



EUROPEAN SEMESTER THEMATIC FACTSHEET

FIGHT AGAINST CORRUPTION

1. INTRODUCTION

Corruption is a drag on economic growth. By diverting resources away from economically productive outcomes, it undermines the efficiency of public spending. Particularly when public resources are limited, corruption also undermines the sustainability of public budgets and reduces public funds for investment. In deficit scenarios, the cost of servicing that portion of debt resulting from corruption has a further long-term impact on the public purse.

It has been estimated that corruption alone costs the EU economy €120 billion per year, just a little less than the annual budget of the European Union¹. Because corruption and low rates of inclusive growth are mutually reinforcing, fighting corruption is of key importance if structural reforms are to be sustainable. The general public and businesses expect the EU and Member States to protect the economy against organised crime, financial and tax fraud, money laundering and corruption.

In the business environment, corruption creates uncertainty, slowing processes

¹ The total economic costs of corruption cannot easily be calculated. The cited figure is based on estimates by specialised institutions and bodies, such as the International Chamber of Commerce, Transparency International, UN Global Compact, World Economic Forum, Clean Business is Good Business, 2009, which suggest that corruption amounts to 5% of GDP at world level.

and potentially imposing additional costs. This makes a location less attractive for doing business and therefore reduces private investment and competitiveness and does not allow the economy to fulfil its potential. Corruption also acts as a disincentive for taxpayers to pay taxes. All of this together has a knock-on on public sector finances, reducing tax revenues and further limiting the public sector's capacity to invest.

Having fewer resources as a result of corrupt practices can be detrimental to social protection and public services because it reduces the budget available and disrupts equitable access to public services². Over time, corruption nurtures and deepens social inequalities, eroding trust in the state and confidence in institutions and governments. Ultimately, in extreme cases, corruption can be a threat to democracy itself.

The true social cost of corruption cannot be measured merely by the amount of bribes paid or public funds diverted. It also includes the loss of output due to the misallocation of resources, distortion of incentives and other inefficiencies caused by corruption. Corruption can also inflict adverse effects on the distribution of income and disregard for environmental protection. Most importantly, corruption undermines trust in legitimate institutions, diminishing their ability to provide adequate public services and a conducive environment

² Gupta et al. (2002), Olken (2006).

for private sector development. In extreme cases, it may entail the delegitimisation of the state, leading to political and economic instability. The resulting uncertainty discourages private business commitment to a long-term development strategy, making sustainable development harder to achieve.

Source: OECD (2013) 'Issue Paper: Corruption and Economic Growth'

By contrast, more transparency and integrity in the public sector creates fewer opportunities for corruption. This means more competitiveness, more efficient tax collection and public spending, and a consolidation of the rule of law. As a result, competition on the market for goods and services improves as barriers to trade and investment diminish.

'Abuse of power for private gain' is a widely accepted definition of corruption. While this also encompasses the private sector³, corruption is generally understood to cover misuse of one's position in or links with the public administration to secure undue benefits for oneself or for a third party. Grand corruption involves exchanges between the higher echelons of national and local administrations, top political party officials, elected politicians and private sector interests. Petty corruption occurs in the interaction between lower echelons of the public administration and individual citizens.

Genuine political will is an essential condition for effective long-term national reform. This translates into awareness of corruption issues at political level, the prioritising of resources to enforce anti-corruption policies, the setting of clear and tangible objectives and the creation of a general climate of political accountability. Measures to reduce corruption, conflict of interest and favouritism need to be linked to deep-rooted structural and cultural change in public bodies and wider society, rather than simply adopting legislation and ensuring formalistic compliance with it. Although

³ See Council Framework Decision 2003/568 JHA of 22 July 2003 on *Combatting Corruption in the Private Sector*.

anti-corruption legislation is necessary, the key challenge lies mostly in its implementation. Corruption can have an impact both on national and EU policies and funds. This is reflected in the Treaty on the Functioning of the European Union which recognises corruption as an area of crime where the EU may need to act on a common basis⁴.

