

The High Level Reporting Mechanism (HLRM)

A tool to help prevent bribery and related practices

1. Foundations of the High Level Reporting Mechanism

In 2013, the G20 adopted guiding principles encouraging the establishment of “high level reporting mechanisms to address allegations of solicitation of bribery by public officials”. This was intended to bring together the public and the private sectors to tackle bribery solicitation from the demand side.

Following this, the OECD, the Basel Institute and Transparency International developed the High Level Reporting Mechanism (HLRM). This Mechanism is designed to address bribery solicitation, suspicious behaviour and other similar concerns at the national level and thereby prevent corrupt practices.

The HLRM is also closely aligned with the [OECD Recommendation of the Council on Public Integrity \(2017\)](#). The Recommendation invites governments to promote a systemic approach to counter corruption and foster public integrity systems through the engagement of relevant stakeholders from civil society and the private sector, which is at the core of the HLRM. It also emphasises the importance of involving the highest political and management levels of the public sector in the fight against corruption.

2. What is the High Level Reporting Mechanism?

The HLRM is a **reporting mechanism** combined with an alternative system for dispute resolution that is designed to achieve the following aims:

- **receive complaints** of bribery requests or suspicious behaviour in interactions between businesses and governments – such as in the context of public procurement, issuance of commercial licences, customs clearance or tax-related issues, among many other potential applications as determined by each country;
- function as an **alternative dispute resolution mechanism**, with the advantage of not incurring operation costs to complainants that resort to it;

- **identify systemic issues** arising from recurring corruption claims **and propose reforms** to the government.

The Mechanism targets **bribery solicitation by public officials as well as other forms of unfair treatment to businesses**. Examples of this include:

- restrictive terms of reference that in practice lead to the participation of a single competitor in a public tender, beyond what would be reasonably required from a technical perspective;
- request of bribery as a precondition for participation or selection in a public tender;
- undue delay in customs clearance of perishable and other goods;
- obstacles imposed for the concession of technical certificates and other documents required to participate in tender procedures;
- uneven interpretation of regulations, leading to unreasonable difficulties for the attainment or renewal of commercial licenses or the fulfilment of other rights;
- requests for overpayment of governmental fees;
- denial or unreasonable delay of VAT refunds.

The HLRM is not an enforcement tool; it functions as an initial fast-track and informal alternative to traditional judicial and administrative procedures, whilst still allowing resort to these.

The goal of the Mechanism is to provide a swift assessment of a complaint and address the issue in a **quick and pragmatic manner** that enables business initiatives to proceed without undue disruption. It also serves as a **neutral channel between complainants and the government** to find preventive solutions to shared concerns over bribery and related conducts situated in grey areas that not easily addressed by traditional enforcement tools.

The HLRM is tailored to each jurisdiction, but has some common features. It offers a reporting channel that is independent and separate from the public entities to which it applies.

Senior political commitment is essential for the implementation of the HLRM. The establishment of a high level channel seeks to overcome businesses' reluctance to report bribery solicitation and other corruption issues to governmental entities where these takes place. The involvement of senior ("high") levels of the government enhances cooperation from governmental agencies where a potential corruption issue has occurred. It further prevents concerns by businesses of retribution for reporting bribery solicitation and alike, as the HLRM is situated above and independently of the agencies where issues have been detected. Finally, an independent reporting channel is more likely to provide objective analyses and solutions.

The HLRM is primarily targeted at complaints from businesses, but the process can be opened up to individuals and other stakeholders.

It is relevant to ensure that complaints will be received, analysed and concluded in a manner that prevents retaliation. This is necessary to safeguard that the original state of affairs is restored and interactions with the government proceed regularly. For this reason, measures to ensure confidentiality, the safeguard of complainants' personal data, anonymity and others can be considered to be set in place under the Mechanism.

The HLRM usually consists of a **Secretariat** and a **Supervisory Board**: The Secretariat, comprised of a group of technical experts, receives and screens complainants according to pre-established requirements. Once these are satisfied, a throughout analysis is made to assess concerns. Where identified, these are brought by the experts to the Head of the HLRM. The latter then issues recommendations to the relevant public entities, reach them to discuss results found and reach agreement on initiatives to effectively address concerns. A Supervisory Board, comprised by high levels governmental representatives, and potentially by representatives of civil society and the private sector, can be entrusted with the institution's executive, operational and oversight functions.

Recommendations by the Mechanism are provided in a short time period (around three months in average). They may lead, among many others, to:

- suspension of a public official that favoured one competitor over others or asked for bribery in the course of a public tender, to ensure that the latter proceeds on equal and fair bases;
- suspension, request of clarification to a public entity and, where necessary, revision of terms of reference and/or formal requirements for a public tender;
- reinstitution of regular custom clearance of goods;
- tax returns lengthy and unduly retained by a public entity;
- identification of regulatory gaps (such as unclear methodology to calculate taxes) that may lead to guidelines for the promotion of homogeneous interpretation by public officials;
- identification of systemic corruption issues and recommendations to the government of potential alternatives to address them (including by legislation).

3. Benefits from the High Level Reporting Mechanism

Support by high levels of the government provides a clear signal and promotes credibility on governments' commitments to promote public integrity in major public projects and beyond.

