

ISO 37001 SYSTEM AS A TOOL TO MEET ANTI-CORRUPTION REQUIREMENTS IN THE SMALL AND MEDIUM-SIZED ENTERPRISE SECTOR

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Purpose: The aim of the publication is to present the specificity of the phenomenon of corruption, its complexity, methods, universality and destructive impact on the implementation of the basic statutory tasks of companies. Indication of a very high risk for management boards and employees of entire companies in the area of corruption. The aim is to present the basics of building an anti-corruption system and to show the possibilities of protection against the destructive effects of corruption.

Design/methodology/approach: Indicating the requirements of the ISO 37001 standard as a tool supporting the introduction of good anti-corruption practices into the corporate culture.

Findings: The ISO 37001 standard is an effective tool to introduce a systemic approach to preventing corruption in an organization.

Research limitations/implications: Currently, there is no access to information on how many small and medium-sized enterprises have taken up the topic of introducing anti-corruption practices in their organizations.

Practical implications: The publication indicates specific solutions that should be taken by small entrepreneurs to prevent corruption in their organization.

Social implications: The publication in its message points out that anti-corruption activities not only concern politics or the sphere of large business, but also it is an important topic that should be paid attention to in small and medium-sized enterprises.

Originality/value: The publication indicates the specific requirements of the ISO 37001 standard and the possibility of its implementation also in the sector of small and medium-sized enterprises.

Keywords: anti-corruption system, ISO 37001 system.

Category of the paper: Technical paper.

1. Introduction

Increasing corruption appears in ever new forms and types. Corruption (Wypych, 2003) is a threat wherever economic and administrative decisions are taken. It should be remembered that corruption does not benefit any economic or administrative/budgetary organization.

Looking from the company's point of view, corruption generates the following measurable losses: overstating costs, poorer quality of goods and/or services, delays in implementation, ineffective achievement of goals. As part of corruption activities, the organization incurs significant indirect losses, such as: loss of credibility, fewer offers received, loss of image and, consequently, loss of a part of the market.

This phenomenon is also starting to appear in the sector of small and medium-sized enterprises. Every employee in a company or office where decisions, concessions, permits, allowances, licenses, and controls are issued, attractive products are produced or services provided, have access to relevant information and thus is exposed to corruption. In Poland, there is an upward trend in the area of corruption, which is also recorded in small and medium-sized enterprises. The worrying increase in corruption is confirmed by data from the CBA report in 2017. On the basis of joint information from the CBA, ABW, ŻW, Police, Border Guard, KAS, it is estimated that in Poland only losses in the public procurement market amount to 11.8% of GDP, i.e. PLN 236 billion. According to the research conducted by the Institute for Democracy and Private Enterprise, in 2017 (CBA, 2019) entrepreneurs in Poland estimated that on average the additional costs in their companies due to corruption amounted to almost 17.5%. According to the Institute for Democracy and Private Enterprise Research (Bąka, and Kulawczyk, 2008), the vast majority of employers indicate as the main effects of corruption-related economic fraud: financial losses, lowering employee morale, legal risk, risk of losing reputation, risk of incurring additional costs, risk of escalation of corruption demands, risk of blackmail and lower security, risk of being cheated, macroeconomic risk, loss of good image, loss of good employees, loss of access to public procurement.

The most disturbing are the increasing number of examples of using corruption to compete on the labor market, the sales market, fundraising, or increasing the influence on the organization of economic processes in its areas of operation. There is competition not only direct, but also indirect, through the substitution of people not directly related to the area of competition, or through the end customer. The above data confirm and make people aware that corruption is a very big problem and a threat, also more and more often for the sector of small and medium-sized enterprises. In recent years, administrative and economic supervision institutions in Poland have recognized that the phenomenon of corruption is one of the fundamental problems and is beginning to dominate the activities of all types of organizations and offices. This position and the adopted international legal acts recognized by the Polish government forced the development of legal systems that are constantly being improved to counteract this phenomenon.

