental, global and regional initiatives have also contributed to this issue.

### ***1.1. United Nations Organization - UN***

The United Nations Convention against Corruption (UNCAC) is the strongest commitment of the international community to a unified approach to tackling corruption. The Convention was adopted by the General Assembly of the United Nations on 31 October 2003 and it was signed on December 9, 2003 in Merida, Mexico. By mid-2018 it was signed by 140 UN member states (<https://www.unodc.org/unodc/en/corruption/uncac.html>).

Its main purpose is to promote and strengthen the measures for efficient and successful prevention and fight against corruption. In addition, the purpose of the Convention is to promote and facilitate international co-operation in order to prevent and combat corruption, including asset recovery, as well as the promotion of integrity, accountability and good governance of public affairs and state property.

The Convention is a global mandatory response to corruption and other phenomena that have a detrimental effect on the rule of law. It consists of four pillars (prevention, criminalization, international cooperation, asset recovery) and a mechanism for implementation.

Basis for establishing of specialized anti-corruption bodies are contained in articles 6 and 36 of the Convention ([https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)). They require each state to establish one or more anti-corruption bodies. Bodies should have guaranteed independence, be provided with appropriate materials, protected from external influences and trained professionals. According to the Convention, the UN Secretary-General maintains a list of national institutions for its implementation.

However, these articles of the Convention are general guiding provisions, which means that member states should implement solutions that respond to the problems they face, specific normative properties, and other characteristics. In fact, articles 6 and 36 of the UNCAC open a series of dilemmas: whether to form a body guided by a person or collegial body; whether it is a completely new institution or within another body certain officials can be trained in specific activities; the way of cooperation with other institutions; the manner of determining the budget; what measures are being taken to achieve institutional independence; how to raise transparency and accountability in the work; the manner of staffing; precise definition of competencies and similar issues.

When talking about the standards for the work of anti-corruption bodies need to be mentioned "Jakarta principles" ([https://www.unodc.org/documents/corruption/WG-Prevention/Art\\_6\\_Preventive\\_anti-corruption\\_bodies/JAKARTA\\_STATEMENT\\_en.pdf](https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf)). Namely, at the conference held in Jakarta, November 2012, organized by the Commission for Combating Corruption of Indonesia, UNDP, UNODC and IAACA (International Association of Anti-Corruption Bodies), the famous "Jakarta principles" were adopted.

These principles provide a broad framework for the action of anti-corruption bodies, starting with raising public awareness and education, through prevention, investigation, and prosecution. This means that the mandate of the specialized bodies may be different and the state

authorities will apply the model most appropriate to their social needs. In addition, as a prerequisite for efficiency in the process, the need for cooperation is emphasized, nationally, with other institutions, civil society, private sector, as well as international cooperation ([https://www.transparency.org/news/feature/fighting\\_corruption\\_the\\_role\\_of\\_the\\_anti\\_corruption\\_commission](https://www.transparency.org/news/feature/fighting_corruption_the_role_of_the_anti_corruption_commission)).

The principles require the expertise and professionalism of staff in such bodies, as well as a transparent way of selecting the leading positions, which must have a high degree of integrity, objectivity and impartiality in the proceedings.

Financial autonomy is one of the principles that give autonomy to the specialized body in the disposal of budget funds, of course, within the legal framework.

Accountability and transparency in the exercise of competencies, by these bodies, are necessary to gain trust and public support in the execution of complex obligations. Thus, the principles impose an obligation to formally inform the public about the work of the body at least once a year, as well as open communication with the citizens.

Briefly, sixteen "Jakarta principles" aims to increase the efficiency and independence of anti-corruption bodies.

### ***1.2. Council of Europe***

The Council of Europe is an international organisation whose stated aim is to uphold human rights, democracy and the rule of law in Europe. A core document is the European Convention for the Protection of Human Rights and Fundamental Freedoms since 1950. While fundamental principles are: respect for human freedoms and rights, development of democracy, the rule of law, equality, the fight against organized crime and terrorism.

The Council of Europe played a significant role in the establishment of specialized anti-corruption bodies.

"The Twenty Guiding Principles for the Fight against Corruption" is a document adopted by the Committee of Ministers in 1997, in order to

undertake effective measures for preventing corruption, raising public awareness and promoting ethical behavior (<https://rm.coe.int/16806cc17c>).