In addition to putting more emphasis on corruption in European Semester reports and recommendations, the Commission has supported reform efforts in the Member States by publishing the EU Anti-Corruption Report⁵ and organising experience-sharing workshops⁶ across the EU for experts on relevant topics. A toolbox on the quality of public administration, illustrated by nearly 170 case studies, helps practitioners to promote integrity⁷.

A number of aspects which are also relevant to corruption, such as public administration and effective justice systems are dealt with in [separate factsheets](#).

This factsheet is structured as follows: Section 2 reviews the state of play of the fight against corruption in the EU Member States and the key challenges behind this; Section 3 examines several policy levers to address these challenges; and Section 4 highlights some examples of good practice in the Member States.

⁴ Article 83, TFEU
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12008E083>.

⁵ EU Anti-Corruption Report,
<http://ec.europa.eu/anti-corruption-report/>.

⁶ Anti-corruption Experience Sharing Workshops
https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/experience-sharing-programme_en.

⁷ Toolbox on the quality of public administration,
<http://ec.europa.eu/esf/toolbox>.

2. KEY CHALLENGES

Corruption is a complex phenomenon with economic, social, political and cultural dimensions. An effective policy response needs to be based on evidence about its prevalence and forms in a given country, the conditions that enable it and the institutional and other incentives that can be used against it. The fight against corruption cannot be reduced to a standard 'one-size-fits-all' set of measures. Nevertheless, for a response to be successful, there have to be tools in place to prevent, detect, repress and sanction corruption.

2.1. Measuring corruption

To devise a strategy to fight corruption, it is essential to understand the level of corruption and forms it takes in any given country and identify the sectors at high risk and the drivers behind it. However, gathering credible data on levels of corruption is a particular challenge, given that corruption flourishes precisely when it remains hidden. Comparable cross-country official statistics on corruption offences are scarce. The Commission's exploratory collection of EU-level statistics⁸ in 2015 revealed many differences between Member States in terms of the definition of offences, the indicators available, and the methodology for recording data.

Measuring corruption is a complex task. Corruption differs from most aspects characterising the health and wealth of any economy, which can be measured by objective econometric indicators. While it is possible to *assess* the situation, it is usually not possible to quantify the full scope of the problem.

Quantitative assessments therefore rely on sample surveys of experiences of corruption, combined with research-based expert assessments. These expert assessments have been traditionally

⁸ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/docs/official_corruption_statistics_2011_2013_jan_16_en.pdf.

used with analyses of systemic features affecting corruption risks or safeguards against such risks in place in different settings. Opinion surveys of perceptions also provide an important indication of the pervasiveness of the problem over time. Where businesses or the general public perceive corruption to be widespread, this can act as an important barrier to investment in its own right, amplifying the effects of corruption on the economy⁹.

According to the 2015 Flash Eurobarometer on *Businesses' attitudes to corruption in the EU*¹⁰:

- 40% of companies in the EU say corruption is a problem for them when doing business;
- 71% of companies say corruption is widespread in their country;
- 44% of respondents say the only way to succeed in business is to have political connections;
- 34% of companies who participated in public tenders or public procurement procedures in the last 3 years felt that corruption had prevented them from winning a contract;
- 68% of companies agreed that favouritism and corruption hamper business competition in their country;
- 4% of businesses said they had been asked or expected to pay a bribe to receive certain public services or permits in the past 12 months.

⁹ Recent research results show consistency between perception of corruption and actual experiences of corruption. Charon, Nicholas (2015) '[Do corruption measures have a perception problem? Assessing the relationship between experiences and perceptions of corruption among citizens and experts](#)'. European Political Science Review. Volume 8, Issue 1; February 2016, pp. 147-171.

