

**EUROPEAN INTER-UNIVERSITY CENTRE
EUROPEAN MASTER'S PROGRAMME IN HUMAN RIGHTS AND
DEMOCRATISATION**

**University of Maastricht
Faculty of Law**

**FIGHTING CORRUPTION:
THE ROLE OF THE OECD GUIDELINES FOR MULTINATIONAL
ENTERPRISES AND NATIONAL CONTACT POINTS**

Master's Thesis

**Author: Mina Bogunović
Supervisor: Prof. Menno Kamminga**

Venice/Maastricht/Ljubljana 2013

Declaration against plagiarism¹

Name of the student: Mina Bogunovic

Second semester host university: University of Maastricht, Faculty of Law

Name of the supervisor: Prof. Menno Kamminga

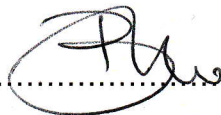
Title of the E.MA thesis:

Fighting Corruption:
The Role of the OECD Guidelines for Multinational Enterprises and
National Contact Points

Academic year: 2012/2013

I certify that the attached is all my own work.

*I understand that I may be penalised if I use the words of others without
acknowledgement.*



(Signature)

¹ Art. 5.1.i of the E.MA Rules of Assessment: The thesis shall consist of an academic piece of work, written individually and independently by the student. It shall be different from work previously undertaken by the student outside the framework of the E.MA Programme, e.g. in another Master's programme. It shall be written in English. The student may write the thesis in French upon prior approval of the E.MA director of the second semester University. [...]

ABSTRACT

The purpose of the thesis is to determine the role of the Guidelines and National Contact Points (hereafter NCPs) in the fight against corruption. In order to achieve that purpose, three questions are posed, firstly, what the role of the Guidelines in the fight against corruption is, secondly, what the role of NCPs is, and lastly, what can be done to improve these two roles.

The thesis is divided into two parts. The first part forms the theoretical framework, and the second part forms the critical analysis.

The theoretical framework of the thesis focuses on defining the concept of corruption, by determining the forms in which corruption occurs, distinguishing between various types of corrupt acts, and highlighting the severity of its consequences. The rationale of this chapter lies in the understanding of the phenomenon dealt with by the thesis. Furthermore, the theoretical framework of the thesis touches upon the Organisation for Economic Development (hereafter the OECD). The understanding of the legal instruments of the OECD and its vital role in the fight against corruption is of utmost importance for the elaboration on the purpose of the thesis. In regard to the role of the OECD, an overview of the development and content of the Guidelines is also made.

The critical analysis encompasses the analysis of the seventh chapter of the Guidelines, which is made by comparing the scope of the anti-bribery chapter of the Guidelines to the Anti-Bribery Convention and by analysing a number of relevant specific instances that were brought up before NCPs. Next, the effectiveness of NCPs is determined with the help of the analysis of specific instances. The main sources for these two chapters were the Guidelines, the Anti-Bribery Convention, and specific instances.

Lastly, upon highlighting the remaining challenges regarding the Guidelines' and NCPs' fight against corruption are introduced, and recommendations are made.

TABLE OF CONTENT

INTRODUCTION	1
Part I	
THEORETICAL FRAMEWORK.....	5
Chapter I	
DEFINING CORRUPTION.....	6
I.I THE VARIOUS MANIFESTATIONS OF CORRUPTION.....	8
I.II CORRUPTION TYPOLOGY	11
I.III CONSEQUENCES OF CORRUPTION.....	15
Chapter II	
INTRODUCING THE OECD.....	18
II.I THE LEGAL INSTRUMENTS OF THE OECD	21
II.II THE OECD’S FIGHT AGAINST CORRUPTION.....	24
II.III ABOUT THE OECD GUIDELINES	27
Part II	
CRITICAL ANALYSIS.....	33
Chapter III	
THE ROLE OF THE GUIDELINES IN THE FIGHT AGAINST CORRUPTION .	34
III.I THE SCOPE OF THE ANTI-BRIBERY CHAPTER OF THE GUIDELINES	
.....	39
III.I.I Corruptive acts within the scope of the Guidelines	40
III.I.II Subjects covered by the anti-bribery chapter	44
III.II PREVENTING AND DETECTING BRIBERY.....	49
Chapter IV	
THE ROLE OF NCPs IN THE FIGHT AGAINST CORRUPTION.....	53
IV.I NCPs – IMPLEMENTATION AND GREVIANCE MECHANISM	55
IV.I.I Jurisdiction.....	59
IV.I.II Initial Assessment	60
IV.I.III Providing good offices to the parties	64
IV.I.IV Conclusion of the procedure.....	66
IV.II THE IC – IMPLEMENTATION AND MONITORING MECHANISM....	69

IV.III THE ROLE OF THE ADVISORY COMMITTEES	72
Chapter V	
PRESENT CHALLENGES and RECOMMENDATIONS TO TACKLE THEM....	73
CONCLUSION.....	78
BIBLIOGRAPHY.....	81

2013

Fighting corruption: the role of the OECD guidelines for multinational enterprises and national contact points

Bogunovic, Mina

<https://doi.org/20.500.11825/548>

Downloaded from Open Knowledge Repository, Global Campus' institutional repository