Within the framework of the twenty principles, in the section on the establishment of specialized bodies for the fight against corruption, the principles three and seven are of great importance. According to them, the subjects involved in the prevention, investigation, prosecution and judging corruptive cases should be independent, protected from influences, then, there should be protection for persons who assist in the detection and proving of corruptive actions and to have a higher degree of secrecy. They seek to promote the specialization of individuals or bodies in charge of fighting corruption and supporting them with working conditions and specialized training.

The Council of Europe adopted about 200 conventions, of which the fight against corruption relates: Criminal Law Convention on Corruption, 1999; Civil Law Convention on Corruption, 1999; Additional Protocol to the Criminal Law Convention, 2003 and the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism, 1990, revised in 2005.

The Criminal Law Convention on Corruption was enacted in 1999 and entered into force in 2002. The main goal is coordinated criminalization of a large number of activities that are corruptive, then creating measures for improving the international cooperation in the prosecution of cases related to corruption, also prescribes criminal offenses of active and passive bribery committed by domestic and international perpetrators, money laundering (<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173>).

The Convention emphasizes the cooperation between states in efforts to prevent corruption, including the extradition procedure. The Convention places emphasis on the confiscation of illegally acquired property, liability of legal entities, establishment of a system of effective sanctions, as well as creation of specialized anti-corruption bodies.

Article 20 of the Criminal Law Convention on Corruption imposes the need for the creation of specialized anti-corruption bodies. Namely, each country is required to create conditions for appointing persons or

establishing bodies specialized in the fight against corruption. Those persons or bodies should be independent and protected from influences. In addition, employees should be properly trained and have the necessary financial resources to successfully perform their duties.

The Republic of Macedonia ratified the Criminal Law Convention on Corruption on July 28, 1999, and entered into force on July 1, 2002. It was the legal basis for adopting the Law on Prevention of Corruption in 2002, and immediately afterwards for the establishment of the State Commission for Prevention of Corruption, as a specialized body for prevention of corruption.

From the past five rounds of evaluation of the implementation of the Criminal Law Convention on Corruption and Civil Law Convention on Corruption by GRECO, the independent specialized anti-corruption bodies were included in the first round of evaluation (2000-2002) on the topic "Independence, specialization and means available to national bodies involved in the prevention and fight against corruption; extent and scope of immunities".

### **1.3. Organization for Economic Cooperation and Development - OECD**

The Organization for Economic Co-operation and Development (OECD) is an intergovernmental economic organization with 36 member states, established in 1961 to stimulate economic prosperity and world trade.

It is a forum of countries that are described as devoted to democracy and the market economy. Most OECD members are highly developed countries.

The OECD has a multidisciplinary approach in the fight against corruption: combating bribery of foreign public officials, integrity in the public sector, fiscal transparency, suppression of corruption in lending to exports, integrity in lobbying.

One of the most important legal acts of the OECD in dealing with corruption is the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions from 1997, ([www.oecd.org/corruption/oecdantibriberyconvention.htm](http://www.oecd.org/corruption/oecdantibriberyconvention.htm)).

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is a OECD anti-corruption convention aimed at reducing political corruption and corporate crime in developed countries by encouraging anti-bribery sanctions in international business transactions committed by companies established in the States Parties to the Convention.

Its purpose is to create a true equal field in international business relations. The Convention requires signatories to criminalize acts of offering or giving a bribe. The OECD Task Force on Bribery in International Business Relations oversees the implementation.

When talking about the role of the OECD in the fight against corruption and the contribution of anti-corruption bodies the mention of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) as a regional anti-corruption program is inevitable. It links governments of more than 20 countries to OECD governments, as well as representatives of civil society and business. International organizations and international financial institutions also actively participate in network activities through regional conferences, evaluation of member states and thematic projects.

Founded in 1998, the main goal of ACN is to support member states in the fight against corruption by providing regional forums to promote anti-corruption activities, exchange of information, presentation of best practices and donations.

ACN has contributed to the introduction of a number of practical measures, such as: submitting asset declarations by public officials, establishing anti-corruption bodies, adopting national anti-corruption strategies and action plans, integrity, prohibition of bribery of public officials, liability of legal entities.

