

Presentation of Jane Ley
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Global Forum V
Tuesday, April 3, 2007, 9:00 AM

Good morning. I am very pleased to be with you here this morning in this workshop and I am looking forward to your participation and ideas of the preconditions necessary for the effective fight against corruption.

If you had an opportunity to see the fuller description of the issues to be covered by this workshop, you would have seen a number of pre-conditions for effective implementation of anti-corruption measures. Those included the existence of public administration systems and public sector stability, the availability of technical, policy and legal skills in a country, the existence of compatible legal regimes, the ability of a criminal-justice system to deal with complex cases, greater accountability and transparency from international public organizations and donor partners and the ability of sub-regional and regional institutions to support the fight against corruption. The list was not exhaustive nor, I hope, was it intended to convey that all those conditions must exist in order to fight corruption. Those conditions and others help support the most effective fights and are goals.

My friend and international anti-corruption expert, Drago Kos, who is the Chairman of the Commission for the Prevention of Corruption of Slovenia and who has been twice elected by the member delegates to and serves as the Chairman of the Council of Europe's Group of States Against Corruption (GRECO), was originally scheduled to be

on this panel with us today. Unfortunately, because of other time commitments he had to withdraw. A few weeks ago, he and I had an opportunity to discuss this topic in order to help ensure that the subjects we would each cover would not—or at least not excessively—overlap. I asked and received his permission to mention as a simple list the conditions he had intended to discuss as preconditions:

respect of human rights and freedoms,

real political will,

appropriate timing of measures,

appropriate situation assessment,

cooperation between the public and private sectors and civil society,

putting prevention before repression,

using a graduated approach,

and transparency and openness of measures.

Let me briefly mention three over-arching pre-conditions I believe are critical to implementing effective anti-corruption measures before turning to discuss certain individual measures more in depth. I absolutely agree that a fundamental precondition for effective implementation of anti-corruption measures is the political will to address the issue. It is a collective force. It has to involve more than one person or one office and it has to involve the public's appreciation of the need (or pressure) to change. It is certainly more than a government simply saying the right thing.

I also believe that the most effective implementation of anti-corruption measures requires individual leadership. Research in the corporate world has shown that leadership from the top is crucial to developing and maintaining an ethical culture in any organization. That research shows that it is more harmful to the ethical culture of an organization if a leader talks about integrity and ethics but does not follow through with his or her own personal actions than if that leader says nothing about it at all. I think this is just as true in government. But leadership is not just a quality one needs only in the most senior officials. We have found in our surveys of government employees that a large number of them look to their most immediate supervisors for initial guidance, so leadership is important there as well.

Finally, I believe that an effective anticorruption program requires the support and trust of the citizenry gained through opportunities to provide advice and counsel in policy development and the ability to have access to government information.

In my remaining time this morning I would like to talk a little bit more in depth about administrative or good governance systems of institutional and individual accountability that help to promote primarily the prevention and detection of corruption. Prevention and detection are two of the four areas that must be covered by an effective anti-corruption program. The other two, investigation and prosecution, I think have historically received and will rightly continue to receive great attention in this and other anti-corruption venues. My remarks this morning are really a general discussion of characteristics that support effective prevention and detection.

Let's begin with accountability generally in public administration. How is that created?

I believe for government institutions and programs, it very often starts with transparency—transparency of priorities, goals, and of processes chosen to achieve those goals--and because we are talking here today about effectiveness, the transparency of the measures used to judge effectiveness and the transparency of the consequences. With transparency, it is much more easy to determine if government actions are conducted in a fair and consistent manner and in the light of the public eye. With transparency, the opportunities for corrupt behavior will normally be less and the possibility of detection greater.

For example, in a larger, but fundamental policy context, how transparent are the processes and information through which budgetary priorities are developed? How clearly and transparently are they articulated? How transparent are the measures used to judge the success of meeting the budgetary goals? If the answer is not very, then accountability for the process will be weakened.

In a more specific high risk program area, government contracting or tendering, are the procedures for seeking and issuing public contracts/tenders transparent? Are they articulated in an understandable and easily accessible fashion? Are they fair and consistent? Are there transparent (and easily accessible), written, fair and consistent administrative procedures for challenging a potentially tainted process before a contract or tender is issued? After it is issued and information on irregularities comes to light? Do

the appropriate parties have the rights to and are given notice that they have the rights to challenge the process using those procedures? When the process is mismanaged, can the government organization (as opposed to individuals) be held accountable?

While I have used contracting or public tenders as an example, the same is true for other public administration processes such as issuing licenses and grants, administratively enforcing health and safety measures, providing equitable access to public healthcare and education and collecting revenue through taxes or customs. Fundamentally these processes should all have the following in common: transparency of priorities and goals (hopefully fair and consistent) and the transparency of processes by which those priorities and goals are achieved (again hopefully fair and consistent), followed by measurement of achievement and consequences (fair and consistent).

The need for articulated standards and a method of accountability is also true for internal government accountability systems such as those dealing with internal financial and property management and a merit based personnel system. Do the finances of each Ministry, department or agency have to withstand an independent financial audit? Does a Ministry, department or agency have to annually account for the property (cars, computer, furniture, or even buildings) under its control? Can a spot review of the qualifications of new or newly promoted civil servants show that the individuals are qualified for their positions?

Accountability in the public sector must extend to the actions of public officials as well. The same basic concepts used for establishing accountability in programs can also be used to create systems of accountability for public officials. First, are there fair and understandable standards for official conduct? Does the public, as well as the public official, know what they are? (If so, this creates shared expectations.) Are there measurements for meeting the standards and are there reasonable fairly applied consequences for failing to meet the standards? Again you will note that I used the term fair. Public officials need to have rights along with responsibilities. Standardized rights should be a part of the merit hiring and promotion system mentioned above.

Most governments around the world have some criminal law provisions applying to the conduct of their public officials. But there is a growing understanding that having only criminal statutes that define standards for impartiality is not enough. In many international agreements you will now see a call for codes of conduct for public officials. Many of those codes are enforceable and violations can have administrative consequences, not just imprisonment or substantial monetary fine. Having a wider range of consequences including administrative discipline can enhance accountability because the consequences can more easily be adapted to the level of misconduct and misconduct can be addressed at an earlier, less serious stage. For example, with notice and a right to appeal, imposing a fairly administered sanction such as loss of benefit, demotion, transfer, suspension without pay or being fired are all important ways of addressing a public official's failure to meet an expected standard of integrity. The availability of

these sanctions may have a more significant impact on the official than the risk of imprisonment.

Fair and transparent institutional (public administration) and individual accountability systems are just a part of the preconditions for effective anti-corruption measures. What is important is that to remain effective these measures as well as others require periodic and honest assessment followed by adaptation to changing circumstances.

I look forward to hearing the presentations of my fellow panelists and to the points that many of you can contribute to this important discussion.