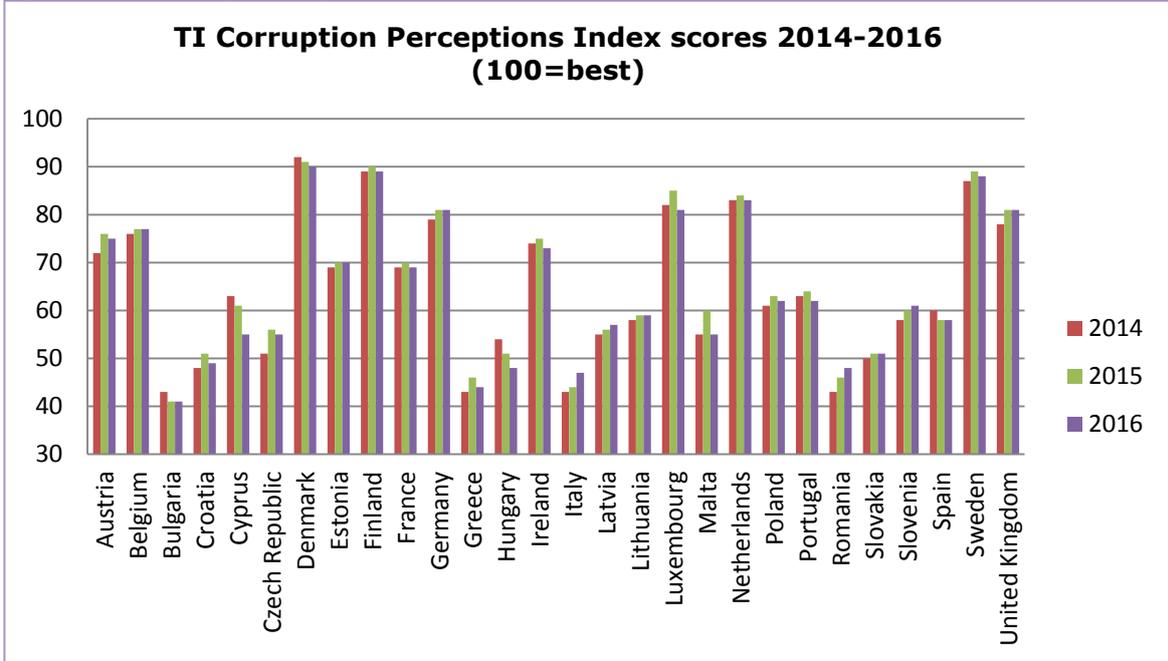
¹⁰ 2015 Flash Eurobarometer on Businesses' attitudes to corruption in the EU, http://data.europa.eu/euodp/en/data/dataset/S2084_428_ENG.

Compared to 2013, there has been on average a slight improvement in perceptions of the level of corruption at EU level (e.g. 71% think that corruption is widespread today, compared to 75% in 2013). Results at Member State level vary considerably. The general trend is that businesses experience and perceive corruption more in southern and eastern Europe than in northern and western Europe.

The results are largely correlated with those in other widely used composite indices. One such global index often cited is the transparency international

corruption perceptions index¹¹, which is calculated using 12 data sources from 11 institutions that capture perceptions of corruption within the previous 2 years. Another widely used index is the 'control of corruption' indicator produced by the World Bank as part of its world governance indicators. These indicators are based on several hundred variables on governance perceptions obtained from 31 different data sources¹². The recent results of these two surveys for EU Member States are displayed in the figures below.