## **2. Competencies and models of bodies for the fight against corruption**

### ***2.1. Competencies***

The competencies of anti-corruption bodies can be different and move in several directions, depending on the characteristics and needs of each country.

Thus, research and planning is one of the basic activities. It covers the preparation of medium-term anti-corruption strategies with action plans, and monitoring of their implementation.

The preparation of the strategy is a complex process with the participation of many different entities, institutions and NGOs, taking into account the characteristics of the country and the emerging forms of corruptive behavior. According to article 5 paragraph 1 of the UNCAC, each country prepares and applies policies for the effective prevention of corruption and mechanisms that favor the participation of society and express the principles of the rule of law, good governance, integrity, transparency and accountability.

The next activity of anti-corruption bodies is the prevention of corruption in the public sector. It encompasses a whole range of actions - increasing transparency and integrity in public institutions, effective exercise of the right to free access to information of public character, monitoring the financing of political parties, controlling the fulfillment of the legal obligation to submit asset declarations and statements of conflicts of interest, and other actions aimed at preventing corruption in the public sector.

Anti-corruption bodies take appropriate preventive actions. Education, information and raising public awareness are an integral part of everyday work activities. Their goal is to approach the public, gain their trust and support. This requires constant communication, introducing the public with new achievements, acting in specific cases that attract the attention of the public, conducting trainings in cooperation with other institutions, non-governmental sector, private sector.

Activities of anti-corruption bodies may also include actions that signify investigation and prosecution. This means that the body is involved in the detection, investigation and prosecution of a corrupt criminal offense.

The international regulation leaves an opportunity for each state to determine what competences its body for fighting corruption will have. There are no templates here, so, somewhere competences will be more extensive, and elsewhere significantly limited, also, making combinations in competences is quite normal.

In general, the responsibilities are set up in three groups: education, prevention and investigation. Some anti-corruption bodies prefer a "full frame" of competencies

(Poland (<https://cba.gov.pl/en>), some deal with prevention and investigation (Austria (<https://www.acauthorities.org/country/at>), and some perform one specific function – prevention, investigation or prosecution (Slovenia (<https://www.kpk-rs.si/en/>)).

## **2.2. Models**

Considering the multitude of anti-corruption institutions worldwide, their various functions it is difficult to identify all main models. However, some trends can be established based on different purposes of anti-corruption institutions (viewed through their functions). Thus, starting from their competences, the bodies for fighting corruption are divided into three models:

- Multipurpose agencies with powers of prevention and law enforcement.
- Law enforcement institutions - Specialized departments within the police or prosecutor's office.
- Preventive institutions, for policy development and coordination.

### 2.2.1. Multipurpose agencies with powers of prevention and law enforcement.

These are bodies with complex competences. These include actions to prevent corruption, educating and informing the citizens in order to gain their support, as well as conducting investigations.

As with other models, and in this model close cooperation with other institutions is a prerequisite for effectiveness in the implementation of legal competencies.

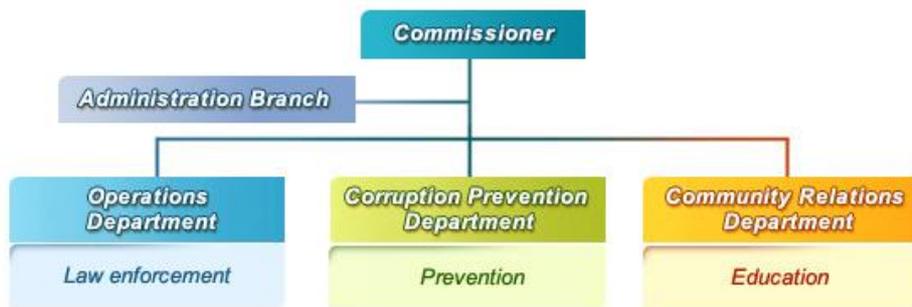
In this group, firstly, are included: Hong Kong Independent Commission against Corruption; Singapore Corrupt Practices Investigation Bureau; Corruption Prevention and Combating Bureau of Latvia; Independent New South Wales Corruption Commission.

