



## Session Report

*Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.*

**Session Title:** Winning the kleptocratic war: How can international cooperation and development cooperation support the fight against kleptocrats and oligarchs

**Date & Time:** Friday, 09.12.2022, 8.30 am - 10 am GMT -5

**Report prepared by:** Carola Frank, Planning Expert Combating Illicit Financial Flows, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

**Moderated by:** Anna Sturfels, Planning Expert Anti-Corruption, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

### **Panellists:**

- Zuzana Wienk - Steering Committee member, Open Government Partnership (OGP), Slovakia
- Johannes Ferguson - Head of Competence Centre for Public Finance and Public Administration, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
- Patrick Alley - Founder, Global Witness
- Veronica Dragalin - Chief Prosecutor of the Anti-Corruption Prosecutor's Office, Republic of Moldova
- Karam Singh - Executive Director, Corruption Watch South Africa

### **Share the thematic focus of the session, its purpose and corruption risks?**

The session fed into the IACC "Stream 6 – Fighting greed, kleptocrats, oligarchs and cracking down on money laundering and the enablers".

Kleptocratic structures are a globalized industry that is stealing, hiding and

laundering the wealth of our countries. They pose a massive threat to international security and stability, the rule of law and democratic systems. With the Russian invasion of Ukraine, there is a new awareness on this connection by the international community. Also, donors pay more and more attention and start including the objective of fighting kleptocracies as a development objective. This is demonstrated by e.g., the de-kleptification guide that has recently been released by USAID, or by the European Union that sees “de-oligarchisation” as a key reform area in Ukraine, Moldova and Georgia in future as part of its Eastern Partnership Programme.

There are various support areas that contribute to the fight against kleptocrats, such as Anti-Corruption, Combating Illicit Financial Flows, Anti-Money Laundering, Asset Recovery, Financial Transparency, Accountability, Business Integrity, and Investigative Journalism. But which measures are the most effective, why and where? How can relevant actor be supported by the international community to fight kleptocrats and oligarchs? What should donors and technical assistance providers consider when they plan projects/ interventions targeted at fighting kleptocrats? The objective of the workshop was to answer these questions. To do so, the moderator simulated the development of a project proposal for a global programme to fight kleptocracies with activities on national, regional and international level. In this interactive workshop, the panellists were interviewed, and participants contributed their experience in working groups. The objective being to identify which would be the most meaningful and impactful activities, what relevant framework conditions, success factors, challenges and entry point there are.

## Summary of panellists’ contributions & discussion points (please be as detailed as possible)

### Opening reflections by panelists

**Johannes Ferguson - Head of Competence Centre for Public Finance and Public Administration, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH**

He started by making the point that one should differentiate between kleptocracies as a national concept and globalized kleptocratic structures that include actors on national, regional and international level. This differentiation is important to not only conceptualize activities on national level but to develop a globally integrated approach. He stated that GIZ is a technical assistance provider, with over 20.000 employees in around 130 countries with an emphasis on building sustainable partnerships. This means that GIZ usually would not start a new program from the ground up when opportunities arise to combat kleptocratic structures, but would then rather adapt current programs. Being on the ground and having built these sustainable partnership enables GIZ to know the institutional context of a country, as well the individual anti-corruption champions. Both being crucial success factors when fighting kleptocratic structures. He added that GIZ is technical and can offer partners a wide range of measures in the reform process. It supports partners in implementing the holistic follow the money approach. This means increasing transparency, strengthening the prevention of corruption and illicit financial flows, financial investigation and asset recovery. As we already heard in other sessions, beneficial ownership registers and improved public procurement are fundamental in

the fight against kleptocracies and therefore a key component of technical assistance. In addition, it is very important to also strengthen financial investigation and asset recovery through capacity building of key institutions such as FIUs, but also by supporting inter-agency cooperation. For example, GIZ supported the introduction of the Multi-Agency Teams in Kenya. After the introduction, Kenya recovered record sums of illegal assets. Moreover, regional and international cooperation are key. Therefore GIZ e.g., strengthens regional Asset Recovery Interagency Networks and FATF-style regional bodies (FSRBs).

