

# Anti-corruption compliance in times of crisis

Building resilience and seizing  
opportunities

Please cite as: OECD (2022), *Anti-corruption compliance in times of crisis: Building resilience and seizing opportunities*, OECD Business and Finance Policy Papers, OECD Publishing, Paris, <https://doi.org/10.1787/467cf791-en>.

This paper assesses the impact of crises, in particular the COVID-19 pandemic and ensuing economic crisis, on anti-corruption compliance objectives, resources and operations. It evaluates whether the crisis generated challenges or opportunities for businesses in the area of anti-corruption compliance, and whether it led to long-term, structural changes. The paper offers recommendations for companies to improve their responses to corruption risks during times of crisis, and for governments to better support companies in this context.

© OECD 2022.



**Government Offices of Sweden**

This report was prepared with the support of the Government of Sweden.

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of the Member countries of the OECD.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Cover design: © primo-piano / Getty Images.

# Preface

The COVID-19 pandemic set in motion a global economic downturn, and together these twin challenges have caused considerable disruption to businesses across the globe. With an eye to supporting the business community, this paper aims to identify how the health crisis and economic crisis have affected companies' efforts to prevent, detect and respond to corruption risks. Understanding the impact of these crises on corporate anti-corruption compliance is essential to ensuring that businesses' prevention efforts are fit for purpose and for weathering future crises.

This paper forms one component of a two-part project supported by the Government of Sweden. This project focuses on corporate anti-corruption measures that are integral to supporting sustainable business practices (the second component of the project is a *Toolkit for raising awareness and preventing corruption in SMEs*). It identifies trends in, and the evolution of, anti-corruption compliance drivers and practices, and in this regard is a follow-up to the 2020 report *Corporate Anti-Corruption Compliance Drivers, Mechanisms and Ideas for Change*. Also supported by the Government of Sweden and developed prior to the pandemic's onset, the 2020 study assessed the factors underpinning companies' efforts to adopt compliance measures, wherein enforcement and reputational risks were identified as chief motivating factors.

In addition to providing a topical update on anti-corruption compliance, the paper evaluates the evolution of anti-corruption compliance risks in the context of the crises. Drawing on a combination of desk research and data collected by the OECD, it covers all sectors and industries, with a focus on those where integrity risks were particularly prominent at the height of the crises, and considers whether the crises has led to long-term, structural changes in compliance.

The paper's findings and recommendations inform policy making on how to facilitate and promote anti-corruption compliance in the context of crisis, support the private sector in ensuring that integrity efforts remain effective in times of crisis and provide insights for businesses assessing and identifying best practices for their anti-corruption compliance mechanisms.

To ensure resilience in times of crisis and beyond, anti-corruption measures are fundamental. It is my hope that these findings will help increase the engagement in building resilience and seizing opportunities. This report gives a solid contribution to the anti-corruption work in future crises.



Johan Forssell

Minister for International Development Co-operation and Foreign Trade of Sweden

# Acknowledgements

The OECD would like to thank the Government of Sweden for their generous financial support of this study. We also wish to express our gratitude to Ina Sandler, on behalf of the OECD Business and Industry Advisory Committee (BIAC) at the OECD, and Viviane Schiavi, on behalf of the International Chamber of Commerce (ICC), for their support and co-operation in the initial phases of this study. Additionally, we would like to express gratitude to the survey respondents, counsels, and compliance experts who chose to participate in interviews, which form the basis of many of the examples shared in this study.

This report was prepared by OECD consultant Liudas Jurkonis, as well as Solène Philippe and Anaïs Michel, Anti-Corruption Analysts in the Anti-Corruption Division of the OECD Directorate for Financial and Enterprise Affairs. France Chain and Paul Whittaker, also from the OECD Anti-Corruption Division, provided valuable guidance to the study. We would like to express our gratitude to Amelia Godber, Communications Officer, Paloma Cupello, Project Assistant, and Mariana Cecillon, Project Assistant, for their helpful support with the formatting, design, and promotion of this report. Barbara Bijelic and Benjamin Michel, from the OECD Centre for Responsible Business, provided valuable insights on the ESG framework. Finally, Lena Raballand provided helpful assistance as a trainee at the OECD Anti-Corruption Division at the data collection phase of this study.

# Table of contents

Preface	3
Acknowledgements	4
Executive summary	7
<b>1 Introduction</b>	<b>9</b>
Background: the emergence of anticorruption compliance as a pillar of corruption prevention over the past decade	9
<b>2 Impact of the COVID-19 and economic crisis on corruption risks</b>	<b>14</b>
Overview of the existing literature on the evolution of corruption risks during the COVID-19 and economic crisis	16
<b>3 Impact of the COVID-19 and economic crisis on corporate drivers of compliance</b>	<b>23</b>
Motives to invest (or not) in anti-corruption compliance	23
<b>4 Impact of the COVID-19 and economic crisis on anti-corruption compliance measures in practice</b>	<b>32</b>
Challenges to corporate anti-corruption compliance	33
<b>5 The way forward</b>	<b>39</b>
Recommendations for businesses	39
Recommendations for governments	40
References	42
Notes	43
 <b>FIGURES</b>	
Figure 1. Geographical profile of business respondents (location of headquarters)	12
Figure 2. Industries represented by respondent companies	13
Figure 3. Survey of businesses – Do you think the risk of bribe solicitation from public officials has increased since the beginning of the COVID-19 crisis?	19
Figure 4. Survey of businesses – What factors does your company take into account when deciding to give more or less priority and resources to anti-corruption compliance?	24

Figure 5. Survey of businesses – Do you think these motives have become more or less important since the beginning of the COVID-19 crisis?	25
Figure 6. Survey of businesses – Support from governments and business organisations in relation to anti-corruption compliance in the context of the COVID-19 and economic crisis	29
Figure 7. Survey of businesses – What type of government support could help you develop or implement effective an anti-corruption compliance programme or measures in the context of the COVID-19 and economic crisis?	30
Figure 8. Survey of businesses – All things considered, do you think the COVID-19 and economic crisis will turn out to have been more a challenge or an opportunity for anti-corruption compliance?	33
Figure 9. Survey of businesses – Challenges faced by survey respondents as a result of the COVID-19 and economic crisis	34
Figure 10. Survey of businesses – Which of the following evolutions have you observed in your company since the beginning of the COVID-19 crisis?	36
Figure 11. Survey of businesses – Opportunities resulting from the COVID-19 and economic crisis	36

# Executive summary

The COVID-19 pandemic and the ensuing economic crisis caused major disruption to many businesses globally. In a statement published on 20 April 2020, the OECD Working Group on Bribery in International Business Transactions committed to “examine the possible impact and consequences of the coronavirus pandemic on foreign bribery, as well as solutions to help countries strengthen their anti-bribery systems”.<sup>1</sup> The role of businesses in prevention corruption and foreign bribery is an area of growing engagement for the Working Group on Bribery, which is responsible for monitoring the implementation and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments.

Now more than two years into the pandemic, this study evaluates the impact of major crises on anti-corruption compliance objectives, resources and operations, considering the COVID-19 pandemic and economic crisis as a case study. Based on a combination of desk research and data collected by the OECD in surveys of businesses and governments, and interviews with businesses, law firms, public officials and civil society, this study assesses whether the crisis generated challenges or opportunities for businesses in anti-corruption compliance, and whether it led to long-term and structural changes. Looking forward, this study informs businesses and governments on how to ensure that integrity and anti-corruption efforts remain effective in times of crisis.

## Key findings

The COVID-19 and ensuing economic crisis affected corruption risks by generating opportunities and incentives to bribe. This impact was stronger at the beginning of the crisis, though it may also have had significant, longer lasting effects, which have yet to be fully assessed. The impact of the crisis also varied significantly across industries and individual businesses. Several specific corruption risks faced by businesses increased following the crisis, e.g. emergency procurement procedures implemented in the early days of the crisis, programmes of donations, or increased interactions with some categories of public officials. General corruption risks also increased as a consequence of the economic crisis and supply chain disruptions, which affected most businesses. Many struggled to continue their operations and, under pressure, may have felt constrained to expose themselves to higher corruption risks and to deprioritise anti-corruption objectives. The magnitude of this phenomenon has yet to be fully assessed.

In terms of drivers of compliance, reputational concerns and economic sanctions remain chief motivating factors. The fast development of environmental, social and governance objectives and standards. Businesses’ ethical reputation came under increased public scrutiny during the crisis. This has made the protection of corporate reputation an even stronger driver of anti-corruption compliance, and probably contributed to the fast development of environmental, social and governance objectives and standards. Government incentives remain an under-exploited tool for encouraging anti-corruption compliance, especially among SMEs.

Both the challenges and opportunities experienced by businesses in carrying out compliance measures revolve around digitisation. Challenges experienced by businesses were, overall, short-lived, and linked to

implementing virtual processes and adjusting to remote working. Opportunities became apparent in the longer term, with efficiency gains due to accelerated recourse to new technologies, and better preparedness to disruption. Businesses will need to find the appropriate balance in the use of these tools.

### Key recommendations for businesses

- Maintain strong anti-corruption objectives and communicate clearly about them.
- Review anti-corruption compliance processes and ensure continuing oversight.
- Ensure effective processes are in place for assessing corruption risks, and keep this assessment up-to-date.
- Encourage whistleblowing and protect whistleblowers.
- Develop a more structured approach to crisis management.
- Engage in collective action to enhance resilience and seize opportunities.
- Consider providing anti-corruption compliance mentorship to SMEs.

### Key recommendations for governments

- Assess corruption risks faced by businesses, including SOEs and SMEs.
- Provide support to businesses, and especially to SMEs, in the context of crisis.
- Encourage companies to look back at the operations conducted in the early days of the crisis, and how anti-corruption compliance applied to these.
- Encourage whistleblowing, including by ensuring effective reporting channels and whistleblower protections are in place.
- Provide incentives to encourage investment by businesses in anti-corruption compliance.
- Continue efforts to enforce bribery and corruption offences.
- Engage in collective action and support collective action efforts to raise businesses awareness of this effective way of mutualising anti-corruption efforts.

# 1 Introduction

## Background: the emergence of anticorruption compliance as a pillar of corruption prevention over the past decade

Long considered a necessary evil by many companies operating internationally and as such tolerated by governments, the bribery of foreign public officials in international business transactions is now recognised as a serious form of corruption that should be criminalised and sanctioned. The *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (the OECD Anti-Bribery Convention or the Convention), which entered into force in 1999 and requires Parties<sup>2</sup> to criminalise foreign bribery and establish the liability of legal persons for such misconduct, played a major role in this regard (see Box 1).

### Box 1. The OECD Anti-Bribery Convention

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the OECD Anti-Bribery Convention or the Convention) contains legally binding standards to criminalise bribery of foreign public officials in international business transactions and establish the liability of legal persons for such misconduct. It was signed in 1997 by 29 Parties – there are 44 Parties in 2022 – and entered into force in 1999.

The Convention focuses on the ‘supply side’ of corruption. In addition to the prohibition of foreign bribery, the Convention contains provisions on corporate liability; sanctions and confiscation; jurisdiction; enforcement and independence of investigations and prosecutions; statute of limitations; money laundering and false accounting; and international co-operation.

The Convention also establishes a peer review mechanism to monitor the implementation of these provisions, which is the responsibility of the OECD Working Group on Bribery, made up of the State Parties to the Convention. The Working Group’s country monitoring reports contain recommendations developed based on rigorous examinations of each country. This open-ended peer-review monitoring system is conducted in successive phases and is considered by Transparency International to be the ‘gold standard’ of monitoring.

All 44 Parties to the OECD Anti-Bribery Convention have adopted legislation prohibiting foreign bribery, which is among the Convention’s major achievements. Prohibiting this form of corruption has also become a quasi-universal obligation under the United Nations Convention on Corruption (2003) and regional instruments such as the Inter-American Convention against Corruption (1996), the African Union Convention against Corruption, the Council of Europe Criminal Law Convention on Corruption (1999) or the Arab Convention to Fight Corruption (2010).

While these instruments have placed obligations on governments, they also aim to shape businesses’ behaviour in international markets, by deterring, detecting, and sanctioning the offer of bribes. Prevention

is increasingly recognised as an indispensable component of any effective anti-corruption policy along with criminalisation and enforcement. For this reason, governments no longer view businesses as potential offenders but as fully-fledged partners that share a common interest in ensuring the integrity of markets and levelling the playing field.

OECD anti-corruption standards contain provisions aiming at mobilising businesses in anti-corruption efforts. This is one of the key objectives of the *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Activities* (the 2021 Anti-Bribery Recommendation), which complements the OECD Anti-Bribery Convention. It includes measures on raising awareness of foreign bribery in the private sector and encouraging businesses to develop and adopt adequate internal controls, ethics and compliance programmes or measures, taking into account the *Good Practice Guidance on Internal Controls, Ethics, and Compliance* annexed to the 2021 Anti-Bribery Recommendation. The 2021 Anti-Bribery Recommendation, initially adopted in 2009, was revised in 2021. The 2021 Anti-Bribery Recommendation places even more emphasis on the role of businesses in anti-bribery efforts. It highlights further the risk-based nature of compliance measures. The 2021 Anti-Bribery Recommendation also introduced new provisions on incentives by governments to adopt anti-corruption compliance measures (See Box 2).

### Box 2. Promoting and incentivising anti-corruption compliance: the 2021 Anti-Bribery Recommendation

The OECD Anti-Bribery Convention is complemented by a set of related instruments containing measures that Parties to the Convention must implement to reinforce their efforts to prevent, detect and investigate foreign bribery, in particular the 2021 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. Other related subject-specific recommendations include the Recommendation of the Council on Bribery and Officially Supported Export Credits (2019), the Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption (2016) and the Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions (2009). As part of its peer review process, the Working Group on Bribery monitors the implementation of the Convention and all the related instruments by member countries.

The 2021 Anti-Bribery Recommendation is the result of an extensive review of the 2009 Recommendation, to reflect recommendations made by the Working Group on Bribery in its country monitoring, and ensure that it continues to respond to the new threats and challenges in the fight against foreign bribery. The review was informed by consultations with a broad range of stakeholders, including the private sector and the civil society. Reflecting the emerging topics and evolutions in anti-corruption, the 2021 Anti-Bribery Recommendation introduces provisions on issues such as whistleblower protection, sanctions and confiscation, non-trial resolutions, international co-operation and data protection. Following the outbreak of the COVID-19 crisis, the 2021 Anti-Bribery Recommendation stresses the importance of the vigorous implementation of the Anti-Bribery Convention in times of crisis, and further expands on provisions in the 2009 Recommendation, introducing new requirements on promoting business integrity:

- The *Good Practice Guidance on Internal Controls, Ethics, and Compliance* (Annex 2 to the 2021 Anti-Bribery Recommendation) has been strengthened, including by emphasising that businesses' compliance efforts should be tailored to risk, visible and accessible. It is clarified that anti-corruption compliance provisions are applicable to state-owned enterprises (SOEs) as well as private companies.
- Countries should implement incentives for businesses to invest in anti-corruption compliance.