Compared to traditional approaches for dispute resolution, the HLRM is significantly more **time-effective**: decisions or recommendations can be issued in 3 months or less, depending on the complexity of a complaint or the engagement of a public entity. There is also no charge to file a complaint, thereby removing disincentive to report. Costs are covered by the government – as in Colombia – or a multi-donor fund – as in Ukraine. Furthermore, claims can be submitted to the HLRM in cases of suspicious behaviour based on unreasonable and unfair treatment to business and individuals by public officials. **Grounds** to support a claim may also **differ** from that required by traditional enforcement mechanisms. The HLRM can receive not only complaints of explicit bribery solicitation and related issues, but also claims related to **suspicious behaviour** by public entities demonstrated by **unreasonable processes or outcomes**, where intention is not easily evidenced.

Early warning and fast response prevent the rise of conflicts. The HLRM provides a channel of dialogue between public entities and non-governmental stakeholder for the identification of issues at an early stage, immediately followed by their clarification or neutralization. This effectively prevents the escalation of problems and allows interactions to continue their regular course.

Multi-stakeholder approach tailors the Mechanism to the country's needs. To ensure effectiveness and enhance the positive impact of the HLRM, it is necessary to shape its design, structure, procedures, sectors of application and other features according to the specificities of each jurisdiction. Early collaboration among relevant domestic stakeholders (public and private sector, civil society and individuals) familiar with the local reality, economic environment and challenges is pivotal to identify common concerns and build an efficient HLRM. It also constructively builds gaps and promotes trust between the private and public sectors as they work together towards a common goal.

See the [HLRM concept note](#) for additional information.

4. Country experiences with the HLRM

Two very different HLRM models have been set in place under the participation of the OECD, in Colombia and in Ukraine. A [detailed document](#) is available with information on their inception and implementation of the respective pilots. Major features and highlights of each HLRM model follow below.

Colombia

The country's HLRM pilot is located at the Secretariat of Transparency in the Office of the President, as a result of President Santo's strong commitment to fight corruption in the country. The pilot was launched in mid-2013. The HLRM Colombia has been designed to provide an open channel for the submission of early warnings of bribery solicitation, with the goal of preventing corruption while allowing public tenders to proceed as far as possible. In Colombia, the pilot HLRM targeted procurement processes carried out by the National Infrastructure Agency (ANI), specific to a project for the construction of roads.

The Secretary of Transparency is also the Head of the HLRM. An expert committee (comprised of professionals from the field of public procurement, finance, civil engineering and criminal law) has been set in place for the assessment of complaints. Recommendations are issued by the Head of the HLRM based on the input of the expert committee. Strategies and actions to be adopted vary considerably; among others, they are subject to the finding of whether a corruption issue is found to be an isolated case or a systemic problem.

The Colombia HLRM has also produced systemic studies. It has issued a paper identifying typologies of corruption in public procurement, followed by the development of a methodology to measure corruption risks and pursue its prevention in the infrastructure sector.

One of the claims brought to the HLRM Colombia in its pilot phase illustrates the numerous potential applications of the Mechanism. A consortium among pre-qualified bidders expressed concern over an amendment made by ANI on the terms of reference of a tender less than a month before its closing. The amendment modified the technical requirements of the tender and restricted the ability of the bidders to timely submit updated proposals. The HLRM Secretariat met with ANI and with all pre-qualified bidders to obtain clarifications. It concluded that it was a matter of miscommunication on the part of ANI rather than motivated by illegitimate intention. ANI agreed to modify the requirements to a technical level comparable to the original.

The Colombia HLRM post-pilot phase has expanded its scope: as from the end of 2016, it is applicable to infrastructure tenders involving public-private partnerships as a whole (including railroads, roads and airports) carried out by ANI. This provides a broader oversight by the Colombian

government to prevent bribery and related practices in infrastructure projects, demonstrating the commitment of the government to effectively tackle corruption in public contracts for high value works.

Ukraine

The HLRM model found to better answer to the local context and challenges has very different features in comparison to the Colombian HLRM. In Ukraine, it has taken the form of a non-governmental entity called Business Ombudsman Council (BOC), established as a consulting and advisory body for the Cabinet of Ministers of Ukraine. The initiative was endorsed by the President of Ukraine and is financed through a multi-donor account set up at the European Bank for Reconstruction and Development (EBRD).

The BOC is composed by a Business Ombudsman, two Deputies and expert staff. Its supervisory board provides equal standing to its members, gathered in three blocks: international organizations (EBRD and OECD), business associations and high levels officials of the Ukrainian government.

The scope of activities of the BOC also differs: it addresses unfair treatment to businesses on the part of the federal and the local government, covering a broad range of issues such as tax return, law enforcement and gaps in regulations in various industries - among which wholesale and distribution, real estate and construction, manufacturing and agriculture and mining. Complaints may be submitted by entrepreneurs, individuals and businesses in general; 75% of complaints arise from small and medium enterprises.

The BOC has established regular channels of dialogue and collaboration with an increasing number of governmental agencies. Results have been extremely positive and have led to the submission of an increasing number of complaints. Only in 2016, out of 868 complaints received 570 have been closed, with 87% of the recommendations implemented by the authorities to which they were addressed. The preliminary review of complaints takes in average 10 working days. They are concluded in approximately 98 days. The BOC has also identified numerous systemic issues, resulting in reports with recommendations to the government. Details are available at the [website of the Ukrainian BOC](#).