- Hong Kong Independent Commission against Corruption,

The Independent Commission Against Corruption (ICAC) of Hong Kong was established 1974, when Hong Kong was under British rule. Its main aim was to clean up endemic corruption in the many departments of the Hong Kong Government through law enforcement, prevention and community education.

Hong Kong offers an example—probably the best in the world—of successful transformation from widespread corruption in the 1960s to clean government. According to Transparency International's 2018 Corruption Perceptions Index, Hong Kong is ranked 14th (<https://www.transparency.org/cpi2018>).

The ICAC from its inception has adopted a unique strategy - the three-pronged approach, to fighting corruption. The three-pronged approach covers: education, prevention and law enforcement (<https://www.icac.org.hk/en/about/struct/index.html>).



The Community Relations Department is in charge of educating the public about the harmful consequences of corruption in order to gain public support. The essence of education is to teach citizens self-discipline, to develop integrity and to refuse any form of corruption.

According to the 2016 ICAC Annual Survey, 98.5% of the 1,500-odd respondents said they had not encountered corruption in the past 12 months. Only 1.2% of them said they had come across corruption. Almost all respondents (99.2%) considered that keeping Hong Kong corruption-free is important to the overall development of Hong Kong, and 96.2% of the respondents considered the ICAC deserving their support ([https://www.icac.org.hk/icac/post/issue26/post\\_en.html](https://www.icac.org.hk/icac/post/issue26/post_en.html)).

Accordingly, a majority of citizens believed that the ICAC could help “maintain a corruption-free society”, “uphold fairness and justice” and provide “efficient investigation of corruption cases”. With high levels of public confidence, citizens would more willing to share and collect information and cooperate with agencies to assist crime fighting work.

The Corruption Prevention Department is responsible for: examine the practices and procedures of government departments and public bodies and secure revision of any that may be conducive to corruption, and advise upon request of private organisations or individuals on how to prevent corruption.

The Department conducts assignment studies of all major public functions such as law enforcement, licensing and regulatory system, procurement, staff management, and public works. Almost all government departments and most public bodies have had their key procedures studied.

One of the responsibilities of the Department is to advise private sector entities on ways to prevent corruption in order to help companies and private organizations strengthen and continually improve their systems, procedures and controls to prevent corruption and related irregularities.

The Operations Department is the investigative arm of the ICAC. Its statutory duties are to: receive and consider allegations of corrupt practices; Investigate any alleged or suspected offences under the ICAC Ordinance, the Prevention of Bribery Ordinance and the Elections (Corrupt and Illegal Conduct) Ordinance; Investigate any alleged offences of blackmail committed by an officer through misuse of office; Investigate any conduct of an officer, which is connected with or conducive to corrupt practices.

The Operations Department is the ICAC's largest department. Led by the Head of Operations, it comprises two divisions that investigate corruption and related offences in the public and private sectors. The Head of Operations, who is also the Deputy Commissioner, reports to the Commissioner (Ming-Li Hsieh, A Case Study: Lessons from the Hong Kong Independent Commission Against Corruption, *International Journal of Criminology and Sociology*, 2017, 6, <https://pdfs.semanticscholar.org/cfc0/2a5053faf52e7a199774ab556b4e5cdd14c9.pdf>).

Within the Operation Department, there are several support groups, such as: Intelligence, Informant handling and undercover operations, Witness protection and firearms, Surveillance and technical aid, Detention centre, Report centre, International and mainland liaison, Quick response team, Forensic accounting, Audit and inspection services, Information technology and Computer forensics.

It is an extremely operational body with big competences. Namely, from about 1200 employees in ICAC, most of them or 80% are in the Operations Department.

As an additional indicator of the effect of the actions of the ICAC is the fact that according to 2019 Index of Economic Freedom, Heritage Foundation, Hong Kong is the world's freest economy for the 25<sup>th</sup> consecutive year (<https://www.heritage.org/index/ranking>). Namely, in the mentioned ranking it is stated that Hong Kong has a high-quality legal framework and provides effective protection of property rights and strongly supports the rule of law. Besides that, there is little tolerance for corruption and a high degree of transparency.

#### 2.2.2. Law enforcement institutions - Specialized departments within the police or prosecutor's office.

The law enforcement model has various forms of specialization, it can be applied to the detection and investigation bodies, or in the prosecution bodies. This model can also combine specialized anti-corruption detection, investigation and accusations into one body. Sometimes, the law enforcement model includes elements of prevention, coordination and research functions. This is the most common model used in Western Europe. In fact, specialized departments are institutionally integrated into existing prosecution and police structures.

