

INTERNATIONAL ANTI-CORRUPTION CONFERENCE 2024

Vilnius, Lithuania

18-21 June 2024

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: How to catch an Enabler: Routes to Accountability for Corruption's Professional Helpers

Date: 20 June 2024

Time: 14:30 PM - 16:00 PM (GMT +3)

Report prepared by:

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Moderated by:

Daniel Figueroa
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Organized Crime and Corruption Reporting Project (OCCRP)

Panellists:

- Eka Rostomashvili
Campaigns Lead
Transparency International
- Kyriakos Iordanou
General Manager
The Institute of Certified Public Accountants of Cyprus (ICPAC)
- Chiara Bacci
Team Leader for AML/CFT Policy Development, Financial Crime Unit
DG FISMA, European Commission
- Justyna Gudzowska
Associate Fellow
Royal United Services Institute (RUSI)

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

Traditionally, the professionals who help execute corruption schemes face few consequences. The purpose of the panel was to discuss how enablers, including through reputational, professional, and law enforcement channels, can face accountability.

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

Introductory remarks by Tom Stocks

- Discussion of a case where an 11-year old boy became the owner of a building in London's prestigious Reget's street valued at USD 49 mn via British Virgin Islands company. The owner of that company was not known for over a decade until the Pandora Papers from Trust and Corporate Service Provider (TCSP) Trident Trust (TT).
- TT had set up dozens of companies in the BVI which amassed nearly USD 700 mn in real estate assets in London. The companies were owned by Ilham Aliyev, President of Azerbaijan, his family members and business associates.
- The reporting demonstrated that the shell companies received funds from companies involved in other money laundering schemes, including the Azerbaijani Laundromat, Troika Laundromat, Russia Laundromat.
- TT as an example of an enabler of corruption, a section of actors involved in corruption that have traditionally gotten less attention but have been elevated in the discourse due to work by CSOs and journalists.
- Their importance has been acknowledged in legislation and the AML framework, including in the recently adopted AML package in the European Union (AMLP) which, among other measures, set up the EU Anti-Money Laundering Agency (AMLA).

Eka Rostomashvili

- Transparency International differentiates between:
 - **Gatekeepers**; those individuals and entities the corrupt and money launderers need to pass in order to launder the proceeds of corruption, including those in the financial and non-financial sector. Therefore, the services they provide are crucial for cross-border corruption and should be put under AML obligations.
 - **Enablers**; those gatekeepers that do not implement their obligations and thereby enable corruption. This includes those that may not be aware or are refusing to look and are taking unjustifiable risks in providing their services.
 - **Professional enablers**; those enablers that knowingly facilitate corruption and the laundering of proceeds of corruption.
- Financial enablers have long been the focus but TI is increasingly also focusing on non-financial enablers.
- Achieving accountability for enablers actions is crucial. Criminal and regulatory avenues can be pursued. Challenges in the criminal route include needing to prove knowledge of criminality (or intent) while challenges in the regulatory/administrative route include effectively supervising and having the right obligations in place at all.
- It is important to hold enablers to account to achieve **justice**, and because it can be a very **effective** measure. Enablers who facilitate corruption crimes rarely face accountability for the crimes committed by them and their clients. Going after enablers can also be disruptive as enablers service multiple corrupt actors and may even provide an entry point into investigating the underlying corruption acts. Accountability for enablers' actions can also serve as a **deterrent** by disincentivizing other enablers from engaging in the same behaviours.
- Additional enforcement challenges include lack of identification of the enablers due to a focus on the underlying corruption crimes and actors. Dedicated resources for additional enforcement against enablers are needed.

- It is further important to understand the exact type of services provided and understand for which activities we are seeking to hold them to account.
- Transparency International created a framework to track services and enforcement outcomes against enablers. TI also published a report "[Loophole Masters](#)" using this methodology to identify the enablers of IFFs from Africa.

