



Fourteenth United Nations Congress on Crime Prevention and Criminal Justice
Kyoto, Japan
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ISPAC

*International Scientific and Professional
Advisory Council
of the United Nations
Crime Prevention and Criminal
Justice Programme*

Ancillary Meeting on

GLOBAL ENFORCEMENT FOR CROSS-BORDER CORRUPTION: THE WAY AHEAD?

online only Meeting, Online 3

8 March, 2021

Time: 09:00 – 10:30 Japanese Standard Time (JST)

Concept:

The aim of the meeting is to explore the need of enhancing global prevention and enforcement for cross-border corruption, by presenting the current situation and discussing the possible step forward, in accordance with some of the most relevant measures envisaged by United Nations Conventions Against Corruption (UNCAC).

As stated by the Preamble to the UNCAC, “corruption is *no longer a local matter but a transnational phenomenon* that affects all societies and economies, making international cooperation to prevent and control it essential”. Article 5 on preventive anti-corruption policies and practices provides for States, as appropriate and in accordance with the fundamental principles of their legal system, to collaborate with each other and with relevant international and regional organizations in promoting and developing preventive measures; Article 16 refers to “bribery of foreign public officials and officials of public international organizations” in relation to the conduct of international business.

Following these provisions, the Conference of the States Parties to the United Nations Convention against Corruption, at its Eighth session held at Abu Dhabi, 16-20 December 2019, has highlighted the need to strengthen standards and procedures, especially in relation to the prevention of the corruption, at the regional and global level.

In this frame, attention will be devoted to the following issues:

(i) Prevention of cross-border corruption

Following Chapter II (Preventive measures) of the UNCAC and the Marrakech declaration on the prevention of corruption, as well as the COSP – Abu Dhabi 16-20 December 2019, the Report of the Secretariat on the Status of implementation of resolutions 7/5 and 7/6 of the Conference of the State parties to the UNCAC, the panel will discuss, among others, the anti-corruption partnership between public and private sector, the acknowledgement of effective compliance programs and voluntary self-disclosure.

(ii) Jurisdiction for cross-border cases

According to article 42 of the UNCAC, extraterritorial jurisdiction can be a decisive instrument to improve the accountability of transnational corporations and prosecute corruption and human rights abuses. Following the to Legislative Guide to UNCAC, “States with only territorial jurisdiction will have to make an exception to territorial jurisdiction in order to cover” the offence of bribery of foreign public officials, which is usually committed abroad. However, under an extensive territoriality concept, already adopted by many legal systems, an offence is committed in the State’s territory even when it occurred therein “in part” (and not in whole). The Ancillary Meeting will be an opportunity to compare these different perspectives.

(iii) International cooperation in cross-border corruption cases

Chapter IV of the UNCAC sets forth detailed provisions concerning the tools of cooperation and mutual assistance, while Art. 43 provides for States to consider assisting each other in investigation of proceedings in civil and administrative matters where, of course, appropriate and consistent with their domestic legal system. In this frame, the last Expert Meeting to enhance international cooperation held in Vienna in 2019 has highlighted the importance for States parties to increase mutual assistance particularly by sharing information with each other on transnational corruption cases and more actively using law enforcement cooperation channels and networks (e.g. parallel investigations or joint investigation teams).

The meeting will discuss on how foster the existing legal avenues, highlighting following points: the role of cross border corruption victims and so called ‘Countries of origins’ in the international cooperation mechanisms; States’ cooperation in case of “resolutions” as the U.S. NPAs or DPAs.

(iv) Confiscation and return of stolen assets

According to Chapter 5 of the UNCAC “States Parties shall also afford one another the widest measure of cooperation and assistance in this regard” (art. 51). The problem of cross-border transfers of illicitly obtained profits and the return of such funds is regarded by the UN as a major problem to be tackled. Many obstacles, including a global financial system that enables bribers to rapidly move and conceal illicit funds, can impede asset recovery in many corruption cases. In this field there is still much work to do. During the High-Level Meeting on “International Cooperation to Combat Illicit Financial Flows and Strengthen Good Practices on Asset Return” (16 May 2019 – United Nations Headquarters, New York), the UN has recognized that despite all the efforts already made, further progress is urgently required to promote best practices on asset recovery.



PROGRAMME

Chair

STEFANO MANACORDA, *Professor of Criminal Law at the Università della Campania, Italy; Deputy Chair and Director ISPAC*

Presenters

ZORANA MARKOVIC, *UNODC Regional Adviser for South Asia and a former Head of the Serbian Anti-Corruption Agency*

VINCENZO MONGILLO, *Professor of Criminal Law, Università Unitelma Sapienza, Roma, Italy*

NICOLA SELVAGGI, *Professor of Criminal Law, Università della Calabria, Italy*

EDUARDO VETERE, *Vice President, International Association of Anti-corruption Authorities (IAACA); former UNODC Director of Treaty Affairs; ISPAC Board Member*

ZHENJIE ZHOU, *Professor of Criminal Law and vice Dean of the College for Criminal Law Science of Beijing Normal University*

Q & A