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THE STRENGTHENING OF ANTI-CORRUPTION DIMENSION IN THE PUBLIC COMPANY: A CASE OF LITHUANIAN RAILWAYS

In recent years, increasing the transparency of individual and corporate business has been one of the longstanding priorities of the State. The institutions responsible for strengthening of prevention declare the importance of a systematic fight against corruption with all institutions engaged in it. The National Anti-Corruption Programme 2015–2025 is aimed at reducing corruption, improving transparency and openness in the public and private sectors, also the goal of the programme is for Lithuania's corruption perception index to be below 70 points by 2025 (in 2019, it stood at 60 points) [1].

Following the expectations of the State, as well as shareholder Lithuanian Railways group of companies (hereinafter – LTG Group) a number of the targeted measures were implemented in the activities of LTG group. In view of the importance of the obligations assigned the implementation of the International Standard ISO 37001: 2016 “Anti-bribery management system” has been launched [2]. Considering the requirements of this Standard, the formed working group drafted an action plan for the preparation and implementation of targeted measures.

During the last three years, LTG Group has received at least two letters of expectations from its shareholder, the Ministry of Transport and Communications of the Republic of Lithuania (hereinafter – the TM), requesting a commitment to act transparently and responsibly. The second letter of expectations is important in terms of the fact that the TM emphasizes that LTG Group will have in place the anti-corruption measures and processes to ensure that its activities are carried out transparently and fairly, and that public procurement is conducted in accordance with the provisions of the Law on Public Procurement of the Republic of Lithuania and other regulatory enactments. In addition, the LTG Group is encouraged to operate in an open manner, thus ensuring that all information specified in the guidelines for ensuring operational transparency is made public [3].

This presentation examines the relevance and the peculiarities of anti-corruption activity in LTG Group. As the fight against corruption is one of the essential tasks of the State and thus of the public companies that are controlled by the State, that requires conceptual, complex legal, organizational, educational measures. The integrity of the measures being developed is manifested through the creation of targeted legislation and the deliberate implementation of its provisions. Implementing the tools of anti-corruption system LG Group operates in three main dimensions [4]:

1. Corruption risk management.
2. Surveys and interviewing.
3. Education, publicizing and cooperation.

Applying the dimension of Corruption risk management LTG Group-wide have implemented such anti-corruption measures as:

- Identification of external, internal, or individual corruption risk factors and identification of areas of activity that have the highest risk of corruption is followed up by the development of an action plan of preventive measures.
- Ensuring declaration of public and private interests and managing the conflicts of interests.
- Periodic auditing by the internal auditors of the anti-corruption activities.
- Regulations in respect of the conduct of employees when giving and receiving gifts, using representative funds.
- Investigating cases that may be potentially fraudulent, corrupt or otherwise criminal.
- The possibility to anonymously report corruption violations or any unlawful behaviour within workplace to the Board of LTG / Business Units and Security Risk Management Department Business Security Unit via LG Group's Whistleblowing channels.
- Screening of the reputation and solvency of potential business partners in order to identify risks.
- Ensuring the security-screening of persons seeking or holding office.

In accordance with the dimension of Survey and interviewing, LG Group have implemented such anti-corruption measures as:

- Analysis and evaluation of LTG's business activities that may be associated with corruption risks.
- Annual anti-corruption survey of LTG Group employees.
- Annual evaluation of corruption prevention performance using the transport sector security test (4S Test).

Applying the provisions of Education, publicizing and cooperation dimension, LTG Group have operated such anti-corruption measures as:

- Ensuring systemic employee and professional development of responsible persons for corruption prevention activities education on relevant anti-corruption topics.
- Publicizing anti-corruption activities of LTG Group via targeted communication channels such as web pages of LTG and the Business Units and internal communication channel for personnel.
- Cooperation with Special Investigation Service of the Republic of Lithuania and other institutions or competent corruption prevention specialists (experts) by organizing training, making presentations, sharing their know-how and practical experience.

The implementation of automated tools that ensure the smooth operation of processes is important for the efficient organization and coordination of processes. With this in mind, an automated tool for the submission and verification of declarations of private interests was developed last year.

Automated tool helps manage several thousand private declarations submitted in accordance with legal requirements and internal legislation [5]. Currently preparing an automated tool for registering received and given gifts. This automated system will make it easier to coordinate gift-related issues.

In summary the organization operates the anti-corruption activities based on a clear, transparent and reliable business model based on the use of modern information technology. In addition, the involvement of all members of LTG group in anti-corruption activities is important implementing various measures. This is also noted in the field of scientific research [6, p. 1249], is characteristic of different sectors in different forms [7, p. 55].