Figure 1 – Transparency International CPI index



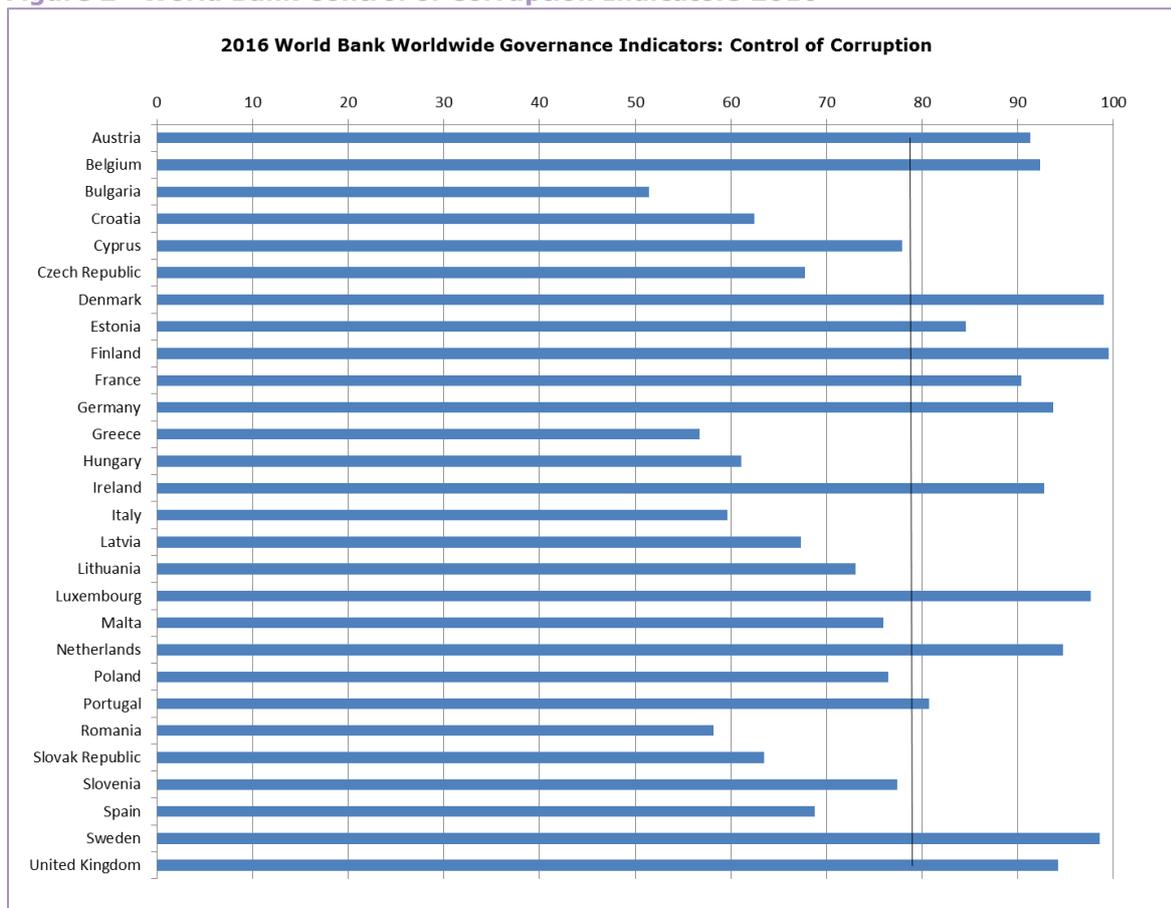
Source: Transparency International¹³

¹¹ Corruption Perceptions Index, <https://www.transparency.org/research/cpi/overview>.

¹² World Governance Indicators <http://info.worldbank.org/governance/wgi/pdf/WGi.pdf>.

¹³ Corruption Perception Index, <https://www.transparency.org/research/cpi/overview>.

Figure 2– World Bank Control of Corruption Indicators 2016



Source: 'Control of Corruption' indicator within the World Bank's World Governance Indicators¹⁴

A third study often used is the Global Competitiveness Report¹⁵. It is produced annually by the World Economic Forum to determine the level of productivity of economies worldwide and includes a number of indicators focusing on institutions that are relevant for corruption-associated risks. The scores are based on business responses to the Executive Opinion Survey, weighted to account for sample size and include responses from the past 2 years¹⁶.

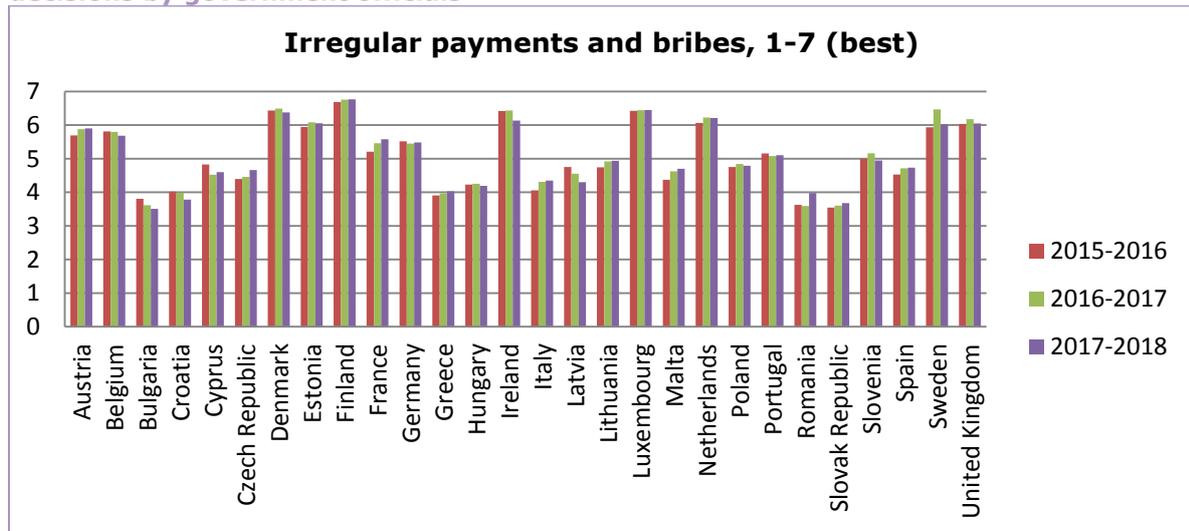
Figures 3, 4 and 5 show recent results for EU Member States. Higher values indicate a relatively better situation than lower values.