- Countries should promote and engage in anti-bribery collective actions with the private sector.
- The 2021 Anti-Bribery Recommendation includes extensive provisions to ensure comprehensive and effective protection of whistleblowers in the public and private sectors.
- Countries should address the solicitation and acceptance of bribes and better support companies facing bribe solicitation risks.
- The 2021 Anti-Bribery Recommendation recognises the potential role of innovative technologies in advancing public and private sectors efforts to combat foreign bribery.

Source: OECD (2022), OECD Anti-Bribery Convention. <https://www.oecd.org/daf/anti-bribery/oecdantibriberyconvention.htm>

Business integrity is an area of growing engagement for the OECD. The role of businesses in preventing foreign bribery is a topic that receives significant attention by the OECD Working Group on Bribery in International Business Transactions (Working Group on Bribery or Working Group) in its country monitoring programme. The Working Group also promotes OECD standards on business integrity among countries not yet Party to the Convention as part of its Global Relations Strategy. The OECD has developed several studies on this topic. In particular, in 2020, with support from the Swedish Government, the OECD conducted a study on *Corporate Anti-corruption Compliance Drivers, Mechanisms and Ideas for Change*<sup>3</sup> (OECD study on drivers of compliance), which notably assesses what motivates businesses to adopt anti-corruption compliance measures, what types of measures businesses adopt, and the specific challenges associated with the mobilisation of small and medium size enterprises (SMEs) in anti-corruption efforts. Based on these assessments, the study identifies how international organisations, and civil society can better support businesses in their anti-corruption efforts.

The OECD study on drivers of compliance was finalised when the COVID-19 pandemic had just begun, and its findings therefore did not consider the crisis' impact on anti-corruption compliance. In a statement published on 20 April 2020, at the onset of the pandemic, the Working Group committed to “examine the possible impact and consequences of the coronavirus pandemic on foreign bribery, as well as solutions to help countries strengthen their anti-bribery systems”.<sup>4</sup> This study focuses on the impact of this crisis on businesses' bribery risks and anti-bribery efforts. The COVID-19 pandemic and the ensuing economic crisis caused major disruption to many businesses globally. Their environment changed suddenly and dramatically on all levels – operational, economic and regulatory. Now two years into the pandemic, this study aims to identify the main evolutions in businesses' anti-corruption compliance efforts, as well as the challenges and potential opportunities that arose during the crisis. Looking forward, the objective of the study is also to draw lessons from the crisis generated by the COVID-19 pandemic to help businesses build resilient corporate anti-corruption compliance systems in the perspective of future crises. This includes understanding how governments can support these efforts.

### *Objectives and scope of the study*

The present study assesses the impact of crises, in particular the COVID-19 pandemic and ensuing economic crisis, on anti-corruption corporate compliance objectives, resources and operations. It evaluates whether the crisis generated challenges or opportunities for businesses in anti-corruption compliance, and whether it will lead to long-term, structural changes in anti-corruption compliance. The COVID-19 and ensuing economic crisis is examined as a case study, with the aim of, to the extent possible, identifying findings and recommendations that may also be relevant to other types of crises.

The study covers all sectors. All types of companies are considered, including SMEs and SOEs. Since the study aims to analyse the impact of the COVID-19 crisis on anti-corruption compliance efforts, its findings are based essentially on information provided by businesses that already have invested in such measures.

The analysis focuses mainly on businesses headquartered or operating in member countries of the Working Group on Bribery.

An extensive literature on corruption trends and anti-corruption efforts has been produced over the past two years by a broad range of stakeholders: governments and international organisations, including the OECD, non-governmental organisations (NGOs), the private sector, and the media. The study aims to provide a synthesis of the main findings from the existing literature; new findings based on the analysis of first-hand information and data collected by the OECD; and recommendations for businesses and governments to ensure that business integrity and anti-corruption efforts are resilient in times of crisis.

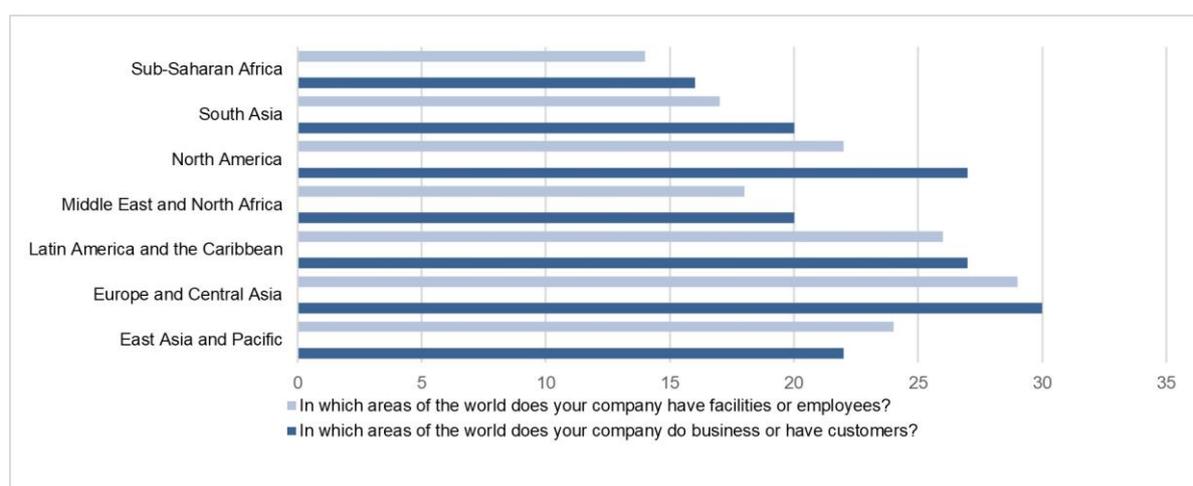
### *Data collection and methodology*

The study relies on a combination of:

- a survey of business representatives
- a survey of government representatives, including governments of member countries of the Working Group on Bribery
- interviews with experts from the business sector, governments and civil society
- desk-based research using open sources, including studies conducted by private sector companies specialised in anti-corruption compliance, and material produced by the Working Group on Bribery.

The OECD collected information from 36 businesses having an anti-corruption compliance programme in place in March and April 2022 based on a detailed survey on corporate anti-corruption compliance practices and challenges. The respondents constitute an interesting sample in that they represent a diversity of countries and regions, sectors and profiles. Respondents are headquartered in 17 countries from Europe, the Americas and the Middle East and operate or have facilities or employees across the globe (see Figure 1).

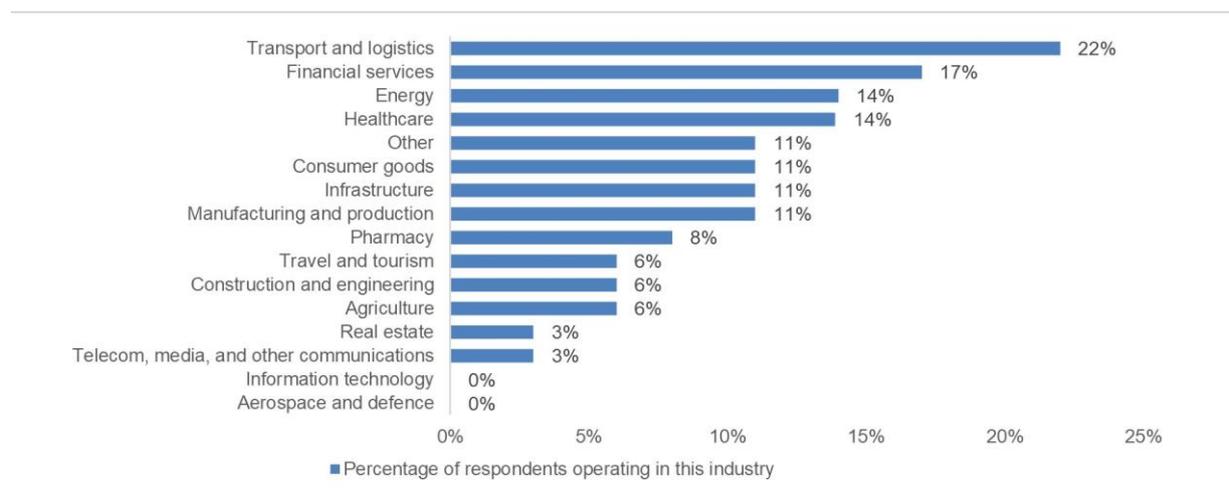
**Figure 1. Geographical profile of business respondents (location of headquarters)**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption compliance.

Business respondents operate in more than 16 different business sectors. These include the health, pharmaceutical, transportation and logistics industries, which, having been especially affected by the COVID-19 and economic crisis, were of particular interest to the study (see Figure 2).

**Figure 2. Industries represented by respondent companies**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption compliance.

As noted, all business respondents already had an anti-corruption compliance system in place at the time of the survey. The maturity of these systems varies, with around one-third of these systems less than five years old and two-thirds more than five years old. The biggest share of respondents is large to very large businesses (72% have more than 1 000 employees). Yet, the sample also includes several SMEs (9%). More than half of them is publicly-listed companies. Responses to the survey also reflect the views of SOEs, with over a quarter of respondents working for businesses that are fully or partly state-owned (11% and 17% respectively).

Most respondents perform legal and compliance functions (75%), thereby largely reflecting the point of view of anti-corruption and compliance experts. Other respondents include chief executive officers (11%), and representatives from operations (3%) or other functions (11%).

In addition to the survey, the study relies on a series of interviews with a broad range of anti-corruption and compliance experts from businesses, global consulting firms and law firms, and civil society. The rich insights collected through these interviews, which were conducted between March and July 2022, complemented and nuanced the results from the surveys, and allowed for a more granular understanding of the concrete impact of the pandemic and economic crisis on businesses' anti-corruption efforts.

The study is also based on a survey of representatives from 16 governments, including 13 members of the Working Group on Bribery, in March and April 2022. The objective was to analyse public authorities' understanding of the impact of the crisis on corporate anti-corruption compliance, and how they can best support businesses in this area. A series of in-depth interviews were carried out with representatives of public authorities, with a view to obtaining more detailed information about anti-corruption initiatives undertaken to assist businesses in addressing the challenges associated with the crisis.

Finally, the study draws on the extensive body of research, analysis and guidance published by international organisations, public authorities, civil society, the private sector and academia on corruption and the pandemic. The study also relies on data collected and analysis produced by the Working Group on Bribery from the inception of the Anti-Bribery Convention, which include country monitoring reports, thematic studies and a compilation of information on the enforcement of the foreign bribery offence by Working Group members.

## 2 Impact of the COVID-19 and economic crisis on corruption risks

---

Understanding corruption risks is a fundamental pre-condition to developing and implementing effective and efficient mitigating measures at corporate level. This section assesses how the COVID-19 and economic crisis have affected corruption risks faced by businesses, and how these changes were perceived and understood by businesses, the public sector and civil society.

---

**The importance of following a risk-based approach to anti-corruption compliance based on a thorough assessment of corruption risks is stressed in national and international guidance for businesses.** For example, the Good Practice Guidance, published by the OECD as an annex to its 2021 Anti-Bribery Recommendation, emphasises the importance of assessing corruption risks as a basis for anti-corruption compliance programmes and measures.<sup>5</sup> Assessing corruption risks is also a legal requirement for businesses in some countries. In France, the largest companies are subject to such an obligation and may face criminal sanctions for non-compliance.<sup>6</sup>

### Box 3. Example of guidance on bribery risk factors

In its 2013 guidance [Diagnosing Bribery Risk, Guidance for the conduct of effective bribery risk assessment](#), Transparency International (TI) UK elaborates on the main risk factors identified in the United Kingdom's Ministry of Justice 2011 [Guidance](#) on the implementation of key provisions of the 2010 UK Bribery Act:

- Country risk (“risks derived from the location of business activities”) may be assessed using TI's Perceptions Index (CPI) as a starting point. Country risk factors may include: insufficient

bribery legislation enforcement; absence of “a truly independent and impartial judiciary”; or the prevalence of “small facilitation payments”.

- Sectoral risk. While TI stresses that “no sector is immune from risk” of bribery, it notes that some sectors are typically more vulnerable than others. A sector may present a higher risk, for example, if it requires more significant interaction with governments; it is highly regulated; it is organised around securing large and complex contracts; or involves multiple business partners or stakeholders. Note that the 2014 OECD Foreign Bribery Report (OECD, 2014<sup>[1]</sup>) contains useful data on those sectors that appear most prone to foreign bribery.
- Transactional risk depends on the “subject matter” of a transaction, the “identity and nature of counterparties”, or the “degree of transparency of the transaction or related dealings”. As such, typical high-risk transactions include “sales to government customers”, “licences, permits, regulatory clearances” or “movement of goods across borders”. Nonetheless, TI notes that transactional risks should be assessed in the light of “concrete business activities” as well as the context of the transaction.
- Business opportunity risk relates to the value, complexity and commercial rationale of a transaction, and may arise in case of high value transactions, involving numerous third parties, and/or without a clear and legitimate purpose and structure; and
- Business partnership risk, which depends on the “true nature of the relationship” and the degree of control the company has on a given supply chain. TI stresses the need to assess the risk associated with third parties acting as business partners themselves, activities undertaken by them as well as on the nature of the business relationship with them.

**By focusing attention and resources on the most significant vulnerabilities and threats identified by a company, risk-based anti-corruption compliance maximises protection while limiting its costs.**

The Good Practice Guidance annexed to the 2021 Anti-Bribery Recommendation identifies several key risk factors to be considered by companies: place and sector of operations, regulatory environment, clients and business partners, interactions with governments and use of third parties. For example, a company relying on intermediaries in a country exposed to high levels of corruption could mitigate the risks by applying enhanced due diligence measures on the agents that it recruits for conducting business in that country, or by conducting specific risk-awareness raising activities for staff involved in those operations (see Box 3 for other examples of risk factors).

**Businesses’ specific risk profile should be regularly reviewed.** The Good Practice Guidance encourages businesses to ensure that their anti-corruption compliance measures or programmes remain adequate and take into account factors such as “changes in the company’s activity, structure and operating model”, “results of monitoring and auditing”, “relevant developments in the field”, “evolving international and industry standards”, and “lessons learned from a company’s possible misconduct and that of other companies facing similar risks based on relevant documentation and data”.<sup>7</sup>

**Anti-corruption risk assessments are increasingly recognised as an important component of broader corporate risk management,** which can be defined as the identification and assessment of risks for a company’s business with a view to developing and implementing processes and measures aimed at reducing the likelihood of a risk occurring and its potential impact. Companies are increasingly integrating corruption and bribery risks into their risk management processes.

**Crises represent critical tests for any risk management system, including risk-based anti-corruption compliance regimes.** In times of crisis, and more particularly at the outbreak of a crisis, risks anticipated by a company may materialise suddenly. A company’s functioning and business environment may also change dramatically, exposing the company to new, unanticipated risks. Overall, since the beginning of the COVID-19 crisis, to what extent have corporate anti-corruption risks adequately been anticipated? Were businesses’ risk assessment capacity strong and flexible enough to maintain a sound

understanding of risks in a fast-changing environment? Were mitigating measures appropriate, and could they be effectively implemented?

## Overview of the existing literature on the evolution of corruption risks during the COVID-19 and economic crisis

**A review of the existing literature shows that, in general, the pandemic and ensuing economic crisis have generated more opportunities and incentives to bribe.** This section analyses the main findings from the extensive research and analysis produced by the OECD and other international organisations, academics, civil society, business organisations, global consulting firms and law firms, on the pandemic's impact on corruption risks since its outbreak.

