Theme 2: Embedding ethical and anti-corruption practices

The concept of serving the public interest, rather than narrow personal or political interests, is at the heart of good governance. High income countries rank highly on control of corruption, which is toxic for long-term prosperity, but a complex phenomenon. Ethical values have to be interpreted in often complicated real-time situations; faced with conflicts of interest, 'doing the right thing' is not always instantly obvious. This theme looks at how public administrations can put in place a comprehensive, balanced and tailored package of measures. It explores the range of instruments available to instil a culture of integrity, deter and detect unethical behaviour, take corrective action and build public trust: ethical codes, risk-based strategies, laws and regulations, integrity coordinators, anti-corruption agencies, open government, external scrutiny, HRM techniques, ethics and dilemma training, disclosure of income, assets and interests, administrative simplification, e-Government, control and audit, whistle-blowing, investigation, prosecution and sanctions.

Contents

The presumption should be that public officials always perform their duties to the highest ethical standards. However, there is the ever-present potential for position and power to be misused for personal or private gain. If corruption becomes endemic, it undermines development by destroying trust, misallocating resources, and depressing investment and growth.

This chapter:

- ✓ Outlines the economic and fiscal benefits of embedding ethics and combatting corruption;
- ✓ Sets out the risk factors that can allow corruption to take hold – environment, opportunity, lack of consequences and insufficient openness;
- ✓ Highlights the importance of political leadership, values, standards and corruption risk analysis;
- ✓ Explores the role of laws, regulation and institutions within the integrity policy framework;
- ✓ Emphasises the importance of transparency in building public trust and accountability;
- ✓ Examines preventative and performance-enhancing measures, including personnel policies, ethics training, disclosure techniques, administrative simplification, automation and controls
- ✓ Describes the actions taken to expose corruption when it does occur, especially whistle-blowing mechanisms, investigations and sanctions, with the aim to deter potential future perpetrators.

Ethics can be defined in several ways, but for the purpose of this Toolbox, can be understood as the set of values that guide the performance of public duties. Ethics is sometimes equated with 'morality', but in the context of public administration, it is not enough that choices about conduct are solely down to each official's moral code, weighing up what is right and wrong. In order to be consistent in their actions, public administrations need a framework of standards to guide behaviour and decisions, which leads us to the concept of **integrity** for this Toolbox (see principles and values of good governance) - these values should apply to whole organisations and systems, and all the interactions within them[1]. In practice, 'ethics' and 'integrity' are often used by organisations to mean the same thing: the values that shape conduct, whether individually or collectively.

At the heart of both individual ethical behaviour and the integrity of the whole system in public administration, whether government or judiciary, is the concept of **serving the public interest**, rather than narrow personal interests or political interests. Defining 'the public interest' is not straightforward. For example, it is not just a matter of applying the law (adopted in parliament at the will of the people) which is a basic requirement of civil services and judiciaries, or doing only what is necessary to avoid getting into trouble. The public interest does, however, provide a reference point for weighing up different courses of action and identifying the right way forward: what will benefit the community being served, rather than personal, individual or group interests.

By contrast, **corruption** can be defined as the misuse of public position or power for personal or private gain.[2] This abuse is said to take two main forms.[3]

- **Grand corruption** involves administration at the highest level. Examples include: businesses, individuals or organised crime buying and or exerting influence to shape the State's policies and laws in their narrow interests (state capture[4]); channelling public funds into personal or party accounts;

(1) This conflates the two meanings of integrity, relating to wholeness and standards. See also Erhard, W., Jensen, M.C., and Zaffron, S., (2014), "Integrity: A Positive Model that Incorporates the Normative Phenomena of Morality, Ethics, and Legality"

(2) See also OECD, Transparency International and World Bank definitions.

(3) http://www.transparency.org/whoweare/organisation/faqs_on_corruption/2/. For the purposes of the Toolbox, 'political corruption' has been subsumed within grand corruption.

(4) See, for example, the Transparency International briefing "State capture: an overview".

and political parties in power rewarding apparatchiks with public positions, irrespective of relevant qualifications or experience (patronage).

- **Petty corruption** takes place at the level of institutions and individuals (administrators, doctors, police, border guards, judges, prosecutors, educators etc.). Examples include: bribery and extortion, in cash (including kickbacks) or kind (gifts and favours); preferential access to services or goods; influence on processes and their outcomes; or favouritism in awarding jobs, promotions or contracts, irrespective of merit. While often small-scale in each case, the sum effect can be substantial and invidious for the functioning of the economy and society.

Clearly, ethical and corrupt behaviour are not simple 'black or white' alternatives, nor are they the two ends of a spectrum, with selfless sacrifice to the public interest at one end and exploitation of every illegitimate or unethical opportunity for personal advancement at the other. Ethical values have to be interpreted in often complicated real-time situations on a daily basis, where sometimes the way forward - 'doing the right thing' - is not instantly obvious. Such scenarios can present real dilemmas to public officials. For this reason, the anticipation and resolution of potential **conflicts of interest** is a central concern in integrity policies. Nevertheless, there are lines beyond the 'grey areas' of integrity that clearly should not be crossed, and which are recognisably corrupt, including bribery, extortion, and fraud. The task for public administrations is to put the systems and structures in place to help officials make the optimal choices, especially when confronted with tricky ethical decisions, and to define unambiguously the threshold of (un-)acceptable activity.

The recent financial and economic crisis has made anti-corruption measures integral to economic adjustment programmes, the European Semester of economic policy coordination and many Country Specific Recommendations, as indebted Member States can ill-afford any misappropriation of public funds. In the context of the Europe 2020 goals of smart, sustainable and inclusive growth, the case for combatting corruption could not be clearer, given the economic and fiscal benefits. Corruption raises costs, distorts decisions, misallocates resources, and discourages enterprise and investment through its unpredictability. There is evidence that corruption is linked to over-spending, fiscal deficits, under-collection of taxes, under-absorption of EU funds[5], inequality of women and minorities in access to positions of power, and 'brain-drain' from the economy.[6]

Every administration has to be vigilant towards the risk and reality of corruption and conflicts of interest in public life, given the corrosive effect on public trust in governance and detrimental economic impact. Following the Communication on Fighting Corruption in the EU in June 2011, two European Commission surveys in 2013 (see below), set alongside other international metrics[7], demonstrate vividly the scale of this challenge.

[5] Tackling irregularities, fraud and corruption in European Structural and Investment Funds is covered under theme 7.

[6] See, for example: Mauro P., (2004) "The Persistence of Corruption and Slow Economic Growth", IMF Staff Paper, http://www.imf.org/external/pubs/ft/staffp/2004/01/pdf/mauro.pdf; Augusto López Claros (2013), "Removing Impediments to Sustainable Economic Development The Case of Corruption", Policy Research Working Paper 6704, World Bank http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/11/15/000158349_20131115114115/Rendered/PDF/WPS6704.pdf; and Mungiu-Pippidi A., (ed), (2013) "Controlling Corruption in Europe", prepared under the ongoing project 'Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption', funded under the European Commission's Seventh Framework Programme (2012-2017), http://anticorrp.eu/publication_type/deliverable/

[7] Such as Transparency International's Corruption Perception Index (CPI), the World Bank's Governance Indicator on control of corruption, and the World Economic Forum's Global Competitiveness Index.

Reported corruption in the EU

According to the 'Special Eurobarometer' face-to-face survey, which drew almost 28 000 responses, around one in twelve Europeans (8 %) say they have experienced or witnessed a case of corruption in the past 12 months, and a quarter (26 %) consider that they are personally affected by corruption in their daily lives. Just under a quarter (23 %) agree that their Government's efforts are effective in tackling corruption, and around a quarter (26 %) think that there are enough successful prosecutions in their country to deter people from corrupt practices. Perceptions of corruption generally are higher still. Experience of corruption is not uniform across the EU. In the case of Denmark, Finland, Luxembourg, Sweden and United Kingdom, less than 1 % of interviewees indicated they had been expected to pay a bribe. Similarly, the numbers in Belgium, Estonia, France, Germany, Italy, the Netherlands, Portugal, Slovenia and Spain having paid a bribe are relatively low (1-3 %). In Bulgaria, Croatia, Czech Republic, Greece, Hungary, Lithuania, Poland, Romania and Slovak Republic, between 6 % and 29 % of respondents indicated that they were asked or expected to pay a bribe in the previous 12 months. Respondents are most likely to say they have experienced or witnessed corruption in Lithuania (25 %), Slovak Republic (21 %) and Poland (16 %) and least likely to do so in Finland and Denmark (3 % each), Malta and the United Kingdom (4 % each). People are most likely to say they are personally affected by corruption in Spain and Greece (63 % each), Cyprus and Romania (57 % in each) and Croatia (55 %), and least likely to do so in Denmark (3 %), France and Germany (6 % in each).

The phone-based "Flash Survey" of businesses across the EU-28 in manufacturing, construction, energy, telecommunications, healthcare and financial sectors, found that more than 4 out of 10 companies considered corruption, patronage and nepotism to be a problem for doing business. When asked specifically whether corruption is a problem for doing business, 50 % of the construction sector and 33 % of the telecoms/IT companies felt it was a problem to a serious extent. The smaller the company, the more often corruption and nepotism appears as a problem for doing business. Perceived levels of corruption are highest in Greece (99 %) and lowest in Denmark (10 %). Corruption is most likely to be considered a problem when doing business by companies in the Czech Republic (71 %), Portugal (68 %), Greece and Slovak Republic (both 66 %).

This leads us to the distinction between systemic corruption (endemic in an institution, specific administrative sector, or the whole of society) and sporadic corruption (isolated incidents). Studies globally show that those states struggling to combat corruption tend to be low-middle income economies, while the countries with the best performance on governance and controls enjoy high per capita income. [8]

- **Systemic:** Once it takes hold, corruption tends to feed itself. When it becomes endemic, any individual who is *not* corrupt places themselves at a clear disadvantage in terms of income, status or access to services. Its prevalence makes it harder for individuals to take a stand against corruption, especially if they have felt forced to participate in times of distress (such as medical emergencies) and become simultaneously perpetrator and victim. Once the majority or a substantial minority of transactions are corrupt, it appears to both sides, giver and taker, that corruption is routine or inescapable.[9]

- **Sporadic:** By contrast, majority ethical behaviour not only brings economic benefits but tends to regulate itself, as any individual who wishes to seek or offer a bribe or favour risks drawing attention to themselves and facing consequences. Being the exception, the costs of identifying and punishing such individuals are low. Hence countries or sectors that are 'cleaner' tend to stay that way, the main risk being some traumatic exogenous event, such as war or natural disaster, which upsets the existing social order.

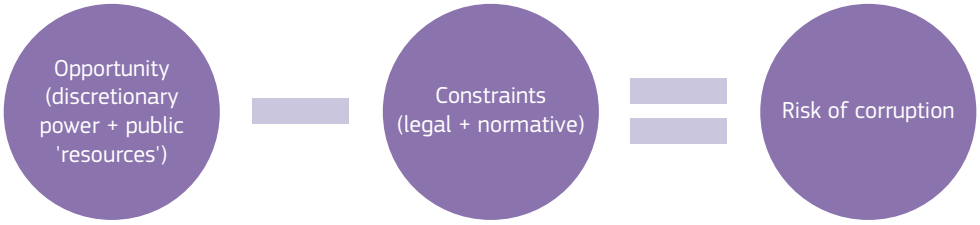
Where corruption is endemic, the policy challenge at an institutional, sectorial or societal level is to make the transition from systemic ('if you are not corrupt, you lose out') to sporadic corruption at worst ('if you are corrupt, you stand out'), where integrity is the norm. As many studies have shown, corruption is a complex phenomenon, involving a range of societal, institutional, political and cultural factors.

(8) See OECD (2013), "Issues Paper on Corruption and Economic Growth", prepared for the G20 Summit, http://www.oecd.org/g20/topics/anti-corruption/Issue-Paper-Corruption-and-Economic-Growth.pdf

(9) See Karlins, R., (2005), "*The System Made Me Do it – Corruption in Post-Communist Societies*"

While there is no single set of causes, the risk of corruption tends to be higher (without becoming in any way inevitable) under the following conditions: [10]

- There is an **opportunity** for abuse of power, which can arise from officials having discretion over a decision and privileged access to public 'resources' that are desired or required by the other party (such as funds, state assets, jobs, laws, contracts, treatments, queue-jumping, or avoiding payments or penalties);
- The parties involved lack effective **constraints**, either normative (societal pressures, accepted rules, public opinion, external scrutiny) or legislative (enforced laws and regulations, including controls, audits, and sanctions).



In this light, this chapter looks at actions that public administrations and judiciaries can take both to embed ethics with all its nuances, and to deter, detect and correct corruption in its myriad forms. It focuses on the following questions, and sets out ways and tools to address them.[11]

Key questions	Ways and tools
How do public administrations set the framework for promoting integrity and combatting corruption?	• Clear statements of ethical values & standards • Risk-based strategies (risk assessment, risk maps) • Laws & regulations • Integrity coordinators • Anti-corruption agencies
What role can transparency and accountability play in (re)building trust among the public?	• Open government & access to information • External scrutiny
What preventative measures can administrations take to strengthen ethical performance and reduce the scope for corruption?	• Merit-based recruitment & other human resources management techniques • Ethics & dilemma training • Disclosure of interests, income & assets • Administrative simplification, controls & automation
What can administrations do to detect and act on corruption when it occurs?	• Whistle-blowing mechanisms • Investigation, prosecution & sanctions

[10] Based on Alina Mungiu-Pippidi (2014), "Why control of corruption works – when it does", The Anti-Corruption Frontline

[11] See also the OECD's March 2014 'Toolkit for Integrity', which contains useful tips and case studies.

2.1. Establishing the policy framework

Ethical behaviour in public life should be the norm, and typically goes unnoticed *because* it is unexceptional. From this perspective, integrity policies should seek to recognise and reward high standards among public officials and the judiciary, in order to shine a beacon on best practice as a searchlight for other officials to follow. Where it does occur, corruption is often down to individual acts in isolation, but these typically attract disproportionate attention and negative publicity, bringing the whole public service or institution into disrepute. Systemic corruption, however, represents something more fundamental: an absence of public service ethos, the disregard of formal rules, and a failure to identify or take corrective action, either because the causes are not understood, solutions are not apparent, or there is a resigned acceptance that corruption is integral and inevitable.

The challenge for public administrations is to construct a policy framework which is able simultaneously to incentivise integrity, to deter corrupt activities and, if present, to dismantle systemic corruption. The drive for higher ethical standards and practices invariably demands leadership: the willingness to seek long-term and widely-shared benefits, and in the case of systemic corruption, the courage to challenge vested interests.

Each EU Member State has its own framework for promoting ethics and addressing corruption, whether isolated or endemic: standards, strategies, regulations and institutions. There is no standard package of measures that can be applied in every circumstance: the most effective policy response depends on local conditions.[12]

2.1.1. Ethical values and standards

Ethical behaviour starts with attitudes and values at the top of the administration - maintaining the highest standards, including the avoidance of state capture, patronage, nepotism, bribery and seeking or offering favours. In the first instance, this is a matter for the government itself. The parties in power set the rules of the administration, subject to oversight (see topic 2.2) and can choose to shape the regulatory and procedural framework to serve the public interest – or political / private interests, which is a form of 'legal corruption'[13] that is that is unethical and contrary to the principles of good governance.

However, ethics in public life is not just the exercise of personal morality by public sector leaders. Integrity policies can be codified as standards for behaviour in public service for all officials. Increasingly, public administrations are turning to statements of universal values to govern the performance of public duties, flexible enough to apply to all policy domains, institutional environments and individual responsibilities.

Codes of ethics are now increasingly common across Europe[14], to which all public officials are expected and obligated to commit. One of the first countries to codify such standards was the United Kingdom (UK) with the Seven Principles of Public Life (see below), first set out by Lord Nolan in 1995. Such ethical codes are sometimes overseen by **independent watchdogs,** such as the UK's Committee on Standards in Public Life or the Standards in Public Office Commission in Ireland,

(12) European Commission (2014), "Anti-Corruption Report" (ACR)

(13) See Kaufmann, D. and Vicente, P.C. (2005) "Legal Corruption", World Bank; and Kaufmann, D. & Vicente, P. C. (2011). "Legal Corruption". Economics & Politics 23, 195-219

(14) Utrecht School of Governance (2008), op. cit.

allowing them to be reviewed on an occasional basis to ensure their enduring relevance, and to consider how they are applied to different aspects of public life for operational purposes.