2. Legal regulations

In Polish law, there are many regulations in the field of corruption prevention specified, inter alia, in the penal, civil, fiscal and labor codes. However, most direct regulations can be found directly in the documents:

- Resolution No. 37 of the Council of Ministers of April 1, 2014 on the Government Program for Counteracting Corruption for 2014-2019.
- Government Program for Counteracting Corruption for 2019-2020.
- The Act of October 28, 2002 on the liability of collective entities for acts prohibited under penalty.

Following the requirements of the European Union in the field of regulations on anti-corruption activities, not all regulations have been adapted to Polish law. On March 22, 2018, the European Union sent a reminder to the Polish government, including the following recommendation (Sobczak, 2018):

"Poland must make immediate progress in implementing the key recommendations of the OECD Working Party on Bribery, which have not been implemented more than four years after the June 2013 implementation status assessment". The government has already prepared relevant projects that meet the above recommendations of the European Union. The last stage of their procedure is currently underway. The most important provisions in them include:

- Mandatory implementation of anti-corruption systems in all companies employing more than 50 employees under the threat of high financial and administrative penalties for companies and their management boards. In practice, on the basis of the implemented anti-corruption system, when signing contracts for cooperation, cooperation, etc., all other companies will have to confirm that they have and apply appropriate rules and procedures of such a system, to the extent specified in the scope depending on their size.
- The conditions for applying the criminal record clause are the disclosure of all relevant circumstances of the crime and notification by the Information Provider referred to as the Whistleblower to the body established to prosecute corruption offenses before this authority learned about its commission.

These provisions are also elements of supporting documents such as:

- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- United Nations Convention against Corruption of October 31, 2003.
- Convention on Combating Corruption of Officials of the European Communities and of Officials of the EU Member States.
- Communication from the Committee to the European Parliament, the Council and the European Economic and Social Committee.

- Council Framework Decision 2003/568/JHA of 22.07.2003 on combating corruption in the private sector.
- Resolution No. 37 of the Council of Ministers of 01/04/2014 on the Government Program for Counteracting Corruption for 2014-2019.

The last element of formal regulations and guidelines for taking actions to prevent corruption is the development of the CBA (CBA, 2015) "Anti-corruption Guidelines for Entrepreneurs" and the developed international standard ISO 37001, which was translated by the Polish Committee for Standardization (<https://sklep.pkn.pl/pn-iso-37001-2017-05>) as a voluntary standard PN-ISO 37001: 2017-05 "Systems management of anti-corruption activities. Requirements and guidelines for use".

All the above-mentioned legal regulations, guidelines of government institutions and normative studies constitute the basis for building an effective anti-corruption system. These guidelines apply not only to public institutions or large corporate organizations, but also more and more often to the SME sector.

3. Requirements of the ISO 37001 standard and their application in small and medium-sized enterprises

The corruption risk management system applies to all companies of any business profile, regardless of the company's size. It is obvious that the exact scope of work and the level of detail of analyzes and solutions depends on the size of the enterprise, the organizational form, the nature of the activities, the nature of the tasks performed, the final product/service and the environment of the given company. It is important that during the implementation of the system, the most important rules that try to eliminate or minimize the occurrence of corruption are followed. Designing and implementing the Anti-Corruption Action Management System (SZDA) begins with defining the following areas: determining the responsibility of top management, risk analysis, establishing an anti-corruption policy and establishing good anti-corruption practices, conducting employee training and determining their competences, communication rules, selecting areas of control and monitoring and evaluation of the effects of operation and improvement of the anti-corruption system. Below are the minimum requirements for small and medium-sized enterprises when implementing the ISO 37001 system according to PN-ISO 37001: 2017-05 "Anti-corruption management systems. Requirements and guidelines for use".