- Unprecedented market and supply chain disruptions forced many businesses to change their business models, pivoting their activities to other sectors or geographic regions, with a direct impact on their corruption risk profile. In particular, some companies have been constrained to engage in riskier activities or countries, and with riskier partners or clients, because of the sudden loss of existing market possibilities and the scarcity of alternative business opportunities.<sup>8</sup>
- As they faced major economic difficulties, many businesses had to focus their efforts on ensuring business continuity, which sometimes resulted in deprioritising, or even dismissing, anti-corruption objectives, perceived as an unnecessary cost or even an obstacle to survival.<sup>9</sup> Resources dedicated to anti-corruption compliance decreased in many companies,<sup>10</sup> which, in turn, increased their residual risk, or net risk – i.e. “the risk of an adverse event after taking account of the mitigating effect of controls”.<sup>11</sup> A large-scale business survey concluded that tolerance to unethical behaviour increased in businesses during the crisis.<sup>12</sup>
- During the crisis, governments became more involved in the economy, in particular through the emergency acquisition of health equipment and materials, and implementation of large-scale economic relief programmes.<sup>13</sup> Increased interaction between governments and businesses created multiplies opportunities for bribery.<sup>14</sup> Risks were further heightened by the relaxation of transparency rules and loosened scrutiny applied to emergency government interventions, in particular in procurement processes. This was particularly true in the health sector, which is already vulnerable to corruption risks under normal circumstances.<sup>15</sup> Developing countries, where market gaps and inconsistencies in public procurement tended to be prevalent before the onset of the crisis, were also particularly affected by increased corruption risks.<sup>16</sup> Several foreign bribery schemes involving pandemic-related public procurement processes were reported by the media globally (see Box 4).

### Box 4. Bribery schemes involving pandemic-related public procurement processes

#### The masks cases in Germany

In a first case, a Swiss company supplied the Federal Government and certain regions with masks and other protective gear worth EUR 730 million in total. Some of the equipment appeared significantly more expensive than market price. The contract had been brokered by a German company owned by two individuals allegedly well-connected to public officials. These two individuals allegedly received a commission of over EUR 48 million from the Swiss company, which may have been intended to bribe the officials.<sup>17</sup> In a second case, a member of parliament allegedly lobbied public authorities to assist a foreign manufacturer of protective masks in securing contracts between a mask supplier and two private companies, in exchange for a EUR 250 000 commission collected by a company owned by the

parliamentarian. These allegations triggered criminal investigations in Germany. As of June 2022, these two investigations were ongoing.<sup>18</sup>

### **Corruption in food aid supply in Indonesia**

Suppliers of food aid in the context of the pandemic allegedly paid bribes amounting to more than Rupiah 32 billion (approx. EUR 1.3 million) to a high-level public official of Indonesia in order to secure supply contracts. The high-level public official was found guilty of aggravated corruption in Indonesia.<sup>19</sup>

### **Allegations of bribery in COVID-19 masks procurement in Romania**

In March 2020, the director general of the Romanian state's pharmaceutical distributor allegedly requested EUR 760 000 from a middleman acting as a representative of a commercial company, in exchange for the award of a procurement contract for protection equipment. He allegedly unilaterally terminated the contract when the supplier refused to pay an 18% commission to the middleman, from which the expected bribe had to be deducted. Only a portion of the total equipment indicated in the contract was delivered and paid for. In October 2020, the Romanian National Anti-Corruption Directorate indicted the director general. In July 2022, the accused was sentenced by the Bucharest Court to six years and eight months imprisonment on the grounds of bribery among other offences. Another manager of the Romanian state's pharmaceutical distributor was also sentenced to four years and four months imprisonment for abuse of office and intellectual forgery.<sup>20</sup>

### **Allegations of fraud and corruption related to COVID-19 relief schemes in South Africa**

An individual, on behalf of a company of which he was the sole director and employee, allegedly defrauded the South African Unemployment Insurance Fund (UIF) by applying for the COVID-19 Temporary Employer-Employee Relief Scheme on behalf of over 6 000 workers that would have to be laid off due to the pandemic. Payments amounting to Rand 111.9 million (approx. EUR 6.42 million) were disbursed to the company's bank account and then transferred to several other bank accounts belonging to the individual. Following preliminary inquiries, the Financial Intelligence Centre issued intervention notices to the various banking institutions to temporarily freeze the funds. Subsequently, the representative of the company would have bribed a UIF official to unblock the funds. The individual was arrested in 2020 during an undercover operation. The case against the individual was expected to continue in the Pretoria Specialised Commercial Crimes Court on 1 February 2022. As of September 2022, no decision was rendered, however.<sup>21</sup>

### **Allegations of fraud related to ventilators procurement in Bolivia**

The purchasing agency of the Bolivian Health Ministry bought over 170 ventilators from a Spanish company for a price amounting to approximately three times as much as normally requested by this manufacturer. Another Spanish company allegedly acted as an intermediary and was to receive a commission amounting to 20% of the total transaction. The Inter-American Development Bank funded the purchase. In early May 2020, health practitioners complained that the ventilators were not suitable for Bolivia's intensive care services, which drew the attention of Bolivian authorities. In January 2022, the Bolivian Public Prosecution Office presented the formal accusation against the former Minister of Health and seven other former officials in this case, requesting a prison sentence of ten years for the crimes of breach of duties, uneconomic conduct, improper use of influence, contracts harmful to the state, crimes against public health, favouring illicit enrichment, among others. As of May 2022, the trial had yet to be scheduled.<sup>22</sup>

- Businesses' interactions with governments not only increased but became more difficult to anticipate, as many government interventions were *ad hoc* (emergency purchase, economic aid measures) and the channels and processes for interacting with public officials were also difficult to

predict. This made companies' corruption risk models, which normally rely on prior familiar patterns, become less reliable.<sup>23</sup>

- In some countries, the government's response to the crisis included taking equity stakes in companies facing acute financial difficulties, which resulted in increased state ownership or control of enterprises. SOEs' vulnerability to corruption is well-documented.<sup>24</sup> During the crisis, nationalisation initiatives were often carried out as an emergency measure (OECD, 2020<sup>[2]</sup>), with potentially lower vigilance against corruption risks. The Basel Institute on Governance warned that "increased due diligence and a critical eye on governance will be crucial for any organisation entering into business with an SOE. This is essential in any case to properly identify and mitigate bribery risks, but especially important with new SOEs that emerge from the COVID-19 crisis."<sup>25</sup>
- The COVID-19 and the ensuing economic crisis saw a rise in organised crime groups and illicit trade, including global trade in counterfeit pharmaceutical products and wildlife trafficking, which can in turn fuel foreign bribery.<sup>26</sup>

**Some compliance and anti-corruption experts, however, argue that the pandemic may have also contributed to reducing corruption and bribery risks** by constraining companies to conduct a significant part of their operations virtually, making it, in practice, more difficult to engage in misconduct, since virtual interactions can be more easily monitored and leave digital traces (as opposed to one-on-one physical meetings).<sup>27</sup>

### ***Views from representatives from governments, businesses and the civil society***

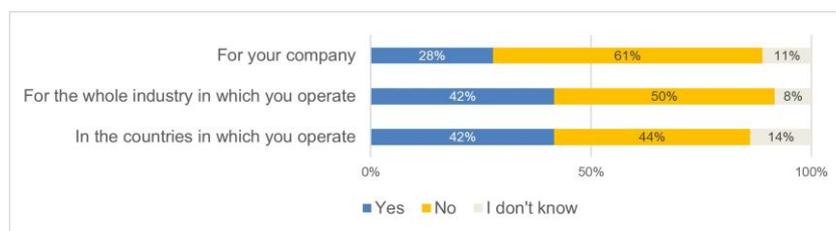
For this study, representatives from businesses, governments and the civil society with anti-corruption expertise were invited to share their views through surveys and interviews on the evolution of corruption risks since the beginning of the pandemic.

#### *Views from businesses*

**The results of the survey of businesses offer a different perspective on the evolution of corruption or bribery risks** than provided by the review of the existing literature in the previous section. Most respondents (62%) stated that the corruption risks remained the same, while 32% noted that the level of exposure increased and 6% noted a decrease in the level of exposure to corruption or bribery risks. When asked more specifically about the evolution of the risk of bribe solicitation from public officials, 61% of respondents declared that this risk had not increased for their company since the beginning of the crisis, while 28% stated that this risk did increase, and 11% did not know. The response that this risk had not increased also came first at sector and country level.

**Those respondents to the survey of businesses who noted that corruption risks remained unchanged or decreased during the crisis emphasised the benefits of virtual interactions, especially with public officials, which resulted in more transparent and traceable communication and limited the risks of bribery, as well as the specific nature of increased risks** (e.g. donations), to which only some categories of businesses were exposed. This view was shared by some of the interviewees from the private sector, who insisted on the very specific and short-lived nature of some of these risks, which may have affected businesses on a case-by-case basis, and mainly in the early days of the crisis. It is important to note that most of the businesses who responded to the survey are large or very large firms, some of which operate in sectors that were not or were limitedly affected by the crisis. They were therefore less exposed to the increased corruption or bribery risks associated with pressure to ensure business continuity.

**Figure 3. Survey of businesses – Do you think the risk of bribe solicitation from public officials has increased since the beginning of the COVID-19 crisis?**



**Source:** OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

**Interviewees from large pharmaceutical companies offered very interesting insights on their exposure to corruption or bribery risks during the crisis.** These companies were directly concerned by increased interactions with public officials in the context of emergency purchasing procedures, and by donations, which are widely recognised as being among the main risks aggravated by the crisis. However, they explained that the travel and social gathering restrictions put an end to in-person events such as conferences and seminars for professionals, and made most interactions within the sector and with external partners, such as public officials, virtual, with benefits in terms of risk reduction. They also noted that, since they performed exceptionally well economically during the crisis, they had resources to invest further in anti-corruption compliance programmes. It should be highlighted that the representatives from the pharmaceutical sector who provided inputs to this study had a particularly sophisticated take on corruption risks, which suggests that this industry, at least at the level of its biggest players, has been paying more attention than others to the issue. This may be precisely because these businesses had to navigate some of the biggest risks generated by the crisis.

**Other private sector representatives who provided insights for this study did not appear to have firm or precise views on the evolution of corruption risks during the crisis.** A significant number of them noted that this evolution is difficult to assess in the absence of systematic studies at company, sector or other level, and called for these assessments to be made. Strikingly, some respondents, even though they represented large companies, did not seem to have given much thought to the recent evolution of their company's or sector's risk profile. The fact that most business respondents consider that corruption risks did not increase or even decreased during the crisis may also indicate that the impact of the crisis on corruption risks has been underestimated. Bribery schemes may be detected long after they occurred. As noted by a representative of a global law firm, indications of the actual scale of the corruption risks during the crisis may only become apparent in years to come.

The minority of respondents to the survey of businesses and the interviewees from the private sector who considered that the corruption risks increased during the crisis cited risk factors consistent with those identified in the previous section, such as:

- pressure on companies to survive
- need to mitigate the impacts of supply chain disruptions by urgently seeking new business partners
- reduced investments in corporate anti-corruption systems
- decreased controls and transparency in emergency purchase procedures by governments
- increased interactions with public officials (e.g. customs officials in the context of more difficult cross border movement of persons and goods).

*Views from government representatives*

**As with businesses, governments surveyed for this study did not appear to have conducted a systematic analysis of the evolution of bribery risks faced by businesses operating in their respective jurisdiction.** Four of the 13 respondents stated they were not in a position to indicate whether the crisis had any impact on such risks, either because they did not perceive any change in indicators (e.g. “reports made by overseas-based government agencies relating to suspected foreign bribery”, or “disclosures provided by these companies to [law enforcement] in relation to bribery”), or because they considered that they do not have relevant data to conduct such analysis. Other respondents’ feedback did contain interesting insights, which are presented below. However, with a few exceptions, governments’ inputs lacked specificity. Unlike what is expected in other areas, such as, in particular anti-money laundering and counter financing of terrorism,<sup>28</sup> there are no international standards requiring countries to assess the corruption risks faced by businesses.

**Most respondents to the survey of governments considered that the crisis increased the level of corruption risks faced by companies operating in their respective jurisdiction.** The main areas of increased risk identified by these respondents are similar to those highlighted by the existing literature on the impact of the COVID-19 and economic crisis on corruption. The main increased risks cited by governments was linked to the lack of transparency of the emergency procedures implemented by governments to procure personal protective equipment (PPE) and other relevant medical materials (see Box 5 on the analysis produced on this topic by a local anti-corruption agency). Representatives of governments also noted that other new or increased corruption risks were associated with the following situations:

- implementation of large-scale emergency economic aid programmes to businesses lacking transparency
- donations of medical equipment or other essential items by companies to public entities
- acquisition of fake vaccination certificates
- de-prioritisation of anti-corruption compliance objectives by companies as they are seeking to resume business in the aftermath of the economic crisis
- lack of insights regarding the business activities on the ground due to remote working and travel restrictions, hindering the conduct of audits and internal investigations
- increased organised crime activity, with a direct impact on corruption risks, since bribery is a common method used by organised crime groups to facilitate illegal activities.

### Box 5. Perception of the risks of corruption by the representatives of an anti-corruption agency of the regional parliament of Spain

As part of their responses to the survey of governments, representatives from the Agency for the Prevention and Fight against Fraud and Corruption of the Valencian Community (AVAF) noted that Spain was severely affected by the economic crisis triggered by the COVID-19 pandemic, with a 10.8% drop in its GDP in 2020. The AVAF determined that the economic difficulties faced by businesses, together with the massive use of emergency contracts for the supply of protection and health products under simplified competition procedures by government agencies, resulted in an increase in potential risks of corrupt or fraudulent practices, including bribery. Prior controls on bidding companies were eliminated, and were not compensated by any other specific verification systems. The AVAF noted in particular that several companies without any experience in public bidding or in the supply of sanitary material or protective equipment took part in these emergency contracting procedures. These companies, which acted as “commission agents” between suppliers and authorities without direct productive activity, generated significant profit. This phenomenon, for the AVAF, increased bribery risks either in the awarding of emergency contracts or in securing protection and health products in high demand for subsequent sale directly to public administrations at an overvalued price.

Source: Agency for the Prevention and Fight against Fraud and Corruption of the Valencian Community (AVAF).

**A minority of government representatives, however, suggested that the crisis may have reduced bribery risks in their jurisdiction.** One noted that “due to pandemic controls, there has been reduced trade activity (including fewer trade missions and events) and greater restrictions in supply chains, both of which may have caused a reduction in bribery risk.” In the same vein, the other representative observed that while the crisis did increase bribery risks overall, the “decline of travel abroad, [...] medical education events, and certain health care services during the COVID-19 pandemic management restrictions” reduced the “usual options of financial support” from the health and pharmaceutical industry to health care specialists, “which can be used to disguise bribes”, hence suggesting a decrease in bribery risks in the health and pharmaceutical industry, at least at the onset of the crisis.

