



26 May 2017

Position Paper on Combating Economic Crime

1. Executive Summary

Every country to some extent is affected by serious economic crimes, such as corruption, bribery, tax evasion, market manipulation, money laundering and fraud. There is a worrying correlation between economic crimes, indebtedness and poverty. These crimes undermine the effective governing of the general public and the economic life. They may also undermine the democratic control of the development of societies. Fighting economic crime that threatens government revenues is of vital importance to secure and build infrastructure and the standard of living for everyone.

The FICIL has assessed the Governments response in fight against the economic crime, identified current problems and prepared proposals to solve them in order to improve the fight against economic crime.

2. Recommendations

Efforts to combat economic crime must be made in several areas and at different levels. The strategy on fighting economic crime shall be developed to provide guidelines and propose measures that may help in reducing the scale of economic crime. It shall be based on common understanding that:

1. Identifying and preventing economic crime is too important to be as tightly budget-constrained as it is.
2. Effective and timely prosecution of cases should be ensured, considering that the punishment has a considerable general deterrent effect where economic crime is concerned.
3. General preventive work is a core objective, i.e. affect either individuals' propensities to commit crime or the occurrence of criminogenic situations in such a way as to make the price of committing offences too high for potential offenders.
4. Because resources will always be scarce, there is a need to be better at targeting, empowering and sharing obtained information, knowledge and skills.
5. Solidify a true private-public crime-fighting partnership to share information and expertise between private sector, regulators and enforcement authorities.

With these principles in mind, our recommendations are:

1. To assess the scale, trends and detrimental effects of economic crime inherent to Latvia. Such risk assessment will provide a better basis for analysis of the effect of existing measures and where new measures are needed.
2. To allocate appropriate resources in order to decrease the overload of officials involved, thereby avoiding undue and unnecessary delays and ultimately a poor quality, sub-standard combating of economic crime.
3. To allocate appropriate physical infrastructure and equipment needed to tackle the problems associated with serious economic crimes, e.g. sophisticated IT tools, forensic expertise tools etc.
4. To address a fundamental concern that competent authorities do not prioritize the investigation and prosecution. To focus more on serious economic crime committed in large volumes and/or in an organized group.
5. To raise the level of expertise of the police, prosecution authority and in the courts. Among other things, we strongly recommend to re-establish the Latvian Police Academy or to ensure that some of existing higher education institutions offers programme of study for 'police personnel.
6. To proactively promote measures to combat money laundering and terrorism financing possibilities through the Latvian financial system. To focus more on prosecution and conviction of money laundering offences in parallel to predicate offence.
7. To put more effort into confiscation of the criminal proceeds.
8. To ensure sufficient cooperation and coordination between law enforcement agencies and the supervisory bodies, acknowledging the fact that they are all working towards a common goal.
9. To raise public awareness by establishing a forum with the business community to disseminate information on crime and its prevention.
10. To adopt whistleblowing regulations and introduce quarantine rules for civil servants moving to jobs in the private sector.

3. Rationale for our recommendations

The recent economic crisis, undoubtedly as measured by the number of enforcement actions reported in the media, has been something of a turning point in the Government response to financial crime around the world. The failure of light-handed regulation and risk assessment by both the private sector and regulators has significantly changed the landscape in terms of expectations, ways and means to address them.

Legislators, regulatory bodies and enforcement authorities have long deputized the private sector in the global fight against economic crime. This is especially true for the financial service industry with respect to crimes of money laundering and terrorist financing but also for other industries with

respect to corruption, bribery, fraud, tax evasion, insider trading and more. Over the years, the work of supranational standard setting bodies and of particularly rigorous legislators of some countries has created a fine-mesh net of international standards, laws with an extraterritorial reach and demanding domestic regulatory frameworks (e.g. FATF recommendations, USA PATRIOT Act, FCPA, UK Bribery Act, etc.) that have raised the bar globally.

This evolution, characterized by an imperative to fight economic crime and the intense pressure brought about by governments' enforcement actions around the world, has increased the cost of doing business. Over the last decade, private sector players have made significant investments to be compliant with anti-money laundering and anti-tax evasion laws and regulations.

Meanwhile, the governments' response in fight against the economic crime was somewhat weak and often ineffectual.

Here in Latvia we have seen increase of very different forms of economic crime during the financial crisis. We have observed the emerging role of specialized organized criminal groups that offer tax evasion services and subsequent third party money laundering services; as well as large organized criminal groupings of insolvency practitioners who responded to the 'market demand' of business owners and creditors for illegal insolvency solutions. We also discovered that international society recognizes us as a relevant spot for money laundering and country that still reconciles oneself with influence of Russian organized criminal groups.

Despite the indication that many of these illegal activities are covered by corrupt public officials, judges, prosecutors, senior police officers and sometimes - even politicians, we were forced to admit that KNAB is more concerned with its internal wars; police officers of SP Economic Crimes Bureau and SRS Financial Police Department are often involved in activities that threaten their impartiality, integrity and reliability.

According to the survey of entrepreneurs performed for the needs of FICIL's Insolvency Abuse Report in 2015, the trust in state courts were rated at the level of 4.98 points but in the State police – at 4.42 points (in the scale from 1 to 10, with 10 being the highest). As regards the punishment of the offenders of economic crime, 77% of respondents have never heard of any sanctions nor compensation of damages to victims. Thus, the private sector was kept reminded of well-known maxim "Trust in God and keep your powder dry".

It is actually bizarre that we have not made more progress in preventing economic offences, since this form of crime results in particularly large costs to the general public. It is not merely the economic cost that is higher than costs associated with traditional crime. Economic crime also undermines confidence in democratic institutions and public support for an open, modern world economy. Without confidence, a general public's transaction costs increase. This produces an unwieldiness and inefficiency that greatly affects both the willingness to invest and economic prosperity. Economic crime also affects private individuals in the same direct way as traditional offending. There is a major need to make progress in relation to crime prevention and punishment in the area of economic offending in order to restore public trust in justice.

The FICIL highly values the work accomplished by the Latvian Government for the improvement of the insolvency process that was on the constant FICIL's radar for the last five years. We also welcome the governments recently adopted Action Plan for tackling money laundering and terrorist financing. And at the same time we note the last year and a half efforts of some law enforcement agencies and the supervisory bodies, including FCMC and the Insolvency Administration, to restart building of trust in their capabilities.

It is our aim to remind how vital it is to proceed with even more active building of a strong law enforcement and judicial bodies' capacity to strengthen investigation and prosecution of economic crimes.