

*“when small-minded people adhere strictly to the bureaucratic code, without critical analysis, without thinking about the broader implications, and neglecting the overriding mission and goals of the company, it can kill the organization”<sup>1</sup>*

<sup>1</sup> Riggio, Ronald (2010). When Bureaucracy Kills Leadership (and Your Organization). Retrieved November 8, 2010 from <http://www.psychologytoday.com/blog/cutting-edge-leadership/201003/when-bureaucracy-kills-leadership-and-your-organization>.



# Compliance Periscope

Helping you to explore the  
compliance landscape in  
Ukraine and the world

## How Not to Turn Your Compliance Program into Bureaucracy

Pavlo Bespalov

Head of Legal CIS & Romania

co-chair of Compliance Club of American Chamber of Commerce, Ukraine  
attorney at law, LL.M. the Netherlands, CCEP-I,

17 May 2018

# Road map

1. Why Corporate Compliance?
2. Main Reasons of Resistance in Corporations
3. 3 Practical Suggestions how to Combat Bureaucracy while Running Ethics & Compliance Program

# 1. Why Corporate Compliance?

1/3

Experiment in physics



# 1. Why Corporate Compliance?

2/3

## Motivation for implementation

- ‘DOJ and SEC may decline to pursue charges against a company based on the company’s effective compliance program, or may otherwise seek to reward a company for its program, even when that program did not prevent the particular underlying FCPA violation that gave rise to the investigation’ FCPA guide by DoJ and SEC
- “An ounce of prevention is worth a pound of cure” Benjamin Franklin



# 1. Why Corporate Compliance?

3/3



Whip	Gingerbread
<ul style="list-style-type: none"><li>(1) Preventing fines and imprisonment of company officials</li><li>(2) Preventing reputation damages, damages of third parties</li><li>(3) Preventing putting officials to the list of convicted for corrupt offences</li><li>(4) Preventing disbarment from public procurement</li><li>(5) Preventing costs for internal investigations</li><li>(6) Obtaining declination or a credit from law enforcement authority</li></ul>	<ul style="list-style-type: none"><li>(1) Building trust with stakeholders through integrity and ethical conduct</li><li>(2) Attraction of investors, who want to be part of sustainable business</li><li>(3) Consumers respond positively to companies that are perceived as ethical; vendors and suppliers prefer to deal with ethical companies</li><li>(4) Attraction of best talent, employees are more productive and less likely to leave a company</li><li>(5) Forming positive perception with regulators</li></ul>
Who says?	Who says?
<ul style="list-style-type: none"><li>(1) <a href="#">Department of Justice of USA Pilot Program</a></li><li>(2) <a href="#">Linde North America Inc.</a>, <a href="#">CDM Smith, Inc.</a></li></ul>	<ul style="list-style-type: none"><li>(1) <a href="#">United Kingdom's Institute of Business Ethics' Study</a></li><li>(2) <a href="#">EBRD</a> and <a href="#">World Bank</a> procedures</li></ul>

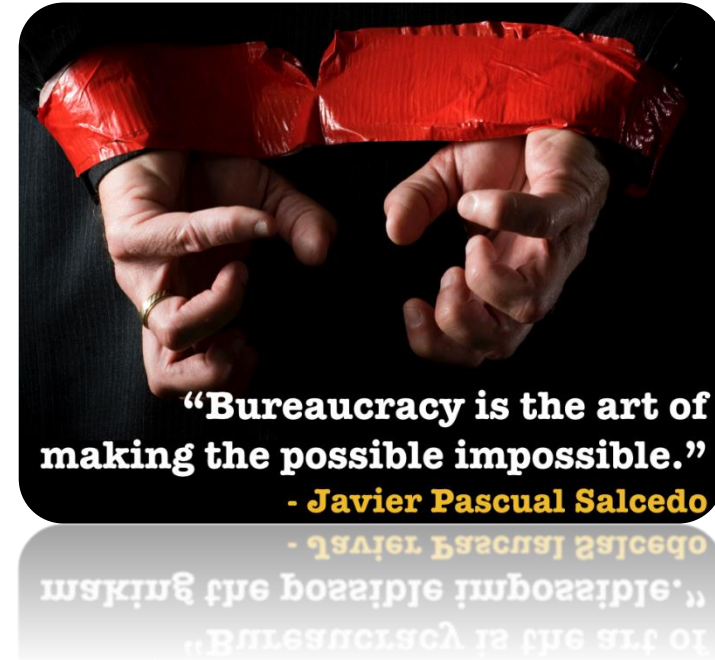
## 2. Main Reasons of Resistance in Corporations 1/2