#### *Perception of the evolution of corruption risks by the civil society*

**The representatives of the civil society interviewed for this study highlighted the increased corruption risks generated by the crisis**, in line with the existing literature, and the majority views of governments. In particular, they highlighted the following:

- Economic pressure on businesses is a major corruption risk factor. This factor likely played out significantly at the onset of the crisis, when economies were suddenly disrupted, and may have been temporarily contained by the large-scale relief programmes for businesses carried out by governments.
- All the elements susceptible to increase fraud and corruption identified in the “fraud triangle” theory materialised during the crisis (see Box 6).
- The representatives of the civil society also highlighted the particular vulnerability of SMEs to increased corruption risks during the crisis. SMEs were more vulnerable to the economic crisis, and had less resources to understand and manage new corruption risks.

### Box 6. The Fraud Triangle theory

Based on the work of the criminologists Donald R. Cressey, Edwin Sutherland, Steve Albrecht and others,<sup>29</sup> the Fraud Triangle theory aims at explaining criminal behaviours. According to this theory, individuals may be motivated to commit white-collar crimes when the three following factors are gathered:

- perceived pressure to commit crime
- perceived opportunity, i.e. weaknesses in controls and low likelihood of getting caught
- rationalising the misconduct as not in breach with one's values.

Experts from the civil society interviewed for this study pointed out that all three factors were likely to materialise in the context of the crisis, with companies facing considerable economic pressure; increased opportunities for fraud arising from factors such as remote working, weaker controls or hindered enforcement; and fraud justified as the only possible way in extraordinary circumstances to ensure business continuity and save jobs.

### Conclusion

- In general, the crisis affected corruption risks by generating opportunities and incentives to bribe. This impact was more evident at the beginning of the crisis, though it may also have had significant, longer lasting effects, which have yet to be fully assessed. The impact of the crisis also varied significantly across industries and individual businesses.
- Several specific corruption risks faced by businesses increased following the outbreak of COVID-19 and the ensuing economic crisis. In particular, companies were exposed to higher risks of corruption in the context of emergency procurement procedures implemented in the early days of the crisis; programmes of donations; and increased interactions with some categories of public officials such as officials from agencies responsible for issuing permits and licences or customs officers in the context of cross-border movement restrictions. The impact of these increased risks was very much business, activity or sector-specific.
- General corruption risks increased as a consequence of the economic crisis and supply chain disruptions, which affected most businesses. Many struggled to continue their operations and, under pressure, may have felt constrained to expose themselves to higher corruption risks and to deprioritise anti-corruption compliance measures. The magnitude of this phenomenon has yet to be fully assessed.
- However, several experts, mainly from the private sector, consider that, overall, the increase in corruption risks faced by the business sector as a result of the crisis has not been significant. Some experts even consider that corruption risks have not increased. Several factors are likely to have mitigated the increased corruption risks mentioned above. Some businesses showed economic resilience, or performed better during the crisis, and were able to mobilise the necessary resources to mitigate additional corruption risks. The reduction of face-to-face interactions and international trade also contributed to limiting the exposure of many businesses to bribery risks.
- Overall, business is still absorbing the shockwaves from the COVID-19 and economic crises. As a consequence, corruption risks are still evolving, and governments and the private sector alike will need to continue to thoroughly assess these in order to minimise their impact on business transactions.

# 3

## Impact of the COVID-19 and economic crisis on corporate drivers of compliance

---

What impact has the crisis had on companies' motivations for investing in anti-corruption compliance? This section looks in particular at two important drivers of compliance linked to fear of enforcement and for businesses' reputation, and analyses the role of governments in encouraging anti-corruption compliance in times of crises.

---

In 2020, the OECD study on drivers of compliance<sup>30</sup> assessed the reasons for which companies engage in anti-corruption compliance measures. While avoiding prosecution or other legal action and protecting the company's reputation were by far the strongest motives for engaging in anti-corruption compliance efforts, the study also pointed out that "the decision to adopt an anti-corruption compliance programme is usually more multi-faceted" and considers factors such as intrinsic motivations arising out of the company's culture or values of key leaders, customer's or investor's influence or government incentives.

### Motives to invest (or not) in anti-corruption compliance

**In 2022, consistent with the finding of the OECD study on drivers of compliance, respondents to the survey of businesses highlighted the relevance of a broad range of factors for investing in anti-corruption compliance.** The strongest factors identified by the respondents were protecting or promoting the company's reputation; mitigating increasing exposure to corruption risks; and complying with a legal obligation to have an anti-corruption compliance programme. Other important but secondary drivers of anti-corruption compliance included mitigating enforcement risks (receiving sanctions, being debarred or

going through an external audit) and seeking business partnership opportunities (with governments and others).<sup>31</sup>

**Also consistent with the results from the OECD study on drivers of compliance, in 2022, businesses are still mainly driven by negative motivations when investing in anti-corruption compliance programmes.** Businesses remain particularly attentive to their ethical reputation, and consider that anti-corruption compliance programmes are a way of protecting themselves against bribery allegations and of promoting integrity efforts. As in 2022, fear of enforcement also remains an important driver of anti-corruption compliance.

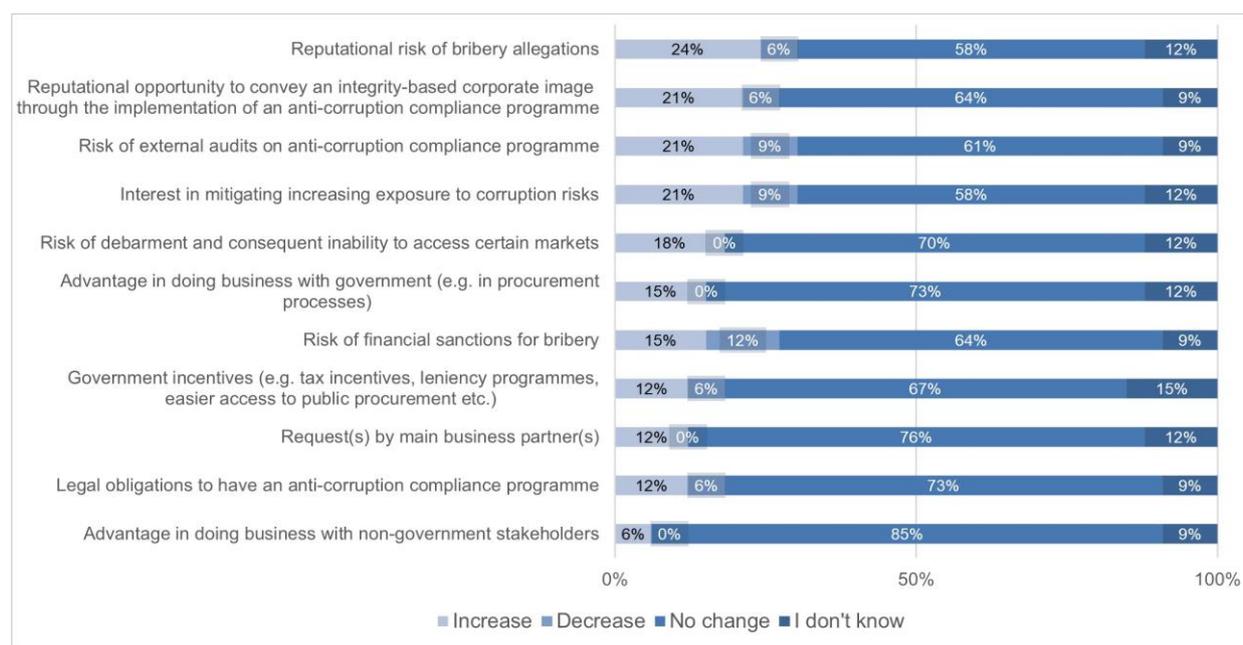
**Figure 4. Survey of businesses – What factors does your company take into account when deciding to give more or less priority and resources to anti-corruption compliance?**



Note: Respondents were asked to rate the proposed drivers from 0 to 5, where 0 indicates “not at all important” and 5 “extremely important”.  
Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

**For most respondents, the crisis did not have any impact on the motives for anti-corruption compliance efforts.** It is interesting to note that a non-negligible minority of respondents considered that some of the main drivers for investing in anti-corruption compliance (protecting a company’s reputation from bribery allegations or promoting a company’s integrity reputation) became stronger during the crisis (see below for more details). Also worth noting is the fact that only 21% of respondents consider that mitigating increased corruption risks has become a stronger motivation for investing in anti-corruption compliance. This is broadly consistent with the fact that only a minority of respondents considered that corruption risks have increased for their company, sector or country, as seen in the previous section.

**Figure 5. Survey of businesses – Do you think these motives have become more or less important since the beginning of the COVID-19 crisis?**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

The following subsections discuss two of the main drivers of anti-corruption compliance and their evolution since the beginning of the COVID-19 and economic crisis in more details: fear of enforcement and fear for businesses' reputation.

### ***Enforcement as a driver of compliance***

**The potential impact of the pandemic on the enforcement of corruption offences was identified as an issue from the onset of the crisis.** In 2020, Transparency International feared that, given the economic difficulties faced by companies in their jurisdictions, authorities might be tempted “to hold back foreign bribery enforcement on short-sighted economic grounds.”<sup>32</sup> In May 2020, taking note of these potential difficulties (OECD, 2020<sub>[3]</sub>), the OECD recommended such measures as “ensuring that investigative agencies have adequate resources to fulfil their duties [and], where statutory limitation periods are in place, (...) suspending or extending these by appropriate means where necessary.” (OECD, 2020<sub>[3]</sub>) In October 2020, the UNODC also stressed the difficulties faced by law enforcement agencies in conducting investigations in the context of pandemic-related constraints and recommended that countries protect “adequate resources for investigative agencies” “to permit effective detection, investigation and prosecution of corruption and bribery and to support international co-operation”.<sup>33</sup>

**These difficulties materialised in many countries in the first months of the pandemic.** The media reported instances of delays or challenges in corruption cases. Some trials were adjourned or postponed.<sup>34</sup> Sentencing decisions were delayed.<sup>35</sup> Investigations were suspended.<sup>36</sup> In some cases, certain types of investigative steps could not be taken due to physical distancing measures.<sup>37</sup> International co-operation was affected by the restrictions on cross-border travel.<sup>38</sup> Practical challenges also included ensuring the security of video conferencing platforms, determining the way to proceed when witnesses decline to sit for testimony or interviews, or responding to expiring limitations periods”.<sup>39</sup>

**However, only a minority of respondents to the survey of governments observed an impact of the pandemic on corruption enforcement in their jurisdiction. When observed, this impact appeared**

**minor, and limited to the first months of the pandemic.** These respondents cited delays in some corruption investigations; loss of efficiency in anti-corruption training for law enforcement; or increased difficulties in detection. Other respondents from several countries even considered that the pandemic did not have any impact on the enforcement of corruption offences, as demonstrated by the fact that foreign bribery cases continued to be detected in their jurisdiction.

**There are also indications that law enforcement authorities managed to adapt their operations to the new constraints created by the pandemic.** Civil society representatives noted that “important improvements were made in a number of countries to digitise and improve processes, which will have long-lasting benefits”. Many countries reacted by adapting their legal framework to the pandemic and reorganising their way of working. For instance, several law enforcement authorities applied work rotations,<sup>40</sup> conducted remote court hearing and sentencing,<sup>41</sup> or extended procedural time limits.<sup>42</sup> Some of these new mechanisms are still in place. Building upon the efforts of courts and judicial authorities to reorganise their way of working during the crisis, the European Commission for the Efficiency of Justice of the Council of Europe (CEPEJ) adopted an Action Plan for 2022-25 on “digitalisation for a better justice” to accompany the ongoing digitalisation of judicial systems.<sup>43</sup>

**Limited data available on global foreign bribery enforcement in 2020-21. The information available points to a decrease in the enforcement of the offence.** The pandemic is not considered to be the only cause for this trend, however. For example, in the latest edition of its *Exporting Corruption* report, Transparency International states that “[t]he COVID-19 pandemic has undoubtedly posed a major hindrance at every stage of enforcement from investigation to prosecution, but in many countries the downward trend predates the crisis”. Factors for the low level of enforcement include “inadequacies [...] in legal frameworks and enforcement systems”, “a lack of training and resources” or “the low priority currently given by national authorities to tackling foreign bribery”.<sup>44</sup>

**In any case, fear of enforcement appears to have remained an important driver of anti-corruption compliance since the beginning of the COVID-19 crisis** (see Figure 5) As noted above, in the context of the 2020 OECD study on drivers of compliance, a large majority of survey respondents had indicated that avoiding prosecution or other legal action was a “significant” or “very significant” factor in their decision to establish an anti-corruption compliance programme. Two years after the beginning of the pandemic, most respondents to the survey of businesses carried out for this new study considered that fear of enforcement, and more especially fear of financial sanctions and fear of debarment, remain important. This was corroborated by most experts from the private sector and civil society interviewed for this study. They doubted that companies took advantage of a decrease in enforcement activities by deprioritising anti-corruption compliance (unlike criminal organisations, which did feel encouraged by the difficulties experienced by law enforcement authorities at the beginning of the crisis). This suggests that, despite the challenges faced by authorities in enforcing the foreign bribery offence, enforcement still acts as an effective deterrent to corruption.

### ***Protecting and enhancing reputation as a driver of compliance***

**Mitigating the reputational risk of bribery allegations continues to stand out as the most important factor taken into account when deciding to give more or less priority and resources to anti-corruption compliance.** Promoting an integrity-based image of the company is also considered to be an important driver for anti-corruption compliance efforts. Most respondents consider that both motivations have remained as strong as before (58% and 64% respectively) or stronger (24% and 21% respectively) during the crisis.

**Reputation is also considered to have become even more important during the crisis by many anti-corruption experts.** Certain businesses were at the forefront of the response to the crisis and benefitted from considerable public support. More generally, social scrutiny of businesses’ behaviour has rarely been so intense. As noted by Transparency International UK, “all eyes are on businesses right now – and

reputations are at stake.”<sup>45</sup> In support of its petition to the United Nations General Assembly Special Session against Corruption, Transparency International stressed that “The experience of COVID-19 has also accelerated changing relationships between customers and businesses. Many more customers expect that the businesses they purchase from play a role in addressing and properly implementing anti-corruption measures for the common good”.<sup>46</sup> A global consulting firm also noted that “[t]he level of scrutiny on business from wider society has intensified. Decisions taken by businesses and governments in crisis mode at the height of the pandemic will be judged over the coming months and years. Acting with integrity is more important now than ever before.”<sup>47</sup> An anti-corruption expert concurred: “It is in moments of crisis that the true character of people and organisations are displayed. Reputations will be made and destroyed as a result of the actions being taken through this global pandemic.”<sup>48</sup> In particular, he added, “those businesses that are ethical and are actively involved in helping us navigate this unprecedented crisis will benefit from doing the right thing”. A representative from a Working Group member’s government also noted that possible cases of corruption linked to the crisis have received significant attention from the media, generating “a greater social demand for the implementation of preventive and detection measures.”