**Veronica Dragalin - Chief Prosecutor of the Anti-Corruption Prosecutor's Office, Republic of Moldova**

Moldova is a country that has been and is being supported by German Development Cooperation. She continued the discussion by giving an overview of the biggest challenge in fighting kleptocracy in the country and how they addressed these challenges. She stated that one could say that Moldova had been a kleptocracy when using the definition of kleptocracy by USAID (“a government controlled by officials who use political power to appropriate the wealth of their nation”). But the new government has set the fight against corruption on the top of the political agenda. The speech of the Moldovan president at this year's IACC showed this high-level political commitment to end kleptocratic structures and the state capture. This change builds on years of Moldovan grassroots activism and the electoral will of the people. We heard before that the windows of opportunity for reform are often quite small ranging between 18-24 months. Moldova is now 17 months into the reform process. It used the window of opportunity to focus first on one of the biggest challenges in fighting kleptocratic structures – addressing the capture of the justice system that enabled the theft of the countries resources. Moldova chose an innovative approach to do so by introducing a vetting system that involves foreign partners for the appointment of judges and public prosecutors. She was chosen by this new vetting procedure. Development and international cooperation partners can play an important role of pre-vetting in these appointment processes. Another lesson learned from the Moldovan reform process is to be realistic about what success looks like and to manage the expectations of the people. People often expect that new governments convicts former perpetrators and recover hundreds of millions in stolen assets. But in these short windows of opportunities, one can't do all of that. So, it is important identifying and communicating progress even without convictions to show that people have made the right choice when voting for change. Success can e.g. be that more and more people are reporting bribes instead of paying them which in turn enables more prosecutions being started. Lastly, it is crucial to build strong coalitions between public authorities, journalists, civil society and development partners. These coalitions enable to make use of windows of opportunity and sustain the reform.

**Zuzana Wienk - Steering Committee member, Open Government Partnership (OGP), Slovakia**

Zuzana Wienk a former journalist and part of the Open Government Partnership movement added that not only prosecution and judicial system reforms are essential but also effective transparency reforms. By providing citizens and the media with information one makes them part of the system of checks and balances of a country.

More than 80 member states plus local governments are part of OGP and pledged to make a tangible change opening up governments. She stated that the list of measures is not so long. The foundation being that crucial information on how states are managed is available without fees and barriers to enable society to use this information. It is important to understand how deeply entrenched kleptocracies are and how they rely on safe havens and impunity. She agreed with Veronica that there are expectations on delivering tangible results and that these are crucial for keeping the trust of the society. In addition, she shared her experience in Slovakia and how it not only needs political will in the beginning but strong efforts to sustain the change. To sustain change, one needs to be very detail-oriented and make use of informal, as well as formal structures (change from within). She explained what she means by that by outlining the Beneficial Ownership Transparency reform in Slovakia that has deeply disrupted kleptocratic structures in the country. The reform first focused on those companies' doing business with the state as a high-risk sector and as it was difficult to push for broad BO disclosure from the start. Many streams of reform were started at the same time to ensure that information is not only available but also verified. 1) Making Civil society and the media an ally in the verification of the open data (opening up the dispute mechanism) 2) Give the court the mandate for verification as an institution "with teeth" 3) Make it mandatory that companies need a licensed professional to officially verify the information and make the professionals personally responsible for the accuracy (sanctions) 4) Introduce a reverse burden of proof to explain inaccuracies for the companies to limit the amount of work for the court, as well as to circumvent that the court has to request information from abroad with limited chance of success. 5) Having a judge at the court with profound knowledge of the topic and the crime typologies. 6) Introducing a functioning sanction mechanism that deletes the company from the register if provide information is not correct and prohibiting them to bid for state contracts for 5 years. Opening the dispute mechanism proved very successful. 2/3 of cases are currently started by CSOs and the media and 1/3 of the court. Many oligarchs hiding in Slovakia had to come out. This showed that one can approach the fight against kleptocratic systems formally, that CSO allies are crucial and that not only prosecution and judicial system reforms are essential but also effective transparency reforms. The example also underlined that transparency systems in the so-called Global South are often more advanced than systems in the Global North. She concluded by underlying that we also need to make sure to talk more about the role of the international financial system, the enablers and the safe heavens in strong economies and their responsibility of strengthening their own systems when we want to effectively want to fight kleptocracies.

**Patrick Alley - Founder, Global Witness**

*Patrick Alley* continued the argument by emphasizing that the Global North is part of the kleptocratic system and should not be seen separate from it. Bribes and other illicit financial flows syphon out of countries and often flow into the Global North to the big international financial centres. It is a globalized system and the systems against kleptocratic structures in the Global North have major deficiencies. He underlined that point by giving an example of a recent scandal in the UK around Covid-Procurement where the government lost multiple millions of public funds.