3.1. Top management responsibility

The managing body – top management in the organization – regardless of the organizational form, is obliged to promote anti-corruption activities and to be constantly active in anti-corruption activities. This means a visible and active attitude to promoting honesty, transparency and accountability in the field of anti-corruption activities and exercises rational supervision over the effectiveness of the adopted Anti-Corruption Management System, as well as its improvement. These requirements are specified in the PN-ISO 37001: 2017-05 standard in point 5. Leadership and commitment.

It is important that the management staff of small and medium-sized enterprises promote the values of not giving, not offering and not accepting corruption proposals within their organization and abroad. This principle should be recorded in the documents of the anti-corruption system being implemented. It concerns not only the top management, but also the management of all organizational levels of the company.

To design an anti-corruption system, the company's management should appoint a team of trusted employees who enjoy universal authority and trust of all employees. Such a team may consist of the Management Board Representative for Anti-Corruption Activities, process leaders and, if necessary, a representative of an external consulting company. In the case of small companies in a team, this may be one employee and an external advisor. In the decision to create such a team or appoint a special employee, its framework tasks, responsibilities and the necessary authorizations to conduct design and implementation works are also specified. All employees are obligatorily acquainted with this provision.

3.2. Risk analysis in the area of anti-corruption

The risk analysis carried out in small and medium-sized enterprises must be a task which determines: the type, form, place of business, applicable legal rules for the entire company or the most important selected area. These requirements are specified in the PN-ISO 37001: 2017-05 standard in point 4. Context of the organization and in point 6. Planning. Such risk analysis should include at least such elements as: identification of threats, identification of cells and positions at risk of corruption, prevention of threats at the stage of designing and conducting business activities. At this stage it is very important to define:

- which information about the statutory tasks carried out by companies and in what places of their implementation are the most important for the company and are the most sensitive to negative external factors (internal factors in companies and external factors interfering with the company's environment);
- sources of potential internal and external threats (forms, methods, etc.);
- the degree of risk for a particular occurrence of a real threat and disruption of tasks performed in the company's processes;
- the level of risk for each hazard above an acceptable level;

- external threats to the performance of the company's statutory tasks;
- managing individual risks;
- identification of persons responsible for the management of a given risk;
- determination of monitoring the effectiveness of protection of the anti-corruption system in operation – the internal control system and improvement of the adopted security solutions;
- defining the system and scope of the training organized for individual professional groups or the entire company staff.

The concept of tasks performed as part of the risk assessment means that the process should be analyzed from the beginning, i.e. from making management decisions to initiate preparatory work to achieving the final result (product/service), through preparation for organizational and technological work, implementation of the technological process, to programs, market analysis, marketing and end customer satisfaction results.

All these activities are aimed at minimizing the level of risk for the entire company and all employees, regardless of the size of the organization.

3.3. Anticorruption Policy

In small and medium-sized enterprises, the Anticorruption Policy should take into account the corruption threats identified during the risk analysis. The Anti-Corruption Policy should include: the principles, manner and mode of its application, taking into account business goals, the size of the enterprise, the specificity and place of business. These requirements are specified in the PN-ISO 37001: 2017-05 standard in point 8. Operational activities. It should be remembered that the adopted solutions must be consistent with the provisions of internal and external law.

The main purpose of implementing the Anti-Corruption Policy Principles is to eliminate any corruption that may occur in the company. Corruption in small and medium-sized enterprises may relate to the functioning of a given company and its impact on other organizations (e.g. offices, suppliers).

The implementation of the adopted Anti-Corruption Policy is the responsibility of all employees of this company and all contractors and customers should be familiar with it. The adopted Anti-Corruption Policy should clearly define:

- principles of operation of the Anti-Corruption Management System in the company;
- principles of training all employees of the company;
- equal treatment of participants as a passive or active party;
- explicit prohibition of participation in any corrupt situations;
- obligation of clients and contractors to propose or accept any benefits and corruption proposition from an employee of a given company;
- all information about mutual costs of transactions with the company must be public;

- rules for giving and receiving gifts and other personal benefits, such as participation in sponsored integration or training events;
- transparent regulations for bearing representation and advertising costs;
- the obligation of clients or contractors to immediately notify the company's management about the behavior of its employees that is characterized by corruption;
- rules for reporting corrupt behavior by own employees along with ensuring their safety and anonymity.