### 1) Resistance<sup>1</sup> (Issue of Trust)

- Inadequate resources
- Inappropriate level of seniority & independence

### 2) Main Reasons of (Issue of Trust)

- Bad character (educate, incentivize & punish)<sup>2</sup>
- Incompetence (educate, incentivize & punish)<sup>3</sup>
- Bureaucracy (improve compliance program)<sup>4</sup>



<sup>1</sup> [Ominous Signs for the Future of the Compliance Profession](#) – according to recognized expert Michael Vokov

<sup>2</sup> nearly 3,000 executives interviewed for [EY's 2016 Global Fraud Survey](#), «42% said they could justify unethical behavior to meet financial targets»

<sup>3</sup> it was found that those companies in the sample with a code of ethics according to [Institute of Business Ethics](#) had, in financial performance out performed a similar sized group who said they did not have a code

<sup>4</sup> Bureaucracy is a [trust issue](#) and includes complex and cumbersome rules, regulations, policies, procedures, and processes

## 2. Main Reasons of Resistance in Corporations 2/2

### Bureaucracy

- The process of approval and/or the approver(s) is unclear
- It is unclear what should be done and how
- It is unclear why approval is needed
- It is unclear how much it takes to get approval or unnecessary delays occur
- People involved do not care about your communication experience
- Your experience of the process and conditions are not thought through
- Little options are provided disregards to interests of people
- Big discretion of particular persons, little possibilities of escalation
- Unpredictable outcome
- Crowds
- Duplication of work



### Reasons? Bad Character or Incompetence



### 3. 3 Practical Suggestions how to Combat Bureaucracy while Running Ethics & Compliance Program 1/3

#### (1) Create Transparency

This builds right expectations and shows that you have nothing to hide

- Imagine you do not have policies/laws
- Intranet for policies & procedures is a must in a modern world
- Incentives and disciplinary measures as a deterrence
- *“A lack of transparency results in distrust and a deep sense of insecurity.”* Dalai Lama

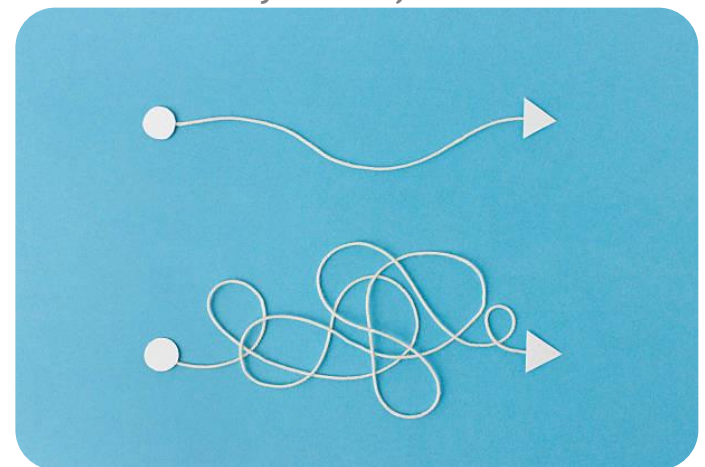


### 3. 3 Practical Suggestions how to Combat Bureaucracy while Running Ethics & Compliance Program 2/3

#### (2) Always Simplify & Automate

Simplification increases the speed of processing information, hence allows to do more

