

OECD Integrity Review of Thailand

TOWARDS COHERENT AND EFFECTIVE INTEGRITY POLICIES

Executive summary

Anti-corruption laws in Thailand have been expanded over time and the current National Anti-Corruption Strategy includes bold effort to mitigate corruption risks. To support the Government of Thailand's commitment to public integrity, the OECD *Integrity Review of Thailand* provides in-depth analysis of the country's public integrity system. In line with the 2017 OECD Recommendation on Public Integrity, the Review offers guidance on how to strengthen Thailand's integrity frameworks and policies, based on good practices from OECD countries.

Towards co-ordinated integrity institutions

Although Thailand has an extensive legislative framework in place for public integrity, the mandates of various institutions overlap, reducing the effectiveness of anti-corruption and integrity policies and hindering their implementation. For instance, the National Anti-Corruption Commission (NACC) and the Public Sector Anti-Corruption Commission (PACC) have conflicting responsibilities in relation to developing and implementing integrity policies. Furthermore, multiple bodies are currently responsible for investigating cases of corruption, weakening the investigative process. This overlap could be addressed by building on the mandate of the NACC for the overall co-ordination of anti-corruption and integrity policies, and on the specialised role of the PACC in preventing corruption in the executive branch. A clear co-ordination mechanism among these bodies, as well as others such as the Office of the Civil Service Commission, would allow integrity and anti-corruption policies to be developed and implemented more consistently. Thailand has broad guiding principles for managing conflict of interest in the public sector as well as practical guidelines to assist public officials in identifying and preventing conflict-of-interest situations. However, there are positions in the public sector that are considered more at risk from conflict of interest and integrity violations, such as procurement and custom officials. An increasing number of OECD countries have

developed specific, detailed guidance for such individuals, enabling them to better manage potential conflicts of interest. Thailand could look at these experiences and consider further developing the guidance for public officials that are susceptible to conflict-of-interest situations. The PACC, with its preventative mandate, would be the ideal body to develop such guidance in the executive branch. A robust asset disclosure system is an effective tool for ensuring the accountability of public officials and facilitating the detection of illicit activity. In Thailand, the NACC expanded the scope of the provisions for asset disclosure to include senior political positions. While this is a positive development, Thailand's asset disclosure system could be further broadened to include senior civil servants and at-risk officials in order to mitigate conflict of interest risks. This could be complemented by strengthening the auditing capacity of NACC with an online system to facilitate submission, effective auditing and verification, and subsequent publication by NACC.

Cultivating a culture of integrity

To promote a culture of integrity in the public sector, all public officials are expected to understand the public sector values underpinning their role as well as how to apply them in daily operations. In the Thai public sector, the Code of Professional Ethics for Civil Servants is known to employees, but a comprehensive training programme would help civil servants apply the Code in fulfilling their duties. PACC could carry out such training for civil servants and institutional partners, and provide guidance and support on integrity issues in the executive branch. Awareness-raising activities could also be extended to include the broader public and promote a whole-of-society approach to anti-corruption, enhancing public trust in Thai institutions. To foster an open organisational culture and allow for detection of integrity violations, individuals must feel that they can raise concerns freely and without fear of reprisal. In Thailand, some protection is afforded under witness protection and related laws, but the provisions do not go far enough. In line with an increasing number of OECD countries, Thailand could consider adopting a dedicated whistleblower protection law that offers comprehensive protection measures to assure public officials that they can report suspected wrongdoing without constraint. In particular, such legislation is expected to

clearly identify the scope of whistleblowers, stipulate the reporting channels available to employees, and define prohibited forms of retaliation. Furthermore, OECD good practices show that such measures are more effective when accompanied by awareness-raising activities to ensure that individuals have a clear idea of how to make a disclosure, and what protection is afforded to them when doing so. Once a dedicated whistleblower protection law is in place, PACC could be the agency in charge of overseeing its implementation and training public officials in the executive branch.

