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contracting parties to the wording of the convention on its signature cannot concern Article 33.

In this case, the Polish court held that as Poland is a party to the Geneva Convention, it must respect its provisions, and that the principle of non-extradition stipulated in the Convention has priority over the extradition obligation ensuing from the two or multi-party treaty on extradition concluded between Poland and the country demanding extradition.

Such a priority, as is set out in Article 33 in relation to other provisions, has never hitherto been so clearly underlined in Polish jurisprudence.

The ruling, which was issued at the first instance hearing before the regional court in Warsaw, was so unequivocal and strong in its argumentation that it was not appealed. The Justice Minister then refused to extradite the suspect to Russia.

One element is worth noting: in this case, the person subject to extradition procedure was not arrested, and the Court confined itself to secure their participation in the extradition proceedings, to seize their travel documents and prohibit them from leaving the country. From a Polish perspective, this ruling was exceptional; in the majority of cases the courts apply the so-called 'pre-extradition arrest'.

This case also illustrates the issue that the UNHCR Conclusion No 12 concerns: the inordinately difficult and often impossible evaluation of the reasonableness of conferring refugee status during extradition proceedings, where two contradictory evaluations of a given person's conduct collide. If the appraisal of events led the applicable authority to confer refugee status, then its decision should not be challenged.

This issue continues to be of relevance in a stormy and unpredictable political world.

Note

1 UN High Commissioner for Refugees (UNHCR), Extraterritorial Effect of the Determination of Refugee Status, 17 October 1978, No 12 (XXIX) – 1978, available at www.refworld.org/docid/3ae68c4447.html, accessed 25 March 2014.

From compliance programme to compliance management system: reaching the next level of effective compliance management

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Businesses design, implement and maintain compliance programmes to ensure they comply with the law in an effective manner. Given the many recent fines against leading businesses for repeated 'systematic' infringements of the law, it can be inferred that compliance programmes are in general less effective than they should be.

Assuming that, on the whole, corporate compliance programmes are indeed not as effective as they should be (evidence to the contrary is always welcome), the question immediately arises about whether there is a cure. One of the most prominent answers that has developed over the past two years is the introduction of compliance (quality) management systems, similar to the International Organization for Standardization (ISO) 9000 Quality Management System or the International Labour Organization (ILO) guidelines on occupational safety and health management systems,[1] which have successfully been employed by more than a million businesses around the globe. Such standardised management systems are intended to guarantee, for instance, product and service quality or occupational health and safety

using an integrated process based on strategy, organisation, planning, introduction, monitoring, measuring and improving the system and its effectiveness.

Well-known examples of compliance management system (CMS) standards are the Australian Standard on Compliance Programs,[2] the Austrian CMS Standard ONR 192050 and the German CMS (Audit) Standard IDW AS 980. Additionally, the ISO has recently established the Draft International Guideline Standard on Compliance Management Systems (DIS ISO 19600).[3]

The introduction of compliance management systems in businesses based on recognised standards is quickly spreading. The purpose of CMS standards is to provide guidelines or minimum requirements for all private and public organisations to design, introduce, maintain and improve effective compliance management systems. A comparison of these standards on substance shows that there is little difference regarding the principles of good compliance governance, the organisation and the processes of an effective CMS. For instance, good compliance governance as a rule includes the compliance function's direct access to the Board, its independence from operational management, adequate organisational authority and availability of appropriate resources. The CMS standards equally underline the essential role of the right tone and good example set by the governing body (the Board and senior management), management's primary responsibility for compliance, the supporting role of the compliance function and the need for a written compliance policy, professional risk management and specific organisational[4] and procedural measures.[5] According to the CMS concept, risk-based compliance programmes (such as anti-bribery and competition law programmes) are (only) one element of an integral compliance management system.

Given the global convergence and standardisation of best practice compliance management systems, in future it should be easier for all organisations (private and public) to implement and maintain *effective systematic compliance management.* This is certainly a considerable gain for the sustainable management of businesses and for good public management.

Notes

1 International Labour Organization Guideline ILO-OSH 2001, at http://ilo.org/safework/info/standards-and-instruments/WCMS_107727/lang–en/index.htm
2 Australian Standard AS 3806-2006.
3 DIS ISO 19600 is a Guideline Standard for effective compliance management systems; see www.iso.org/iso/catalogue_detail.htm?csnumber=62342.
4 For example, internal policies helplines, etc.
5 Training, counselling, auditing and supervising, issues management, sanctions, communication, continual improvement, etc.

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Austrian anticorruption law: a brief overview

The first Austrian anti-corruption law was passed in 1964. Back then, this law sanctified only the acceptance of gifts by and the bribery of government officials.

The first novelty of the anti-corruption law was overshadowed by several big scandals of the 1980s like 'Noricum' (Forbidden Arms Trading), 'Lucona' (a big insurance fraud, including a murder) and the 'AKH scandal' (numerous fraud cases around the erection of the new General Hospital of Vienna).

The new era in Austrian law on corruption started 34 years later with the Criminal Law Amendment Act of 1998. For the first time, far-reaching changes had been implemented into the Criminal Code. Now, not only was the acceptance of gifts from officials deemed criminal behaviour, but also the acceptance of gifts and bribery of expert witnesses by the executives of state-owned companies was illegal from then on.

Ten years later, in 2008, the Criminal Law Amendment Act 2008 substantially reformed whole areas of the law on corruption. The goal of this amendment was to increase the efficiency of the fight against bribery and