- Imagine that trainings are taught in complex legal language
- Use technology to automate trainings, third party due diligence, legal notices, managing budget, PoA and agreements approval
- Simplify policies, prepare do's and don'ts into clear steps or do's and don'ts,
- *"If you can't explain it to a 6-year-old, you don't understand it yourself."* Einstein



## 3. 3 Practical Suggestions how to Combat Bureaucracy while Running Ethics & Compliance Program 3/3

### (3) Practice Business/Customer Orientation

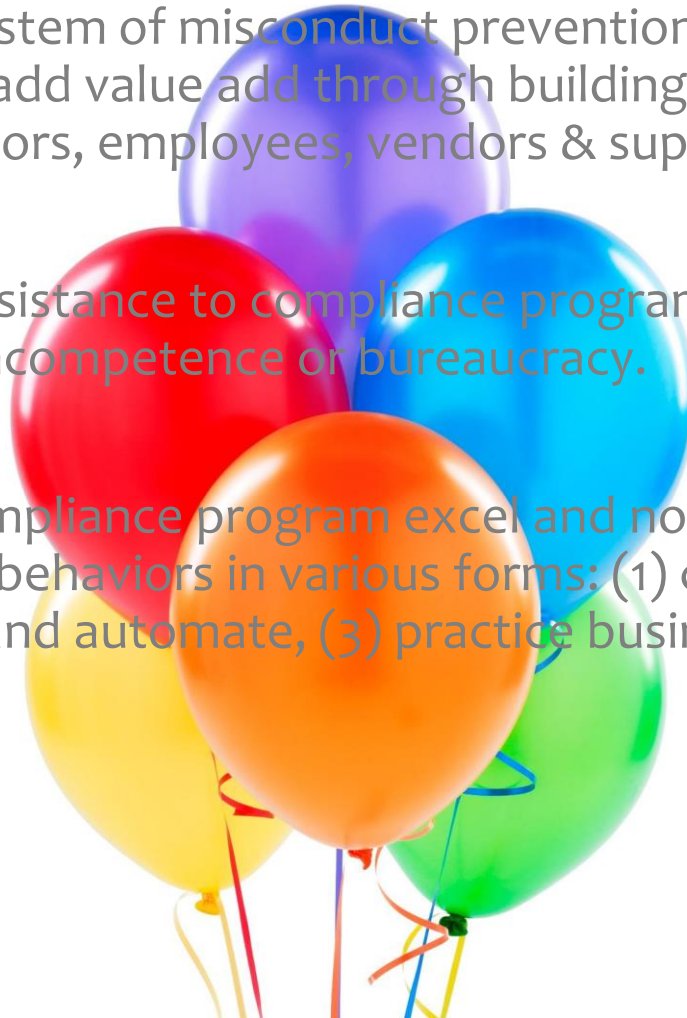
Understand expectations and exceed them

- Imagine you were on the other side. Try it yourself
- Add flexibility in terms of multiple options, add entertainment, fun, excitement
- Agree with stakeholders beforehand, ask what people want regularly
- *“Your most unhappy customers are your greatest source of learning.”* Bill Gates



# Conclusions

1. Compliance is system of misconduct prevention. In addition, compliance can add value add through building trust with the customer, investors, employees, vendors & suppliers, and regulator.
2. There is some resistance to compliance programs. The reasons being: bad character, incompetence or bureaucracy.
3. To have your compliance program excel and not turn into bureaucracy practice these 3 behaviors in various forms: (1) create transparency, (2) always simplify and automate, (3) practice business/customer orientation



# Where you can reach us

Our website: [complianceperiscope.com](https://complianceperiscope.com)  
Facebook: [fb.com/complianceperiscope](https://fb.com/complianceperiscope)  
LinkedIn: [lnkd.in/complianceperiscope](https://lnkd.in/complianceperiscope)

Pavlo  
Bespalov



Igor  
Svitlyk



Volodymyr  
Hrabchak



Dmytro  
Foremnyi



Zlata  
Symonenko



Tetiana  
Kheruvimova



Olga  
Burlachenko



Thank you!