¹⁴ World Governance Indicators
<http://info.worldbank.org/governance/wgi/index.aspx>.

¹⁵ Global Competitiveness Report 2016-2017
<https://www.weforum.org/reports/the-global-competitiveness-report-2016-2017-1/>.

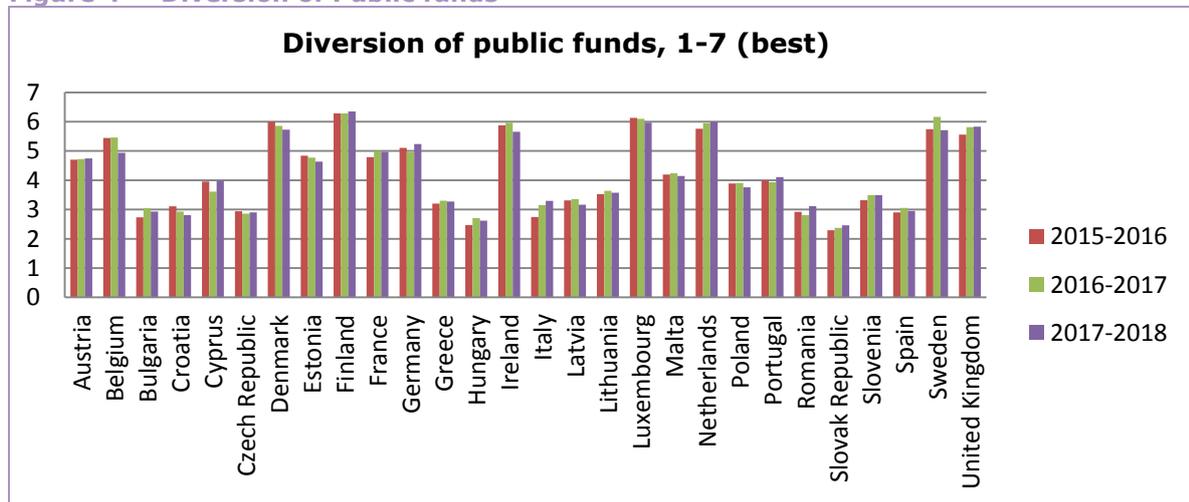
¹⁶ <http://reports.weforum.org/global-competitiveness-index-2017-2018/>.

Figure 3 – Irregular payments and bribes, diversion of public funds and favouritism in decisions by government officials