Inspiring example: Principles of Public Life and Committee on Standards (United Kingdom)

The UK's Seven Principles of Public Life are the basis of the ethical standards expected of public office holders. They are currently formulated as follows:

- **Selflessness**: Holders of public office should act solely in terms of the public interest.
- **Integrity**: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity**: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability**: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness**: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty**: Holders of public office should be truthful.
- **Leadership**: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The Committee on Standards in Public Life is an independent public body, established in 1994, which advises government on ethical issues and promotes high ethical standards across the whole of public life in the UK. The Committee was set up initially to deal with concerns about unethical conduct amongst MPs, including accepting financial incentives for tabling Parliamentary questions, and issues over procedures for appointment to public bodies. It now acts as an independent advisory body to the Government, monitoring, reporting and making recommendations on all issues relating to standards in public life, conducting broad inquiries and publishing reports, surveys and consultations in order to promote the seven principles of public life. The Committee amended the words describing the Principles following its review '*Standards matter – a review of best practice for promoting high standards in public life*'. The Principles apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services. Although the membership has changed many times over the years, the Committee has a constant presence, because it is a "standing" committee, not linked to a specific inquiry or report.

For further information: http://www.public-standards.gov.uk/

Following the preparation of a study of ethics in Member States, the Dutch Presidency of the European Union proposed the main features of an ethics framework for the public sector which was adopted by the Directors General responsible for Public Administration in the member states and the institutions of the European Union as a voluntary, non-legally binding European Code (below). The framework goes further than just defining values, by also setting out guidelines for putting these principles into practice as **codes of conduct** - rules on how to apply them, including sanctions for non-compliance). [15] In practice, the two terms (ethics and conduct) are often used interchangeably.

[15] A follow-up study captured the subsequent changes in practices across the EU. See Moilanen T, and Salminen A., (2007) "Comparative study on the public-service ethics of the EU Member States", Ministry of Finance, Finland. http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/06_state_employers_office/20070226Compar/Comparative_Study_on_the_Public_Service_Ethics_netti.pdf

European Code of Conduct

The ethics framework comprises six (partly overlapping) **core values**:

- Principle of the rule of law
- Impartiality / objectivity
- Reliability / transparency
- Duty of care
- Courtesy, and willingness to help in a respectful manner
- Professionalism / accountability

It also outlines specific **standards of conduct** for particular issues as derivatives or more detailed specifications of the core values, regarding:

- Handling information / confidentiality / freedom of speech
- Acceptance of gifts or favours
- Avoiding conflicts of interest
- Use of public resources, equipment and property
- Use of email, intranet and Internet facilities
- Purchasing and contracting

For implementing, promoting and stimulating the integrity values and standards, it describes **provisions** to foster the culture that assists in promoting better standards of integrity within the organisation, covering:

- Recruitment
- Training
- Mobility
- Communication
- Leadership

Finally, it sets out guidelines for **methods and procedures** that civil servants can use when they encounter situations in which integrity play a role:

- Confidential integrity counsellor
- Reporting procedure for integrity breaches
- Sanctions

For more details: http://www.eupan.eu/en/documents/show/&tid=48

In some cases, this type of practical guidance on officials' behaviour is formulated as a **handbook for public officials**, such as Finland's guidance for civil servants, which was published by the Ministry of Finance in 2005.

2.1.2. Risk-based strategies

While integrity strategies are relatively rare, many Member States have **anti-corruption strategies**. These can be especially beneficial when corruption is systemic and requires a clear, comprehensive and centrally coordinated package of measures. In line with the principles of policy-making (see theme 1), one of the key ingredients of a good strategy is a sound evidence base. The strategy should be founded on understanding the characteristics of corruption in the policy domain(s) under consideration, as a precursor to choosing the most appropriate instruments to tackle the problem at source.

In the case of Lithuania, the adoption of the first anti-corruption strategy in 2001 represented the culmination of a process of political ownership and preparatory steps throughout the 1990s that date back to Lithuania's restored independence in 11 years previously. A new National Anti-Corruption Programme[16] is currently being prepared for 2015-2025.

Inspiring example: Development of Anti-Corruption Strategy (Lithuania)

Corruption prevention measures are part of Lithuania's anti-corruption strategy. The following steps were significant in its development, since the restoration of Lithuania's independence on 11 March 1990:

- In 1993, the President of the Republic established a **steering group** to combat organised crime and corruption, which was in charge of coordinating the activities of law enforcement agencies in the fight against organised crime. With some changes of name and functions, this working group continued operating until 27 February 1997.
- A **special unit of prosecutors** – the Department of Investigations of Organised Crime and Corruption – was established in 1993 – which was reorganised in 2001 into a separate department in the Prosecutor General's Office, including five regional offices.
- On 7 November 1995, the Parliament ("Seimas") established a **special committee** to investigate the facts of corruption.
- In 1996, the Government approved the **anti-corruption measures plan**, which provided for the following measures: coordination of the activities of authorities in the fight against corruption, assessment of real situation of crimes related to corruption, determining the causes of corruption, providing for the main directions of prevention, organising training for investigators, assessing legislation governing economic, commercial and financial activities in terms of anti-corruption, preparing draft legislation to revise liability for corruption-related crimes, and preparing the draft Law on Lobbying Activities.
- On 18 February 1997, the Government set up a **Special Investigation Service (STT)** under the Ministry of the Interior, entrusted with the fight against organised crime, corruption and crimes in civil service. On 1 June 2000, the Seimas adopted a decision establishing the Special Investigation Service (STT), the main task of which is "*to guard and protect individuals, society, and the State from corruption, and to conduct prevention and detection of corruption.*"
- In 1999, the Government approved the **Programme for the Prevention of Organised Crime and Corruption**, which provided a greater focus on proper data collection, improvement of the legal framework, strengthening of corruption prevention, training and methodological recommendations.

Also in 1999, the Government established a working group for the preparation of the **Anti-Corruption Strategy**, which was approved in 2001. The main goal of the strategy was to reduce corruption in Lithuania, and thereby reduce the impact of corruption on the development of economy and democracy to the maximum possible extent, and to achieve social welfare. The strategy set out necessary provisions to limit political corruption and administrative corruption, to investigate crimes related to corruption better, to consistently implement public education and awareness, and to engage the public in the fight against corruption. A national scheme of subjects implementing the anti-corruption strategy was developed.

The Seimas adopted a resolution on the fight against corruption in 2001, which paid great attention to determining the conditions for the appearance of corruption, and planned for investigations of the level of corruption in

[16] http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=491118 (in Lithuanian)

Lithuania to be performed. Referred to as **Corruption Maps***, these investigations were carried out in 2004, 2005, 2007, 2008, 2011 and 2014, and determine various corruption-related indicators, e.g. the most corrupt procedures.

In 2002, the Seimas adopted the **Law on Corruption Prevention****, which provides for the following measures to prevent corruption:

- Determining the probability of manifestation of corruption;
- Corruption risk analysis (see next green box);
- Anti-corruption programmes;
- Anti-corruption assessment of legal acts or their drafts;
- Provision of the information about a person seeking or holding office at a state or municipal agency;
- Provision of the information to the registers of public servants and legal entities;
- Education and awareness raising of the public; and
- Public disclosure of detected corruption cases.

The Seimas also approved the **National Anti-Corruption Programme***** in 2002, which is updated every four years and is one of the key sources of anti-corruption measures. The Programme was last updated and launched in 2011, with 95 anti-corruption measures that will be in force until 2014 that must be carried out by more than 70 state and municipal agencies within their competence.

In 2003, the Government established an **Interagency Committee for the Coordination of the Fight Against Corruption**, the main tasks of which are:

- Coordinating the development and implementation of the National Anti-Corruption Programme, control the implementation of its measures, as well as other activities of state and municipal authorities in the areas of corruption prevention and detection of corruption-related offenses;
- Discussing strategic issues of the fight against corruption;
- Improving the activities of state and municipal authorities in the areas of corruption prevention and detection of corruption-related offenses.

The new National Anti-Corruption Programme is currently being prepared for **2015-2025**. The main directions of the measures will be:

- Increasing publicity, openness, transparency, in the provision of public services and making decisions;
- Improving the quality of management;
- Increasing awareness and fairness of employee and society;
- Increasing opportunities for public scrutiny;
- Reducing the burden on business;
- Publicity income and expenditure;
- Reducing conflicts of interest;
- Anti-corruption education.

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(*) http://www.stt.lt/lt/menu/sociologiniai-tyrimai/ (in Lithuanian)
(**) http://www.stt.lt/en/menu/legal-information/laws/ (in English)
(***) http://www.stt.lt/lt/nkkp-2011-2014/ (in Lithuanian)

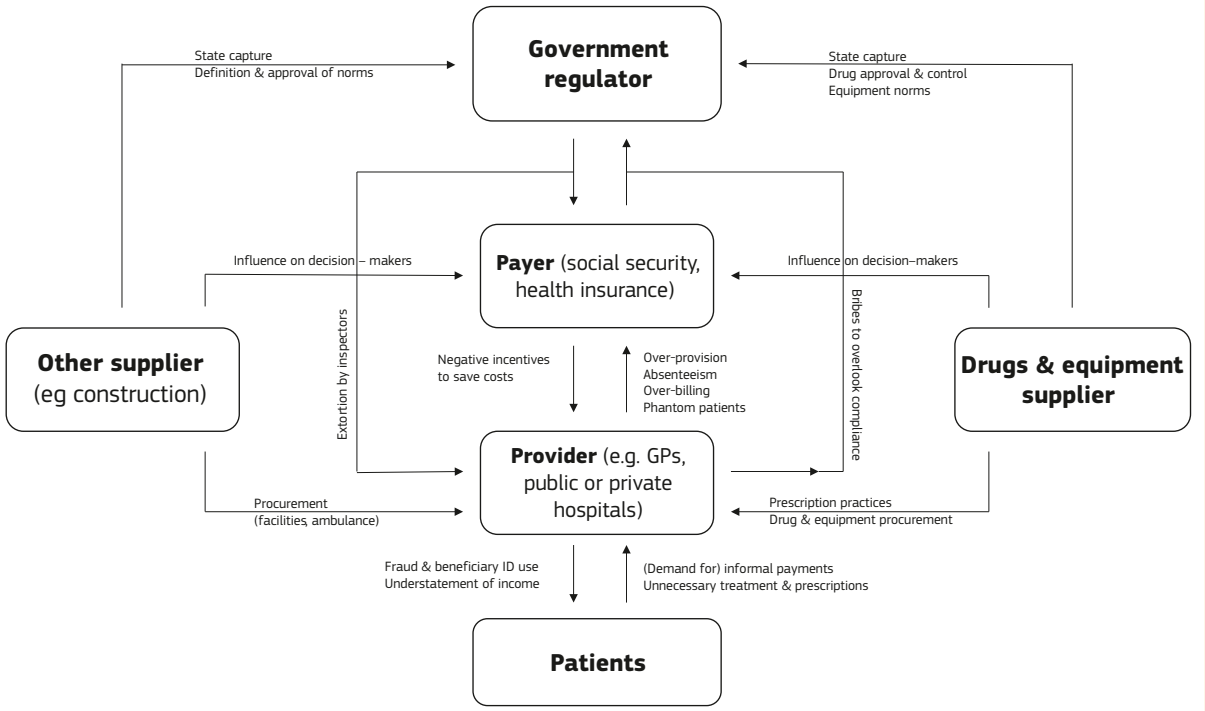
At its most effective, the underlying analysis and therefore action in strategies should be based on a **risk assessment** of where integrity concerns or corruption are most concentrated, but where there is also capacity for change. As a priority, tailored strategies should seek to target the points where both the probability and impact of unethical and corrupt behaviour are high.

The health sector provides a good illustration of this principle, as there are many potential entry points for corrupt practices and conflicts of interest (state capture, public procurement, over-billing, over-treatment, doctor-patient extortion to jump the treatment queue, links between medical professionals and the pharmaceuticals industry, etc.), which makes a strong case for a comprehensive and multi-faceted strategy. The European Commission has published a study of corruption in the healthcare sector, to enable a better understanding of the extent, nature and impact of corrupt practices in the healthcare sector across the EU, and to assess the capacity of the Member States to prevent and control corruption within the healthcare system and the effectiveness of these measures in practice.

Corruption sources in healthcare

Where it exists, corruption in public healthcare tends to be highly visible to the public, as most people have some contact with the public health system during each year. According to the Special Eurobarometer 2013 survey, around three-quarters of Europeans (77%) had visited a public healthcare practitioner or public healthcare institution in the past 12 months. Across the EU, one in 20 respondents (5%) who had visited a public healthcare practitioner or institution said that, in addition to official fees, they had given an extra payment or valuable gift to the practitioner, or had made a hospital donation. In some cases, this payment was requested, in others it was offered or felt to be expected, either before or after treatment. The countries with the highest responses were Romania (28%) and Lithuania (21%), followed by Greece (11%), Hungary (10%), Slovak Republic (9%), Germany and Bulgaria (both 8%) and Latvia (7%). All other countries have levels at or below the EU average of 5%, with Finland (0%) showing the lowest level, followed by Denmark, Sweden, Spain, the United Kingdom, the Netherlands and Luxembourg (all 1%).

There is evidence that structural problems in health provision incentivise the payment of bribes for medical staff. However, this is not the only source of potential unethical behaviour in the health sector. Health systems are particularly susceptible to corruption, because of the large number of actors (government regulators, insurance and other payers, health providers, drugs and equipment suppliers, patients), the information asymmetries, the individuality and unpredictability of health problems, inefficiencies within the system, and demand outstripping supply due to limited availability, actual monopoly, increased costs of technology, and ageing populations *inter alia*. The mix of public and private provision creates a 'grey space' for medical professionals to offer to switch publically-funded patients to their self-funded practice and blur the lines of corruption. The following diagram from a DFID 'How To' Note sets out the complex web of relationships between public and private sector agents, which provides many potential entry points for corrupt practices to emerge:



Source: adapted from Hussman, K. (2010), "Addressing corruption in the health sector: securing equitable access to health care for everyone", DFID Practice Paper. www.dfid.gov.uk/Documents/publications1/How-to-Note-corruption-health.pdf

Another example of analysis applied to a specific sector is border control, in which again the potential for corruption is multi-faceted, including possible links to organised crime, bribery and extortion, manipulations in public procurement, and nepotism in the workplace.

Corruption sources in border control

A Frontex-commissioned policy review and survey of representatives of border guards and internal affairs units in 23 Member States identified the special characteristics of corruption in this field. Corruption in border guard services can be classified in three main groups.

- Corruption related to organised crime includes selling information to criminal groups, facilitating passage of illegal goods / migrants, not reporting suspicious travel documents of migrants and obstructing investigations.
- Petty corruption might include activities such as providing a 'normal passage fee' to speed up border traffic (extortion) or waiving minor irregularities, inducing petty smugglers to pay small bribes to ensure problem-free passage, or seeking payment for allowing the passage of known or wanted individuals.
- Administrative/bureaucratic corruption is related to manipulation of public tenders, kickbacks from providers, nepotism-based recruitment and promotions.

Border guards may collude with customs, local police, criminal police, or private companies to carry out more complex corruption schemes, while intermediary bribe-payers in more complex corruption schemes may include lawyers, informants, former border guard officers and NGOs. The physical location of remote land borders and BCPs, coastal regions, as well as major sea or air ports may also present a higher risk of corruption. There are wide salary disparities among personnel working on the external borders of the EU, which fuel petty corruption and create an environment that allows officers to engage in more serious corruption schemes. Border guards who are entrusted with customs or investigative powers are usually at a higher risk of corruption.

Source: Center for the Study of Democracy (2012), "Study on anti-corruption measures in EU border control".

As an example of an (inter)national initiative, 'Public Money and Corruption Risks', financed by DG HOME's Prevention of and Fight against Crime Programme and the Open Society Foundations, looks at the risks of systemic political corruption in the management of EU funds and state-owned enterprises in the Czech Republic, Slovak Republic and Poland.

One of the standard tools of risk assessment is **risk-mapping**. This can take various forms, but the underlying objective is always the same, to identify the highest risks of corruption. The basic techniques should be familiar to any internal and external auditor, as they apply to any form of risk:

- The **likelihood** of corruption is assessed on a rising scale. This can be low, medium or high, and even very high. An alternative method is use more descriptive terms (e.g. 'unlikely' to 'almost certain'), or to focus on frequency (e.g. rare, regularly, constantly, etc.)

