INTERNATIONAL COOPERATION ON CORRUPTION PREVENTION MATTERS SIDE EVENT

3 JUNE 2021 • 9:00-10:30 NY TIME
PLATFORM: MICROSOFT TEAMS
LANGUAGE: ENGLISH
PROGRAMME

OPENING REMARKS

MR. EVGENII KUZMIN, HEAD, DEPARTMENT FOR ANALYTICAL AND METHODICAL WORK, EXECUTIVE OFFICE OF THE PRESIDENT OF THE RUSSIAN FEDERATION

MR. VLADIMIR KOZIN, CRIME PREVENTION AND CRIMINAL JUSTICE OFFICER, UNODC

MR. ANDREY AVETISYAN, AMBASSADOR-AT-LARGE, MINISTRY OF FOREIGN AFFAIRS, RUSSIAN FEDERATION

MAIN SESSION

MR. ASLAN YUSUFOV, DEPUTY HEAD, DEPARTMENT FOR SUPERVISION OVER THE IMPLEMENTATION OF ANTI-CORRUPTION LEGISLATION, PROSECUTOR GENERAL’S OFFICE, RUSSIAN FEDERATION, GRECO BUREAU MEMBER

MR. LUCIO ALVES, FEDERAL ATTORNEY, ANTI-CORRUPTION DEPARTMENT, ATTORNEY-GENERAL’S OFFICE

MR. CAI WEI, ACTING DIRECTOR GENERAL OF INTERNATIONAL COOPERATION DEPARTMENT, NATIONAL COMMISSION OF SUPERVISION, CHINA

MR. FEDERICO SKORA, GENERAL COORDINATOR OF INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS, DEPARTMENT OF ASSET RECOVERY AND INTERNATIONAL LEGAL COOPERATION, MINISTRY OF JUSTICE, BRAZIL

MR. VIJAYENDRA BIDARI, DEPUTY DIRECTOR, CENTRAL BUREAU OF INVESTIGATION, GOVERNMENT OF INDIA

MS ANAMARA OSORIO, REGIONAL PROSECUTOR, FEDERAL PROSECUTOR’S SERVICE, BRAZIL

MR. ALEXEY KONOVO, CHAIRPERSON, BOARD OF GOVERNORS, INTERNATIONAL ANTI-CORRUPTION ACADEMY

GENERAL DEBATE

Please note that each intervention is limited to 5 mins
BACKGROUND FOR DISCUSSION

The UNCAC provisions on international cooperation, including the exchange of the information necessary for tracing the assets transferred abroad, are usually referred to as a legal ground in criminal cases.

However, in accordance with article 43 of the Convention, “where appropriate and consistent with their domestic legal systems, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption”. The possibility for law-enforcement authorities to cooperate before the initiation of criminal proceedings is provided for in article 48, paragraph 1, subparagraph “f”, of the UNCAC.

Moreover, in resolution 5/1, paragraph 2, the COSP encourages States parties “to afford one another, when feasible, international cooperation in civil and administrative proceedings for the detection of corruption offences”. Further, paragraph 5 of the resolution stipulates that the States parties, when necessary shall “consider concluding bilateral arrangements relating to cooperation in prevention and detection of corruption offences and to the prosecution of natural or legal persons that have committed corruption offences”. In addition, in resolution 5/3, the Conference of the Sates parties to the UNCAC reiterates its determination “to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery”.

COSP resolutions 6/2, 6/3, 6/4 and 7/1 promote similar approach towards the use of the Convention as a legal basis for the recovery of assets which are proceeds of not only crimes, but also of other offences, including those implying civil and administrative liability, and cooperation in the prevention of and fight against such offences. Resolution 8/2 calls upon States parties to “further promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, in line with article 1 (b) of the Convention, with a view to facilitating the implementation of article 43 of the Convention”.

The detection of corruption offences with a foreign component largely depends on whether there is a credible mechanism for verifying if public officials have undisclosed foreign bank accounts, financial interests (including shares in companies), movables and real estate, business activities or paid work abroad as well as residential permit in other states or foreign citizenship. However, Russia’s experience of cooperation with competent foreign authorities shows that despite the aforementioned commitments not all countries are ready to provide the requested information for preventing and detecting corruption offences without a link to criminal liability. At the same time, international cooperation on these matters often requires prompt exchange of information including, where feasible, via secure electronic channels and/or through the access to relevant databases.

For instance, the 1998 Convention on Mutual Administrative Assistance in Tax Matters is supplemented by the 2014 Multilateral Competent Authority Agreement for the Automatic Exchange of Information with 101 signatories. The agreement provides for an automatic receipt of information on foreign accounts of persons. However, according to article 22, paragraph 2, of the Convention, such information “shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes”, whereas paragraph 4 stipulates that the information received by a Party in this framework may be used for other purposes in case it is stipulated by the legislation of the Party which provided this data and its competent authority authorizes such use. As a consequence, the possibility to use the above-mentioned channel to obtain information with a view to enforcing anti-corruption legislation of the States parties to the Multilateral Agreement should be taken into consideration.

These issues need to be further discussed at the practitioners’ level.