**This trend has likely been contributing to the fast rise in environmental, social and governance (ESG) objectives** (see Box 7). In a 2022 study on infrastructure investment in Asia-Pacific,<sup>49</sup> the OECD noted that “[t]he COVID-19 crisis has accelerated the interest in ESG Investing, underlying the need for resilient and sustainable investments.” The study referred to a survey of businesses carried out by a global finance company, showing that a large majority of investors would increase ESG investment.<sup>50</sup> A global asset management bank noted in 2020 that “For investors, we believe the crisis will ultimately accelerate the ESG agenda, with wide-ranging repercussions.”<sup>51</sup> A global consulting firm noted that this trend dates back to the 2008 global financial crisis.<sup>52</sup>

**These views were broadly confirmed by the experts interviewed for the study.** Taking the public scrutiny of the pharmaceutical companies producing vaccines as an example, representatives from civil society highlighted the fast-increasing expectations from society for ethical corporate behaviour, which is driving the development of ESG considerations. A representative of a large company stressed that, more than by fear for reputation, i.e. a defensive approach, its anti-corruption compliance efforts were driven by the positive aim of increasing its attractiveness for employees, customers and partners by building a strong ethical image.

### Box 7. Environmental, social and governance (ESG) framework

The ESG framework<sup>53</sup> refers to a set of criteria and indicators that companies and investors are encouraged to take into account when managing their activities or making investments. In particular, companies and investors are invited to consider the risks, impacts and opportunities related to the following:

- Environmental factors include natural resource use, carbon emissions and impact on climate change, energy efficiency, pollution and sustainability initiatives
- Social factors include workforce related issues (health, diversity, training), and broader societal issues such as human rights, data privacy, and community engagement
- Governance factors include corporate governance structures and processes by which companies are directed and controlled (e.g. board structure and diversity, ethical conduct, risk management, internal controls, disclosure and transparency).

In addition to the ESG framework, the OECD Guidelines for Multinational Enterprises refers to the “Responsible Business Conduct” (RBC) framework, which include considerations on anti-corruption and bribery. “RBC” and “ESG” terminology both relate to environmental, social and governance considerations. “ESG” is commonly used to discuss environmental, social and governance issues which pose financial risks. RBC risks refer specifically to the risks of adverse impacts with respect to issues covered by the OECD Guidelines for Multinational Enterprises – impacts on society and the environment, independent of financial impact to the company itself.

While ESG analysis and ratings have become an increasingly important part of the investment process and public reporting, companies tend to either consider including certain aspects of ESG criteria in their anti-corruption programmes or incorporating their anti-corruption programme into a wider ESG internal strategy and programme.

### ***Support and incentives to develop and implement corporate anti-corruption compliance programmes in the context of the COVID-19 and economic crisis***

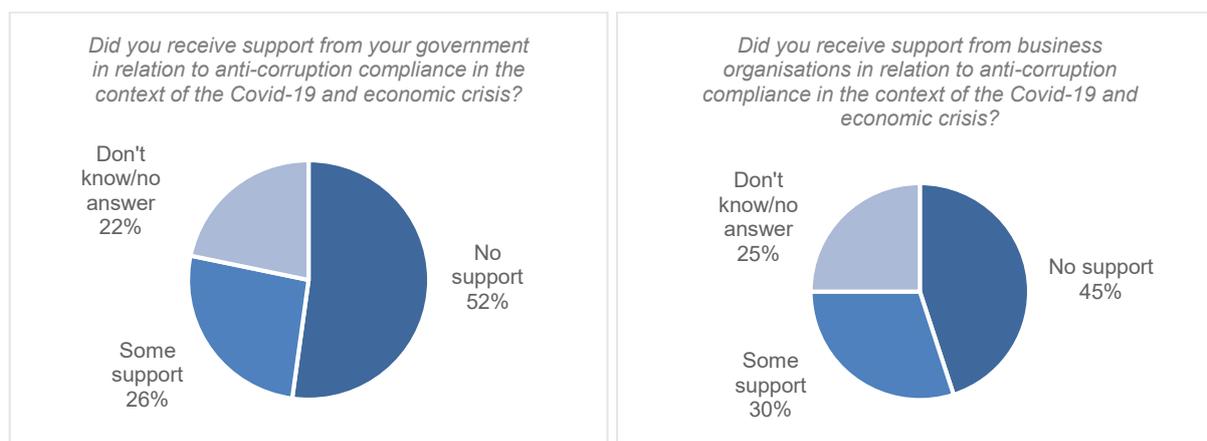
**Governments have a key role to play in encouraging businesses to adopt and implement anti-corruption compliance programmes.** The 2021 Anti-Bribery Recommendation requires countries to encourage businesses to adopt anti-corruption compliance programmes, and implement measures to incentivise the adoption of such programmes.

**Government incentives to adopt and implement anti-corruption compliance programmes appear to have been of limited effect.** In 2022, government incentives were considered the least decisive of the factors suggested to respondents in investing in anti-corruption compliance by the participants in the survey of businesses. While most of the business representatives would welcome government incentives, they seemed sceptical about their effectiveness. In particular, some respondents were of the view that such incentives to anti-corruption compliance generate significant bureaucratic costs or promote a formalistic, “tick-the-box” approach, with the ultimate effect of lowering compliance standards.

**Several governments report having taken specific initiatives to assist companies in addressing the challenges created by the COVID-19 crisis on anti-corruption compliance efforts by companies operating in their jurisdiction.** For example, in a Latin American country, the anti-corruption agency published two guides containing guidelines for companies to ensure transparency and integrity in operations carried out with the public sector based on the contracting rules adopted exceptionally in response to the COVID-19 crisis.

**Most respondents to the survey of businesses noted that they did not receive any support from governments or business organisations in relation to anti-corruption compliance in the context of the crisis.**

**Figure 6. Survey of businesses – Support from governments and business organisations in relation to anti-corruption compliance in the context of the COVID-19 and economic crisis**



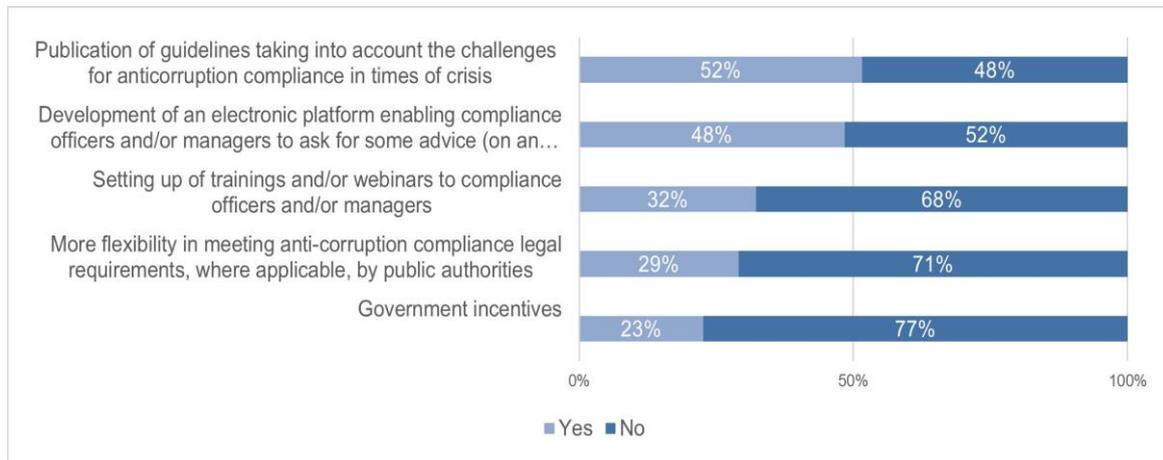
Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

**A few respondents indicated that their company received some support in the form of guidelines taking into account the challenges of anti-corruption compliance in times of crisis, trainings or webinars for companies or more flexibility in meeting compliance legal requirements.** Most of these initiatives came from business organisations. In Costa Rica, the Chamber of Health created PROMED Anticorruption Compliant Seal in the midst of the pandemic, and more particularly as part of an anti-corruption programme aimed at supporting companies in preventing corruption in the health sector. This programme offers legal assessment, training, updating and auditing on ethics and anti-corruption, “in accordance with the provisions of Law No. 9699, on the liability of legal persons for domestic bribery, transnational bribery and other crimes, and international best practices”.<sup>54</sup> This initiative is still being implemented. In Italy, Cofindustria, the main association representing manufacturing and service companies in the country, published a paper in June 2020 highlighting risks related to the COVID-19 crisis, including corruption risks, and recommended that companies assess whether their anti-corruption programme should be strengthened and adapt their application where necessary in the context of the crisis. The paper further recommended that upper management within companies ensure and verify, in the exercise of their prerogatives, the effective implementation of controls and protocols provided by anti-corruption programmes or measures.<sup>55</sup>

**Most business respondents expressed interest in receiving some form of assistance from governments in the development of effective anti-corruption compliance measures.** Two types of assistance generated interest from half of the respondents to the survey of businesses:

- *Public guidelines taking into account the challenges for anti-corruption compliance in times of crisis.* Business representatives noted that governmental agencies are well-placed to collect “lessons learned” to feed into such guidelines. Some respondents, however, feared that governments might not consider this type of initiative as a priority due to lack of commitment, resources or competence.
- *Development of an electronic platform enabling compliance officers or managers to seek advice and guidance.* For businesses, this would be particularly useful in relation to complex requirements, standards, or situations.

**Figure 7. Survey of businesses – What type of government support could help you develop or implement effective an anti-corruption compliance programme or measures in the context of the COVID-19 and economic crisis?**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

### **Collective actions represent a particularly interesting tool to offer support to businesses in times of crisis.**

The Basel Institute of Governance suggested at the onset of the crisis that it “might in fact be a time to consider more collaborative approaches like Collective Action”, by offering opportunities for the private sector and governments to collaborate and “address issues of common interest in a cost-effective and pragmatic way”.<sup>56</sup> According to the B20 Collective Action Hub,<sup>57</sup> which offers a database of over 280 Collective Action initiatives and projects designed to raise standards of integrity and fair competition, 18 Collective Action Initiatives were initiated in 2020-21. Even though this represents a decrease compared to 2018-19 (34 Collective Action Initiatives), one interviewee highlighted governments’ and private sector stakeholders’ capacity to “carry on with Collective Action initiatives even in a COVID-19 environment”. The Basel Institute of Governance published a practical guide in June 2022, “designed to help governments, and in particular National Anti-Corruption Agencies, engage with the private sector more effectively to prevent corruption”, suggesting governments to (i) “collaborate and consult on corruption prevention activities in the private sector”, (ii) “support and incentivise the private sector to engage in corruption prevention activities and initiatives”, and (iii) “demonstrate leadership by becoming an active participant in Collective Action”.<sup>58</sup> A multi-stakeholder Collective Action approach to address corruption is also acknowledged as good practice by the 2021 Anti-Bribery Recommendation.

### **Conclusion**

- The factors driving anti-corruption compliance efforts appear broadly unchanged by the crisis: protecting businesses’ reputation against corruption allegations and fear of enforcement remain the most important motivations for businesses.
- Fear of enforcement has remained a decisive motivation for businesses, despite the challenges faced by anti-corruption law enforcement authorities, at least at the beginning of the crisis.
- Businesses’ ethical reputation came under increased public scrutiny during the crisis. This has made the protection of corporate reputation an even stronger driver of anti-corruption compliance, and probably contributed to the fast development of environmental, social and governance objectives and standards.

- Government incentives do not appear to be as effective as reputation and fear of sanctions in prompting businesses to engage in anti-corruption compliance. They remain an under-exploited tool for encouraging anti-corruption compliance, especially among SMEs.
- Businesses have received limited assistance from governments and business organisations to address the challenges linked to the crisis in anti-corruption compliance. They would welcome receiving greater support.

# 4

## Impact of the COVID-19 and economic crisis on anti-corruption compliance measures in practice

---

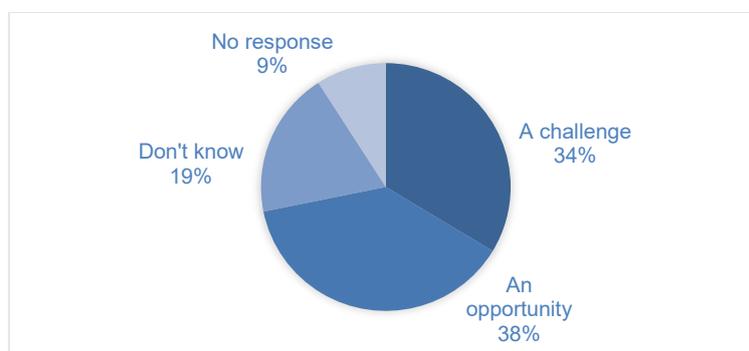
What has been the impact, in practice, of the COVID-19 and ensuing economic crisis on anti-corruption compliance operations and processes? This section aims to understand whether the crisis has created challenges and opportunities in anti-corruption compliance.

---

**Few representatives from governments who contributed to this study formed an opinion on whether the crisis generated challenges or opportunities for corporate anti-corruption compliance.** Most considered that governments do not have sufficient data to reach a firm conclusion on the matter. One representative noted that “From a government perspective, it is difficult to assess the impact of the COVID-19 pandemic and economic crisis on anti-corruption compliance efforts by companies, because reports of suspected non-compliance during this period and the reasons for non-compliance may not yet have emerged.” This view was shared by two other government representatives. Three others indicated that they had not observed any impact.

**Representatives from the business sector had more to say on the matter. Their views were very mixed on whether, overall, the crisis has been a challenge or an opportunity for anti-corruption compliance processes.** All respondents to the survey of businesses identified both challenges and opportunities. These results were broadly in line with the views expressed by the anti-corruption experts and practitioners interviewed for this study.

**Figure 8. Survey of businesses – All things considered, do you think the COVID-19 and economic crisis will turn out to have been more a challenge or an opportunity for anti-corruption compliance?**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption compliance.

The findings of the survey of businesses identified a number of challenges and opportunities in relation to anti-corruption compliance. When evaluating the overall impact of the crisis in terms of potential challenges or opportunities for anti-corruption compliance, the opinions of respondents distributed almost evenly. The same external circumstances thus appear to have either translated into improvements or slowdowns of compliance developments.

This section explores the difficulties faced by companies' anti-corruption compliance functions during the crisis, as well as the opportunities exploited in these challenging circumstances.

### Challenges to corporate anti-corruption compliance

The impact of the crisis on anti-corruption compliance has been analysed in several publications, in particular from the private sector and civil society. The findings were broadly corroborated by the anti-corruption experts surveyed and interviewed for this study.

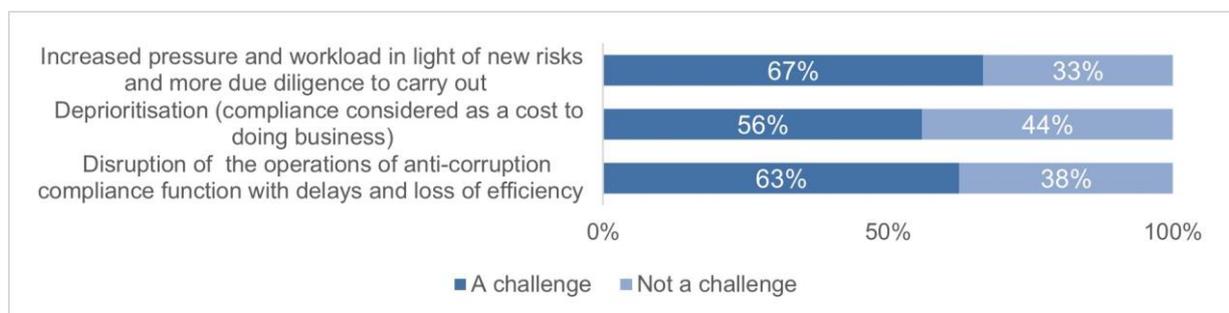
**A major challenge was the increased workload faced by anti-corruption compliance functions during the crisis.** In the context of sudden market disruptions, many businesses had to establish new partnerships or operate on new markets, generating additional due diligence and risk assessment work, which often needed to be conducted under significant time pressure. For some businesses, new risks such as donations to public authorities also required putting in place new assessment processes and mitigation measures.