The adopted Anticorruption Policy is supplemented by the introduction of the Principles of Good Practices.

3.4. Good Anticorruption Practices

The guidelines for anti-corruption measures in the form of Best Practices are included in the PN-ISO 37001: 2017-05 standard in point 8. Operational activities. In small and medium-sized enterprises, the Best Practices are defined by:

- involvement of all parties to the performance of statutory tasks within the company and external partners in order to promote the adopted Anti-Corruption Policy;
- rules for regular training of all interested parties;
- the principles of developing the Code of Ethics as the basis for trust in mutual business relations;
- principles of the internal control system for the elimination of corrupt behavior in the entire organizational system;
- clear and specific definition of the effects of corrupt behavior and non-compliance with certain principles set out in the Anti-Corruption Policy;
- rules of permanent learning about the latest trends and regulations on combating corruption.

3.5. Internal control

Conducting a systematic internal control of the proper functioning of the Anti-Corruption Management System is a requirement of the PN-ISO 37001: 2017-05 standard in point 8. Operational activities, and at the same time it is a condition for the effective protection of the company and its employees against the occurrence or minimization of corrupt behavior in every place of the company's tasks.

The management of a small or medium-sized enterprise should develop and implement a special procedure (or in smaller companies the rules of conduct) for the preparation, conduct and development of post-audit conclusions.

At the same time, the management should appoint an employee authorized to carry out such inspections along with assigning the scope of tasks, powers and responsibilities.

The management, depending on the type of company, should develop an appropriate procedure/method/rule for reporting suspected corrupt behavior. This procedure must guarantee the anonymity of the person reporting a corruption incident and ensure its safety against the consequences. The procedure should ensure that the whistleblower does not have any sanctions, even if the signal was not confirmed during the check. Of course, the documentation of such a signal and its verification is classified. In the event that the signal about the occurrence of corruption is confirmed, further proceedings must be in accordance with the applicable rules in the company and the law.

3.6. Training and communication

In accordance with the requirement of the PN-ISO 37001: 2017-05 standard in point 7. Resources, the purpose of conducting trainings was specified to ensure that all employees, according to their duties, powers and responsibilities, understood:

- the company's Anti-Corruption Policy;
- the risk of corruption to which this employee and the company are exposed;
- what necessary preventive and reporting actions they should take when corruption is suspected or when a corruption proposal is received.

The form and methods of training are determined by the management of a small or medium-sized company, depending on the size of the type of company and its nature. The manner and form are not imposed, because the most important thing is the goal that the management wants to achieve.

In each company, it is recommended to train employees in groups representing a comparable level of duties, competences and responsibilities in the organization of a given company or a selected managerial staff. It is also recommended to conduct separate training for employees performing tasks in positions with high and low corruption risk. Conducted training is an excellent basis for the creation of appropriate information channels about the actions taken by a given organization to counteract the phenomenon of corruption within the company.

3.7. Personnel policy

One of the most important decision-making areas under a specific anti-corruption system is the employment policy (requirements specified in PN-ISO 37001: 2017-05 in point 7. Resources and point 8. Operational activities). On the basis of the conducted analyzes and the degree of risk of corruption in individual positions, it is recommended that the management of companies establish employment procedures or rules that define:

- due diligence in relation to the employment of staff;
- bonus policy;
- conflict of external interests (family, financial ties, etc.) towards cooperators, customers, competitors;

- conflict of internal interests (family, business ties, etc. between the areas of operation within the company);
- terms of employment of temporary workers or internal orders.

