

INTEGRITY PROGRAMMES IN ECUADOR – A NEW DAWN OF OPPORTUNITIES



Fátima Flores Vera

fflores@siace.com.ec

Fátima Flores Vera

- Master thesis on investment projects evaluation with certified studies on Financial Public Accounting at "Escuela Superior Politécnica del Litoral".
- Expert in the Prevention of Money Laundering and Crime Financing.
- Consultant on Integrity and Anti-corruption, Prevention of Money Laundering at all Regulated Sectors.

An effective compliance must be supported by four basic principles:

1. A corporate governance that promotes integrity and responsibility.
2. Scope of compliance system must be aligned to its company.
3. Clear and ethical administrative procedures
4. Sustainability (supported, funded, renewed) over time.

A company with good corporate governance must have integrity embedded deep within its culture, starting from the leadership. Fortunately, the highest authority in Ecuador is mandating state institutions to promote good corporate practices by contracting private companies dedicated to the fight against corruption.

An environment towards Integrity

There is a breeze of integrity sweeping across Ecuador – doing things right. This brings new expectations for those of us who, for some years now, have been providing services as compliance officers. That breeze resurged on May 25, 2021 with the issuance of Presidential Decree No. 4, about Government Ethical Behavior Standards. The way I see it, this new decree redraws the anti-corruption game field.

Even before the COVID-19 pandemic, Ecuador was already submerged into a corruption crisis. When the pandemic hit, this crisis got even worse. According to renowned writer Augusto Roa Bastos, corruption is a disease much more infectious than plagues. The Decree No. 4 introduces new rules for all public administration entities and now mandates them to create internal norms to implement the decree. The referred norms must be accompanied with sanctions in case of non-compliance.

According to the information provided by the Financial and Economic Analysis Unit UAEF, the results of the National Risk Assessment regarding money laundering establishes a medium-high risk level for Ecuador. Among its findings, political corruption which has become a means for unjustified private enrichment and opportunism also poses a major threat.

Between 2020 and 2021 there was a 37 per cent increase in executive reports sent to the State Attorney General's Office (Fiscalía General del Estado) towards the investigation of crimes related to corruption. Around 35 per cent of the reports sent in the year 2021 were linked to investigations of embezzlement, bribery, extortion, unjustified private enrichment, abuse of trust, influence peddling, among others. Since 2021, the compliance officers (of companies obliged to report) have increased the number of Reports of Unusual, Unjustified or Suspicious (ROS) activities by 53 per cent compared to the previous year. These data reveal how the private sector

has increased harmful practices in contracting processes with the public sector.

These details illustrate the importance of empowering compliance officers within their respective companies and organisations to remain firm in the fight against corruption.

However, integrity control systems are not established overnight. It is therefore a challenge for small and medium-sized enterprises (SMEs) in Ecuador to adapt their internal control systems, even more so if they are doing business internationally.

In a speech last year, President Guillermo Lasso Mendoza called for “more Ecuador in the world and more of the world in Ecuador” as he appealed for stronger ties to commerce and the promotion of non-traditional products from Ecuador. If SMEs in Ecuador want to enter the global market or work with international companies, implementing integrity programs will be critical for their business development.

International trade generates a double track of financial flows (through imports and exports). Failure in regulating these monetary flows can result in fines against SMEs, especially when they begin to operate internationally. However, these challenges also constitute an opportunity for these same companies in our country and those in the region to follow good practices and encourage them to stay updated in development around local and international regulatory frameworks.

Ecuador has updated some of its regulatory frameworks in the past year. These include:

- The General Regulations to the Organic Law of Prevention, Detection and Eradication of the Crime of Money Laundering, and the Financing of Terrorism and Other Crimes (*Reglamento General a la Ley Orgánica de Prevención, Detección y Erradicación al delito de Lavado de Activos y del Financiamiento del Terrorismo y Otros Delitos*), which strengthen controls over public servants and/or Politically Exposed Persons and/or those who administer State resources.
- Comprehensive Criminal Code (*Código integral Penal*), section: “fight against corruption”, which requires companies (as legal entities) to mitigate their risks

of criminal liability, through the execution of integrity programs.

- Ecuadorian Norms for Good Corporate Governance, issued by the Superintendence of Companies, Securities and Insurance, although not mandatory, requires companies to consider integrity laws within their norms, to also strengthen integrity programs.

Ecuador is not the only country implementing such regulations. The last decade has seen almost all countries in Latin-America follow the recommendations of the Organisation for Economic Co-operation and Development (OECD), United Nations Office on Drugs and Crime (UNODC) and other international organizations that recognize the liability of companies as a tool to prevent corruption in the public and private sector.

Why should companies implement an integrity program?

Beyond regulatory norms, there is substantial evidence that doing things well also brings benefits. However, each company, through the strengthening of its internal measures and collective action, will soon learn that good compliance practices don't belong only to large multinationals. Today, they must be implemented by small and medium-sized companies as well. SMEs represent a large share of companies in Ecuador and are exposed to the same risks of non-compliance.

I leave my readers with some of the gains of implementing an integrity program:

- › Improved quality of products and services for local and foreign citizens
- › Reduced “cash vouchers” for bribes and/or risk of embezzlement
- › Reduced legal and reputational risks to which companies may be exposed
- › Stronger employee commitment towards a culture of integrity, multiplying these practices to other spaces
- › Established guidelines for senior management for appropriate behavioral actions in decision making
- › Increased probability of detecting fraud or financial crimes which will reduce business losses, directly impacting profitability
- › Businesses become more predictable and safer.

References

- Decree No. 4 The Rules of Ethical Governmental Behavior of the President of the Republic of Ecuador, May 24, 2021, Guillermo Lasso Mendoza, Constitutional Ecuadorian President.
- Organic Law for the Prevention, Detection, and Eradication of the Crime of Money Laundering and the Financing of Crimes.
- Resolution No. SCVS-INC-DNCDN-2020-0013 Ecuadorian Standards for Good Corporate Governance.
- Organic Law Reforming the Comprehensive Criminal Organic Code on Anticorruption Matters.
- Comprehensive Criminal Organic Code.

By Fátima Flores Vera,
Chief Executive Officer (CEO) Siace Consultores

Disclaimer:

The Alliance for Integrity makes all reasonable effort to ensure that the information presented on its website is accurate at the time published. Nevertheless, neither the Alliance for Integrity, nor its authors accept any liability whatsoever for correctness, reliability or completeness.

Furthermore, the views and opinions expressed in any guest/external contribution featured on our website are those of the guest author and do not necessarily reflect the opinions and views of the Alliance for Integrity as a whole.

The content on this site is offered only as a public service to the web community and does not constitute solicitation or provision of legal advice. This site should not be used as a substitute for obtaining legal advice from an attorney licensed or authorized to practice in your jurisdiction.