**At the same time, the priority and resources given to anti-corruption activities and objectives were reduced, at least in some companies.**<sup>59</sup> Compliance teams' capacities and staff availability were directly impacted by the circulation of the virus and the closure of schools. As noted in Section 1, economic pressure and the perception of anti-corruption compliance as a non-essential expenditure also contributed to budget cuts and de-prioritisation. An anti-corruption expert noted that "before COVID-19, compliance teams were already challenged with a lack of resources to monitor and safeguard high standards of behaviour" and the "trimming" of anti-corruption compliance human resources as a consequence of the crisis is "often in direct contrast to changing and rising compliance needs", forcing compliance teams to "do more with less".<sup>60</sup> This was particularly the case in smaller companies.

**Social distancing and travel restrictions caused major disruptions to anti-corruption compliance operations and required adapting most processes to remote working.**<sup>61</sup> In particular:

- **The need to adapt quickly to a disrupted environment, in particular through the development of virtual processes, which generated costs, and impacted the effectiveness of compliance.** Digitalising processes was a complex task that compliance officers had to execute as a matter of emergency and, as noted above, often with reduced resources. When the crisis started, many businesses realised that their IT equipment was inadequate, including to carry out their compliance work. Overall, the crisis revealed the inadequacy of businesses' crisis management systems. Several experts noted that, while the main challenges appear to have been addressed relatively rapidly, they still entailed some costs and loss of efficiency, which could have been more limited had the anti-corruption compliance programme integrated a more structured crisis management plan.
- **The crisis caused major practical challenges to internal investigations.** Before the crisis, internal investigations were to a large extent based on "physical collection of data, emails, and other information, travel for site visits, and in-person interviews".<sup>62</sup> Remote working also implied that anti-corruption compliance teams and internal investigators could not monitor paper-based information and review physical evidence, or could not conduct this monitoring as quickly as needed. An interviewee noted that these technical difficulties contributed to discouraging some companies from conducting internal investigations. Beyond data collection and analysis, the crisis also hindered monitoring activities and the detection of corruption suspicions.
- **Due diligence, in particular in relation to third parties and in the context of mergers and acquisitions, was also negatively affected by social distancing.**<sup>63</sup> This challenge was compounded by the fact that, the travel restrictions caused by the pandemic may have even led some companies to "[reduce] or put on hold their in-country audits of distributors and other third parties."<sup>64</sup>
- **Anti-corruption training, both for employees and third parties, became a challenge during the crisis.** Businesses had to adapt the format of training to a virtual format, which was not straightforward. The disruptions of the risk environment also made some key elements of anti-corruption compliance programmes out-of-date, and the content of training programmes no longer relevant.<sup>65</sup> Ensuring an effective level of engagement from trainees also became a challenge.<sup>66</sup>
- **Assessing risks is more difficult when performed remotely.** Anti-corruption experts highlighted that an essential element of this assessment processes requires being "in the field", to gain a first-hand understanding of processes and conduct in-person interviews. These practical difficulties also contributed to the difficulties faced by businesses in assessing the impact of the crisis on their risk profile, as highlighted in Section 1.

**Figure 9. Survey of businesses – Challenges faced by survey respondents as a result of the COVID-19 and economic crisis**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption compliance.

**Most of these challenges were considered to have been short-lived** and overcome relatively quickly once effective virtual processes started to be put in place and social distancing and travel restrictions were lifted.

**The crisis may, however, have generated longer term challenges associated with the increased reliance of companies on digital tools, including automation and artificial intelligence.** Several anti-corruption experts noted in particular that these can only be effective if the company has put in place effective operational and qualitative data collection processes, which requires costly and highly specialised investments, and if they leave room for manual processes and analysis. In addition, they considered digitalisation is made more challenging in the context of the development of data protection standards.

### ***Opportunities for corporate anti-corruption compliance***

An analysis of the literature published by the private sector highlighted that the COVID-19 and ensuing economic crisis have also given rise to a number of opportunities. These findings are broadly corroborated by the private sector and civil society representatives surveyed and interviewed for this study.

**The slowing down of compliance processes at the beginning of the crisis, when the pandemic disrupted companies' operations, may actually have been beneficial to anti-corruption compliance.**

An anti-corruption expert noted that this slowing down “[allowed] more time for those in the approval chain to reflect before acting, whether on new arrangements with intermediaries, reviewing reimbursable corporate expenses, examining accounts payable orders, and so on”.<sup>67</sup> The fact that decreased activity and travel restrictions at the beginning of the crisis freed up some time and resources for anti-corruption compliance was also considered an opportunity by most respondents to the survey of businesses, but to a lesser extent. However, this appears to have been a very short-term effect, which might have been rapidly annulled by the increased workload and pressure to ensure a continuing implementation of anti-corruption programmes or measures despite the crisis situation.

**The acceleration of reliance on new technologies by anti-corruption compliance functions over the past two years is considered as the main benefit from the crisis by most anti-corruption experts.**

Since the sudden operational constraints associated with social distancing and travel restrictions had not been adequately anticipated by businesses, which still relied heavily on in-person and paper-based processes and methods, setting up new processes relying almost fully on digital tools was initially a challenge. However, the potential benefits of these adaptations quickly became apparent.

**New approaches to essential compliance activities, including internal investigations, generated some efficiency gains.**

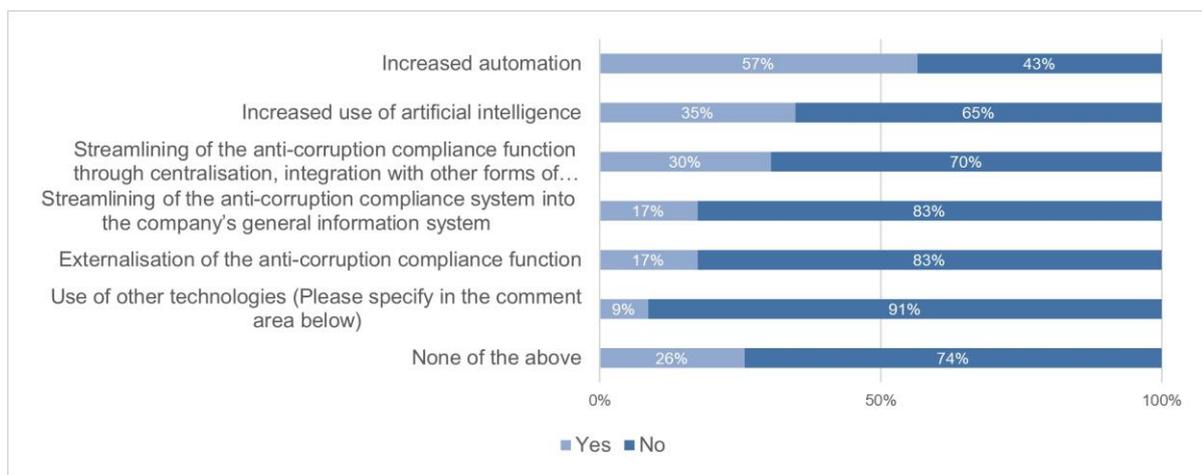
Conducting internal investigations remotely involved “rethinking the ways in which devices are imaged, documents and other data are collected/analysed, financial transactions are tested, and interviews are conducted.”<sup>68</sup> This virtual approach to investigation may allow companies to respond “more quickly and efficiently” to allegations of misconduct.<sup>69</sup> The reduced cost of virtual solutions was also highlighted.<sup>70</sup> Similarly, digital solutions eventually reduced the cost of training and encouraged creative approaches. Digital training may be less engaging, but it also allows training content to be shared more widely, and in a more flexible, tailor-based manner. Overall, an approach based on a mix of in-person and distance-based training is likely to be most effective in the longer term. Many businesses have continued to deliver anti-corruption training at least partially through virtual means.

**The crisis accelerated the introduction of innovative technologies, including automation, into anti-corruption compliance processes.**

Digitalisation, broadly speaking as well as applied to anti-corruption compliance processes, had started before the pandemic. Its value was further recognised, and its use accelerated, during the crisis. The fact that compliance functions realised the value of digital solutions was considered by these experts to be one of the major positive outcomes of the crisis. A global consulting firm noted that automation has the “ability to aid businesses, whether that means easing the burden of critical processes, keeping costs in check or supporting rapid growth.”<sup>71</sup> It added “In the due diligence

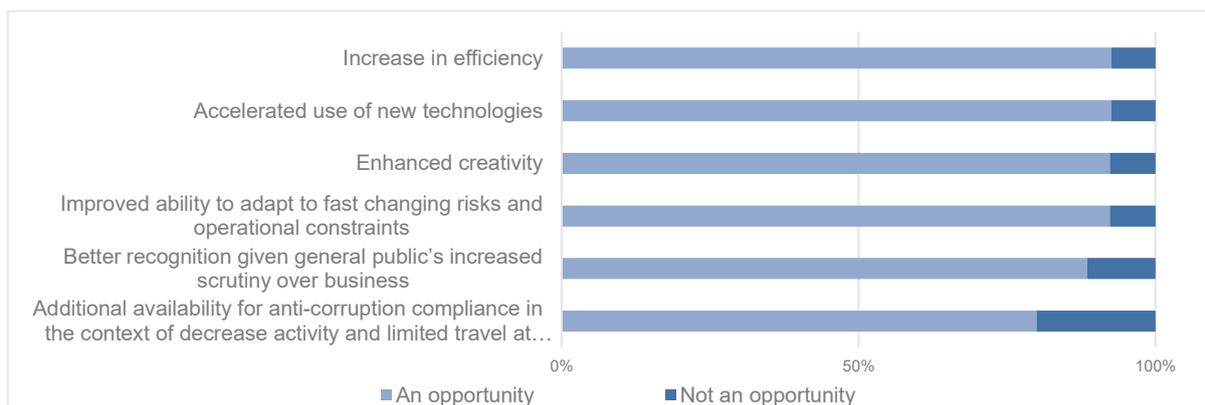
world, automation tools have been successfully streamlining workflows and processes for some time now. What has been interesting to see is the rise of automation linked to specific technologies like artificial intelligence (AI) and machine learning (ML) over the last few years.” According to a survey carried out by the same global consulting firm, “60% of respondents are either using or plan to use this technology over the coming two to three years. This spans across multiple forms of AI, including ML, as well areas like natural language processing and robotic process.” (See Box 8 for a definition of the main types of digitised solutions that can be used in anti-corruption compliance). Yet, the trend towards the digitalisation of anti-corruption compliance practices is uneven across regions. A 2022 OECD study shows that, for example, in Eastern Europe and Central Asia, there is room for improvement in the use of innovative technologies to implement and develop anti-corruption compliance programmes (OECD, 2022<sup>[4]</sup>).

**Figure 10. Survey of businesses – Which of the following evolutions have you observed in your company since the beginning of the COVID-19 crisis?**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

**Figure 11. Survey of businesses – Opportunities resulting from the COVID-19 and economic crisis**



Source: OECD survey on the impact of the COVID-19 and economic crisis on corporate anti-corruption.

**Respondents to the survey of businesses also highlighted the benefits of the introduction of innovative technologies into anti-corruption compliance** (see Figure 10). More than half of respondents observed the development of automation, and more than a third of them saw an increased use of AI following the onset of the crisis. The vast majority of respondents considered that the acceleration

of the use of new technologies, broadly speaking, constituted a significant opportunity. A respondent noted that “Digital transformation boosted due to remote work during COVID-19 period. Many processes have been digitalised since then, hence the ability to monitor the decisions made and actions performed has increased”. The use of new technologies in anti-corruption compliance covers various practices that are more or less innovative and sophisticated, from online platform-based training to automation or artificial intelligence algorithms applying elements of behavioural science in order to analyse operational data to detect potential cases of fraud, corruption, or bribery in operations (see Box 8).

### Box 8. Main types of digitised solutions that can be used in anti-corruption compliance

**Computerisation compliance processes** refers to the shift of compliance processes relying upon physical interactions between people or objects to a virtual, connected environment that can be stored or processed by a computer.<sup>72</sup> In practice, using online platforms to provide training can be considered a virtual compliance process.

**Intelligent automation process**, or automation, can be defined as the application of enhanced technology tools to a complex process to automate it from beginning to end, for the purpose of reducing effort and increasing efficiency.<sup>73</sup> Automation refers to processing tools that might not develop upon practice nor influence decision-making. In practice, a software providing for a register of third parties details and for the possibility to obtain details on any third party with which the company is collaborating in a country X can be considered as an automation process.

**Artificial Intelligence (AI) system** is defined by the OECD as a machine-based system that can, for a given set of human defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.<sup>74</sup> Developing artificial intelligence system requires more investment and high-skilled resources. In practice, an artificial intelligence system could, for instance, analyse all past corrupt behaviours identified in a company, make links with corresponding circumstances and estimate the likelihood of corrupt behaviour in specific circumstances.

**A longer term benefit is the increased creativity and improved ability to adapt anti-corruption compliance programmes to a fast changing environment** (see Figure 11), which is linked to better awareness of the requirements and value of crisis management systems. The case study presented in Box 9 illustrates how some businesses were able to adjust promptly to their new environment by revisiting existing processes, using innovative methods.

### Box 9. Opportunity seized by a multinational corporation

#### Review of an anti-corruption programme in a time of crisis

“In March 2020, a large European multinational corporation in the consumer goods sector was in the process of launching a series of enhancements to their ethics and compliance programme. [...] When the COVID-19 outbreak occurred and employees were mandated to work from home, a plan B had to be developed. [...] all ethics and compliance officers worked through videoconferences, live digital whiteboards and wikilists to agree on the practical adjustments needed to ensure [the implementation of such enhancements] in the new environment.

This early exercise allowed a quick reaction [...] [from the compliance team, which] managed to show the cruciality of continuous improvement for the success of the company in these uncharted times: the new Code [of conduct] ... and related training were successfully launched with record-breaking completion rates and third-party compliance enhancements continued with minimal disruption. Yet the most successful achievement was the deployment of the new global anti-corruption risk assessment.

[Furthermore], a new risk assessment methodology and systems had been tested [before the global lockdowns] and were ready to be deployed on a regional basis. However, based on the compliance officers' feedback, the process was revisited, and more emphasis was put on digitalisation. The ethics and compliance team, in partnership with the technology and operations function, designed a tailor-made system taking advantage of the multiple resources and integrations offered by the [IT] tools used by the company. Ethics and compliance officers took responsibility of conducting consultations with key employees which allowed them to complete user-friendly online questionnaires and rating systems that resulted in a wealth of unique risk insights and actions for more than 100 countries.