Kyriakos Iordanou

- The Institute of Certified Public Accountants of Cyprus (ICPAC) is a self-regulatory body (SRB) and the competent authority for the accountancy sector in Cyprus. It has a dual role that includes supervision for standards in the accountancy profession and AML and financial sanctions compliance.
- Cyprus has been rightfully criticised in the media for failures in tackling facilitation of financial crime. Cyprus faces risks from high concentration of Russian business interests, lack of transparency on the origin of their wealth, complexity of schemes involving Cyprus. The government has taken some action since the Cyprus Confidential reporting, which highlighted the role of enablers in Cyprus including via setting up companies for corrupt clients.
- ICPAC the investigation as an "opportunity to rectify things and put things in place".
- Service providers including TCSPs have been excelling and increasing activity in Cyprus for many years but may now have reached a ceiling.
- Sanctions and AML are significant part of ICPAC's monitoring system. Additional activity includes: licensing, training, monitoring via offsite, onsite, and disciplinary action based on supervisory activity.
- Accountants are obliged to have Know Your Customer (KYC) practices in place and record and understand business rationale, exercise due diligence, do background screening and monitor transactions on an ongoing basis.
- ICPAC analyses when new information comes out, for example in media reporting. Reporting on Roman Abramovich-related activity in Cyprus resulted in four investigations and revocation of licenses for four firms.
- The sanctioning of Cyprus entities and natural persons created havoc in the sector. It changed a lot, particularly as the banking sector started freezing accounts linked to the entities. This showed how vulnerable the enablers are to action and sends a good message to others in the sector.
- In response to the Cyprus Confidential reporting, all CC names were summoned, examined, and where they were found to have had poor compliance with legal obligations, they were referred to the administrative committee for additional sanctions.
- IPAC also submitted STRs where they found suspicious transactions and submitted 10 cases to the police on suspected sanctions evasion.
- Onsite supervision is done by a UK-based subcontractor to keep a fence between the ICPAC and it's members when doing supervision.
- There needs to be more enforcement of enablers. It is of note the difference in the strength of the legal framework and enforcement in the US and the EU. Better enforcement and naming and shaming is important.

Chiara Bacci

- The designated non-financial businesses and professions (DNFBP) sector has been regulated in the EU for 20+ years. It has been particularly challenging in the non-financial sector (although the financial sector has also had issues).

- There are critical problems in the sectors. 1/3 of money laundering in the EU can be linked to DNFBPs.
- Issues include:
 - lack of knowledge and acceptance of obligations,
 - outstanding court cases on scope of legal privilege,
 - compliance capacity in firms low (esp. as they are often small) but then their risk appetite is not commensurate with their capacity.
 - supervision (read for example the impact assessment from the European Commission), particularly with self-supervision. Some SRBs did not know their supervised population, did not have risk ratings, were misunderstanding legal privilege, and did not know the share of high-risk customers.
- Recent developments to address these issues:
 - Passing of the AML package at EU level.
 - Provision of toolkits, for example for the legal sector and focusing on legal privilege. Privilege does not cover situations where there is active knowledge of crime and failure to report is a crime due to aiding and abetting, while also exposing you to administrative penalties under AML rules.
 - Provision of information on typologies etc. to help spurn suspicious transaction reporting.
 - Strengthened regulation on real estate with a mandate for a government body supervisor. Where SRBs are in place, there is now mandatory quality assurance from a public authority.
 - New AMLA, which will have indirect powers on the non-financial sector through thematic reviews, peer reviews of supervisors in Member States, and power to issue warnings, and supervisory colleges.
- The tools already exist in legislation, but they are only as effective as they are implemented. Member States need to sufficiently resource public authorities, otherwise they risk being a meaningless additional layer of control.
- Supervisory colleges have an opportunity to lead to a common approach across the EU, but their success depends on willingness of supervisors to do their job.
- AMLA provides a new way to oversee but can't be the only tool and there needs to be willingness properly implement measures at Member State level.
- On high-risk jurisdictions, all transactions with the UAE remain subject to enhanced due diligence following the European Parliament's decision to keep the UAE on the EU list.