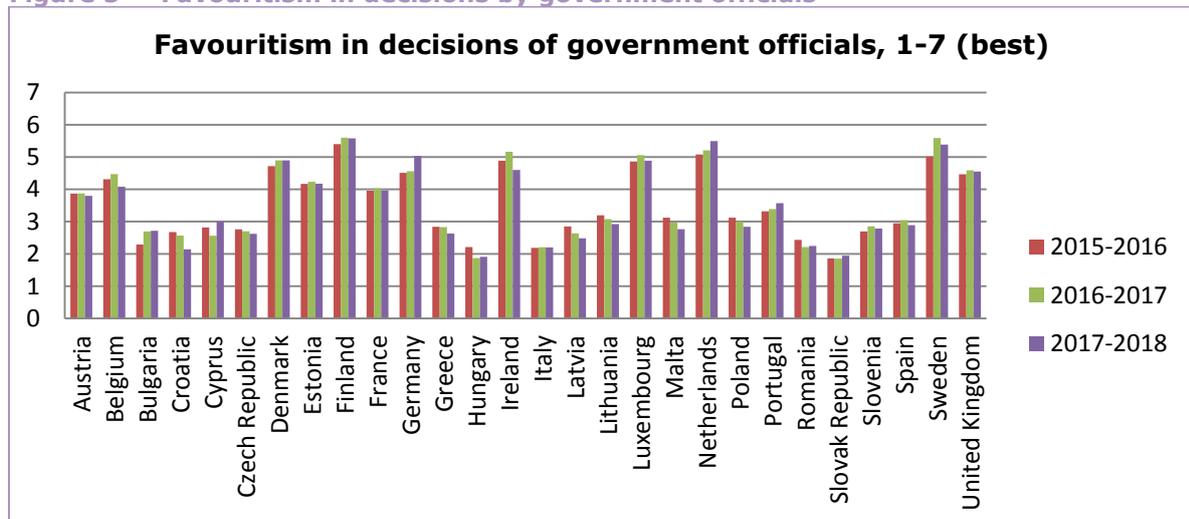
Source: World Economic Forum, Global Competitiveness Report

Figure 4 – Diversion of Public funds



Source: World Economic Forum, Global Competitiveness Report

Figure 5 – Favouritism in decisions by government officials



Source: World Economic Forum, Global Competitiveness Report

2.2. Prevention: reducing the opportunities for corruption

Prevention is a key pillar in the fight against corruption. Many Member States have set up specific rules and institutions to prevent corruption and enhance integrity in the public sector¹⁷.

One key challenge in making preventive measures work is to ensure that they are based on a careful diagnosis of risks and vulnerabilities. Preventive measures need to be targeted at the problems they seek to remedy and be used where there is a real need. Otherwise, they may turn into a simple bureaucratic exercise. Without proper implementation and follow-up, even the most complex preventive strategy will remain purely formalistic and have little impact on the incidence of corruption.

Another challenge is linked to fragmentation. Often prevention measures do not lead to visible results if they are not part of a comprehensive approach. For example, awareness training will have little effect if staff facing integrity dilemmas do not receive continued guidance and support or if the training is not accompanied by civil service reforms that introduce meritocratic recruitment or staff rotation for sensitive posts.

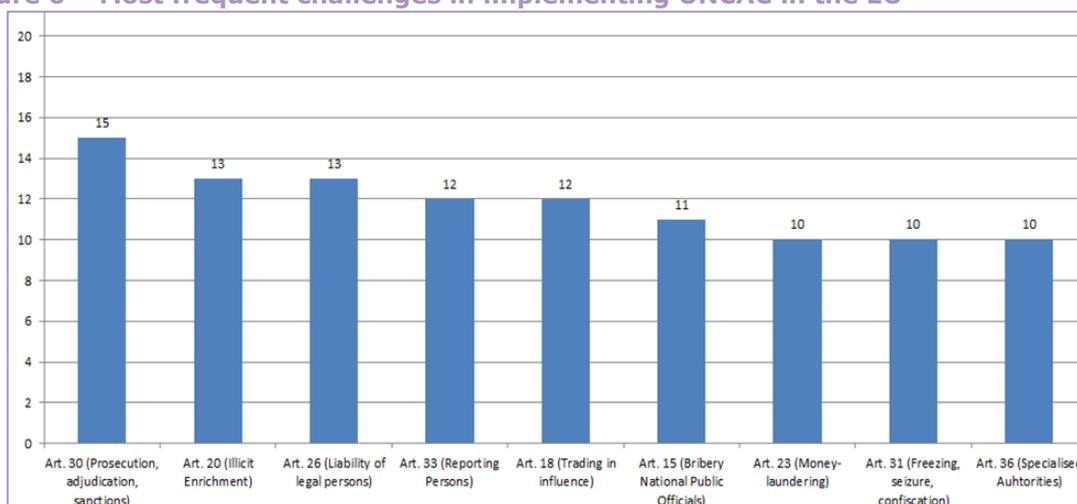
Finally, ownership and accountability are important. Preventive measures may fail to produce the desired effects if there is no clear line from the top and if the rules are not enforced on the ground. An effective prevention strategy begins with prompt and proportionate follow-up to incidents, including disciplinary proceedings where relevant, and communication and media handling in line with the sensitivities involved.