- The **impact** if the corruption does arise is similarly assessed on the low-medium-high scale, or again alternatively in a more descriptive way: insignificant, moderate, or major. To draw attention to the most serious incidences of corruption, a fourth ranking can be added: severe.

Using the simple low-medium-high formula as an example, the two-step risk assessment is applied to the institution or sector, by considering each potential aspect of corruption to produce a **risk matrix**. This starts with identifying all the potential risks, which means considering where there is an *opportunity* for corruption (see also topic 2.3). The approach will depend on the level of the risk assessment:

- For **sectors**, it will focus on strategic concerns, as exemplified by the analysis of the healthcare and border control sectors in the previous examples, which is valuable for preparation of strategies and their measures.

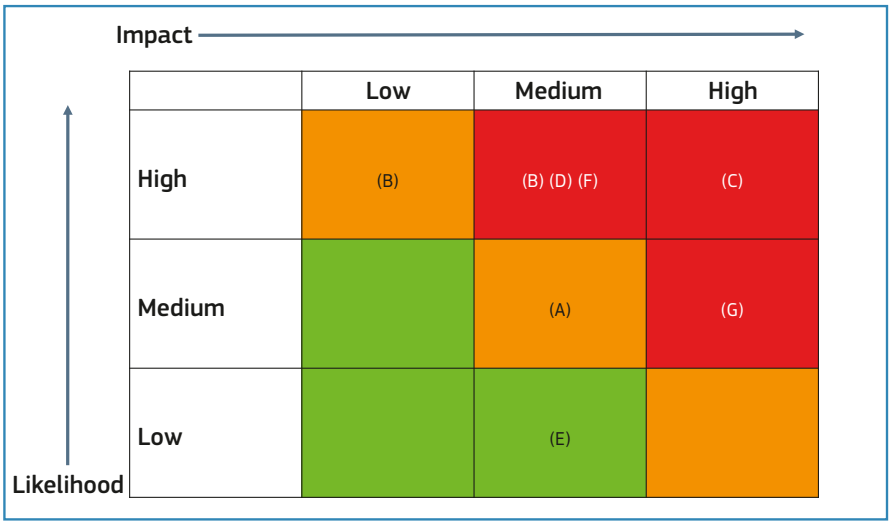
- For **institutions**, it will focus on managerial and operational concerns, which can then lead to specific plans and programmes for the institution under review.

The following example of part of an institutional risk assessment is illustrative only (in this case, receipt of gifts). Each risk assessment should be tailored to the situation in the specific sector or institution under review, and hence the 'potential risk' column should be formulated according to its circumstances.

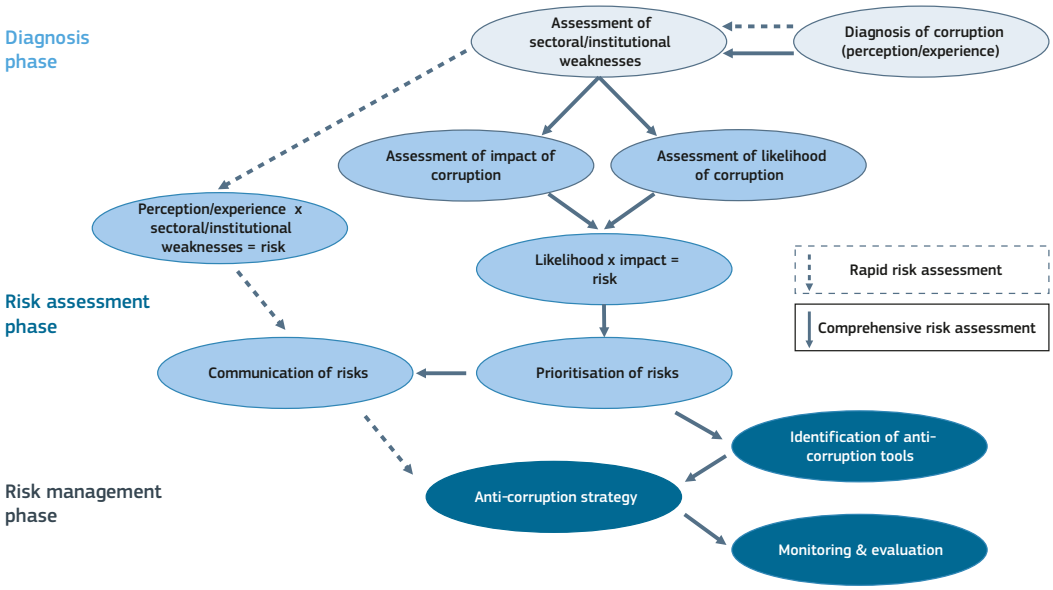
Potential risk: receipt of gifts	Likelihood	Impact
(A) There is no code of conduct for the ministry / agency / municipality	Low	Medium
(B) Official rulebook does not include provisions on receipt of gifts (maximum value, declaring receipt, etc.)	High	Medium
(C) Official rulebook does not include provisions on officials meeting with potential recipients of contracts or finance	High	High
(D) There is no register of gifts received (when, from whom, value)	High	Medium
(E) Not all officials have received ethics training	Low	Medium
(F) Not all officials in sensitive posts have received ethics training	High	Medium
(G) Officials in procurement have unsupervised meetings with potential tenderers or grant recipients	Medium	High
(H) Etc.	...	...

Whether sector or institutional, the analysis can be converted into a **'heat map'**, for greater visual impact (see below – which uses the potential risks A-G above for illustration). Each source of corruption risk is assigned to the corresponding square (e.g. low likelihood, high impact). The squares which are shaded in **red** present the

highest risk and hence the top priority for measures under the strategy or programme. Those in **orange** represent a moderate risk and hence a lower priority. The boxes shaded **green** are generally not prioritised for action. However, risk assessment is a dynamic process. It should be regularly reviewed, as circumstances may change. As mitigating measures are taken on the highest risks, their likelihood scores should fall, and the attention may switch to other factors over time that were previously considered lower priorities.



Transparency International (TI) has set out three main phases in producing a risk matrix (via a heat map, if used) – diagnosis, risk assessment and risk management - as the steps towards producing an anti-corruption strategy, containing anti-corruption tools, which is subject to monitoring and evaluation. As the diagram overleaf shows, it is possible to perform a rapid risk assessment, but the ideal scenario is to perform a comprehensive assessment to ensure the analysis has depth and the solutions are well considered.



Source: Based on Transparency International's Gateway Corruption Risk Assessment Toolbox.

In some Member States, the anti-corruption agencies have been tasked with performing corruption risk analysis. In the case of Slovenia, for example, the Commission for the Prevention of Corruption website includes a sample integrity plan and methodology that employs a risk management approach. In Lithuania, corruption risk analysis falls under the 2002 Law on Corruption Prevention and is conducted by the Special Investigation Service (STT) at the institutional level, with a particular

emphasis on officials and activity areas that are most vulnerable to corruption. The STT also performs anti-corruption assessments of proposed legislation, which have covered legal acts in 15 policy fields in 2012-2014.

Inspiring example: Corruption risk analysis (Lithuania)

Every year, state and municipal authorities in Lithuania perform a growing number of studies of the probability of manifestation of corruption, on the basis of which they plan corruption prevention measures.

A 'probability of corruption manifestation' is an assumption that certain external and/or internal risk factors having an impact on the entity's operation will bring about corruption. Having assessed the areas with high probability of manifestation of corruption, ministers, management of entities accountable to the President, Parliament and Government and mayors are required to develop a grounded opinion on the detection of areas most prone to corruption and submit it to the Special Investigation Service (STT). On 13 May 2011, the STT director passed Order 2-170, whereby it approved the Recommendations on Detection of Areas of State and Municipal Activities Most Prone to Corruption (Official Gazette, 2011, No. 60-2877). The STT performs risk analyses, on the basis of which proposals for improving the situation are given. Most of the proposals are implemented.

According to the procedure, the risk analysis is performed at the level of state or municipal authorities, leading to an evidence-based report, proposals and recommendations regarding corruption prevention measures. The procedure identifies as **particularly prone to corruption**, first, officials (the heads of agencies and any structural sub-divisions and their staff authorised to carry out corruption prevention and control), and second, areas of activity that meet one or more of the following criteria:

- A corruption-related crime has already been committed in that area of activities.
- Its principal functions are control and oversight.
- There is no detailed regulation of the functions and tasks, as well as no operational and decision-making procedures of separate civil servants.
- The activities are related to issuing or restricting permits, concessions, privileges and other additional rights.
- Most of the decisions do not require approval by another state or municipal agency.
- There is access to information classified as a state or professional secret.
- Instances of improper conduct have been established by the previous analyses of corruption risk.

The risk analysis entails:

- Analysis of the activities of a state or municipal institution, in accordance with the procedure prescribed by the Government;
- Presentation of conclusions regarding the development of an anti-corruption programme and proposals about the content of the programme; and
- Recommendations concerning other corruption prevention measures for state and municipal institutions that are responsible for their implementation.

When performing a corruption risk analysis, the following is considered:

- Grounded opinion on the probability of corruption and related information;
- Findings of social surveys;
- Opportunity for one employee to make a decision with regard to public funds and other assets;
- Remoteness of employees and structural units from the headquarters;
- Independence and discretion of employees in making decisions;
- Level of monitoring over employees and structural units;

- Requirements to comply with the normal operational procedure;
- Level of staff rotation (cyclical change);
- Documentation requirements applied to operations and concluded transactions;
- External and internal auditing of state or municipal entities;
- Framework for adoption and assessment of legislation;
- Other information necessary to perform a corruption risk analysis.

Each year, the STT performs corruption risk analyses in about 16 state or municipal institutions, and reaches around 80 conclusions regarding the probability of manifestation of corruption.

The SIS has identified some problems with the performance of the probability assessment by state and municipal authorities. First, in some cases, the institutions do not perform studies at all. Second, some state entities perform their studies in an overly formalistic manner, e.g. one of the municipalities that carried out a study on determining the probability of manifestation of corruption in 2012 stated that there was no probability of manifestation of corruption, even though many complaints were received regarding the actions of public servants of that municipality and the corruption risk analysis performed in that municipality in 2008 revealed corruption risk factors. Institutions subject to the risk analysis are often reluctant to accept the defects of their activities determined in the process of corruption risk analysis and to implement the proposals for reducing the risk of corruption. However, at the same time, there are many **examples** of good practice, set out below.

Probability of manifestation of corruption

- In 2012, the **Ministry of the Interior** conducted a study on the potential manifestation of corruption and determined that one of the areas in which the probability of corruption is high is the activities of the Fire and Rescue Department related to the performance of its supervisory functions. It was found that having performed the inspection of a fire condition of an object, the inspecting officer independently adopts decisions regarding the compliance with fire safety requirements and deadlines for eliminating any violations. It was therefore concluded that there is possible risk of corruption in such situation, because the interested person may offer the inspecting officer an illegal remuneration for a favourable decision and the officer may agree to it, because the decisions are adopted independently. Having considered this fact, the Ministry of the Interior decided to review the established procedures and to take appropriate measures to ensure that the probability of manifestation of corruption is minimized to the largest possible extent.
- The **Ministry of Health** reported in 2012 that the probability of manifestation of corruption had been estimated in 41 healthcare facilities. In total 25 areas were examined: issuing clinical investigation certificates of medicinal products, procurement of goods, services and works, licensing of pharmaceutical activities, asset management, the use of representational funds, provision of medical and nursing services, provision of accommodation services to patients and accompanying persons. A high probability of manifestation of corruption was determined in 12 areas examined. The Ministry of Health intended to prepare a summary plan of corruption risk factors and measures for their elimination.
- In the area of waste management and administrative monitoring of Vilnius Region Environmental Department of the **Ministry of Environment**, STT discovered that the legal regulation of the activities of environmental agencies is not sufficient: the powers of monitoring exercised by inspectors are two wide, their actions with regard to inspections of persons or imposition of administrative fines are not adequately controlled; legal acts do not clearly regulate the time period during which mandatory instructions given by inspectors should be implemented. STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

Corruption risk analyses

- STT discovered that individual phases of purchasing hip and knee endoprosthesis by the **State Patients' Fund** are not performed fully transparently; the persons taking part in procurement have an opportunity to protect the interests of individual suppliers. STT proposed to develop specifications of joint endoprostheses purchased using the budgetary funds of the Mandatory Health Insurance Fund (MHIF); make a list of potential producers (suppliers); when drawing up a list of joint endoprostheses purchased with the MHIF funds lay down the qualification and reputation requirements; provide for a personal

liability of experts who do not perform their functions properly; make sure that when choosing the means for public procurement of joint endoprostheses from the MHIF, clear and transparent decision-making motives should be established; consider conducting public procurement through the Central Procurement Authority.

- The STT discovered that the activities of the **Vilnius city municipality** concerning the **administration of social housing** are insufficiently regulated as regards the lists of persons entitled to social housing; the procedure for informing persons about adopted decisions and transfer from one list to another is not comprehensive; there are no criteria established on the basis of which a person is entitled to a concrete housing; the procedure of priority allocation of housing is not comprehensive; the time periods for priority rent of housing have not been set; the control of provision of social housing rent has not been regulated; the procedure for crossing out persons from the list of qualified persons to obtain social housing rent has not been established. STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

- In the area of issuance of construction and other licences, as well as implementation of corruption prevention measures, in the Šakiai municipality region, STT discovered that the legal acts regulating the operation of the Architecture and Urbanistics Division do not clearly mark the limits of powers exercised by the division; employee functions are not clearly described in their job descriptions; internal rules regulating the operation of the Support Unit of the municipal administration contain corruption prone procedures for issuing licences and permits because according to them an employee of the same division develops the documents for a licensed activity, issues licences and performs oversight over compliance with rules of the licensed activity; some descriptions of the procedure for issuing licenses by the division are missing. STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

In each case, STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

For further information: Vidmantas Mečkauskas, Head of Corruption Risk Division, vidmantasm@stt.lt*; see also* http://www.stt.lt/en/menu/corruption-prevention/corruption-risk-analysis/ *and* http://www.stt.lt/en/menu/stt-annual-reports/ *(performance reports in English)*

Ultimately, even the best crafted strategies with the most robust evidence base and most comprehensive risk analysis are just paper exercises, unless they are accompanied by robust action plans that are followed through with actual implementation. Here, **EU co-financing** can support national authorities in preventing and combating corruption, fraud and any other illegal activities that affect the financial interests of the Union through the HERCULES III programme, managed by the European Anti-Fraud Office (OLAF). The programme came into force in March 2014 and helps to fund technical assistance (including equipment), training (including, judicial, legal, and digital forensic training), and the exchange of best practice through seminars and conferences, dedicated, for instance, to preventing corruption in procurement procedures.

Risk analysis is also being applied to EU funds through the use of the **risk scoring tool**, ARACHNE, which aims to provide Member State authorities involved in the management of Structural Funds with an operational tool to identify their most risky projects, regarding irregularities and fraud, and hence some forms of corruption. DG REGIO has also provided guidance on fraud risk assessment, and organised a 2013 conference on anti-corruption and anti-fraud measures in relation to the use of European Structural and Investment Funds. (Please see theme 7 for further details).

2.1.3. Laws and regulations

Ethical principles are typically embedded in the legal base, outlawing bribery and other forms of domestic corruption through the adoption of primary laws and by-laws. The Treaty on the Functioning of the European Union recognises that corruption is a serious crime that often has implications across, and beyond, internal EU borders.[17] Bribery and other forms of corruption, for example within the judiciary, can affect competition and investment flows. Multilateral organisations have played a catalytic role in the last few decades in establishing **international conventions and principles** that can be adopted by their members.[18]

The **Council of Europe** adopted its twenty guiding principles for the fight against corruption in 1997, which included promoting ethical behaviour, and which also led to the formation of the Group of States against Corruption (GRECO). With every EU country also holding membership of the Council of Europe (CoE), its 1999 conventions and can be very important in shaping national legislation, if ratified by Member States, the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption. The conventions define corruption in terms of bribery and undue advantage, and are complemented by the 2003 Additional Protocol to the Criminal Law Convention on Corruption.