Chapter 1

An overview of governance and corruption in Thailand

This chapter assesses the current situation in Thailand with regards to governance and corruption. Looking at international indicators as well as the perspectives on corruption of both business and citizens in Thailand, the analysis shows that corruption and bribery are prevalent in both the public and the private sectors. These results highlight the need for Thailand to strengthen its governance framework and promote a culture of integrity to mitigate corruption risks.

The review's analytical framework for assessing public sector integrity

With a view to supporting the Government of Thailand in this process and providing recommendations for ongoing reform, the OECD Integrity Review assesses the strengths and weaknesses of Thailand's policies for public sector integrity (i.e. integrity practices for the public administration). In line with the recently approved OECD Recommendation of the Council on Public Integrity (Figure 1.9), the review specifically examines key dimensions of Thailand's public integrity system and its implementation, including:

- The coherence and comprehensiveness of the public integrity system: Chapter 2 describes the institutional architecture created by the national anti-corruption system, and how adequately it covers the key elements of strong public integrity systems. Recommended improvements for policies concerning public ethics are discussed in Chapter 3, while Chapter 4 analyses how effectively the Government of Thailand manages conflict-of-interest and asset declarations. The extent to which Thailand's integrity policies cultivate a culture of integrity is evaluated, specifically by: i) promoting a whole-of-society approach to fighting corruption; ii) Investing in integrity leadership; iii) promoting a merit-based professional public service; iv) providing information, training, guidance and advice for public officials; and v) supporting open organisational cultures responsive to public integrity concerns. Chapters 2 and 3, for instance, will examine the extent to which government institutions engage

with non-governmental stakeholders in the fight against corruption. They also touch upon the linkages of integrity policies with human resources management practices (particularly recruitment, performance assessment, capacity building and training). Chapter 5 discusses how whistleblower protection and reporting mechanisms can contribute to an organisational culture that supports integrity standards.

Figure 1.9. 2017 OECD Recommendation on Public Integrity, showing the analytical framework for the integrity review



Source: OECD 2017 Recommendation of the Council on Public Integrity.
<http://www.oecd.org/gov/ethics/recommendation-public-integrity.htm>

Chapter 2

Encouraging a comprehensive and co-ordinated integrity system in Thailand

This chapter examines the institutional arrangements for public integrity established in Thailand at the central level against the principles of the OECD 2017 Recommendation on Public Integrity. Thailand is advised to strengthen the development, implementation and monitoring of the National Anti-Corruption Strategy and integrate the Integrity and Transparency Assessment in the Strategy. Thailand may also improve institutional coordination by streamlining the mandates of NACC, PACC and OCSC, and foster mainstreaming of anti-corruption policies by strengthening the capacity of Anti-Corruption Operation Centres. Thailand is also advised to strengthen stakeholder consultation and knowledge management in the field of public integrity.

Proposals for action

The institutional arrangement and effective co-ordination among the actors of the public integrity system is a fundamental aspect of the Thai efforts to enhance integrity and mitigate corruption risks at all levels. The OECD thus recommends that Thailand takes the following steps to enhance its public integrity system, based on the development, implementation and monitoring of the National Anti-Corruption Strategy, institutional coordination and stakeholder engagement:

Development, implementation and monitoring of the National Anti-Corruption Strategy

- To increase the effectiveness of the National Anti-Corruption Strategy, Thailand could reinforce the secretariat function of the NACC Sub-Commission for Strategy Implementation in two ways, by encouraging a multi-stakeholder approach and by developing a monitoring and evaluation framework for the Strategy.

- To help move beyond the public perception of corruption, Thailand could help make the measurement framework for anti-corruption policies more robust by using policy indicators.
- Thailand could raise the strategic impact of the Integrity and Transparency Assessment (ITA) by fine-tuning its methodology and by integrating the ITA scores as indicators of the National Anti-Corruption Strategy.
- To increase the efficiency, coherence and sustainability of anti-corruption initiatives, Thailand could establish a programmatic and multi-year approach to the budget allocation process for measures and activities underpinning the National Anti-Corruption Strategy.