In addition, addressing the enablers needs to get more attention in the fight against kleptocracy. We know what company registration agents, accountants, lawyers are doing to exploit loopholes, facilitate corruption and other financial crimes and how they are directly attacking accountability actors such as investigative journalists. But not enough is being done to stop them. In terms of transparency, he referred to the importance of improving BO register in the UK and other countries in the Global North to e.g. identify the BOs of foreign companies and to prevent the influx of dirty money. In addition, there is a problem with how we perceive corrupt/criminal businesspeople (reputation). For example, a court ruling in the UK stated that the charged person was a successful businessman notwithstanding his criminal endeavours. Moreover, we need to also end the impunity of individuals in enabling businesses and professions, as well as in enterprises engaging in corruption. For example, in the Glencore scandal no one got convicted even though we had a hugely detrimental effect on societies and the environment. If we only impose financial sanctions on the firms, it will be seen as cost of doing business. Finally, he stressed that it would be fundamental that corporate money gets out of politics.

**Karam Singh - Executive Director, Corruption Watch South Africa**

*Karam Singh* shared with the participants what we can learn from South-Africa to prevent kleptocracies and in terms of opening windows of opportunity from within a country. In South Africa the Zondo commission - a 4-year judicial enquiry into allegations of state capture, corruption and fraud in the public sector including organs of state- was just completed. The in 2022 released report gives a detailed outline on how state capture functioned in the country over years. Karam underlined that state capture didn't start and end with President Zuma. There were also cases of grand corruption under Nelson Mandela. And corruption scandals involving different state agencies were uncovered while the investigations were ongoing. The judicial inquiry had very broad ToR but didn't involve the municipal and provincial level as this would have prolonged it even further ("this would have taken 10 years"). It mainly focused on improper conduct of the Gupta family, the capture of the procurement systems and key oversight institutions such as prosecution, police, revenue service, as well as the rule of the governing party and key enablers. The commission was a result of whistle-blower action and a very determined civil society asking for accountability. Even though there was widespread and embedded corruption the nexus of some resilient public institutions, a strong civil society and whistleblowers was able to unroot the corrupt system. In terms of consequences, it is important to note that the findings and recommendations of the report are not binding. The report was handed over to prosecution and the police. So far, at least a few firms were sanctioned. Recovering the laundered and stolen assets will be difficult as most of them left the country. In addition, the government had 3 months after the release to respond. The response is quite legalistic/formalistic mostly only outlining which government body is looking into which aspect of the report. Nevertheless, Karam sees currently a window of opportunity for reform with the current government. On a practical level, they now need to look into how they can strengthen oversight bodies, whistleblowing protection, leverage the rule of law, and civil society.

## Feedback from the Working Groups

**Johannes - Entry points:** The main outcome from our discussion with regards to potential entry points for support is: You cannot plan for it. Programmes must be flexible so that they can move in when crucial and relevant reform processes start (windows of opportunity). But even before the international community should identify and cooperate with national champions and support them over time. And, the international community must also ensure that they stay champions, which means there also must be incentives. When identifying champions and partners the international community should focus less on national or political level but should also consider local level actors. Additionally, the international community has to be modest concerning their potential to influence these processes. So, in brief, the community needs to watch the on-going reform processes and move in more intensively when a chance occurs.

**Zuzanna – OGP:** in our working groups we discussed innovative approaches to counter kleptocratic structures and had contributions from all areas of the globe. In Uganda it was crucial to have at least one institution that acts with more integrity and therefore disrupts the current structures. If this institution is from the government this improves the level of legitimacy but the cooperation with civil society is also very meaningful. A contribution from Colombia highlighted the importance of also identifying change agents that are not in positions of decision-making power as in yet but that might have relevant information. One way would be to include them in networks focussing on compliance. One lessons from Moldova is that people working on disrupting kleptocratic structures need resources. Making use of digitisation and invest in capacity building is key.