Similarly, given its global status, the **United Nations** Convention against Corruption (UNCAC) is another landmark and influential initiative, which entered into force in December 2005. UNCAC's main objectives are to facilitate the prevention of corruption, assist countries in criminalising corrupt acts, provide a framework for international cooperation and facilitate the recovery of assets. UNCAC's provision cover many of the tools in this chapter, including codes of conduct (topic 2.1.1), anti-corruption agencies (topic 2.1.4), open government (topic 2.2.1), external scrutiny (topic 2.2.2), human resources management (topic 2.3.1), administrative simplification (topic 2.3.3), whistle-blower protection (topic 2.4.1), and investigation, prosecution and sanctions (topic 2.4.2). It is also relevant to other chapters, including the judiciary (theme 6) and public procurement (theme 7). The EU acceded to UNCAC in 2008[19], and the vast majority of EU Member States have ratified UNCAC.

Furthermore, the **OECD** adopted its "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" in 1997 and "Recommendation on Improving Ethical Conduct in the Public Service including Principles for Managing Ethics in the Public Service" in 1998, followed by its "Recommendation on Guidelines for Managing Conflict of Interest in the Public Service" in 2003, its "Recommendation on Enhancing Integrity in Public Procurement" in 2008, its "Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions" in 2009, and its "Recommendation on Principles for Transparency and Integrity in Lobbying" in 2010.

Each national system is specific to the country's legal traditions and structures, but most Member States have criminal law which is aligned not only with EU legislation, but also UNCAC and Council of Europe standards. Some Member States recognise they have an obligation to outlaw bribery both at home and abroad, such as the United Kingdom's Bribery Act. This requires not only appropriate legislation, but just as importantly, rigorous enforcement in regard to prosecutions and penalties.

(17) Article 83(1).

(18) The World Bank has also been active in supporting countries through its Governance and Anti-Corruption policy.

(19) Council Decision 2008/801/EC (OJ L 287, 29.10.2008, p. 1).

Inspiring example: Outlawing domestic and foreign bribery (United Kingdom)

The Bribery Act 2010, which came into force on 1 July 2011, places the United Kingdom among the countries with the strongest anti-bribery rules in the world. It not only criminalises the payment and receipt of bribes and the bribing of a foreign official, but also extends criminal liability to commercial organisations that fail to prevent bribery committed on their behalf. Provisions on extra-territorial jurisdiction allow the Serious Fraud Office (SFO) to prosecute any company or associated person with a UK presence, even if the company is based overseas. Commercial organisations are exonerated from criminal liability if they had adequate procedures to prevent bribery. The accompanying Guidance to Commercial Organisations (GCO) by the SFO promotes awareness of the new legislative framework and guides businesses in a practical manner (including case studies) regarding their obligations under the Act to prevent or detect bribery. In line with a previous OECD recommendation, the GCO makes it clear that facilitation payments are considered illegal bribes and provides businesses with criteria to differentiate hospitality from disguised forms of bribery. The SFO has wide powers to investigate and prosecute serious and complex fraud, including corruption. In certain circumstances, the SFO can consider civil recovery orders and settlements in accordance with previous guidelines.

Source: European Commission's Anti-Corruption Report, 2014

Some Member States have also legislated to regulate **conflicts of interest** in decision-making and allocation of public funds, including public procurement and European Structural and Investment Funds (see theme 7).

What are conflicts of interest?

The Council of Europe has defined conflict of interest as a situation *"in which the public official has a private interest, which is such as to influence or appear to influence, the impartial and objective performance of his or her official duties"*. Private interest is understood to mean *"any advantage to himself or herself, to his or her family, close relatives, friends and persons or organisations with whom he or she has or has had business or political relations."* It includes also any liability, whether financial or civil, related thereto.

Conflicts can take many forms, including officials or their relatives that have outside business interests, such as a stake in a company that is applying or bidding for funding, or the expectation of future employment by a recipient of government contracts. The movement of people between the public and private sectors can never be outlawed, and is necessary for flexibility in an economy, especially at a time when public sector employment is being reduced and/or the private sector is expanding. There are advantages to both sectors from the transfer of know-how, but there are also risks to disclosure of privileged information, when public officials, whether elected or employed, move to private enterprises in their former field of responsibility. Part of the solution can be to impose restrictive covenants in officials' employment contracts, which seek to stop or slow down the 'revolving door' of officials moving between public and private sectors in a related field (see topic 2.3.1).

Other relevant legal provisions include laws to **protect whistle-blowers** which is covered in more depth in topic 2.4.1.

2.1.4. Coordinators and agencies

Some Member States have allocated resources at the centre of Government to manage their ethics policies through **integrity coordinators**, such as the Netherland's Office for the Promotion of Public Sector Integrity (BIOS). BIOS was established by the Ministry of Interior and Kingdom Relations and is an independent institute that encourages and supports the public sector in designing and implementing integrity policies. Many Dutch cities and communities have local integrity policies as an

integral part of local governance.[20] The Flemish Government's integrity policy was in part triggered by the 2003 credit card scandal in the City of Antwerp. The public outcry, after a number of municipal (elected) officials were found to have used and abused municipal credit cards for personal expenses or excessive professional purchases, changed the political climate. The conclusion was that governance had to become more transparent and accountable, and governments must demonstrate that they deserve citizens' trust, resulting in the creation of the position of Coordinator of Integrity Care.

Inspiring example: Integrity coordination in the Flemish Government (Belgium)

In 2005, the Flemish Government decided to start working on an official integrity policy and to appoint an integrity officer to manage the process and coordinate the policy's integration across the entire administration (26 000 people in 78 entities in 2013). The integrity policy is built on three pillars:

1. **Prevention**: This includes values and standard-setting (codes of conduct), training, communication, stimulating and sensitising staff, cultivating an open discussion about integrity as the culture.

2. **Detection** (and control): This includes regulation, internal control, screening, monitoring, reporting and forensic audits.

3. **Reaction** (and sanctions): This involves action after the finding of infringement and ensuring the appropriate penalty and follow-up.

Kristien Verbraeken, Integrity Coordinator from 2010 to 2014, explains: "*You need all three pillars in place. If you concentrate on one pillar only, there's a risk that it can actually have a negative impact*".

In broad terms, policy implementation has evolved through several phases, described below. This progression was not orchestrated to a plan, but reflects the realities of how organisations operate, as well as the commitment, energy and ideas of the integrity office and officials across the administration:

- **Establishing the policy & structures** (2005-2006): Following the official decision in 2005, the first Integrity Coordinator was appointed in 2006, and the Internal Audit Division (IAVA) was formed. A new Code of Conduct was introduced, a circular with guidance on 'vulnerable functions' was distributed, regulations adopted for former employees who move to private companies, and protocols launched to implement the Government's whistle-blower protection act.

- **Designing policy tools in partnership** (2006-2010): Increasingly, colleagues from entities across the administration turned to the integrity officer for developing a range of instruments, including dilemma training, a manual for identifying 'vulnerable functions', guidelines for the implementation of an integrity policy for separate departments and divisions, the training of trusted intermediaries, and a strategy for crisis communication in case of integrity calamities.

- **Engaging fully with entities and officials** (2010-2011): When the original integrity officer moved to a new challenge in 2009, it left a gap of almost a year before her replacement was appointed and in post. The hiatus helped many in the administration to realise that promoting integrity was a "never-ending story", it could not stand still and there was fresh impetus to push on. More coordination was needed to embed integrity, and reach out to entities and officials. The code of conduct was updated with representatives of the 13 departments of the Flemish administration. Its launch was accompanied by a fully-fledged communications campaign, featuring posters in every administration building and 'fake film tickets' as flyers to draw attention to regulations on dealing with gifts and invitations as a civil servant. The integrity website was completely renewed with many cases, tips and of course the instruments themselves, with links to the services of the integrity partners at the Flemish government administration (well-being, internal control, HR, diversity, etc.). The campaign triggered many entities to start working on their own integrity policies and made the integrity website one of the most visited of the administration. IAVA also screened all entities for all processes, with a scoring system with integrity as one of the audit objectives and recommendations.

- **Integrating integrity into the administration** (2011-2014): The most recent phase has taken a multi-disciplinary approach, with three elements. First, a 'virtual integrity office' was formed compris-

(20) See European Commission's Anti-Corruption Report 2014, and the Utrecht School of Governance (2008), "Catalogue of promising practices in the field of integrity, anti-corruption and administrative measures against organized crime in the EU" http://www.integriteitoverheid.nl/fileadmin/BIOS/data/Publicaties/Downloads/EU_Catalogus.pdf

ing: a central group dealing with integrity cases; a six-member 2nd group representing cores partner in the Flemish administration to advise on measuring results, policy proposals, entity implementation, and common initiatives (e.g. communication); and a 3rd contact group of colleagues working in policy implementation in different departments as a sounding board on the 2nd group's proposals. Second, a unique complaints centres ('Spreekbuis'); employees can call a free number if they have questions or complaints concerning welfare, safety and integrity at work. Third, the 'integrity network group' gathers together all integrity contact persons of entities of the Flemish government to share knowledge and information, and keep the integrity officer informed on what is important for their entity. Other initiatives in 2012-2014 include the renewal of the ICT code of conduct, work group integrity risk analysis, integrity training for managers and benchmarking with other governments.

The Integrity Office's campaign - 'does work keep you awake at night?' (see below) - has been particularly creative in raising awareness (http://www.bestuurszaken.be/spreekbuis). The helpline number, Spreekbuis, which any official can approach in confidence, provides an outlet for staff to express their concerns about ethics at work, if they are frustrated or unhappy, and talk through their options. Spreekbuis had 93 cases in 2013, of which 13 were people looking for information only and 80 were substantive cases. This was more than double the 45 cases in 2012, in part due to an extensive publicity campaign that raised its profile.

As the integrity policy evolves, the integrity office is looking at a 4th pillar: **aftercare**. Integrity is not utopia and from time-to-time, crises happen. Is the administration ready for such times? When there has been a serious breach of integrity, the entity involved really needs support to get back on the right track: trust between employees, between employees and management is strained and employees are not motivated anymore to work for their organisation. With different experts, the entity can be helped to rebuild its mutual trust, its activities and reputation.

The integrity office is also working on ways to measure the policy's impact. Every two years, an anonymous staff survey is conducted that includes four questions on integrity, covering management, proper use of the budget, fair and proper treatment in evaluation of their work, and the prevalence of gossip in the office.

For further information: http://governance-flanders.be/integrity *or* http://www.bestuurszaken.be/integriteit

Key learning points from the Flemish experience include:

- The creation of a central office to lead and coordinate the integrity policy;
- The importance of having a network of 'antennae' right across the administration, who know best their own entities, act as ambassadors for the policy and bring their insights and ideas back to the centre;
- The emphasis on active and innovative promotion of the policy among officials, which links integrity to staff's well-being; and
- The detective role of internal audit in conducing screening and, if problems are raised, able to perform 'forensic' audits to get to the bottom of any corrupt behaviour.

The approach can be summed up in the phrase, used by the Integrity Coordinator, "*integrity is doing the right thing when no-one is watching*", which captures the essence of ethical behaviour that goes unnoticed most of the time.

Many Member States have established **anti-corruption agencies (ACAs)** to take forward and implement their policies, tasked with one or more functions including:

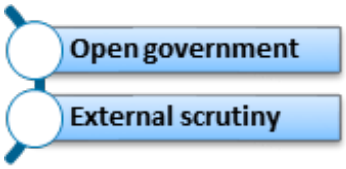
- Education and awareness-raising - providing information on corruption, including conducting research;
- Monitoring and coordination - acting as the central focal point for anti-corruption actions, and ensuring international cooperation;
- Prevention, investigation and prosecution - scrutinising asset declarations and verifying wealth (see topic 2.4.2), receiving and responding to complaints (see topic 2.4.1), gathering intelligence, conducting investigations, and presenting a case for (or against) the imposition of sanctions (see topic 2.4.2).

Examples of multi-purpose ACAs include Lithuania's Special Investigation Service (STT) and Poland's Central Anti-corruption Bureau. According to the OECD's analysis, the criteria for effective ACAs (in line with the UNCAC and Council of Europe Conventions) are challenging to implement, but include:

Criteria for effective anti-corruption agencies
• Genuine political will to fight corruption, embedded in a comprehensive anti-corruption strategy;
• Structural and operational autonomy, along with a clear legal basis and mandate, especially for law enforcement bodies;
• Transparent procedures for the director's appointment and removal, proper human resources management and internal controls to prevent undue interference;
• Matching independence with accountability, by submitting regular reports to executive and legislative bodies, and providing the public with information;
• Recognising that no single body can promote ethics and tackle corruption alone, and hence collaborating with other agencies, civil society and businesses;
• Employing specialised staff with specific skills, depending on the agency's remit;
• Ensuring adequate material and financial resources, including training;
• In the case of law enforcement, sufficient legal powers to conduct investigations and gather evidence, clear delineation of responsibilities with other public bodies in this field, and teamwork between investigators, prosecutors and other specialists (e.g. finance, audit, IT).

Given the sensitivities of their remit, ACAs run the risk of becoming the target of political control, and hence the first two factors are also the most important.

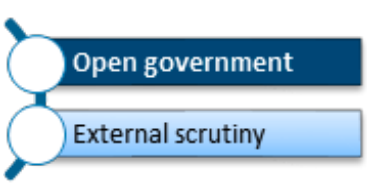
2.2. Building public trust through transparency & accountability



Corruption can fatally undermine public trust in public administration, and results from a failure of individuals to be accountable for their behaviour, which is compounded if the system fails to hold them to account. As corruption usually relies on secrecy (unless at worst, it is both endemic and explicit), the antidote is open government, enabling citizens to exercise their democratic right to oversee the executive and the judiciary, by ensuring they have access to information and enabling citizens' representatives to scrutinise performance through parliamentary bodies, civil society and investigative journalism. Transparency acts to deter and detect - providing a safeguard against potential abuses of power, and shining a light on transgressions if they arise.

"Our free and fearless press shines a light wherever it is needed, without fear or favour. Of course that can make life difficult – but it helps drive out the corruption that destroys so many countries. Our governments lose cases in court, because we don't control the courts. But that's why people invest in our countries because they have property rights, and they know that they can get redress from the rule of law and that we have judges who are honest and not on the make. It is no accident that the most successful countries in the world are those with the absence of conflict or corruption, and the presence of strong property rights and institutions". David Cameron, British Prime Minister, Address to the Australian Parliament, 14 November 2014

2.2.1. Open government



Thanks in part to 24/7 news coverage and social media, there appears to be an unstoppable movement towards greater transparency in government and the judicial system (see theme 6). In the era of modern communications and social networks, the public sector is more open than ever in history, and many administrations have embraced that reality, by adopting legislation permitting freedom of information. ICT is both a driver and an enabler of this openness.

Digitisation now allows the public to monitor the extent to which public administrations meet their obligations on transparency. It is down to individual governments to decide how ambitious they wish to be when extending the boundaries on that openness. The Public Sector Information Directive 2003/98/EC applies to all Member States, but as well as open data, many administrations are also providing access to information on processes, performance, tendering procedures, use of public funds, different steps of a policy or decision-making, etc. All Member States are signatories to the 2009 Malmö Ministerial Declaration on e-Government, which includes strengthening transparency of administrative processes as one of its four objectives, and which was followed up the e-Government Action Plan 2011-2015.

In Italy, for example, the Government has opened the window on its use of European Structural and Investment (ESI) Funds and national funds to policy-makers, citizens, businesses, media and civil society through its 'OpenCoesione' web portal. The administration has actively encouraged civic involvement in performance monitoring, through the independent 'monithon' platform, and invited media interest through its 'data journalism days', as well as ensuring open data through its licensing arrangement. Together, these actions are intended to engage with the public, incite participation and protect against corruption and misuse of public funds.

Inspiring example: "OpenCoesione" (Italy)

Launched in 2012, "OpenCoesione" is Italy's open government strategy on cohesion policy, aimed at more efficient and effective results thanks to public availability of data on all funded projects and greater public participation and collaboration on projects and policy themes. OpenCoesione centres around the national web portal (www.opencoesione.gov.it) on the implementation of investments using EU Structural Funds and national funds for cohesion programmed by national and regional administrations. Around EUR100 billion was allocated in Italy in the 2007-2013 period, of which EUR27 billion was co-financed by the EU, involving over 81 000 entities all over Italy, but mostly in the south. This funding was spread over many different policy sectors, with the aim of reducing disparities, attracting business, and enhancing opportunities and the quality of services.

Although EU Structural Fund regulations already have provisions on data publication, made stricter in the 2014-2020 period, until 2012 most of the information on the beneficiaries was dispersed, in Italy as well as in Europe, across a wide number of managing authorities, published mostly in PDF format, and contained only a very limited number of variables. OpenCoesione collects the information in a single place, "opens" the data and offers a much wider number of variables on single projects, the role of national portal envisaged by the EU regulations.