Institutional coordination and stakeholder engagement

- To enhance the cost-effectiveness, efficiency and impact of corruption prevention efforts at the national level, Thailand could streamline the mandates of NACC, PACC and OCSC and consolidate the mandate for public sector integrity in the executive branch within PACC.
- Thailand could centralise and consolidate the mandate for criminal investigations of corruption cases in the public sector within NACC, to increase efficiency.
- Thailand could consider phasing out temporary anti-corruption bodies, such as the National Administration Centre for Anti-Corruption, and integrate them into the existing structures and mandates.
- To help introduce anti-corruption policies throughout government institutions in a coherent way, Thailand could strengthen the operational capacity of the Anti-Corruption Operation Centres (ACOCs) and the co-ordination by PACC.
- To ensure continuity and independence of the institutional operations, Thailand could strengthen the merit-based system for appointing NACC commissioners.
- Thailand could improve coordination and effectiveness of anti-corruption policy research through the creation of a policy research platform.
- To increase government accountability and effectiveness of anti-corruption policies, Thailand could reinforce the role of civil society organisations in the anti-corruption policy cycle, including by supporting CSO awareness raising initiatives.

Chapter 3

Strengthening public ethics in Thailand

This chapter reviews the Thai policies and practices related to the promotion of a culture of integrity in the public service. In particular, Thailand could strengthen the guidance offered to civil servants on the Code of Professional Ethics for Civil Service by assigning to PACC a role as leading agency for training, advisory and receiving of the Code. Thailand could also mainstream integrity policies in human resource management and ensure the enforcement of integrity standards. Thailand could improve the monitoring and evaluation framework for integrity policies.

Proposals for action

- To provide a coherent and cost-effective guidance package for civil servants on public ethics, Thailand should consolidate its anti-corruption training and awareness raising efforts for the public sector within the PACC. Similarly, PACC should be the leading agency for drafting and reviewing the Code of Professional Ethics for Civil Servants.
- To allow effective prevention and management of conflict of interest, Thailand should integrate a definition of conflict of interest in its Code of Professional Ethics for Civil Service.
- To strengthen the observance of the Code of Professional Ethics for Civil Service, Thailand should guide civil servants with practical examples of ethical dilemmas, and include specific guidelines for resolving them.
- To increase compliance with the provisions of the Code of Professional Ethics for Civil Service, PACC and OCSC could disseminate information on both the sanctions available and applied sanctions for misconduct.
- Under the leadership of NACC and in consultation with PACC, a systematic review of the implementation of the Code across government agencies should be included in the annual Integrity and Transparency Assessment (ITA) of government institutions and should be linked with the National Anti-Corruption Strategy objectives.

- As human resources management (HRM) practices may help contribute to public sector integrity, OCSC could consider further mainstreaming integrity in human resources processes in the civil service, including in recruitment and career enhancement.

- To encourage accountability, Thailand could strengthen the effectiveness of integrity policies of the House of Representative and the Senate, by developing and implementing of the code of ethics.

Chapter 4

Reinforcing public sector integrity in Thailand by managing conflict of interest

This chapter examines the Thai integrity system in relation to the management of conflict of interest and asset disclosure. In line with the recommendations of the previous chapters, Thailand may consider consolidating the mandate for managing conflict of interest of all civil servants within PACC and developing more detailed measures, such as specific guidance for at-risk categories of public officials who may be at greatest risk, as well as a monitoring system for the cooling-off period. The scope of asset disclosure could be expanded to include the senior public officials and other at-risk officials, while strengthening the auditing capacity of the NACC with online technologies. Thailand could also consider making asset disclosure forms publicly accessible for public scrutiny gradually and progressively.