**Patrick:** one key take-away from our working group was the notion that the main protagonists usually get away with it. And to change that, we need to see more asset recovery. Alternatively, an 80 percent tax on super rich to tamp their temptation would also do. One core challenge are the mixed messages being send by the EU and donors. They want to stop corruption but then they buy oil from country with rampant corruption issues. Donors should make sure to also support civil society in these countries and to go after the enablers which could mean to withdraw licenses or ultimately to put people in jail

**Karam:** The main take away from our group looking into preventative measures was: Transparency!!!! Any increase of transparency would help – one can't identify appropriate solutions if there is no data available on it. Especially transparency of procurement process is crucial. Also there needs to be better regulation and increased transparency of party financing. The other critical reform area are the appointments especially within the justice system. Lastly, Worldbank and IMF need to improve their leadership on the topic.

**Veronica:** Our working group focussed on the question, how to counter impunity in kleptocratic systems. First, the international community should consider the establishment of an international specialized anti-corruption court to withdraw the prosecution and ruling on corruption cases from national institutions. Secondly,

those who steal in large sums from their country buy services and goods in other countries. These other jurisdictions need to step up their games to seize the assets – deprive them and return them to the countries of origin. But obviously one should be careful about who the assets are being returned to – not to very same government that has stolen them. To prevent that it is crucial to cooperate with civil society and the international community.

## **Main outcomes of session (include quotes/highlights and interesting questions from the floor)**

We started this session with the objective to jointly design a global programme on fighting kleptocratic structures. Looking at some corner stones of that programme we have assessed that a meaningful entry point for such a programme is to increase cooperation with anti-corruption champions that we have identified and preferably also supported already before a window of opportunity occurs (building sustainable partnerships in partner countries). We also need to make sure that the programme is flexible enough in terms of measures and partners to adapt to changing framework conditions and arising opportunities. When we look at crucial reform process that should be supported by that programme, any reform supporting transparency should be at the core of the programme, especially around public procurement processes, beneficial ownership and party finance. Key information on how states are managed needs to be available to civil society and media without fees and barriers to make them part of the accountability system. Another crucial reform area is the justice sector in order to end impunity. A promising approach is an additional independent/ foreign vetting of prosecutors and judges to increase integrity and, ultimately, that convictions and recovered assets. Next to corrupt officials and criminal networks, impunity also needs to end for individuals in enabling businesses and professions, as well as in enterprises engaging in corruption. Lastly, strengthening civil society and media engaged in anti-corruption, as well as whistleblower protection are other crucial reform areas.

As kleptocratic systems rely on a globalized industry, a global programme should also push for strengthening transparency in the Global North, as well as tackling the enablers of financial crime. In addition, we also need to strengthen regional and international cooperation. Also, the recovery of illegal assets to the countries of origin has to be improved in terms of better mutual legal assistance, informal networks and the involvement of civil society to ensure the accountable use of returned funds. On international level, supporting the set-up of an international anti-corruption court should be evaluated. Finally, we must include measures that will help to sustain and communicate the change that has been started to make sure the reforms continue and to secure the continuous support of the population once the window of opportunity is closing again. For this, it is crucial to build strong coalitions between public authorities, journalists, civil society and development partners.

## **Key recommendations for the future and concrete follow-up actions / scaling up**

Based on the main outcomes of the workshop, GIZ will critically review its current

technical assistance approach in the area of fighting kleptocracies, identify shortcomings and develop recommendations for an improved approach. This approach will be discussed with technical assistance programs, as well as international, regional and national partners. In addition, GIZ will further assess opportunities to apply this approach and sensitize potential commissioning parties on its relevance.

**Is there a specific call to action to key stakeholders, such as governments, businesses, funders, civil society, young people, journalists or any other stakeholder that should be noted?**

**Please specify if relevant.**

Kleptocratic systems are a globalised industry. The international development community should push for a more integrated approach when it comes to fighting Kleptocracies globally. This means sensibly and coherently aligning development cooperation and technical assistance with international cooperation, as well as with national policy objectives in the Global North. Technical assistance in specific partner countries could then be complemented with a strengthened cooperation of donor with partner countries in terms of prevention (e.g. sensitization of international banks about specific financial crime typologies, access to BO information to foreign counterparts), proactive financial investigations (e.g. tracing illegal assets stemming from these countries), asset recovery (e.g. seizing and returning stolen asset to the partner countries). To develop this integrated approach it would require increased policy coherence between Ministries of Foreign Affairs, Development policy, Justice, Interior and Finance in donor countries.

**Rapporteur's name and date submitted**

Carola Frank, 11.12.2022