Availability of open data on public spending is the base to successfully increase accountability and overcome a long history of mistrust in many different development projects all around the world. The lack of transparency on how public money is spent is one of the main reasons for the slow pace in implementing development policies and in understanding whether investment projects actually respond to local demand. This is a particularly hot topic in Italy at present given the low absorption rate of EU Structural Funds and the debate all over Europe continues on the extent to which, after decades of subsidies, whether the European Regional Policy is effective or not. The OpenCoesione web portal enables citizens, researchers, journalists, administrators to monitor the use of cohesion policy resources, offering information, accessible to anyone, on what is funded, who is involved and where.

Users can either download raw data or surf through interactive diagrams itemised by expenditure categories, places and type of intervention, as well as have access to files on single projects and subjects involved. *Inter alia*, the web portal offers:

- Information on projects, including description, funding (amount and sources), location, thematic areas, subjects involved, and implementation timeframes;
- A list of top projects on the home page (most recently completed and largest financially);
- Interactive graphs showing the distribution of investment and number of projects by nature and policy theme;
- An interactive table on investment by nature and policy theme;
- Direct search of public authorities in charge of programming and other recipients of projects; and

- Direct access to locations through interactive maps and searches to discover the number of projects undertaken, the amount of overall investments in the place and the list of projects.

The OpenCoesione website addresses administrators and public servants, researchers and evaluators, citizens, entrepreneurs, organised sectors of civil society, and journalists and the media. In support of OpenCoesione, 'data journalism days' are organised as seminars for journalists, policy analysts, researchers and students interested in using information on investment projects funded by EU cohesion policy. They are aimed at understanding what kinds of data are available and at promoting mash-ups between OpenCoesione data and other sources in order to draft analyses, graphics and maps, and tell stories.

The national monitoring system of projects financed by cohesion policy, representing the main source of data published on the OpenCoesione web portal has a federate architecture (a system of systems), based on a data exchange protocol shared by all local systems. A technical group on data quality and transparency, established with all managing authorities in charge of cohesion policy programmes, operates in order to improve the quality and to promote dissemination and reuse of data and information on implemented projects. The group is composed of delegates directly involved in programme monitoring and communication.

In addition to data on the projects financed, the portal presents data on the territorial context in which they are developed, and offers also the visualization of a selection of territorial indicators on the social and economic context of each region for each policy theme. The idea is to invite the user to make connections between projects and the issues on which they should have an impact.

OpenCoesione publishes metadata and links to detailed information, with all contents available under an open license (the "Creative Commons licence 3.0 – BY-SA") which allows re-use of data and information provided that the original source is acknowledged and the result is shared under the same conditions.

The openness of the Italian administration's approach extends to inviting citizens to participate in the assessment of Structural Fund's performance. Starting from data on OpenCoesione, citizens can map out the projects funded by cohesion policy in their town or area, then select a theme or another specific feature, go to see what the project is really about, and check on its realisation on-the-spot. The idea of a civic monitoring marathon, called "monithon", was initially conceived within the administration, and now is supported by an independent web platform (www.monithon.it), where all evidence collected by citizen can be uploaded and published along with official data.

OpenCoesione-Monithon scored in 4th place at the Open Government Awards 2014, organised in the framework of the Open Government Partnership. Participating countries nominated initiatives that expand and sustain "citizen engagement" to improve government policies and services, and Italy ranked top on credibility of partnerships and evidence of results and rated well on depth of engagement and sustainability.

OpenCoesione is also raising civic awareness in new generations through involving high schools in the "OpenCoesione School", an experimental civic monitoring project that mixes civic education, digital competencies and data journalism in order to understand and communicate with innovative methods how cohesion policy affects our neighbourhoods. "OpenCoesione School" includes project work with storytelling about interventions funded by cohesion policy and provides feedback on results to local government entities and stakeholders in a public event (www.ascuoladiopencoesione.it).

Ultimately, OpenCoesione represents an attempt to: first, improve policy effectiveness through better knowledge on which kind of investment projects are actually carried out in the territory; second, enhance coordination among the administrations responsible for implementing the projects; and third, provide more public scrutiny on who benefits from the resources, also with the aim to avoid corruption and fraud.

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Centralised, top-down programmes to open up the administration lay the foundations for more tailored and targeted actions at regional and local levels. Many citizens and businesses rely on municipal government in particular for information, transactions and services (see also theme 4). In the case of the United Kingdom's Local Government Transparency Code, this openness has been formulated as an obligation on local authorities.

Inspiring example: Local Government Transparency Code (United Kingdom)

The Government believes that in principle all data held and managed by local authorities should be made available to local people unless there are specific sensitivities (e.g. protecting vulnerable people or commercial and operational considerations) to doing so. Transparency about how local authorities spend money and deliver services, and how decisions are made within authorities, gives local people the information they need to hold their local authority to account and participate in local democratic processes. The availability of data can also help secure more efficient and effective local services and open new markets for local business, the voluntary and community sectors, and social enterprises to run services or manage public assets.

The Local Government Transparency Code 2014 is a tool to embed transparency in local authorities and sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. The code preserves the principles of transparency by asking councils to follow three key principles when publishing data:

- Respond to public demand;
- Release data in open formats available for re-use;*
- Release data in a timely way.

Source: https://www.gov.uk/government/publications/local-government-transparency-code-2014

(*) As a separate initiative, readers might also be interested in the open data certificates which are issued by the Open Data Institute: https://certificates.theodi.org/

2.2.2. External scrutiny

Transparency is an effective tool in deterring and detecting corruption when it is matched by external scrutiny and the public's active participation in the administration's decision-making processes. This requires strong institutions from outside the executive and judiciary that are capable of investigating behaviour and holding the administration to account, including:

- **Supreme Audit Institutions (SAIs)** that are fully independent from the executive and can report to Parliament and the public on misuse of funds;
- **Information Commissioners** or similar (if such exist) that enforce freedom of information legislation;
- **Ombudsmen** that provide recourse for the public to make complaints;
- An independent and vibrant **media** capable of asking tough questions, and
- Healthy and effective **non-governmental organisations (NGOs)** capable of representing societal interests and willing to tell 'truth to power'.

Public administrations can call on **civil society organisations** (CSOs), as a bridge from the executive to the citizen, to encourage the public's active engagement and interest in monitoring the decision-making process and ensuring transparency. As was demonstrated by citizens' reactions to the 2003 credit card scandal in Antwerp municipality, and the 2009 MPs' expenses scandal in the UK Parliament that was first exposed by a newspaper (Daily Telegraph), the groundswell of public opinion can be a trigger for action by authorities.

> "*Next to a well-founded and implemented integrity policy, if there is one thing that can make a difference to integrity in public administration, it is investigative journalism and civic protest - things change when people have had enough. Ultimately, though, integrity comes down to institutions and individuals*" (Kristien Verbraeken, Flemish Integrity Coordinator 2010-2014).

Research shows that "*control of corruption is significantly better in countries with a larger number of CSOs and with more citizens engaged in voluntary activities …. as long as the capacity for association and collective action exists a society is able to keep a check on public corruption. The association is so strong that its contrary must be just as well understood. In the absence of public oversight, it is quite impossible even by repressive or administrative means to build-in control of corruption*".(21)

The Open Government Partnership (OGP) is an example of an international transparency initiative which provides a platform for "*domestic reformers committed to making their governments more open, accountable, and responsive to citizens… In all of these countries, government and civil society are working together to develop and implement ambitious open government reforms*". Since its launch in 2011, the OGP has grown from eight to 65 participating countries.

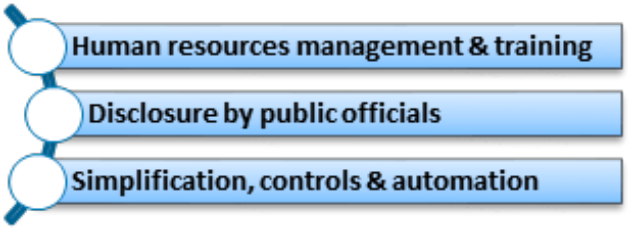
Transparency should also extend specifically to **lobbying**, in the context of consultation on public policy development and implementation (see theme 1). Employers, businesses, unions, associations, churches, NGOs and other interest groups seek to have their views heard on policy. These perspectives are sought by administrations to ensure that policy is framed in dialogue with all affected parties, including the general public. Faced by the risk of policy or regulatory capture by special interests, EU members have not sought to restrict lobbying and thereby lose the benefits of stakeholder dialogue, but to make these activities as visible as possible, by introducing registers of lobbyists, either mandatory or voluntary, and publishing details of lobbying activities. This is not straightforward, especially in defining who is and is not a lobbyist and what constitutes lobbying. In this context, the EU Transparency Register provides an interesting model, as registration is voluntary, but incentivised by controlled access to Parliament buildings and being alerted automatically regarding consultations of interest.

EU Transparency Register

The Register has been set up to provide citizens with "a direct and single access to information about who is engaged in activities aiming at influencing the EU decision making process, which interests are being pursued and what level of resources are invested in these activities. It offers a single code of conduct, binding all organisations and self-employed individuals which accept to "play by the rules" in full respect of ethical principles. A complaint and sanctions mechanism ensures the enforcement of the rules and to address suspected breaches of the code. In return for this transparency, lobbyists have an incentive to register, as they receive an alert each time the Commission publishes a new roadmap or launches a public consultation in the field where they have an interest, while badges offering long-term access to the European Parliament's buildings will only be issued to individuals representing, or working for, organisations falling within the scope of the Transparency Register where those organisations or individuals have registered. However registration shall not confer an automatic entitlement to such a badge. The Transparency Register is operated by the European Parliament and the European Commission, and supported by the European Council.

(21) Mungiu-Pippidi A., (ed), (2013) "Controlling Corruption in Europe: The Anticorruption Report" (op. cit.)

2.3. Promoting integrity and reducing the scope for corruption



Public administrations are, in some respects, microcosms of society. In the same way that high performing economies are characterised by low reported corruption, officials that act in the best interests of their organisations are the foundation of well-functioning institutions (see theme 3). By itself, this should create sufficient incentive for public authorities to promote integrity in the workplace.

At the same time, it is also recognisably better to stop the cancer of corruption before it takes hold, rather than try to stop it spreading, which places the highest priority on prevention within the panoply of anti-corruption measures. This highlights the delicate balance that must be struck, simultaneously emphasising the importance of ethics while sending a signal that corruption will not be tolerated. Public authorities must tread carefully when introducing anti-corruption measures, as implied suspicion can create a poisonous climate - undermining relationships, individual performance and overall productivity. While the wider goal is to ensure that businesses and citizens can trust in public services, this trust must also be built within the administration itself.

This calls for a balanced approach: accentuating the positive benefits of ethical behaviour, while being alive to the potential for corrupt activities. For corruption to take place, there must be opportunity, although of course the former does not follow automatically from the latter. Where unethical practices occur, they typically start from the power relationship: the public official has leverage, something that the other party wants. This could be: access to public funds; power to avoid taxes, duties, fees or charges; decision over supply/service/works contracts, privatisations, concessions or public-private partnerships; access to justice or its avoidance; access to healthcare or education; etc. For the official to offer (or respond to) the potential for corrupt practices, they must have discretion over the decision-making process, and they must be able to mask the use of their discretion, in other words there is a degree of secrecy in the process. Automatic and transparent entitlement presents little scope for graft.

2.3.1. Human resources management and training

Conditions of employment have a bearing on the context for both ethical and corrupt behaviour. Poor rewards for performance (low salaries), contracts without security, politicisation and lack of professionalism all contribute to an environment which can encourage the pursuit of self-serving ends. Assuming the terms of employment are fair, the next step is to ensure that human resources management (HRM) integrates ethical values into personnel policies, especially for higher risk positions, and provides clarity regarding workplace rules in the 'grey areas' of integrity (see also topic 3.3). HRM policies might include:

Potential HRM policies to promote ethical values and behaviour
• Merit-based recruitment as the antithesis of patronage, cronyism and nepotism;
• Competency frameworks with ethics as an integral feature (see topic 3.3);
• Recruitment practices that screen candidates for ethical behaviour;
• Performance appraisals that consider not only technical and team factors, but also the track record against ethical standards;
• Ongoing professional development and career management that rewards ethics, including improvements in systems to prevent and control corruption;
• Unambiguous limits on acceptance of gifts;
• Restrictions on the ancillary activities and outside interests of staff (for example a tax officer cannot also become a tax consultant) and the accumulation of different positions which may present conflicts of interest (such as policy-maker and regulator);
• Restrictive covenants in employment contracts regarding future private sector jobs in related fields where they might be able to take advantage of privileged public information for personal gain, such as obliging the official to seek position from the public body or to observe a 'cooling-off' period (such as 6 or 12 months);
• Effective disciplinary policies, in the event of wrong-doing.

In particular, empirical evidence points to **meritocratic appointments** as one of the most powerful tools of good governance in promoting ethics and undermining corruption: "*the essence of a professional bureaucracy is not that merit-recruited employees are "better" compared with politically recruited, but simply that they are "different" from elected officials. When it comes to fighting corruption, it is very important, as the two different groups will monitor each other … a recruitment process based on the skills of the candidates, which creates a professional bureaucracy, appears to be the most important bureaucratic feature for deterring corruption*". [22]

Even within merit-based systems, recruitment and appraisal techniques are among the most tricky to get right. Interviewees can be asked about their reaction to various ethical situations where there may be **conflicts of interest**, similar to the scenarios used in dilemma training (see topic 2.3.2), and also assessed for friendliness and conscientiousness, which are two traits which have been linked to integrity in behaviour. It is also easier to reach middle management with training and professional development than top management, who are essential to 'setting the tone' in the organisation, but are often seen as too busy and out of the reach of human resource departments. Rather than formal training courses for top officials, some administrations have looked to peer mentoring instead, in which it is easier to introduce integrity as a dimension of coaching.

Before putting together a portfolio of HRM practices, however, it is necessary to identify the source of the opportunity, which is likely to be **sector-specific** (e.g. infrastructure projects, justice, customs), and to tackle these risks, putting in place mitigating measures.

(22) Dahlström C., Lapuente V., and Toerell C., (2011), "The Merit of Meritocratization: Politics, Bureaucracy, and the Institutional Deterrents of Corruption", Political Research Quarterly, http://prq.sagepub.com/content/early/2011/05/17/1065912911408109

Tackling corruption in EU border control

As a rule, most anti-corruption policies used by border guards in the EU are not devised with them specifically in mind. However, some Member States have adopted strategic plans and anti-corruption programmes that specifically target border control corruptions. Some of the key measures are:

- Vetting: Job applications for border guards are carefully examined, although the extent of background checks varies.
- Education: The initial education of border guards typically includes general anti-corruption topics, but few Member States include practical guidance in their on-going training.
- Integrity testing: Officers are put in situations that test their morality (without resorting to entrapment). This is commonly used in the UK (and US) and is being tested in other Member States.
- Electronic surveillance: The same systems that are designed to protect the security of staff can also act as a corruption-prevention tool.
- Rotation: Border guards are moved regularly to different locations, posts or positions, to reduce the likelihood of establishing entrenched corrupt relations and corrupt group behaviour.

Many Member States have dedicated internal affairs departments investigating police corruption, or even dedicated departments exclusively investigating border guard corruption. In most EU members, investigations into corrupt border guards are initiated in a reactive manner - usually in the course of other criminal investigations, or as a result of reports and complaints. Some use proactive approaches to generate leads for investigations based on risk analysis methods (data mining or data washing) or the use of informants. The use of undercover agents, informants or electronic surveillance may be used in more complex cases. Integrity testing is one alternative to the traditional internal affairs investigations approach.

Source: Center for the Study of Democracy (2012), op cit.

Integrity policies present their own dilemmas within the workplace. On the one hand, you want officials to be able to speak freely and raise concerns when they arise, but on the other hand, you also want to build team spirit and encourage loyalty. But loyalty can also divide: do you show loyalty to your colleagues or loyalty to the organisation? Are you accountable to your management, your elected politician, or the public? Freedom of speech also extends to communication outside of the workplace. In a time of social media, when people are using Facebook and Twitter on a daily basis in both their professional and personal lives, where do you draw the line in what information individuals put into their own networks? These are the type of issues that public administrations are increasingly addressing through **staff training**. In the case of the Slovenian police force, for example, the updating of their ethical code prompted an extensive training programme, to disseminate the agreed values and discuss how they could be put into practice.