This group includes: Central Office for the Repression of Corruption (Belgium), Office for the Suppression of Corruption and Organised Crime (Croatia), Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime, Special Prosecutors Office for the Repression of Economic Offences Related Corruption (Spain).

- Central Office for the Repression of Corruption (Belgium),

The establishment of the Central Office for the Repression of Corruption – CORC, was a part of the major reform of the Belgian law enforcement system, which was carried out in 2001. The CORC has been established as an integral part of the Federal Police and has national jurisdictions for investigating all serious cases of corruption offences. The CORC investigates complex and serious crimes and other offences related to public and private corruption, supports the judicial police in investigating such crimes and offences, investigates and supports investigations of offences related to public procurement, public subsidies, permits and approvals. The CORC is also responsible for the management and analysis of specialised documentation. The service recruits a number of specialists and experts in different fields in order to carry out its functions effectively.

The CORC is in charge of investigating and supporting the investigation of crimes to the prejudice of the state's interests, as well as to crimes of complex and serious corruption.

The investigations of the CORC particularly concern the crimes of bribery, misappropriation of public funds, conflicts of interest and embezzlement with public procurement contracts, grants, permits and approvals (<https://www.police.be/5998/fr/a-propos/directions-centrales/office-central-pour-la-repression-de-la-corruption-ocrc-0>).

The CORC is led by a head of unit and assisted by a secretariat and by a strategic analyst. The head of unit leads the activities of the service and coordinates in particular the operational missions in collaboration with the section heads and their assistants.

The CORC is organised in 2 sections:

- The „public procurement contracts“ unit mainly deals with files regarding the fight against fraud in public procurement.
- The „financial fraud“ unit deals with all the other fraud files given to the CORC, in particular grant fraud or permit or approvals' fraud.

According to Transparency International's 2018 Corruption Perceptions Index, Belgium is ranked 17th (<https://www.transparency.org/cpi2018>).

On the other hand, according to 2019 Index of Economic Freedom, Heritage Foundation, Belgium is ranked 48th behind many countries from Eastern Europe, South America and Africa (<https://www.heritage.org/index/ranking>).

- Office for the Suppression of Corruption and Organised Crime (Croatia),

The Office for the Suppression of Corruption and Organised Crime (OSCOC/USKOK), established in 2001, is a special body within the Public Prosecutor's Office with a mandate to direct police investigations and conduct prosecutions in corruption and organised crime cases. The criminal offences under the USKOK's jurisdiction are strictly enumerated by the Law. The USKOK has intelligence, investigative, prosecutorial and preventive functions and is responsible for international cooperation and exchange of information in complex investigations (<http://www.dorh.hr/Default.aspx?sec=18>).

According to the Law, USKOK is a specialised Public Prosecutor's Office. The head of USKOK holds the position of Deputy Public Prosecutor General and is appointed by the Public Prosecutor General. Special prosecutors are appointed by the Public Prosecutor General on the proposal of the Head of USKOK.

Organisationally, the USKOK is an autonomous prosecution service attached to the Prosecutor's General Office with its central office in Zagreb. The USKOK has established four departments in order to perform its main functions as established by the law: (1) Prosecution, (2) Investigation and Documentation, (3) International Co-operation and Joint Investigations; and (4) the anti-corruption and public relations department.

According to Transparency International's 2018 Corruption Perceptions Index, Croatia is ranked 48th (<https://www.transparency.org/cpi2018>). On the other hand, according to 2019 Index of Economic Freedom, Heritage Foundation, Croatia is ranked 86th in the competition of 180 countries (<https://www.heritage.org/index/ranking>).

### 2.2.3. Preventive institutions, for policy development and coordination.

This model includes institutions that have one or more functions in the process of preventing corruption.

Namely, they may be responsible for investigating the phenomenon of corruption; assessing the risk of corruption; monitoring and coordinating the implementation of national and local anti-corruption strategies and action plans; reviewing and drafting relevant legislation; monitoring the rules for conflict of interests and requesting disclosure of the property status of public officials; preparation and implementation of codes of ethics; assisting in the fight against corruption for officials; publishing guidelines and providing advices on issues related to government ethics; facilitating international cooperation and cooperation with civil society and other issues.