Proposals for action

- Thailand could consider consolidating the mandate for public sector integrity. PACC could be designated as the agency responsible for conflict-of-interest policies for civil servants in the public sector, in close co-operation with NACC.
- Thailand could consider developing specific guidance for categories of public officials who are at risk due to the nature of their work. With support from PACC, each government agency could consider providing more specific guidelines and codes at organisational levels, while ensuring that they align with the overarching principles integral to the public sector. In addition, PACC could encourage government agencies to elaborate such specific conflict-of-interest regulations and guidelines in a participatory fashion.
- Thailand could consider introducing a mechanism to monitor the implementation of its cooling-off period, especially for high-ranking public officials and at-risk officials, as well as developing pre-public employment policies. While there is a cooling-off period of two years for all public officials including Prime Minister, Ministers and the head of local governments, no mechanism exists to monitor and ensure that public officials follow this

rule upon leaving their public positions. NACC and PACC could consider developing measures to monitor the implementation of cooling-off period, and also develop pre-public employment policies.

- Thailand might consider developing a more structured approach to raise awareness on conflicts of interest. PACC and the Anti-Corruption Operation Centre in each government agency may consider developing more systematic procedures, in which training, education and guidance on management of conflict of interest are provided to all public officials throughout their career.

- Thailand could consider developing a mechanism to monitor the effectiveness of the conflict-of-interest policies. PACC could consider reviewing how public organisations provide guidance on the conflict-of-interest policies, assessing public employees' knowledge of such policies, and monitoring the implementation of the policies through diagnostic tools such as survey and statistical data.

- Thailand could consider extending asset disclosure system to the senior public officials and other at-risk officials, while increasing the NACC's auditing capacity.

- Thailand could consider making asset disclosure forms publically accessible for scrutiny by the media and the citizens in a gradual and progressive manner, taking into account the level and position of the public official. Information relating to private interests of public officials could be published on the government portal website managed by the Electronic Government Agency.

- Thailand could consider introducing a comprehensive online disclosure system to facilitate effective reviewing, auditing and subsequent publication by NACC. In developing an online management system, Thailand would need to pay attention to interconnectivity of such system across different government agencies.

Chapter 5

Encouraging reporting of corruption in Thailand through stronger whistleblower protection

While provisions for whistleblower protection are cursorily mentioned in the Executives Measures in Anti-Corruption Act B.E.2551 and Penalty in Witness Protection Act B.E. 2546, Thailand has no dedicated whistleblower protection law. To develop a stronger whistleblower protection mechanism to improve integrity in the public sector, this chapter discusses the value of developing legislation to address the issue of whistleblower, suggesting a number of key features that need to be included, such as clear definition of wrongdoings and retaliation, multiple reporting channels, remedies for whistleblowers and monitoring of the law's implementation, with reference to good practises of OECD countries.

Proposals for action

- Thailand could consider developing a dedicated law to protect whistleblowers in the public and private sector, in addition to existing witness-protection arrangements. PACC could be the institution responsible for implementing a new whistleblower protection law.
- In developing a dedicated law, Thailand could consider establishing a clear definition for whistleblowers of the types of wrongdoings that justify coverage under the whistleblower protection system, a comprehensive overview of the types of retaliation against whistleblowers, a mechanism to sanction those who retaliate against whistleblowers, measures to preclude reporting in bad faith, and different types of remedies available to whistleblowers.
- Thailand could consider clearly identifying the law the reporting options for whistleblowers, from internal to external. In this regard, the PACC and other government agencies could consider increasing the capacity of the Anti-Corruption Operation Centre to deal with enquiries from potential whistleblowers.

- Thailand could consider promoting a broad communication strategy and undertaking increased awareness efforts through various channels. PACC, together with NACC and other government agencies, could consider developing a broad communication strategy and initiating public information campaigns to create favourable social conditions for the introducing a whistleblower protection mechanism.

- Once a dedicated law to protect whistleblowers is in place, Thailand could start collecting data on the application of the whistleblower protection legislation to evaluate its purpose, implementation and effectiveness. PACC could be the lead agency for this task.