Inspiring example: Implementing ethics and integrity (Slovenia)

In 2008, the Slovene Police took the decision to update their old Code of Ethics from 1992, which was felt to be too punitive in nature and not sufficiently inspirational. A working group was established to strengthen the integrity of the police, and the education and training of its members, and a new Code prepared with an emphasis on self-regulation and adopted on 9 October 2008. The Code is intended to raise police officers' awareness of the importance of respecting ethical principles and to strengthen ethical and moral conduct in practice. It determines both the relations between police officers and the relations between them and citizens, state authorities, non-governmental organisations and other institutions.

There are two general provisions:

- The Code of Police Ethics expresses the will and desire of all Slovenian police officers for lawful, professional, fair, polite and correct work as well as humane conduct.
- Police officers shall be committed to ensure the protection of, and respect for, human rights and fundamental freedoms. In a lawful interference with an individual's human rights and fundamental freedoms, they shall respect the person's personality and dignity. Police officers shall be obliged to protect a person's personality and dignity also by preventing any violence, inhumane treatment or other actions which are humiliating to people. Police officers shall perform their mission with the force of argument rather than the argument of force.

The main basic principles are as follows:

- **Respect for equality before the law**: Police officers, in their procedures, shall ensure that everyone is guaranteed equal human rights and fundamental freedoms, irrespective of ethnicity, race, gender, language, religion, political or other conviction, material standing, education, social status or any other personal circumstance.
- **Protection of reputation**: Police officers, in performing their work and in their private life, shall ensure the protection and promotion of their own reputation and the reputation of the police organisation. Police officers shall focus especially on strengthening the integrity of the police organisation. In their work, police officers shall adhere to principles; they shall be consistent, resolute, persistent, fair, professional, and in contacting people, state authorities, non-governmental organisations and other institutions, they shall be polite and correct.
- **Incorruptibility**: Police officers shall not require, for themselves or for any other person, any special privileges, and shall be insusceptible to all forms of corruption.
- **Public nature of work:** Police officers shall earn sympathy, reputation and respect of the general public by performing their duties in a public, legal, professional, fair, polite and correct manner, and shall accept the public as a form of control over their work.
- **Professionalism and independence**: To achieve professionalism in their work, police officers shall be adequately trained and shall receive professional and advanced training, as well as broaden their general knowledge and develop specific knowledge and skills necessary to perform official duties. Police officers may associate in trade unions or professional and other similar associations in the country and abroad. Their professional conduct should not be based on political convictions and world-views.
- **Protection of professional secrecy**: Police officers shall protect professional secrecy and shall not use in an unauthorised manner or disclose data and information acquired in the performance of official duties. In the course of their work and in informing the public, they shall be appropriately discreet.
- **Mutual relations**: The relations between police officers shall be based on mutual respect, mutual assistance and the principles of solidarity, collegiality, tolerance and honesty, mutual trust and dignity, constructive criticism and good communication. Their relations shall not be characterised by the phenomena of false solidarity, humiliation, underestimation and discrimination.
- **Code compliance**: Police officers shall be obliged to comply with this code, and shall therefore be well acquainted with it. They shall be aware of the moral responsibility and moral consequences of any breach of the Code.

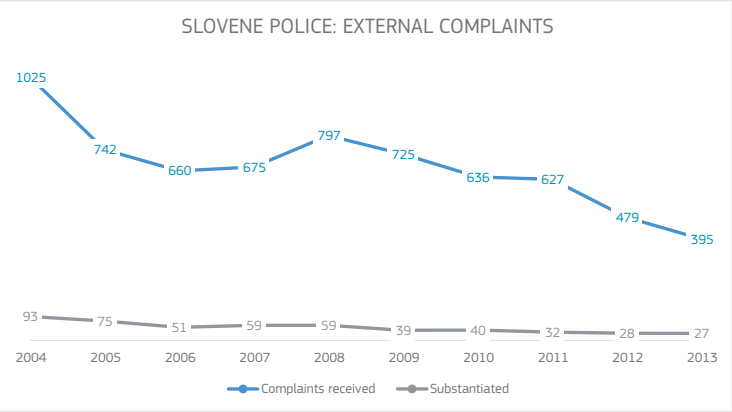
The Code also commits to its principles being observed in all security situations equally, and its provisions being included in police training programmes, as well as in professional and advanced training. The Code's annex contains a list of values and virtues expressing the mission of the Police.

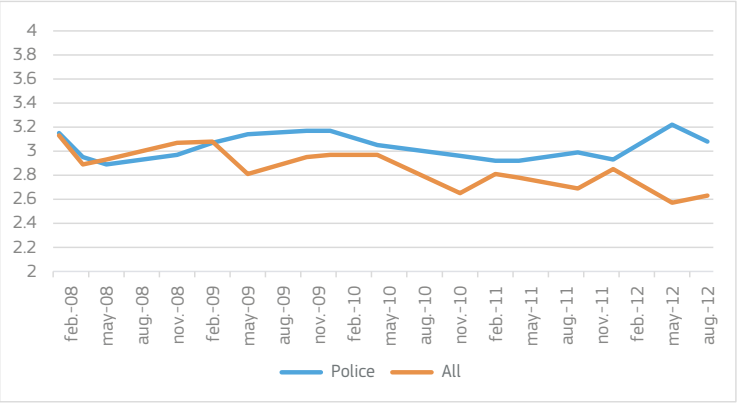
In 2008, a working group was set up to implement the new Code of Police Ethics in the Slovene police through a programme named "*Strengthening the police ethics and integrity*" on three organisational levels. The approach was based on raising police officers' awareness of the importance of ethics and morals in society, organisational and personal integrity, integrity in leadership, the social responsibility of the police and the Code itself, and the consequences of absence of leadership and a 'code of silence'.

Every sworn police officer (more than 7 000) has attended the training, in which members of the working group gave the theoretical basis for the Code, after which there were workshops to put theory into practice in daily police work, and examples were discussed. Content of workshops included terms: ethics, integrity, code of silence, leadership, leading by example and absence of leadership. On completion, an evaluation survey was carried out. Integrity is the keystone of leadership and the foundation on which total quality management is implemented in the police force. Key findings from the evaluation are summarised below:

Benefits of training and importance of integrity in police work (1 = disagree; 5 = agree)

Statement	Mean	Standard deviation
Lecture was useful	**4.67**	0.614
Acquired knowledge I will use in my daily work	**4.36**	0.790
High level of integrity is necessary for the police officer's work	**4.60**	0.667
High level of leader`s integrity is important	**4.72**	0.578
High level of integrity contributes to the successfulness and efficiency of police work	**4.62**	0.637
Integrity should be encouraged, nurtured and developed	**4.73**	0.532





Strategic needs, and the results of the survey, led the Slovene Police to set up an integrity and ethics committee in 2011, as an advisory body to the Director-General of the Police, whose task is to study systematically strategic proposals, new developments, questions and dilemmas regarding ethics and integrity, both organisational and personal. Its work covers areas of human rights, the organisational climate, inter-personal relations and conflict management, between police units and between police employees.

Slovene police officers apply the principles and values from their training in their daily work, through contacts with people inside and outside the organisation. The police service records external complaints in each year's annual report, which shows a clear toward trend in both complaints received and complaints substantiated after investigation over the last 10 years (see chart, left).

The Code is written in the first person plural, thereby expressing a high level of belonging to the police organisation. It is intended to be inspirational, rather than regulatory. For the control of police work, there are a few other acts that impose sanctions for violations of responsibility for proper conduct, backed up by internal control and supervision, including the Integrity and Prevention of Corruption Act.

Between 2008 and 2012, the Public Opinion and Mass Communication Research Centre conducted surveys of trust in the institutions of public life - president, parliament, government, church, media, army, police, etc. The results show that the police have scored above the average for all institutions from June 2009 onwards (see chart, left).

The Code of Police Ethics is set within the broader Code of Ethics for Civil Servants.

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In the case of the Slovenian police, every single officer has participated in this fundamental training, amounting to over 7000 attendees. Depending on the findings of the risk analysis (topic 2.1.2), institutions may wish to **customise their training programmes**, developing specific modules for higher risk units (e.g. procurement, contracting, front-line staff) or positions (e.g. supervisors).

One specific form of ethics training, which is relevant to fields where corruption risk is high, is **dilemma training**, whereby public servants are educated and tested to see their response to different scenarios. Given the complexities of public life, in which officials are often serving several 'customers' at once (immediate line managers, elected politicians, direct service users and/or the general public), such training can highlight ambiguities, where the right course of action is not always immediately apparent. The Integrity Coordinator has been organising dilemma training across the Flemish Government for several years, and has increasingly moved from general courses to more targeted ones for individual entities. The learning points from the Flemish experience are the methodology which centres on small discussion groups and the large collection of dilemma scenarios, meaning the selection can be tailored to specific audiences.

Inspiring example: Dilemma training in the Flemish Government (Belgium)

The purpose of the training is to explore various situations in which public officials might face an ethical choice, where the decision regarding the 'right thing to do' is not necessarily black or white. In this light, training is organised in small groups, led by a facilitator, whose role is to encourage and stimulate discussion, which enables different aspects of the dilemma to be explored.

In some sessions the facilitator uses a card system, but increasingly the training has focused on tailor-made dilemma cases and scenarios. Where cards are used, the facilitator explains the rules and gives every participant four 'option cards', each of which simply contains the numbers 1, 2, 3 and 4. Then 'dilemma cards' are placed on the table with the text facing upwards. There are up to 63 dilemma cards, each describing a different scenario. Two examples of the type of ethical situations that might arise:

- The photocopier in my department can be used for personal copying, as long as people write down on the 'copy list' what they have used and settle payment for copies at the end of the month. I've noticed several times that a colleague is making copies of the sports pages, but never writes it down, I know that sport is nothing to do with his job. What should I do?

  1. Nothing. That's not my business and I want to avoid unnecessary discussions.

  2. I go to the colleague in question and rebuke him.

  3. I go to the boss and tell him what's going on.

  4. I add my colleague's name to the 'copy list' myself.

- I have just purchased six new PCs for my team. When I casually ask the vendor about private purchase of a colour printer, he offers me a 50% discount. What should I do?

  1. I accept the offer. It is an attractive offer, and no one is harmed by it.
  2. I buy the printer, but insist on paying the full price.
  3. I tell my Director about the attractive offer and follow her advice.
  4. I thank the seller for his offer, but decide to buy the printer from another vendor.

Other scenarios cover a range of dilemmas around the themes of ethics, leadership, loyalty, conflicts of interest, etc. For example:

- Your sister and brother-in-law want to buy a gas station. There have been rumours of development along the route, which will take months and cause serious disruption and loss of income to the station owners. You know that expropriation is planned and the work will start 6 months later, but this is privileged information. They ask you if you know the situation with the road. What do you do?

- You've signed up for a full day seminar and tell your manager you'll be out for the day, but when you arrive, the organisers announce that unfortunately some speakers have had to cancel, so the event will be finished by lunchtime. You have the afternoon free, what do you do?

- The training budget allocated for this financial year was EUR 75 000. Due to various circumstances – illness of trainer, urgent tasks leading to cancellation - the training could not proceed fully as planned, and there remains a balance of EUR 25 000. But I still need to run the courses and I've scheduled them for January and February, which would then have to come from next year's budget. The contractor is flexible about when he signs the invoice. What do I do?

- You go to inspect an institution following a complaint. You know who made the complaint, but that person wants to remain anonymous. You find the complaint appears to be partly justified and require some changes to be made. A couple of months later, you have to go to the same institution again for a follow-up, compliance inspection. The director invites you to join him for lunch. When you walk into the dining room with the director, you see the person who made the complaint in the previous inspection is also there. What should you do next?

- Your organisation consists of a large group of employees who are hired with a fixed-term contract. It has been decided that some contracts will be regularised. The Board of Directors agreed to wait to announce the news until the decision is formally approved, but due to various circumstances, the decision has been delayed a few times, which creates a lot of uncertainty and unrest. Your best performing employee belongs to the group that will be asked to regularise the contract. He has the chance to buy a house, but he can't get a loan from the bank because he has a fixed term contract. What are you able to do?

- The directors of six facilities have a partnership and organise training facilities. They asked me, as an inspector, to be a guest lecturer for several days on a training programme for their facility managers. I prepared my training the way the directors wanted and found it a fascinating experience. A few months later, I got the order to inspect the facility where one of the six directors is in charge. What should I do next?

  The participant who goes first, picks up a dilemma card from the deck, reads out the text and the four choices (1-4). Every participant in the group decides what he or she would do and submits the corresponding option card 1, 2, 3 or 4. The participant who has read the dilemma, presents his or her choice of option, and sets out the reasons behind it. The other participants then take it in turns to make the reasoning known for their own choices. Participants then discuss about the various choices as a group (up to 5 minutes). The exercise proceeds with the next participant reading a new dilemma and the game restarts.

The facilitator receives guidelines, regarding remaining neutral, encouraging everyone to make a contribution, discouraging simple 'agree with person X' answers, focusing on the debate (not a decision) on the dilemma, ensuring a mix of various types of dilemma (for example, moving on to an alternative card if the theme is very similar to the previous one), and proposing different ways of looking at the dilemma (e.g. regarding sequence of events, boundaries or tipping points for unacceptable behaviour), etc.

When it was first introduced, the dilemma training was delivered across the administration, but it has become more targeted over time, towards specific groups or entities, and the scenarios selected according to their circumstances.

Source: http://www.bestuurszaken.be/omgaan-met-integriteitsdilemmas *(Dutch)*

Such approaches are equally relevant to the **judiciary** (see also theme 6), whose independence and performance are essential to the public's perceptions of integrity in society, as well as to the achievement of justice in corruption cases.

2.3.2. Disclosure by public officials

As a preventative measure that also provides a baseline for future investigations, many public administrations now oblige public officials to submit a signed declaration of their income, assets and business interests. This may apply to all elected and employed officials, or only those in sensitive and high risk posts, such as managing public tenders and awarding contracts (see theme 7). This enables investigators (and the general population, if published openly[23]) to be able to assess any inexplicable changes in income or property ownership out of proportion to their pay or circumstances, such as inheritance, and to identify any conflicts between private interests and public duties.

The key to success is **verification**: thoroughness in checking compliance with disclosure rules, which can be resource intensive and which suggests a risk-based approach is the most cost-effective. Some Member States have assigned this responsibility to their ACAs. Examples include Slovenia's Commission for Prevention of Corruption (KPK), Latvia's Corruption Prevention and Combatting Bureau (KNAB) and Poland's Central Anti-corruption Bureau.

The downside of disclosure is the danger of **unintended consequences**: the implied lack of trust in public servants creating a climate which suggests unethical behaviour is the standard against which officials are judged. As a tool, interest disclosure is unlikely to reveal petty corruption at a small-scale, but may deter or detect more substantial practices, as officials with large or multiple properties and sudden increases in income are likely to stand out. The extent of disclosure is an important factor, concerning how much information must be revealed and verified. The general trend among EU members is towards stricter requirements, and some have recently introduced or announced the introduction of such systems.

World Bank: Will financial disclosure by public officials mean less corruption?

'Public Office, Private Interests' from the Stolen Asset Recovery (StAR) Initiative, with data by the Public Accountability Mechanisms Initiative of the World Bank, provides a practical approach to addressing the challenges and requirements of effective disclosure administration. The overarching message is that effective disclosure is a balancing act. Yes, a disclosure system can make a meaningful contribution to corruption prevention and enforcement. But it cannot do so if expected to tackle and apply sanctions for all forms of graft and corruption in public administration.

Requiring that public officials submit a signed declaration of their income, assets and business interests is on the face of it an intuitively simple way of ensuring that they think twice about seeking to profit illicitly from their public duties, or of allowing private interests to influence, appear to influence, or otherwise conflict with their official responsibilities. Fear of detection is the motivating force; a reminder of ethical obligations, and assistance in fulfilling them, the encouragement. In practice, however, this deceptively straightforward idea is very challenging to implement. The sceptics out there will rightly affirm that a determined official will find ways of concealing illicit gains. That the disclosure agency may be hard pressed to verify the accuracy of declarations, whether because of banking or tax secrecy laws, the lack of property, business and other registries, limited public access, or their own limited resources. They might add that the enforcement of sanctions is bedevilled by delays in the courts or other factors borne of the local environment. Finally, they would caution that the agency charged with this task must also steer a course through the inhibiting political straits of anti-corruption enforcement.