Having launched the [risk] assessment [tool] during this crisis, the ethics and compliance team identified risk trends that otherwise would have not been observed or prioritised. This included shifts in the risk in logistics, transportation, inventory management, participation in public tenders and the provision of grants and donations to public institutions and non-governmental organisations. New guidelines and system-based workflows were introduced, along with specialised clinics, deep dives and bespoke trainings. The success of this assessment and the delivery of all other [developments] were a consequence of the quick team reaction when the pandemic started and, more importantly, the result of the strong position that the ethics and compliance programme had gained within the company before the crisis kicked off – an important lesson about the relevance of investing in integrity in quieter times.”

75

## Conclusion

- As may have been expected, the COVID-19 and economic crisis generated a mix of challenges and opportunities for corporate anti-corruption compliance.
- Overall, the challenges generated by the COVID-19 and economic crisis for corporate anti-corruption compliance appear to have been shortlived, and linked to the need to adapt to new circumstances, including by developing new work processes with reduced capacities. Opportunities quickly arose, with efficiency gains due to the accelerated recourse to new technologies, and better-preparedness to disruption.
- Innovative technologies and remote-working tools have limitations, however, and businesses have yet to find the appropriate balance in order to maximise the effectiveness of compliance processes.
- As the crisis is not over, its effects on the operations of corporate anti-corruption compliance have yet to be fully assessed. Information about cases of misconduct during the crisis may take time to emerge. A proper assessment of the challenges faced by anti-corruption compliance over the past years will also take time, as will the longer term efficiency gains identified or expected by anti-corruption experts and practitioners.

# 5 The way forward

The prior sections have provided an overview on the impact of crisis on anti-corruption compliance, both on the business and the governments sides. Building on these findings, this section provides for recommendations that may help businesses, governments, and the international community to anticipate potential future crises. In particular, the recommendations below are intended to help businesses overcome the difficulties encountered in times of crisis in maintaining and adapting their compliance programme, and for governments to encourage and support companies in this endeavour.

## Recommendations for businesses

- **Maintain strong anti-corruption objectives and communicate clearly about them.** Deprioritising anti-corruption compliance to save costs or engage more easily in riskier business operations is a shortsighted strategy that exposes companies to serious consequences in case of misconduct. The past two years have shown that public opinion and law enforcement are unlikely to consider a crisis as an excuse for corporate misconduct. On the contrary, ethical strategies are likely to be valued in a context of increased public scrutiny. There is a strong business case for anti-corruption compliance, which can be leveraged in efforts to promote a culture of integrity within businesses. These efforts should be supported and promoted at all levels of the organisation, including at the upper management level.
- **Review anti-corruption compliance processes and ensure continuing oversight.**
  - Overall, for some businesses, anti-corruption compliance processes may have shown resilience in the context of the crisis. However, these processes are likely to have been negatively affected by a severely disrupted environment at the beginning of the crisis. All risks may not have been adequately assessed and mitigated. Some hasty decisions may have exposed companies to increased risks of misconduct. It is not too late to review these decisions in order to detect possible misconduct and apply enhanced due diligence to activities or partnerships initiated or developed in the early days of the crisis.
  - Businesses' anti-corruption compliance processes may have greatly benefitted from the accelerated transition to digital solutions. However, these new methods and processes, developed under considerable time and practical constraints, may not be optimal. Now is the time to consider where innovative technologies add most value and whether and where in-person and paper-based processes are still critical.
- **Ensure effective processes are in place for assessing corruption risks, and keep this assessment up-to-date.** Risk understanding is the cornerstone of any effective anti-corruption compliance system. By disrupting supply chains, and forcing companies to change business partners or operate on new markets, crises have the potential to affect a company's risk profile in a significant and sudden manner. Risk assessment processes must be sufficiently responsive to stay up-to-date even in these circumstances. Businesses, and more particularly compliance departments, should have mechanisms in place to monitor changes in the business environment, and assess their impact on corruption risks, and broader company risk management processes.

This requires rapid and effective information collection and analysis processes. Compliance systems must be flexible enough to adapt rapidly to risk assessment updates.

- **Encourage whistleblowing and protect whistleblowers.** Whistleblowers are key to detect and address misconduct rapidly, and establishing trustworthy and effective reporting channels and protection against retaliation is critical to fostering a culture of integrity in a company. This is a particularly valuable safeguard in times of crisis, when the effectiveness of prevention and oversight measures may be negatively affected.
- **Develop a more structured approach to crisis management.** Most companies were not prepared for the pandemic and its consequences on their operations, including their anti-corruption compliance functions. Unpreparedness hampered their ability to respond to business difficulties, and to mitigate risks of misconduct. Companies should build on the lessons learned from the past two years to anticipate potential future crises. Crisis management should be prioritised further, and based on robust risk assessment processes. This should include a postmortem analysis of recent crises, including, but not limited to COVID-19 and the ensuing economic crisis. Anti-corruption compliance should be an integral part of companies' crisis management system.
- **Engage in collective actions to enhance resilience and seize opportunities.** Collective actions are effective ways of mutualising anti-corruption efforts among businesses, business organisations, civil society and public sectors stakeholders, including in the area of risk assessment and risk mitigation, which are key to navigating the consequences of crises. Collective action initiatives could provide forums to share the challenges and good practices businesses have faced in times of crisis. Such initiatives are all the more relevant as anti-corruption compliance is becoming more and more sophisticated.
- **Consider providing anti-corruption compliance mentorship to SMEs.** Providing SMEs suppliers and subcontractors with resources and support to develop and implement anti-corruption programme and measures, in particular mentorship mechanisms, could mitigate SMEs' exposure to corruption and foreign bribery risks and benefit the entire supply chain. As further described in the OECD *Toolkit on raising awareness and preventing corruption in SMEs*, prepared in parallel to this study, such support may be implemented by a company on its own, or in the framework of a mentorship programme or a collective action.

## Recommendations for governments

- **Assess the corruption risks faced by businesses, including SOEs and SMEs.** Conducting a comprehensive assessment of corruption risks faced by businesses would allow countries to better understand the exposure of businesses to corruption risks and to tailor their support accordingly. Such assessment is even more valuable in times of crisis, when law enforcement needs to focus on the most critical sectors or activities, and when emergency programmes need to anticipate the risks of misconduct and target the most vulnerable actors.
- **Provide support to businesses, and especially to SMEs, in the context of crisis.** This support, which should notably help companies to assess the corruption risks they face, could take the form of public guidelines taking into account the challenges for anti-corruption compliance in times of crisis, specific trainings, an electronic platform enabling compliance officers and/or managers to ask for advice and share good practices, or advice provided by anti-corruption agencies upon request by companies. As discussed in the present report as well as in the OECD *Toolkit on raising awareness and preventing corruption in SMEs*, SMEs are more vulnerable to crisis situation, in particular to COVID-19 and the ensuing economic crisis, and governments' support should notably target these entities. Provided that this support is tailored to the specific risks and challenges related to the crisis in question, it would help to convey the image of a government committed to helping businesses face the challenges brought about by a crisis.<sup>76</sup> The OECD *Toolkit on raising*

*awareness and preventing corruption in SMEs* puts forward ten simple initiatives to raise awareness of corruption and foreign bribery within SMEs, and offers concrete examples where such initiatives were successfully implemented. (OECD, 2022<sup>[5]</sup>).

- **Encourage companies to look back at the operations conducted in the early days of the crisis, and how anti-corruption compliance applied to these.** Efforts by companies to “catch up” on anti-corruption compliance after a period of crisis, which involve a review of anti-corruption compliance processes, should be accompanied by governments, to engage companies and ensure that the new methods and processes implemented in times of crisis are sustainable.
- **Encourage whistleblowing, including by ensuring effective reporting channels and whistleblower protections are in place.** In light of the key role that whistleblowers may play in detecting and reporting corruption, governments should ensure their legal framework enables any person to report suspicions of corruption, foreign bribery and related offences, and provides for an effective protection for reporting persons. For this purpose, governments should raise awareness of these channels and of the importance of reporting such suspicions. In implementing this recommendation, governments may take into account the 2021 Anti-Bribery Recommendation, XXI and XXII.
- **Provide incentives to encourage investment by businesses in anti-corruption compliance.** Providing incentives to businesses might trigger their interest in investing in anti-corruption compliance. These tools, adapted to the legal framework and the economic environment of each country, could become a strong driver of anti-corruption compliance, notably in times of crisis. In implementing this recommendation, governments may take into account the 2021 Anti-Bribery Recommendation, which introduced provisions on incentives for anti-corruption compliance.
- **Continue efforts to enforce bribery and corruption offences.** Law enforcement authorities need to implement recommendations made in the context of peer reviews, notably in relation to implementation of the OECD Anti-Bribery Convention, and to ensure enforcement remains an effective deterrent and a driver of anti-corruption compliance. In particular, law enforcement authorities should maintain adequate resources in a period of crisis, including through awareness-raising and training on the particular complexities of corruption offences in a period of crisis as well as on specific corruption risks. Adjusting enforcement priorities and efforts to specific risks and complexities emerging from a crisis is all the more crucial as corruption and bribery risks often occur in sectors of the economy that are key to an effective response to emergency situations and recovery, including health care, transport and communications.
- **Engage in collective action and support collective action efforts to raise businesses awareness of this effective way of mutualising anti-corruption efforts.** The engagement of business in collective actions can be fostered if governments support such initiatives and disseminate information on those. In addition, government engagement in collective action initiatives can foster co-operation between the private and public sectors and facilitate the sharing of good practices to mitigate the impact of a crisis on anti-corruption compliance.

# References

- OECD (2022), “Business integrity in Eastern Europe and Central Asia 2022”, *OECD Business and Finance Policy Papers*, No. 11, OECD Publishing, Paris, <https://doi.org/10.1787/1ed3fe17-en>. [4]
- OECD (2022), *Toolkit for raising awareness and preventing corruption in SMEs*, OECD Publishing, Paris, <https://doi.org/10.1787/19e99855-en>. [5]
- OECD (2020), “Policy measures to avoid corruption and bribery in the COVID-19 response and recovery”, *OECD Policy Responses to Coronavirus (COVID-19)*, OECD Publishing, Paris, <https://doi.org/10.1787/225abff3-en>. [3]
- OECD (2020), “Public integrity for an effective COVID-19 response and recovery”, *OECD Policy Responses to Coronavirus (COVID-19)*, OECD Publishing, Paris, <https://doi.org/10.1787/a5c35d8c-en>. [6]
- OECD (2020), “The COVID-19 crisis and state ownership in the economy: Issues and policy considerations”, *OECD Policy Responses to Coronavirus (COVID-19)*, OECD Publishing, Paris, <https://doi.org/10.1787/ce417c46-en>. [2]
- OECD (2014), *OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264226616-en>. [1]

# Notes

<sup>1</sup> OECD (20 April 2020), "[The global response to the coronavirus pandemic must not be undermined by bribery](#)"

<sup>2</sup> Parties are Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, the Russian Federation, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Republic of Türkiye, the United Kingdom and the United States.

<sup>3</sup> OECD (2020), [Corporate Anti-corruption Compliance Drivers, Mechanisms and Ideas for Change](#)

<sup>4</sup> OECD (20 April 2020), "[The global response to the coronavirus pandemic must not be undermined by bribery](#)"

<sup>5</sup> The Good Practice Guidance states: "Effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery should be developed on the basis of a risk assessment addressing the individual circumstances of a company, in particular the foreign bribery risks facing the company (such as its geographical and industrial sector of operation, and regulatory environment, potential clients and business partners, transactions with foreign governments, and use of third parties). Such circumstances and risks should be regularly monitored, re-assessed, and taken into account as necessary, to determine the allocation of compliance resources and ensure the continued effectiveness of the company's internal controls, ethics, and compliance programme or measures." See also the United Nations Office on Drugs and Crime (UNODC)'s 2013 [Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide](#). Examples of relevant national guidance include the 2020 edition of the [FCPA Resource Guide](#) of the United States' Department of Justice and Securities and Exchange Commission or the Brazilian Office of the Comptroller's 2015 [Compliance Programmes - Guidelines for Private Companies](#).

<sup>6</sup> Article 17 of the Act of 9 December 2016 on transparency, combating corruption and the modernisation of economic life, also known as the Sapin 2 Act.

<sup>7</sup> See Annex II of the 2021 Anti-Bribery Recommendation, section A, paragraph 14.

<sup>8</sup> See for example McKinsey (2021), [COVID-19: Implications for business in 2021](#)

<sup>9</sup> E.g. regarding companies in Central and Eastern Europe: Bogdan Bibicu, Jitka Logesová and Jaromír Pumr of Wolf Theiss (27 May 2022), [A Booster Shot of Compliance for Companies in Central and Eastern Europe](#)

<sup>10</sup> See point raised by France in the [Good Practices Compendium on Combating Corruption in the Response to COVID-19](#), prepared by UNODC in October 2020 (p. 49).

<sup>11</sup> Transparency International UK (2013), [Diagnosing Bribery Risk, Guidance for the conduct of effective bribery risk assessment](#)

<sup>12</sup> A report published in 2022 by Ernst and Young and based on a survey of businesses, noted that “the pandemic is widely acknowledged to have made it more difficult to carry out business with integrity.” Over half of the respondents to this 2022 survey considered that integrity standards “have either plateaued or worsened” compared with the situation before the outbreak of the pandemic. The proportion of board members surveyed by this global consulting firm agreed that “unethical behaviour in senior or high performers is tolerated in their organisations” increased by 25% from 2020, i.e. before the crisis. See Ernst & Young (2022), [Global Integrity Report 2022, Tunnel vision or the bigger picture?](#)

<sup>13</sup> UNODC (2020) [Good Practices Compendium on Combating Corruption in the Response to COVID-19](#): “13 of the G20 countries reported increased corruption vulnerabilities in the exploitation of stimulus packages including dedicated employment furlough schemes and other economic aid”, and “15 of the G20 countries identified heightened health-related fraud which includes risks emanating from counterfeit medicines, overpriced medical equipment, health procurement collusion, among others”. (p. 18).

<sup>14</sup> Public procurement vulnerability to corruption risks is “exacerbated by the complexity of the process, the close interaction between public officials and businesses, and the multitude of stakeholders”. OECD (2016). [Preventing Corruption in Public Procurement](#).

<sup>15</sup> As highlighted, for example, in OECD (2020), [“The global response to the coronavirus pandemic must not be undermined by bribery”](#): “Despite the urgent and vital nature of the efforts of the health industry to respond to this pandemic, the sector is not immune to corruption. Many of the detected cases of foreign bribery have occurred in the health industry”. See also Italy’s contribution to the [Good Practices Compendium on Combating Corruption in the Response to COVID-19](#), prepared by UNODC in October 2020 (p. 16). See also Transparency International UK and Transparency International Global Health (April 2021) Track and Trace, [Identifying corruption risks in uk public procurement for the COVID-19 pandemic](#); Transparency International UK (2020), [Buy back better: corporates and regulators need to learn the lessons from this crisis](#); Transparency International UK (May 2021), [For whose benefit? Transparency in the development and procurement of COVID-19 vaccines](#). See also Kohler, J.C., Wright, T. (2020), [The Urgent Need for Transparent and Accountable Procurement of Medicine and Medical Supplies in Times of COVID-19 Pandemic](#).