In addition, the HR policy should take into account the following guidelines:

- enabling the company to take disciplinary action against employees who violate or fail to comply with the adopted procedures and/or principles preventing corruption;
- requirements for candidates for positions with a higher corruption risk;
- the obligation to familiarize yourself with the anti-corruption system in force in the company from the very beginning, in particular with the procedures applicable at a given position;
- sanctions to which the employee will be exposed if he does not comply with the applicable procedures;
- ensuring that whistle-blowers are not subject to any retaliation, discrimination or disciplinary action that may result from:
- refusal to participate or omission to participate in activities which the employee has identified as carrying a risk of corruption;
- reporting in good faith or finding a corrupt activity.

3.8. Assessment of the effects of operation and improvement of the anti-corruption system

In accordance with the requirements of the PN-ISO 37001: 2017-05 standard, point 9. Analysis of the results, each enterprise should conduct ongoing monitoring of the anti-corruption system and periodic assessment of the system. The SME assessment of the system should cover suitability, adequacy and effectiveness. The system performance is assessed by a team of employees who developed and implemented it, and monitors its effectiveness on an ongoing basis. Of course, in smaller companies it may be the Management Board Representative for Anti-Corruption Activities, referred to in some documents as the Compliance Officer (the officer supervising compliance with the project/rules). This assessment is carried out on the basis of four activities:

- monitoring;
- measuring the functioning of procedures/rules;
- analyzing the obtained results and analyzing the available documents;
- making a final evaluation of the functioning of the system and formulating conclusions aimed at eliminating the revealed imperfect procedural solutions, as well as improving the system. It is the management of the company that determines:
- what should be monitored and measured (define the scope, methods and form of measurements);

- who of the employees is responsible for monitoring (position in the organizational structure);
- the method of conducting the analysis and evaluation ensuring the correctness of the achieved results;
- deadlines for carrying out measurements and analyzes;
- the form of the final report on the work performed;
- to whom the final report is presented;
- the form of final approval of applications and actions to improve the system;
- the form of archiving documentation from the activities carried out to assess the effectiveness of the system.

Once a year, the company's management should conduct a Management Review – that is, read:

- reports presenting the results of internal control activities,
- the results of periodic assessments (may be quarterly or semi-annual assessments) by the Management Board Representative for Anti-Corruption Activities
- a list of reported signals from employees regarding corruption activities. The result of such a Management Review is a decision on the ways and forms of improving the anti-corruption system in force.

4. Summary

The Anti-Corruption Policy and Best Practices adopted by a small or medium-sized enterprise are an excellent basis for joint action with business partners. Clearly defined principles of preventing corruption give a sense of business security to employees, entrepreneurs and business entities cooperating with them.

Full documentation of the Anti-Corruption Management System should include a management declaration explaining the reason for the development and implementation of the Anti-Corruption Management System, the scope of implementation of the system in a given organization, anti-corruption policy, procedures for the implementation of good practices, training and communication procedures, internal control system and a system for assessing the effects of action and improvement system.

More and more small and medium-sized enterprises in Poland are voluntarily introducing anti-corruption systems, but this will change over time. The draft anti-corruption resolution, which is at the last stage of the proceedings in the Sejm, provides for the obligation to implement such an anti-corruption system for all organizations employing over 50 people.

The draft also includes a provision that in the case of cooperation with other smaller business partners, when concluding cooperation agreements, it must be stated that these partners have implemented anti-corruption solutions appropriate for the established cooperation and undertake to jointly act against corruption.

To sum up, introducing an anti-corruption system according to the standard according to the international standard PN-ISO 37001: 2017-05 "Anti-corruption management systems. Requirements and application guidelines" will be a simple tool to help meet legal requirements in the field of corruption prevention. In addition, the introduction of anti-corruption rules will allow entrepreneurs to build the image of a transparent and professionally managed organization. Thanks to this system, smaller organizations will more efficiently conduct risk analyzes, which will allow to find places in the organization where threats may occur. Such a system gives employees a sense of security through clearly and clearly defined decision-making processes. Protection against unconscious corruption and their consequences is built.

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