Therefore a set of the implemented measures ensures the effectiveness of the desired result in our organization.

By implementing the above measures, the LTG Group is preparing for certification. Seeking to prepare for the evaluation of the External Audit, in 2021 further directions for the anti-corruption activity are envisaged:

1. Preparation of the rest of targeted legal acts and adjustments to the existing legal acts in view of inconsistencies identified as a result of the targeted analyses.
2. Continuing targeted measures in the area of education: publication of information, training.
3. Set-up of a final business model within LTG Group which is based on compliance with the ISO International Standard requirements, focussed on overall creation / support of an anti-corruption environment: active engagement on the part of the management and each employee and pro-active actions, corruption risk management, constructive cooperation with the law enforcement authorities, etc.

References:

1. The National Anti-Corruption Programme 2015-2025 was approved by Resolution No. XII-1537 of the Parliament on 10 March 2015. On 17 June 2015, the Government approved the Inter-institutional Action Plan 2015–2019 for the implementation of this Programme.
2. International Standard ISO 37001 Anti-bribery management systems – Requirements with guidance for use. Reference number ISO 37001: 2016 (E). First edition 2016-10-15.
3. Letter regarding the goals pursued and expectations raised by the State to Lithuanian Railways (No. 3-386, 22 June of 2020).
4. Anti-corruption Policy approved Management Board of Lithuanian Railways, Decision No. SPR(VL)- 1, 20 January, 2020.
5. Anti-corruption Report of 2019 – 2020 of LTG Group approved by Order of the Director General of LTG, No. 9115, 23 of November, 2020.
6. Rosmi & Syamsir. The Importance of Integrity Values as Corruption Prevention Measures. TEST Engineering & Management. 2020, 83. P. 12043-12054.
7. Damm, Irina A. Corruption Prevention in Educational Organization (Case Study: Siberian Federal University). Humanities & Social Sciences. Journal of Siberian Federal University. 2020 13(1). P. 50-60.

Ключові слова: система управління корупцією; запобігання корупції; корупційні ризики.
Ключевые слова: система управления противодействием взяточничеству; предотвращение коррупции; коррупционные риски.
Key words: anti-bribery management system; corruption prevention; corruption risks.

МИРОШНИЧЕНКО НАТАЛІЯ АНАТОЛІЇВНА

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РОЗДУМИ ЩОДО НОВОЇ РЕДАКЦІЇ КК УКРАЇНИ

Кримінальний Кодекс (КК) України діє в новій редакції з 1 липня 2020 року[1]. Крім того, робоча група при Президентові України підготувала Проект нового Кримінального кодексу України, який обговорювався на конференціях у Львові та Харкові. Зараз робоча група займається удосконаленням положень цього Проекту. В Проекті Кримінального кодексу України передбачені Книги з Загальної та Особливої частини .

Проаналізувавши зміст деяких положень діючого КК та Проекту КК , підготовленого робочою групою з питань удосконалення кримінального законодавства України , необхідно уточнити та доповнити ряд положень.

Відносно структури КК, вважаємо, що немає необхідності її ускладнювати, в КК є розділи, статті, достатньо буде лише уточнити їх та доповнити. Так, доречним є введення розділу 1 у проекті КК «Вихідні положення»; в цьому розділі разом із загальними положеннями слід розмістити принципи кримінального закону, а також термінологію (роз'яснення термінів , що будуть застосовуватися у КК).

Поряд із загальним поняттям злочину, в проекті КК вказується на «градацію» та «ступені» злочинів. Це, на мій погляд, не допомагає, а лише ускладнює розуміння цих категорій (видів злочинів). Термін «класифікація», який зараз застосовується в теорії кримінального права, законодавстві та на практиці, повністю є зрозумілим та доречним. В діючому КК (ред. 2020 року) визначаються види кримінальних правопорушень: проступок та злочин. Злочини поділяються на три категорії, а саме: нетяжкі, тяжкі та особливо тяжкі злочини [1]. Але їх поняття потребують уточнення.

До нетяжких злочинів слід віднести такі види злочинів, які спричиняють «значну шкоду» суспільним відносинам, що охороняються кримінальним законом. Застосування терміну «істотна шкода» слід залишити лише для визначення кримінальних проступків, а «неістотна шкода» – для адміністративних проступків.. Тяжкі та особливо тяжкі злочини спричиняють відповідно «тяжку або особливо тяжку шкоду». Таким чином, розмір заподіяної шкоди є одним із критеріїв, що відрізняє окремі категорії кримінальних правопорушень. Поняття істотної, значної, тяжкої та особливо тяжкої шкоди необхідно визначити