<sup>16</sup> Usman, M., Husnain, M., Akhtar, M.W. et al. (2022), [From the COVID-19 pandemic to corrupt practices: a tale of two evils](#); FATF (2020), [COVID-19-related Money Laundering and Terrorist Financing - Risks and Policy Responses](#); (OECD, 2020<sup>[6]</sup>); Council of Europe, GRECO (May 2020), [Corruption Risks and Useful Legal References in the context of COVID-19](#).

<sup>17</sup> Jürgen Dahlkamp (14 December 2021), [Fahnder jagen den kleinen Pinguin](#) (Investigators hunt the little penguin), Spiegel; Markus Grill, Klaus Ott und Jörg Schmitt (16 November 2021), [Das dreiste Ultimatum der Andrea Tandler](#) (The Brazen Ultimatum of Andrea Tandler), Süddeutsche Zeitung.

<sup>18</sup> Guy Chazan (7 March 2021), [Germany’s CDU rocked by pandemic procurement scandal](#), Financial Times; Thomas Wieder (9 March 2021), [Soupçons de corruption au sein de la droite allemande dans l’achat de masques](#) (Suspicious of corruption within the German right in the purchase of masks), Le Monde; Spiegel (14 July 2021), [Ex-CDU-Abgeordneter Nikolas Löbel darf Provision behalten](#) (Ex-CDU Member of Parliament Nikolas Löbel receives commission).

<sup>19</sup> BBC (23 August 2021), [Juliari Batubara divonis 12 tahun penjara, korban masak bantuan tak layak - ‘Terpaksa kami olah, karena itu yang kami dapatkan’](#) (Juliari Batubara sentenced to 12 years in prison, victims of inappropriate food assistance package – ‘We had to eat it, because that’s what we got’); Jawahir Gustav Rizal (24 August 2021), [Juliari Batubara Divonis 12 Tahun Penjara, Ini Hal yang Memberatkan dan Meringankan](#) (Juliari Batubara sentenced to 12 years in prison, these are the aggravating and mitigating circumstances), Kompas.com; The Vibes (23 August 2021), [12 years’ jail for Indonesian ex-minister over virus graft case](#).

<sup>20</sup> Romania National Anticorruption Directorate (DNA) (23 June 2020), [Press Release](#); Romanian National Press agency (8 July 2022), [Fostul director al Unifarm, Adrian Ionel, condamnat la 6 ani și 8 luni de închisoare pentru o mită de 760.000 de euro](#) (Former director of Unifarm, Adrian Ionel, sentenced to 6 years and 8 months in prison for a EUR 760 000 bribe).

<sup>21</sup> South African Ministry of Employment and Labour (8 December 2021), Press Release: [Employment and Labour Director General welcomes recovery of R111 million which was illegally claimed](#);

South Africa Parliamentary Monitoring Group (17 November 2021), [SIU on investigations related to UIF TERS paid during COVID-19](#).

<sup>22</sup> Bolivian Press Agency (19 May 2022), *Se cumplen dos años del escándalo de los respiradores, con ocho imputados libres y el proceso estancado* (Two years on from the respirator scandal, eight defendants free and trial stalled); Jesus Alanoca (19 January 2022), [Caso respiradores españoles: piden 10 años de cárcel para el exministro Navajas y otros siete exfuncionarios](#) (Spanish respirator case: 10 years in jail for former minister Navajas and seven other former officials), El Deber; AlJazeera (23 May 2020), [Bolivia's health minister held for 'ventilator corruption'](#).

<sup>23</sup> Richard L. Cassin (20 January 2022), [How the virus undid corruption risk models](#), FCPA Blog.

<sup>24</sup> E.g. OECD (2019), [Guidelines on Anti-corruption and Integrity in State-Owned Enterprises](#); OECD (2018), [State-Owned Enterprises and Corruption, What Are the Risks and What Can Be Done?](#) E.g. UNODC, E4J University Module Series: Anti-Corruption, E4J University Module Series: Anti-Corruption, Module 4: Public Sector Corruption, [Corruption in state-owned enterprises](#) (first published in 2019). Transparency International (2017), [Preventing corruption in state-owned enterprises](#).

<sup>25</sup> Basel institute on governance, (2020), [Here today and gone tomorrow? Integrity and anti-corruption in the private sector post COVID-19](#)

<sup>26</sup> International Anti-Corruption Academy (2020), [Minimising bribery and corruption in the time of COVID-19](#).

<sup>27</sup> See e.g. Richard L. Cassin (20 January 2022), [How the virus undid corruption risk models](#), FCPA Blog.

<sup>28</sup> Under the [Financial Action Task Force \(FATF\) Recommendations](#) (2012), countries are expected to “identify, assess, and understand the money laundering and terrorist financing risks for the country”.

<sup>29</sup> Sutherland, E. H. and Cressey, D. R. (1960), *Principles of Criminology*. Philadelphia: Lippincott; Cressey, D.R. (1973), *Other Peoples' Money: A study in the social psychology of embezzlement*, Glencoe: Free Press; Albrecht, W. S. and Albrecht, C. O. (2004), *Fraud Examination and Prevention*, Mason: South-Western Educational; W. Steve Albrecht (July/August 2014), *Iconic Fraud Triangle endures*, *Fraud magazine*.

<sup>30</sup> OECD (2020), [Corporate Anti-corruption Compliance Drivers, Mechanisms and Ideas for Change](#)

<sup>31</sup> At the time, 88.8% of respondents stated that the desire to protect the company's reputation was significant or very significant in their company's decision to establish an anti-corruption compliance programme; and 70.6% of respondents stated that the desire to avoid prosecution/legal action was significant or very significant in this decision.

<sup>32</sup> Transparency International (2020), [Exporting Corruption, Progress Report 2020: Assessing Enforcement of the OECD Anti-Bribery Convention](#).

<sup>33</sup> UNODC (October 2020), [G20 Good Practices Compendium on Combating Corruption in the Response to COVID-19](#) (p.65).

<sup>34</sup> E.g. OCCPR (17 March 2020) [UK court adjourns graft trial of energy executives](#); The Times of Israel (15 March 2020) [Netanyahu's trial delayed by over 2 months as court activity limited over virus](#).

<sup>35</sup> E.g. regarding two former executives of Alstom, Ines Kagubare (20 April 2020) [“How the pandemic has affected FCPA defendants”](#), GIR. Another former sales manager of the French conglomerate was sentenced via videoconference.

<sup>36</sup> For instance, regarding the Peruvian component of the Odebrecht case: James Thomas (23 March 2020) [“Peru suspends Operation Car Wash investigations amid coronavirus pandemic”](#), GIR.

<sup>37</sup> E.g. James Thomas (15 May 2020) [“SFO suffers coronavirus slowdown”](#), GIR; Will Barbieri and Sam Fry (11 May 2020) [“SFO halts some interviews amid COVID-19 lockdown”](#), GIR.

<sup>38</sup> E.g., also regarding the Peruvian component of the Odebrecht case, James Thomas (16 April 2020) [“Coronavirus reveals shortcomings in Peru's prosecutorial system”](#), GIR.

<sup>39</sup> Clara Hudson (12 May 2020) [“SEC enforcement chief discusses coronavirus challenges”](#), GIR.

<sup>40</sup> Council of Europe, Consultative council of European prosecutors (7 October 2020), [Questionnaire for the preparation of the CCPE Opinion No. 15 \(2020\): « The role of prosecutors in emergency situations, in particular when facing a pandemic»](#).

<sup>41</sup> See notably the platform named [Remote Courts Worldwide](#), created in March 2020 to “help the global community of justice workers [...] to share their experiences of “remote” alternatives to traditional court hearings”. “Updates from 168 jurisdictions that have hosted remote hearings of one sort or another” would have been gathered on the platform. See also Richard Susskind (7 May 2020) [“COVID-19 shutdown shows virtual courts work better”](#), *Financial Times*., as well as an example of a high-profile case that was concluded remotely: GIR (17 April 2020) [“Former Siemens executive sentenced to time served”](#); Ines

Kagubare (20 April 2020) "[How the pandemic has affected FCPA defendants](#)", GIR, according to which a former sales manager of the French conglomerate was sentenced via videoconference.

<sup>42</sup> Ministry of Justice of Tunisia (2020), [L'expérience du ministère de la justice pour faire face à la propagation de la pandémie du COVID-19, pour publication sur la plateforme de la CEPEJ](#).

<sup>43</sup> CEPEJ (9 December 2021), [2022 - 2025 CEPEJ Action plan: "Digitalisation for a better justice"](#); CEPEJ (10 June 2020), [Declaration on lessons learnt and Challenges faced by the judiciary during and after the COVID-19 Pandemic](#)

<sup>44</sup> Gillian Dell, Andrew McDevitt (2022), [Exporting Corruption 2022: Assessing Enforcement of the OECD Anti-Bribery Convention](#). Note that the OECD Working Group on Bribery's foreign bribery 2021 enforcement data will be published at the end of 2022. Some data is available in relation to a number of countries. For example, in Chile, a downturn in the total number of terminated cases of financial crimes of approximately 36% could be observed between 2019 and 2021 (-22% between 2019 and 2020). In Lithuania, the Special Investigation Service of the Republic of Lithuania (STT) stated that the number of cases brought to court decreased by a third in 2021 compared with 2020. In its 2021 Annual Report, the STT expressly indicated that the state of emergency declared in Lithuania over the period 2020-21 due to the outbreak of the COVID-19 pandemic and the related restrictions had a "significant impact" on the progress of investigations. Data is also available in relation to enforcement by international financial institutions. For instance, while the World Bank Integrity Vice Presidency (INT) completed 47 external investigations in 2019, it completed 28 external investigation in 2021. In its annual report for the year 2021, INT recognised that travel restrictions impacted "INT's investigative process and demanded flexibility and creativity in adopting new investigative techniques and tools".

<sup>45</sup> Transparency International UK (9 April 2020), [Anti-bribery and corruption during COVID-19: Six tips for compliance officers](#)

<sup>46</sup> [Transparency International \(22 January 2021\), COVID-19 - a test for business integrity?](#); Transparency International (2021), [UNGASS 2021: Commit to transparency in company ownership for the common good](#).

<sup>47</sup> Ernst and Young (2020), Global Integrity Report 2020, Is this the moment of truth for corporate integrity?

<sup>48</sup> Marc Tassé (25 January 2021), [Corruption and COVID-19](#), anticorruptionexperts.com.

<sup>49</sup> OECD (2022), [Trends in ESG Investing and Quality Infrastructure Investment in Asia-Pacific, OECD Paris](#)

<sup>50</sup> MSCI (2022), [MSCI Investment Insights 2021](#)

<sup>51</sup> J.P.Morgan Asset Management (2020), [COVID-19 shows ESG matters more than ever](#).

<sup>52</sup> Ibid.

<sup>53</sup> OECD (2020), [ESG Investing: Practices, Progress and Challenges](#); OECD (2017), [Responsible Business Conduct for Institutional Investors](#)

<sup>54</sup> Camara Costarricense de la Salud website : <https://salud.co.cr/programa-anti-corruption-compliant/> ; Karla Barquero (31 August 2020), [Cámara de la Salud lanza programa "Anticorrupción" en negocios público-privados](#) (Chamber of Health launches "Anti-Corruption" programme in public-private businesses), la Republica.

<sup>55</sup> Cofindustria (2020), [La responsabilità amministrativa degli enti ai tempi del COVID-19](#)

<sup>56</sup> Basel Institute of Governance (2020), [Here today and gone tomorrow? Integrity and anti-corruption in the private sector post COVID-19](#).

<sup>57</sup> B20 Collective Action Hub, <https://collective-action.com/>.

<sup>58</sup> Basel Institute of Governance (2022), [Engaging the private sector in Collective Action against corruption](#).

<sup>59</sup> See for example, Allen & Overy (2020), [The Allen & Overy Podcast: How COVID-19 has impacted anti-bribery and corruption compliance and enforcement in Asia and Australia on Apple Podcasts; Responsible Business Conduct and Anti-Corruption Compliance in Southeast Asia – OCDE \(oecd.org\) according to which 29% of respondents indicated that budgets for business integrity management had been reduced.](#)

<sup>60</sup> Matthew McFillin and Amanda Rigby (2020), [Compliance leaders are being forced to 'do more with less.' Here's what it means](#), FCPA Blog.

<sup>61</sup> The results of the survey conducted in the context of the OECD regional study on business integrity in Eastern Europe and Central Asia echo this observation. Indeed, 71% of the surveyed companies considered that "the biggest challenge for and impact on business was related to remote and online working [...] as well as the risks linked with social distancing and the blurring of the sense of commitment". (OECD, 2022<sup>[4]</sup>).

<sup>62</sup> Louis Adolfsen, Rania Shoukier (2021), [The Foreign Corrupt Practices Act \(FCPA\) Is Alive and Well in The Age of COVID-19](#), JDSupra.

<sup>63</sup> Ernst & Young (18 April 2021), [COVID-19 amplifies integrity challenges for businesses in emerging markets](#); Ernst & Young (11 September 2020), [How the COVID-19 pandemic affects M&A transaction execution](#).

<sup>64</sup> Matthew McFillin and Amanda Rigby (2020), [Compliance leaders are being forced to ‘do more with less.’ Here’s what it means, FCPA Blog](#).

<sup>65</sup> Deloitte US (2020), [FCPA Compliance in the Time of COVID-19](#); Kroll (2021), [2021 Anti-Bribery and Corruption Benchmarking Report, Third-Party Risk Management - How Compliance Officers Have Adapted Their Programs During COVID-19](#).

<sup>66</sup> Anneka Randhawa, Lucy Rogers (23 March 2021), [The Workplace of the Future: Ensuring Compliance Is Not a Remote Concept in the New Normal of Remote Working](#), White & Case.

<sup>67</sup> Richard L. Cassin (5 August 2021), [What’s the verdict? Has the pandemic helped or hurt compliance?](#) FCPA Blog.

<sup>68</sup> Deloitte US (2020), [FCPA compliance in the time of COVID-19](#).

<sup>69</sup> Louis Adolfsen, Rania Shoukier (2021), [The Foreign Corrupt Practices Act \(FCPA\) Is Alive and Well in The Age of COVID-19](#), JDSupra.

<sup>70</sup> Peter W. Baldwin, Daniel E. Pulliam, Elizabeth B. Boggia And Sophie H. Gottlieb (February 2021), [Best Practices for Virtual Internal Investigations](#), Law Journal Newsletters.

<sup>71</sup> Kroll (11 November 2021), [The Role of Automation Technology in ABC Programs](#).

<sup>72</sup> See notably the definition of “computerisation” provided by the [Cambridge Dictionary](#).

<sup>73</sup> See RedHat, Inc (5 October 2022), [L’automatisation informatique, qu’est-ce que c’est?](#) (What is computer automation?); Janifha Evangeline (4 August 2022), [Implementing intelligent automation to ensure ESG compliance](#), CIOTechOutlook.com.

<sup>74</sup> OECD (2019), [Recommendation of the Council on Artificial Intelligence](#).

<sup>75</sup> Statement made by multinational company interviewed for this study.

<sup>76</sup> In implementing this recommendation, governments may also consider the 2021 Anti-Bribery Recommendation Preamble, which recognises the potential role of innovative technologies in advancing public and private sector efforts to combat foreign bribery.