This is the most heterogeneous model and it can be divided into three forms:

- Interinstitutional Council for Coordination of the Fight against Corruption (collegium from representatives of different institutions and NGOs, who follow the implementation of strategic documents);
- Specialized bodies for prevention of corruption (main themes are prevention of corruption, conflict of interests, lobbying, strategic documents, asset declarations, raising awareness, training) and
- Public institutions that contribute to the prevention of corruption through the execution of activities of their competence (State Auditor, Public Revenue Office, Ombudsman, Public Procurement Bureau).

Such institutions are the following: State Commission for Prevention of Corruption (Macedonia), Central Service for the Prevention of Corruption (France), Permanent Commission against Corruption (Malta).

- State Commission for Prevention of Corruption (Macedonia),

In order to create and apply effective anti-corruption policies and practices, as well as strengthening the normative and institutional capacity

of the Republic of Macedonia for prevention of corruption and conflict of interest on long-term basis, in 2002, with the Law on Prevention of Corruption was established - the State Commission for Prevention of Corruption (SCPC).

It is a preventive body that arises from international acts (Criminal Law Convention on Corruption, UNCAC) to combat corruption which referred to the establishment of a specialized and independent anti-corruption body capable of effectively and professionally carrying out the functions and implementation of measures and activities for preventing corruption.

The competencies of SCPC arise from the Law on Prevention of Corruption and Conflict of Interest, the Law on Lobbying and the Law on Protection of Whistleblowers. (<https://www.dskk.mk/index.php?id=home>).

SCPC is basically, a preventive body. Although the new Law on Prevention of Corruption and Conflict of Interests, from 2019 (Law on Prevention of Corruption and Conflict of Interest, Official Gazette of the Republic of Macedonia No. 12/19, [www.dskk.mk/fileadmin/user\\_upload/Zakon\\_za\\_sprecvanje\\_na\\_korupcija\\_i\\_sudirot\\_na\\_interesi.pdf](http://www.dskk.mk/fileadmin/user_upload/Zakon_za_sprecvanje_na_korupcija_i_sudirot_na_interesi.pdf)) made efforts to increase its competencies from investigative character, however, in general, SCPC maintains the model since its inception in 2002.

SCPC has the authority to adopt the strategic document for the prevention of corruption and conflict of interest (confirmed by the Parliament) and in cooperation with other institutions, NGOs, and other entities, it realizes in practice. The SCPC conducts anti-corruption education, monitors the property status of public officials, acts in cases of conflict of interest, monitors the legality of financing of political parties and election campaigns. However, if it finds any violation of the law, the SCPC notifies the other competent institutions. This means that the SCPC is the initiator of the procedure, but some other state authority is competent (for example, the public prosecutor's office, the court, public revenue office).

The members of the SCPC are appointed by the Parliament and are responsible for their work before it, including the legal obligation to submit an annual report on the work done.

With the law of 2019 a more transparent way of selecting members was introduced, to a certain extent, reflecting the model of the Republic of Slovenia. However, the question arises whether this was not the right moment to approach a more serious change in the model of the anti-corruption body. For example, to replace the collegial body with an individual authority (Agency), or to build a body that will have operational competencies. This is very important from the aspect of the time frame, namely, if you are not satisfied with the current model, change should be made. On the other hand, any essential change in the model requires a certain implementation period (minimum of five years), and then conclusions about the advantages and disadvantages of the new model are built.

According to Transparency International's 2018 Corruption Perceptions Index, Macedonia is ranked 93th (<https://www.transparency.org/cpi2018>). On the other hand, according to 2019 Index of Economic Freedom, Heritage Foundation, Macedonia is ranked 33th in the competition of 180 countries (<https://www.heritage.org/index/ranking>).

### **3. Assumptions for efficient and effective work of anti-corruption bodies**

National bodies for the fight against corruption play a essential role in society for the development of democracy, respect for human rights and economic progress. In order to play their role, they need to be independent in their actions, to be immune to influences, and to be fully objective and impartial in the decision-making process.

All employees in these specialized bodies should have integrity and absolute professionalism in acting. The appointment and employment should be through an objective, transparent and independent process.