Justyna Gudowska

- Justyna recently published a [report](#) on the professional enablers of sanctions evasion. The research is based on over 100 investigations looking at sanction evasion & EU actions against sanctions evaders. The report identified multiple typologies:
 - **Playing the shell game;** Setting up shell companies, acting as nominee directors, setting up trusts etc. An example is the Karimov trust.
 - **Keeping it in the family;** Use of family members as the legal owners of assets, making them proxies. Using close associates etc.
 - **Leveraging networks;** Enablers employing connections to other money-laundering networks or organised crime.
 - **Own below thresholds;** Owning of companies just below a certain reporting threshold (e.g. sanctions thresholds, securities laws etc.) For sanctions this

means owning 49% for US sanctions. EU sanctions consider both ownership and effective control over the entity.

- **Shopping around;** Looking for jurisdictions with lax AML systems, e.g. BVI, UAE, Cyprus. There is a need to pressure those jurisdictions, for example by the US issuing a business advisory on UAE?
- **Buying passports and/or residencies;** Enablers frequently help with getting dual citizenship, residencies etc. in other jurisdictions. This helps with setting up bank accounts and owning assets in those jurisdictions.
- **Suppressing journalists and CSOs;** For example through the use of Strategic Litigation Against Public Participation (SLAPPs). This goes beyond the typical enabling behaviour captured in AML obligations but is also relevant to suppressing anti-corruption work. The enablers are often “one-stop-shops” providing a continuum of both covered and non-covered services.
- **Stay one step ahead of authorities;** Providing services just before new sanctions are implemented. E.g. the moving of Roman Abramovich’s asset ownership just before the Russian invasion of Ukraine.
- It is important to look at enablers as they act as nodes and networks. The research shows that bad actors are using the same set of enablers. If you disable one, you can disrupt activity for multiple actors.
- The enablers are the “flannel suit crowd” with prestigious position in society while also representing “the bad guys”, look the other way or stick their heads in the sand. They have a reputation to lose, providing leverage for intervention.
- Enablers need to be shamed (e.g. via journalistic work such as OCCRP’s investigations). This leads to deterrence if people in their profession are held accountable.
- It is important to not focus too much on the professions (of enablers) but rather on the services provided. The types of services that are an issue have been identified but remain a problem (e.g. creating shell companies) meaning that intervention has been ineffective so far.
- There is a need for a regulatory framework (EU, UK is ahead of US but behind on enforcement) and we need enforcement.
- There is a risk of offshoring of services in response to more stringent enforcement of sanctions within the purview of the EU/US (for example). This means pressure needs to be exerted on those jurisdictions where the corrupt are going, for example through the EU list of high-risk countries with continues to include the UAE.

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

Quotes:

- Eka Rostomashvili: *“Accountability for enablers’ actions is important because it can also serve as a deterrent by disincentivizing other enablers”.*
- Chiara Bacci: *“One third of money laundering in the European Union can be linked to DNFBPs.”*
- Chiara Bacci: *“All the tools are there, we have not reason to believe that this cannot change”.*
- Kyriakos Iordanou: *“The [Cyprus Confidential] investigation gave us an opportunity to rectify things and put things in place”.*
- Justyna Gudowska: *“This is the flannel suit crowd [...] they operate in high society and have a reputation to lose.”*

Questions:

- Private sector compliance worker: The issue of proxy shareholders of companies is a key issue in sanctions compliance. Can you freeze (and or seize) assets belonging to a proxy?
 - JG: Use of proxies makes it very difficult to target the assets as you need to prove that they are only proxies and the sanctioned person is actually exercising control.
 - CB: The element of control over an asset is very important. You need evidence of control but where you have it, you can at least freeze the assets under the sanctions framework. It needs to be evaluated case-by-case.
 - KI: Formal nominee shareholders need to declare for whom they are holding shares. If this is not done, this can have consequences for a DNFBP.
- A Publish what you pay Canada employee commented on the importance to pair enforcement with more transparency, the use of unexplained wealth orders, going after properties and corporate vehicles, and abolishing bearer shares.
- A Transparency International EU representative asked what an ideal SRB would look like and whether there were good examples.
 - CB: Supervision issues are not just confined to SRBs, but ideally we would like to see the same approach as with a public authority: applying dissuasive sanction, imposing remedial measures, publishing those outcomes. The Mutual Evaluation Reports of the Member States provide examples of SRBs that are doing a decent job. Self-supervision per se not the problem, the issue is with how you do your job and how you interpret the role.
 - KI: The specialisation of supervisory bodies can be an opportunity. Cyprus is discussing a national supervisory authority above the individual SRBs to better coordinate, analyse and share typologies, and hold supervisory authorities to account when they're doing poorly.
- An OCCRP representative asked about enforcement priorities and whether there are trends that are most concerning. What should enforcement priorities be?
 - CB: EUROJUST published a survey on this topic. Investigations are typically led by opportunities, but in financial crime this is typically very rare. Main challenges are whether investigations can continue when they hit a non-union company or trust structure. This remains one of the most relevant risk areas. The investigative focus needs to remain on financial threat. That's where it hurts. It's important to enable law enforcement to have access to the information.
- A representative from the Sentry asked about EU high-risk jurisdiction process and whether the EU should seek to strengthen the independence of the process using its own data and investigations, even in the context of the FATF's updated methodology strengthening the focus on Effectiveness. The context cited is the EU's divergence from the FATF by keeping the UAE on its list.
 - CB: The FATF's de-listing process is rigorous and you need to demonstrate effectiveness, not just on-paper improvements. At EU level, there are ongoing discussions around independent vs alignment with the FATF "grey list". The EU can continue to exercise this power and a new rule on targeted financial sanctions also provides a new guide on how to identify countries that pose risk to the Union market.
 - ER: Transparency International welcomed the EU Parliament's decision to keep the UAE on its list. It called on FATF not to de-list based on the evidence available to the organisation, for example the evidence of shady

individuals owning real estate in the UAE as far back as 2018 without action being taken by the authorities.

- An OCCRP reporter asked about the fragmentation of supervision of enablers across the Member States. There are examples of European bodies taking actions against enablers (e.g. ECB removing the licenses of Pilatus Bank in Malta, Russian Commercial Bank in Cyprus). Should there be an agency for EU-wide supervision of enablers? Would this address the divisions by fragmentation of supervision?
 - CB: ECB is the one that power to withdraw licenses, not the national AML supervisors. Licenses have to be revoked by prudential supervisor. The fragmentation of supervision across the EU does not mean there can't be effective cooperation. Any answer will also need to be supervision based (as opposed to enforcement-only) in order to prevent crime. The new package will introduce common levels of financial sanctions.
 - KI: The fragmentation of supervision might also be linked to the nature of lines of service. There may be value in pushing for an EU-wide umbrella to create a harmonised supervisory approach from member states, drawing on the approach principle of the UK's OPBAS (operating at national level).

Key recommendations for the future and concrete follow-up actions

- Actively **capture the role of enablers** in corruption cases, including in publicly available documents such as indictments, court documents etc. Collect this data systematically to identify and pursue key enablers.
- **Increase resources for enforcement** of enablers using both criminal and administrative measures where appropriate.
- Where enforcement capabilities are in place, **use the existing tools** and dedicate necessary resources to enforcement. Where obligations are lacking, **ensure these obligations are expanded** to the necessary entities and empower supervisory authorities.
- **Supervision of DNFBPs (enablers) needs to be strengthened** significantly and more needs to be done on all supervisors understanding their responsibilities fully.

Rapporteur's name

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TI Secretariat

Date submitted

21 June 2024

Action! This report needs to be emailed to iacc-av@transparency.org within 24 hours of the session. If you wish to update the report, please do so by 21 July. Thank you.