(23) The public interest has to be balanced with the right to privacy, enshrined in data protection laws. Where publication is not permitted, access to detailed asset declarations is restricted to relevant authorities only.

The issue is partly a matter of scale; and largely a matter of context. As the StAR publication shows, a disclosure regime needs to be designed to suit the constraints and conditions of the local context. That means a mandate based on achievable objectives and backed up with commensurate resources. In practice this could result in a dispensation from disclosure for the state employees whose job presents little risk or opportunity for graft. It could also mean that the disclosure agency chooses not to treat all declarations as equally worthy of scrutiny. It could also mean that a new system, in a fragile environment, might require that only the most senior 100 officials submit a declaration, as a first step in an incremental roll-out of a disclosure law. These approaches – namely, risk-based disclosure requirements and targeted verification – make it easier to focus resources where they really count.

But that alone is rarely sufficient. Public access to disclosure information can exponentially enhance an agency's ability to provide credible scrutiny. Despite the squeamishness and debate that public access can generate, there are examples from around the world of workable approaches to providing public access to certain categories of information so as to address the perceived safety risks and privacy concerns of officials and yet leverage the benefits of public access. Moreover, providing access to compliance statistics and other related data sends a strong signal that an agency is serious about fulfilling its mandate, without typically engendering too much squeamishness. Delivering on the potential for disclosure systems to contribute to broader, international anti-corruption efforts requires that the basic ingredients of domestic implementation are in place. It also requires that policymakers and practitioners begin to view financial disclosure systems as part of an interconnected architecture of agencies and actors engaged in international financial investigations, asset-tracing and anti-money laundering. Initial research undertaken by StAR and the World Bank's Financial Market Integrity group provides recommendations on how to leverage these connections. A drawback of any safeguard mechanism is that it shines a spotlight on the behaviours it seeks to deter. The implication of a disclosure requirement is that, given the chance, public officials will be corrupt or prone to corruption.

A disclosure regime should at most aspire to make life difficult for officials seeking to engage in corrupt practices, and to make life easier for the vast majority who wish neither to defraud the public trust nor to fall foul of disclosure requirements or codes of conduct that may be complex or difficult to navigate. Part of the balancing act for a disclosure regime then is to enforce compliance while reassuring the public that compliance is but a formality. Educating filers and the public about the government's commitment to public ethics is an important step in communicating that message. Following through with the enforcement of sanctions for those caught breaking the rules is the other vital part of the equation.

Source: Extract from World Bank article

The conclusion is that disclosure is best targeted in the areas where it can be most effective. If all public officials are obliged to complete disclosure forms, there is likely to be information overload, which will make it harder to verify and monitor the most important data. There is a trade-off between coverage and impact: it is better to have fewer records which can be followed-up. Equally, the public interest is not served by entitlement to see the personal finances of every official, irrespective of position. Hence, a more **targeted approach** is merited: focusing disclosure on public officials in high risk (and possibly medium-risk) positions, and keeping this information secure, only used for checking and monitoring purposes (it can be archived in the event of later investigation), and in a format which is easy to analyse with ICT. In the case of elected officials, however, there is a greater case for full transparency and hence publication, to allow for public scrutiny by voters.

2.3.3. Simplification, controls and automation

Europe has seen a downward trend in reported bribery which suggests some success in tackling endemic corruption over the years. Where problems persist, they tend to be higher at regional and local levels where checks, balances and internal controls are weaker, and to be concentrated in a few sectors, such as healthcare, justice, police, procurement, licensing, tax, border control and customs. This places the focus in combatting corruption on taking away the chance for graft, or what one evaluation of anti-corruption strategies describes as "changing the rules": policy interventions that aim to change aspects of the government

system itself or the way that the government delivers services, so that there are fewer opportunities or reasons to engage in corruption.

Rule-changing strategies in their infancy

Examples of "anti-corruption strategies that change the rules" are relatively rare, according to a meta-analysis of almost 6,300 evaluation studies (NB the coverage is largely the world outside Europe). "Preliminary analysis suggests high potential for strategies to decrease corruption by eliminating the opportunities for engaging in corrupt activities through a change in process. Programmes that change the rules of the system can reduce the opportunities for engaging in corrupt behaviour and can be better at aligning the incentives of all stakeholders. Yet such strategies are also the least explored … Empirical methods should analyse the effectiveness of existing rule-changing strategies, such as those that involve decentralisation and the replacement of corruptible elected or career government workers with automated programmes."

Source: Hanna, R., Bishop, S., Nadel, S., Scheffler, G, Durlacher, K. (2011) "The effectiveness of anti-corruption policy: what has worked, what hasn't, and what we don't know – a systematic review".

Rule-changing approaches aim to take the scope to misuse entrusted power out of the equation, by decreasing discretion and introducing controls through:

- Simplifying the administration;
- Introducing more staff and checks into the process;
- 'Automating' the process.

Analysis in the EU shows "*a very strong association between red tape and corruption, as excessive regulation is the main instrument used to increase administrative discretion and through it corruption*". At the same time, "*the more states offer their services electronically, the more corruption decreases*".[24]

The more steps in the administration, the more activities for which officials have responsibility, the more opportunities arise for corrupt practices. For example, the risk is higher if an application to register a business or receive a passport is subject to 10 steps with five different institutions than if it involves three steps with a single institution. **Administrative simplification** is a path to reducing the opportunity for corruption (see also theme 4). This is particularly true for enhancing the business environment, in terms of both regulatory reform and administrative burden reduction: the less red tape, the lower the corruption risk (see theme 5). However, simplification needs to be addressed in the context of the policy field. If the process is relatively straightforward, and can be expressed as algorithms, there is a strong case for simplifying procedures. However, if qualitative judgements are a vital or beneficial element of decision-making (such as medical assessments, litigation, procuring services), then there are limits to how far discretion can or should be removed.

On face value, introducing more staff into the transaction appears a retrograde step for administrative simplification, but judiciously applied to individual steps can reduce the discretionary decision-making power of any one individual. An example is public procurement, where adding personnel to the tender appraisal process raises the cost of corruption and the risk of capture. This is usually accompanied by more rigorous use of **internal controls**, such as the 'four eyes' principle for procurement and awarding funds, supported by clear and published procedures with supporting guidance and training, to minimise discretion beyond that which is valuable (see also theme 7). Internal audit also has an important role to play in providing checks and balances, but must be managed carefully to ensure it retains impartiality in the face of peer pressure.

(24) Mungiu-Pippidi A., (ed), (2013) "Controlling Corruption in Europe: The Anticorruption Report" (op. cit.)

Inspiring example: Detecting health corruption in Calabria through 'fraud audit' (Italy)

In Calabria, countless investigations in healthcare have corruption as both a crime and a conspiracy, including mafia infiltration. In his report to the Italian Parliament on 27 February 2009, Renato Brunetta, then Minister of Public Administration and Innovation, showed that Calabria was in first place for corruption in healthcare. Still, much corruption remains hidden; despite the Laws on Checks and Controls, healthcare organisations previously lacked a comprehensive system of control of both administrative and economic performance.

Corruption in public administration is a very complex problem from many facets. In general, the employee, the manager or the general manager of a public body which deliberately violates the laws to reap illicit proceeds from the management of public funds, does not act alone. Corruption is based on the system of so-called complex networks at multiple levels. In order to unearth illegal activities and permit action to be taken, the Business Information Service (BIS) devised a methodology, implemented by the Provincial Health Authority of Catanzaro, which uses data management to locate administrative and accounting fraud in health companies. With a budget of around EUR 12 000 a year and 8 staff, the 'fraud audit' of Catanzaro employs internal controls and a set of IT-centred procedures and techniques to programme and subsequently monitor business operations in order to find clues to the possible mechanisms of corruption, in three areas:

- First, systematic analysis was made of accounting documents and supplier invoices to discover double-billing, invoices not due, and higher-than-contractual invoiced amounts. Special software developed by the BIS was employed to apply Benford's Law (which compares the frequency with which numbers actually appear with expected patterns) to analyse the distribution of all the figures related to invoice number, date and amounts for each health company. Risk of corruption was identified in 0.1 % of the 12 000 documents checked. Follow-up found invoices for two companies with the same number but different dates, an invoice for purchasing disposable razors with the purchase order priced at EUR 9.00 per piece rather than the contracted cost of EUR 0.084, and increases in the cost of supply for chemical analysis slides and electrolyte solution between award and supply of 50 times and 100 times respectively.

- Second, tenders for the supply of goods and services were evaluated where the number of participating companies was less than three, to discover contract awards at risk of illegitimacy. In 10 cases, tender awards had been made with the participation of a single company; in those cases where an offence was revealed, the matter was remitted to the competent authorities.

- Finally, monitoring of violations of the computer network through a special "sniffer" programme uncovered data theft and hacking by both internal and external sources. This exposed two healthcare services company that were bypassing the system of firewalls and proxies, and which was referred to the police for investigation.

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Where administrative simplification is achievable, and the human interface between public administration and citizen/business is not essential, the most effective solution to removing or reducing discretion is through **automation**. For many transactions between citizens or business and the public administration, there is huge scope for squeezing out individual decision-making, or at least making any malpractice transparent, through electronic interfaces (e-government, e-procurement, e-invoicing). It is considerably more difficult for a public official to step in, or to influence the outcome, if proper safeguards are in place regarding process and data security. The impact of online services on the scope for corrupt practices has been highlighted in the World Bank's 2015 Doing Business report. A better business environment helps to combat corruption by default.

Online services cut opportunities for corruption

Business start-up

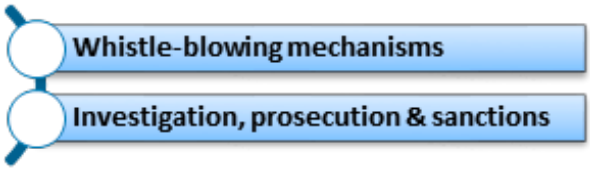
Electronic registration and online services substantially reduce the opportunities for bribery and other forms of corruption. Where entrepreneurs have no need to interact directly with public officials, they are less likely to use informal payments or to face deliberate delays aimed at encouraging bribes. Analysis shows strong positive relationships between international measures of transparency or governance quality—including rankings on the rule of law by the World Justice Project and rankings on voice and accountability, control of corruption and regulatory quality as measured by the Worldwide Governance Indicators—and the use of online systems for company registration. Economies whose company registry uses online registration, allowing entrepreneurs to set up new businesses remotely, tend to score high on such measures.

Contract enforcement

Globally, one of the most common features of reforms in contract enforcement in the past year was the introduction of electronic filing. These enable litigants to file initial complaints electronically - increasing transparency, expediting the filing and the service of process, limiting opportunities for corruption and preventing the loss, destruction or concealment of court records (see also topic 6.3).

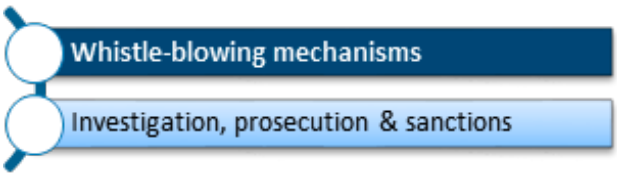
Source: Quoted from 'Doing Business 2015' (see theme 5)

2.4. Detecting and acting on corruption



Realistically, corruption will never be wholly eradicated, even by the best preventive systems. Comprehensive reform strategies may succeed in dismantling systemic corruption, but there will always be some incidences of malfeasance that undermine good governance. This means the regulatory and reporting framework must be in place, including systems for detection and prosecution, which must themselves be beyond reproach. In some policy fields, there is a professional obligation to report malpractice where it arises, such as supervising engineers on infrastructure projects and auditors spotting financial irregularities. This form of identification largely takes place outside the public administration, as private sub-contractors one step removed from the organisation responsible for the alleged malpractice. Where illegal or unethical activity is beyond the reach of internal audit and controls, whistle-blowing has been shown to be the most effective way of exposing wrong-doing, responsible for around half of fraud detection in the public sector, according to research.[25] As whistle-blower protection remains relatively weak across Europe, and the act itself still not fully ingrained in the administrative culture as a contribution to better governance, its potential is yet to be fully realised.

2.4.1. Whistle-blowing mechanisms



A whistle-blower is someone who reports or discloses (makes public) information on a threat or harm to the public interest. In the context of good governance, an official in the public administration or judiciary might expose unlawful or unethical activity by reporting it internally within the organisation (for example, to a line manager or internal auditor) or externally to a third party (such as a regulator, external auditor, ombudsman, integrity coordinator, anti-corruption agency, the media, etc.)

(25) PricewaterhouseCoopers's 2010 report "Fighting fraud in the public sector", based on replies from 170 government representatives in 35 countries, found that 31% of fraud was detected by internal tip-off, while 14% was uncovered by external tip-off, and 14% by accident; that just 5% was detected by formal internal whistle-blowing systems. PwC found that internal audit and risk management in the public sector were less effective in detecting fraud than in the private sector. See also Brown, A.J. (2008, ed). "Whistleblowing in the Australian Public Sector. Enhancing the Theory and Practice of Internal Witness Management in Public Sector Organisations" - a mass survey of public servants in 118 Australia agencies reported that employee whistle-blowing was seen as the most effective method of exposing wrongdoing by those holding ethics-related positions.

There are many examples of where whistle-blowing could have played a vital role in stopping scandals and potential harm at an early stage, before (more serious) damage is done, including instances where warnings were ignored. Research on whistle-blowing cases shows that in the majority of cases, nothing is done about the wrongdoing, and that too often it is the whistle-blower who suffers repercussions ('shooting the messenger'). Consequences include dismissal, demotion, disciplinary action, harassment or cold-shouldering by colleagues, or loss of career prospects.[26]

It is manifestly in the interests of good governance that officials should feel safe to raise public interest concerns. Hence, whistle-blower protection for workers in both the public and private sectors is obligatory under the Council of Europe's Civil Law Corruption Convention (Article 9), and encouraged under UNCAC (Article 33). The Council of Europe published a 2012 report on whistle-blower protection within the workplace, which describes the state-of-play with national laws within the context of the European Convention on Human Rights. The Council of Europe's Committee of Ministers to Member States adopted Recommendation CM/Rec (2014)7 on the protection of whistle-blowers on 30 April 2014, putting flesh on the bones of the international conventions, setting out 29 principles to guide Member States when reviewing their national laws, or when introducing legislation and regulations, or making amendments, in the context of their legal systems.

The United Kingdom's Public Interest Disclosure Act (PIDA) is one of the most comprehensive laws on workplace whistle-blower protection in the EU. It came into force in 1999, and has been amended to reflect changes in the UK regulatory framework, and to remove good faith and replace it with a public interest test, strengthen protection for disclosures to MPs (i.e. place disclosures to MPs on the same footing as regulatory disclosures), and clarify that protection from detriment includes harassment from colleagues[27]. The independent NGO and not-for -profit legal advice centre, Public Concern at Work (PCaW), played a pioneering role in developing the law and supporting its implementation, and recently commissioned an extensive independent review in 2013 to examine the existing arrangements for whistle-blowing in the workplace. The Whistleblowing Commission Report recommended that the Government adopt a Code of Practice that sets out clear standards for organisations across all sectors.

(26) For example, Public Concern at Work and the University of Greenwich, "Whistleblowing: the inside story", based on research into 1 000 whistle-blowing cases http://www.pcaw.org.uk/files/Whistleblowing%20-%20the%20inside%20story%20FINAL.pdf

(27) Sections 17-20 of the Enterprise and Regulatory Reform Act 2013 introduced changes to the Public Interest Disclosure Act 1998: **Section 17** narrows the definition of 'protected disclosure' to those that are made in the 'public interest'.; **Section 18** removes the requirement that a worker or employee must make a protected disclosure 'in good faith'. Instead, tribunals will have the power to reduce compensation by up to 25 % for detriment or dismissal relating to a protected disclosure that was not made in good faith; **Section 19** introduces protection for whistle-blowers from bullying or harassment by co-workers: **Section 20** enables the Secretary of State to extend the meaning of 'worker' for the purpose of defining who comes within the remit of the whistle-blowing provisions. The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 20142 No. 596 amended the list of "prescribed persons" to include Members of Parliament.

