

# THE SIGNIFICANCE OF PREVENTIVE MEASURES

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## **Scope of the Presentation**

Preventing corruption is about reducing the opportunities and the inclination to bribe or be bribed. It could therefore be understood as encompassing the whole scope of this forum.

For the purpose of this presentation, it is proposed to understand prevention in a more limited way, much as it is understood in Chapter II of the UNCAC. The following issues are therefore excluded:

- implementation of anti-corruption strategies/instruments, monitoring and evaluations (although they aim at implementing prevention measures)
- measures related to criminal law and cooperation in criminal matters (although their purpose is partly to have a deterrent effect and therefore contribute to preventing corruption)

Nevertheless, the notion of "prevention" implies a global approach.

## **"Prevention" as such in International Legal Instruments**

- The Convention of the African Union is explicitly dedicated to prevention (title of the convention)
- other instruments are usually more specific but often deal implicitly with prevention (such as art. 8 of the OECD Convention)
- nevertheless, before the UNCAC, prevention was mainly left to non binding instruments
- UNCAC:
  - First substantive chapter dedicated to preventive measures (chapter II)
  - However: cautious language used in Chapter II, limited obligations

## **A Comprehensive Prevention Strategy requires Proper Coordination**

- the need for national preventive anti-corruption bodies (art. 6 UNCAC)

## **Priority fields for preventive measures**

- What is in Chapter II of the UNCAC :
  - public sector
    - public administration (career rules, selection, training, remuneration)
    - public procurement
  - private sector (accounting and auditing standards, ...)
- What is not in the UNCAC (or with very limited provisions) ?
  - political life (funding of political parties, transparency for the mandates of politicians)
  - tax issues (deductibility of bribes to foreign officials, see OECD recommendation)

## **Horizontal Questions and Methods for Prevention**

- transparency
- integrity
- awareness
- legislation and/or self-regulation
- guidelines

## **Prevention of Corruption in the Law Enforcement and Justice sector**

- specific importance of the sector
- work at international level regarding ethic standard in the police

## **Biography of Presenter**

Mr Nilsson holds a law degree (1979) from Uppsala University in Sweden. He has worked as a judge at the Court of Appeal in Jönköping, Sweden before entering private practice.

In 1996, he was appointed to his current position as Head of the Division of Judicial Cooperation at the Council of the European Union in Brussels and has responsibilities for projects such as implementation of the Action Plans on Organized Crime (1997 Action Plan, Millenium Strategy), Eurojust, the European Judicial Network and the implementation of the programme of measures on mutual recognition on civil and criminal matters, including the European Arrest Warrant and the Framework Decision on Terrorism. He is since 1997 Professor at the College of Europe in Bruges where he teaches the subject "Justice and Home Affairs of the European Union". He has been involved in the drafting of the Tampere conclusions and the "Hague Programme" with the Dutch Presidency of the Council..

Mr Nilsson has between 1986 and 1996 worked with the Council of Europe in Strasbourg and has there dealt with different aspects of public international law, international judicial co-operation, computer crime and economic crime. He was Secretary to Expert Committees that drafted the 1990 Strasbourg Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 1995 Convention on Illicit Drugs Trafficking on the High Seas.