On the other hand, to be effective these bodies should have the necessary financial resources, to have sufficient human staff, and at the

same time, to create assumptions for continuous upgrading of the knowledge of the employees in order to respond to the new challenges.

National bodies mandated to fight against corruption have the duty to operate under the highest ethical standards. Their credibility in the eyes of the citizens is dependent on transparency, integrity, accountability and resistance from influence.

The European Partner Against Corruption (EPAC) and European contact-point network against corruption (EACN) in 2011 contributed to the definition of the Standards for the work of anti-corruption bodies (Anti-Corruption Authority Standards and Police Oversight Principles, EPAC/EACN, IACA, 2012, [https://www.iaca.int/images/sub/activities/EPAC/EPAC\\_Handbook.pdf](https://www.iaca.int/images/sub/activities/EPAC/EPAC_Handbook.pdf)). These are standards that are contained in the most important international legal acts for combating corruption. Thus, EPAC and EACN as the most important standards emphasize:

- The rule of law - a legal assumption without which the functioning of the legal system is not possible, condition for respecting the freedoms and rights of citizens, condition for the functioning of all institutions, including anti-corruption bodies.
- Independence - can be of a different nature (political, financial, operational), but in essence means the exclusion of influences and pressures of any kind. Independence is very important in the decision-making process and their implementation.
- Accountability - it means establishing an internal system of controls in order to avoid certain unacceptable situations, as well as relevant integration in decision-making, their argumentation and justification.
- Integrity and impartiality – by definition, Integrity means the quality of being honest and having strong moral principles that you refuse to change or the quality of being whole and complete. Integrity and impartiality are two essential assumptions for the efficient operation of anti-corruption bodies.
- Transparency - implies publicity in the conduct, thus eliminating any suspicion of objectivity in the work. It enables the citizens to get

acquainted with the situation in the field of corruption and the measures that are being undertaken for improvement.

- Availability of resources - it is about adequate human resources that can respond to real problems, in addition, satisfactory financial, material, technical and other resources are a condition without which successful fulfillment of legal obligations is impossible.

- Objective employment - employing the best, through a series of selective procedures, objectivity in conducting the selection, excluding any influence. The staff structure of these bodies is crucial for the entire institution because the lead team can not hope for substantial results if there are no motivated, educated and prepared employees behind them.

- Cooperation on national and international level - cooperation is the key to success in each area, but in the fight against corruption is necessary. Namely, the body for the prevention of corruption must have a strong institutional network for cooperation at national and international level. Through the rapid exchange of information, sharing of experiences and knowledge, joint activities, etc., the space for corruption, conflict of interests, nepotism, cronyism and other unacceptable phenomena is narrowed.

## **CONCLUSION**

Corruption is a harmful social phenomenon that has its roots from ancient times, and as such is present in our time. A huge number of papers have been written about its harmful effects, the endangering of the state system, the national economy, the rights of citizens, security, or all segments of social life.

The real challenge is how to respond to it, with which instruments to achieve a positive effect for the shortest period of time, ie, to be reduced to minimum.

After the end of the so-called Cold War, pre-conditions for a global reaction to corruption have been created, with several universal international legal acts affecting all countries in the world, for a unified approach to tackling corruption. The most significant impact was the legal acts of the UN, the Council of Europe, the OECD, and other regional initiatives.

International legal acts served as a basis for creation of national regulations and national bodies for the fight against corruption. Starting from the specifics of each country, different forms of national bodies have been created, but they can all be categorized into three groups or models. It all depends on their competencies, which can be operational, investigative, preventive or educational.

Regardless of which model will be implemented, there are some basic standards that need to be applied by anti-corruption bodies. These are standards that apply to all institutions, but specifically apply to bodies in the area of anti-corruption, such as integrity, independence, objectivity and accountability.

Starting from the specifics of the issues they deal with, these bodies are under constant surveillance of their work. The assessment of their work is multidirectional, so public opinion is a citizen's assessment, then researches by NGOs is another type of evaluation. Significant evaluations are made by international bodies such as GRECO, UNODC, OECD. All evaluations have their own positive effect, that is, they direct and assist anti-corruption bodies, which enable improvement of the effects in the fight against corruption.

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