Inspiring example: Raising genuine workplace concerns about wrongdoing in the public interest (United Kingdom)

The Public Interest Disclosure Act (PIDA) sets out a clear and simple framework for raising and addressing genuine concerns about malpractice by guaranteeing full protection to workers who raise such issues in accordance with its provisions. The law's essential features are:

- A focus on protecting the public interest by protecting individuals in the workplace who make disclosures about wrongdoing (whether it is about environmental damage or a breach of a legal obligation);
- A step-by-step approach which encourages internal whistle-blowing where possible (or to the person legally responsible), facilitates disclosures to statutory regulators and, allows wider disclosures, such as to the press, when justified;
- Allow whistle-blowers who have suffered any detriment to go to a tribunal (the Employment Tribunal) which deals with cases more quickly than the court system;
- Removing the limit on compensation which may be ordered by the tribunal if a whistle-blower is dismissed;
- Making dismissal and victimisation for whistle-blowing automatically unfair.

The independent, self-funding charitable organisation, Public Concern at Work (PCaW) played a leading role in developing this first comprehensive whistle-blowing law in Europe along with the Campaign for Freedom of Information. The law was passed with cross-party as well as union and business support. The focus on whistle--blowing and the work of PCaW started in the aftermath of a number of disasters, bank failures and political scandals in the UK in the 1980s and early 1990s. Many of the official inquiries set up to examine what went wrong and why found that workers were often aware of the danger but had been too scared to sound the alarm or had raised the matter with the wrong person or in the wrong way. PCaW was set up to in 1993 to:

- Provide free confidential advice to people concerned about wrongdoing in the workplace who are unsure whether or how to raise their concern:
- Support organisations on their internal arrangements, policy and law of whistle-blowing;
- Campaign on public policy; and
- Promote whistle-blowing as a matter public interest and good governance.

In 1995, the work of PCaW was endorsed by the UK Committee on Standards in Public Life, which accepted that unless staff thought it safe and acceptable to raise concerns internally and to appropriate external bodies, they would see no alternative to silence or to leaking the information.

PCaW has advised over 17 000 individuals with a whistle-blowing concern. The organisation has the equivalent of 12 full-time staff, most staff are legally trained and are supervised by qualified lawyers and the work of the charity is also supported by volunteers and interns. Although the work of the charity was originally funded through charitable donations and funds and it still receives individual donations, the expertise and support it can provide employers on their whistle-blowing arrangements as well as its training and promotional work with other key stakeholders in making whistle-blowing work - including with regulators, lawyers, unions and professional bodies - has enabled it to become self-funding. The charity is also able to focus on specific projects for which it can work with other bodies and seek funding. For example, please see its most recent research with the University of Greenwich which examined a sample of case files from the Public Concern at Work advice line to explore the experience of whistle-blowers in the workplace. See Inside Story.

Recent public surveys show that the work of Public Concern at Work and the legislation has had a positive effect, including a 2013 survey commissioned by PCaW from the highly respected 'YouGov' polling organisation. In a two-year period (2012-2013), 1 in 10 workers said they had a concern about possible corruption, danger or serious malpractice at work that threatens them, their employer, colleagues or members of the public and two-thirds of these said they raised their concern with their employer. Eighty-three percent of those surveyed said that if they had a concern about possible corruption, danger or serious malpractice at work they would raise it with their employers, while 72% view the term whistle-blower as positive or neutral.

For further information about whistle-blowing in the UK and the work of PCaW: www.pcaw.org.uk.

As a not-for-profit, non-governmental body which provides confidential advice to individuals and expert support to employers, and campaigns on whistle-blowing, PCaW provides an interesting model that might be transferable elsewhere in the EU. It is important to preserve the independence of advisory bodies under such arrangements.

Until recently, PIDA was the only example of a whistle-blowing law in the EU which extends across both public and private sectors. Its effect has been to encourage employers to develop internal whistle-blowing systems that can promote accountability and effective risk management. Japan and South Africa have adopted laws based on the UK model, showing that it can be useful in very different circumstances. In 2014, the Irish Parliament adopted the Protected Disclosures Act, which sets a new benchmark with a series of innovations in scope (definitions of worker and wrongdoings), so-called "stepped disclosure" (from internal to external reporting, including the media), retrospective application, and the safeguarding of the whistle-blower including strong confidentiality protections.

Inspiring example: Protected Disclosures Act 2014 (Ireland)

The Protected Disclosures Act 2014 will, for the first time, offer legal protections for workers who report concerns about wrongdoing in the public, private and non-profit sectors. Public sector bodies must now put in place whistle-blowing policies which meet the requirements of the Act.

The legislation meets the commitment included in the Programme for Government to introduce comprehensive legislation on whistle-blower protection. Minister for Public Expenditure and Reform Brendan Howlin said the new legislation means those who report wrongdoing will suffer no adverse consequences. Speaking on RTÉ's Morning Ireland, Mr Howlin said there had previously been "*bitty sectoral law*" that protected some workers in some circumstances, but that the Protected Disclosures Act was overarching and all-encompassing. He said: "*You can't have adverse consequences for it [whistle-blowing]. You will have redress, you can't be disadvantaged, you can't be held back in terms of promotion and if you feel you are, you can have that tested in the Labour Court. You also have recourse to the normal courts in terms of the law of tort if you feel you are at a financial disadvantage for making that disclosure.*"

The law includes a number of innovations:

- It defines the **concept of "worker"** broadly, including employees (public and private sector), contractors, trainees, agency staff, former employees and job seekers.
- It sets out an exhaustive list of **"relevant wrongdoings"**, namely the commission of an offence, a miscarriage of justice, non-compliance with a legal obligation, health and safety threats, misuse of public monies, mismanagement by a public official, damage to the environment, and concealment or destruction of information relating to any of the foregoing.
- It prohibits the penalising of workers who make **"protected disclosures"** meaning the disclosure of relevant information, which in the reasonable belief of the worker tends to show one or more relevant wrongdoings and came to the attention of the worker in connection with their employment.
- It introduces the concept of **"stepped disclosure"**. Workers are encouraged to make their disclosures to the employer in the first instance (or to the person who is legally responsible for the wrongdoing), but other options are available where this is inappropriate or impossible, namely to: "prescribed persons" (e.g. a regulatory body) as determined by the Minister for Public Expenditure and Reform; a minister; a legal advisor; or into the public domain (e.g. the media) under certain circumstances and conditions.
- It has **retrospective application**, meaning that a worker who made a protected disclosure before the date of the Act may, depending on the circumstances of the case, be entitled to protection under the legislation.

The safeguards afforded by the law include protection from dismissal for having made a protected disclosure; protection from penalisation by the employer; civil immunity from action for damages and a qualified privilege under defamation law; a right of action in tort (civil law) where a whistle-blower or a member of his family experiences coercion, intimidation, harassment or discrimination at the hands of a third party; and protection of identity (subject to certain exceptions set out in the law). The motivation for making the disclosure is irrelevant,

but compensation may be reduced by up to 25 %, if investigation of the relevant wrongdoing was not the only or main motivation for the worker making the disclosure.

Transparency International Ireland said it offers a safety net to workers in all sectors of the Irish economy for the first time. TI Ireland Chief Executive John Devitt said the law "*draws on best practice guidelines and takes a more comprehensive approach similar to that adopted in the UK, New Zealand and South Africa*". It said key provisions include a prohibition on penalising workers who make protected disclosures and a wide definition of "worker". It said it also includes a broad range of "relevant wrongdoings" that can be reported including criminal offences, breaches of legal obligations, threats to health and safety or the environment, miscarriages of justice, improper use of public funds or any attempt to conceal information in relation to such wrongdoings. TI Ireland, a non-profit organisation, has lobbied for blanket legislation on the issue since 2007.

Quotes from http://www.rte.ie/news/2014/0715/630799-whistleblowers-legislation/

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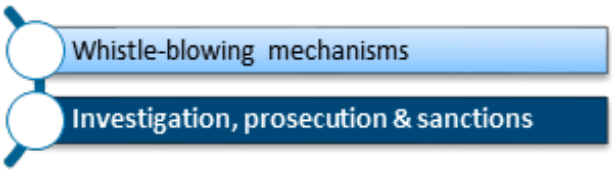
Research suggests that reporting suspected wrongdoing to a regulator or to the media (external whistle-blowing) is more effective than reporting the suspected wrongdoing to one's employer (internal whistle-blowing)[28]. Where laws do exist across the EU, they tend to provide compensation or redress in the event of victimisation, which only indirectly encourages whistle-blowing. More positively, public administrations across the EU can lead the way by establishing internal whistle-blowing procedures, but also ingraining a strong culture of integrity in their organisations whereby whistle-blowers are seen as making a contribution, not a complaint. Every case should then be subject to rigorous follow-up to ensure that justice is done, and seen to be so, with full legal protection of the whistle-blower from victimisation. Indeed, safeguards should move beyond passive protection to actively rewarding whistle-blowers, as part of a culture of continuous improvement (see theme 1).

The Flemish Government's Integrity Coordinator has highlighted the 'whistle-blower paradox': the pre-conditions for a successful internal whistle-blower system include a positive and open culture and trust in management, but organisations that meet these conditions tend not to need a whistle-blower procedure.[29] An integrity policy should encourage staff to discuss matters openly within their departments and entities, as openness is a safeguard against unethical behaviour. However, if an official sees more serious malpractice, it might serve their self-interest better to bring the problem to attention through confidential routes, such as an anonymous helpline. If the problem persists, officials often 'vote with their feet', and leave the administration rather than have to deal with the potential risks of whistle-blowing (cold-shouldered by colleagues, overlooked for promotion, etc.). This leaves the wrong-doing hidden and unresolved, and loses an ethical staff member: a 'lose-lose'. This response can sometimes be revealed through confidential exit interviews with someone outside of their department, such as a personnel or integrity officer, which gives the official an opportunity to put their concerns into the system, while avoiding possibly being interviewed by a direct supervisor who might be the source of the malpractice.

[28] See Rothschild, J., & Miethe, T. D. (1999). "Whistle-Blower Disclosures and Management Retaliation". Work and Occupations, 26(1); the study shows that 44 % of external whistle-blowers thought that their organisation had changed its practices as a result of reporting the matter outside their organisation, but just 27 % of internal whistle-blowers reached the same conclusion from their internal reporting. See also Dworkin, T. M., & Baucus, M. S. (1998), "Internal vs. External Whistleblowers: A Comparison of Whistleblowing Processes", Journal of Business Ethics, 17(12), which suggests that external whistleblowing is more effective than internal, because the former often sparked investigations or other remedial actions by the organisation.

[29] http://www.surrey.ac.uk/sbs/files/Five%20Paradoxes%20in%20Managing%20Whistle-blowing.pdf

2.4.2. Investigation, prosecution and sanctions



Achieving the transition from regular to rare corruption in any field or institution means a common understanding, widely shared, that the chances of being caught and the probability of being penalised for corrupt behaviour are both high. If enforcement of disincentives and sanctions is poor, and the likelihood and costs of detection to the perpetrator are too low, the deterrence effect is fatally undermined. Shining a light in dark corners and designing punitive sanctions are essential steps to stamping down on corruption, but unless it leads to action, is likely to generate cynicism. Subject to the fair and efficient application of the law in line with fundamental human rights, citizens expect to see investigations that lead to prosecutions and, in turn, to convictions.

Specialist institutions in Member States include **anti-corruption agencies** that are tasked with law enforcement and responsible for detection, investigation and often prosecution too, frequently with a high level of independence and visibility. Recent research[30] has found that countries can be at least equally effective in dealing with corruption through their normal legal system - prosecution and courts - as long as the judiciary is independent. The deterrent effect also comes down to the quality and efficiency of the judicial system, with the whole end-to-end process of investigation, prosecution and decision satisfying the criteria of rigour, timely proceedings and justice seen to be done.

In the interests of maximum deterrence, a high probability of being caught should be matched by punitive sanctions, which requires effective disciplinary policies and procedures within organisations (see topic 2.3.1), leading to penalties (including fines, loss of employment, and criminal charges) and possibly restitutions (holding officials liable for compensation). For example, common responses to corruption among border guards include demotions, dismissals or transfers to different units and locations, as well as prosecutions, while some Member States have used disciplinary briefings of the entire unit after corruption has been exposed, so that other officers are warned against corrupt behaviour.[31] Investigation and enforcement of sanctions serve not only as a deterrent to public officials, but also highlight to the public that public officials are truly held accountable.

2.5. Conclusions, key messages and inspiration for future action

An ethical public administration is essential to good governance and therefore economic performance. The flipside is that corruption, especially systemic corruption, hinders investment and holds back development. Corruption has a range of causes and effects in different countries, and there is no 'silver bullet', but there are many **tried and tested techniques** that Member States can turn to, which can be built upon further as experience suggests. It is realistic to expect that, with comprehensive reforms, corrupt behaviour can become the rare exception rather than the rule in any EU country.

Where they are felt to be useful in tackling endemic corruption, integrity policies and anti-corruption **strategies** should be tailored to national circumstances. To promote integrity and tackle corruption in specific sectors or institutions, it is unlikely that individual instruments will be effective in isolation. To be successful, strategies typically contain a package of complementary measures that are mutually reinforcing, under an integrity policy based on **stated values.**

(30) Mungiu-Pippidi A., (op.cit)

(31) Center for the Study of Democracy (2012), op. cit.

Initiatives should be targeted in particular, on levels of government, sectors and institutions where **corruption risk** is highest in both probability and impact. The context and opportunities for corruption are particular to each field (e.g. healthcare, customs, procurement, police, licensing).

Leadership is a prerequisite for successful anti-corruption strategies. Leading from the front means ensuring the scope for grand corruption is supressed, to set the scene for combatting petty corruption, which tends by nature to be more fragmented across public administrations and services, and hence can be harder to address.

Research indicates that transparency, administrative simplification, e-Government, high quality audit, effective judiciary, independent media and active civil society organisations rate among the most effective antidotes to corruption, by detecting and deterring unethical acts.[32] The prize in higher levels of economic prosperity for countries that tackle corruption can be seen in those older Member States with high GDP per person, which were also the 'first generation achievers' that put in place good governance systems before 1900, such as merit-based civil service systems.[33]

Solutions that might work to deter isolated incidents (such as codes of conduct and ethics training) will be insufficient where corruption is endemic. Systemic corruption demands '**rule-changing**' strategies to cross the 'tipping point' from largely corrupt to largely clean. Controls are necessary, but a dense regulatory environment only creates greater opportunities to bend the rules and to extort bribes, gifts and favours. As well as being an element of reform strategies (see TO11 ex ante conditionality), administrative simplification and cutting red tape is a recurring theme throughout the Toolbox (see themes 1, 4, 5 and 6). Reducing the number of administrative steps and interaction with public servants is desirable, unless the decision-making process is unavoidably sophisticated and necessary for the best policy outcomes.

In designing measures, **balances** must also be struck between the benefits and the costs, which can be financial (systems for monitoring and enforcements), but also expressed in terms of policy and personal outcomes. For example:

- Should the public have the right to information at the expense of the individual's right to privacy?
- Is lobbying a legitimate reflection of the need for consultation or the potential source of conflicts of interest?
- Does removing discretion and hence opportunity for corruption jeopardise the exercise of judgment?

A pro-integrity, anti-corruption culture is built around **trust** - across society, institutions and individuals - which means incentives as well as sanctions. Repressive measures (such as asset disclosure, integrity tests, compliance checks, restrictive contracts) must be offset by positive messages (such as fair pay, better working conditions, rewards for whistle-blowing). The pros and cons of proposed initiatives should be weighed to ensure that suspicion does not become a self-fulfilling prophecy, and unintended consequences are avoided. The goal should be to shift the emphasis over time from focusing on compliance to facilitating integrity.

(32) "Controlling Corruption in Europe", http://anticorrp.eu/publication_type/deliverable/

(33) See Mungiu-Pippidi, A., "Transformative Power of Europe" (2014) and "Becoming Denmark: Historical Paths to Control of Corruption" (2013)

Two frameworks for integrity management

	Compliance approach	Integrity approach
Goal	Prevent unethical behaviour	Stimulate ethical behaviour
Controls	External controls	Internal controls
Instruments	Legislation	Training and development
	Codes of conduct	Codes of ethics
	Well-defined procedures	Integrity counsellors

Source: Timo Moilanen, Office for the Government as Employer, Government of Finland

Trust cannot be regulated, so while laws and contracts provide the foundations of anti-corruption strategies, the ultimate aim should be to reach the point where values are internalised, rules are implicit, and recourse to enforcement is the last resort. Good governance is synonymous with ethical administration.