2.3. Ensuring an effective criminal law response to corruption

The Council of Europe, the UN and the EU have established international standards for criminalizing corruption. Many Member States have introduced substantive legislative reforms in response to these standards, to make procedures more efficient and reinforce anti-corruption provisions (including a better definition of offences, in some cases higher sanctions, and fast-track provisions).

Despite these continued efforts, challenges remain in some Member States. The first review of EU Member States' implementation of the UN Convention Against Corruption shows a number of challenges.

Figure 6 – Most frequent challenges in implementing UNCAC in the EU



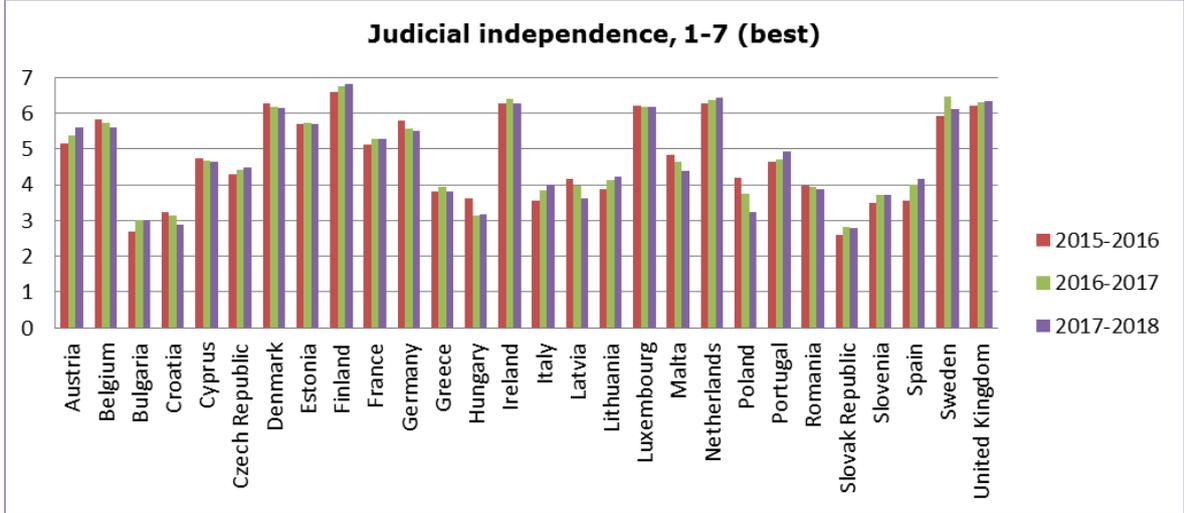
Source: United Nations Office for Drugs and Crime

¹⁷ Others have less sophisticated frameworks in place, but face lower risks of corruption due to established preventive mechanisms, practices or traditions.

Apart from the legal provisions themselves, it is also of key importance for the institutions entrusted with their enforcement to work in an effective and impartial manner. It is fundamental for the judiciary, prosecution and law enforcement bodies to be independent and have the funding, human resources, technical capacity and

professionalism required. Likewise, striking the right balance between privileges and immunities of the public officials and ensuring that these are not used as obstacles to effective investigation and prosecution of corruption allegations is still an issue in some Member States.

Figure 7 – Judicial independence



Source: World Economic Forum Global Competitiveness Index

The ability of a judicial system to impose dissuasive criminal sanctions plays a major deterrent role and evidence of an effective zero-tolerance for corruption policy.

2.4. Selected policy sectors

This section further examines the challenges associated with two specific sectors: public procurement and healthcare. Other high risk areas include economic sectors such as construction and extractive industries. The sectors in local public administration most prone to corruption risks include urban development planning and permits, and waste management and re-zoning decisions.

Public procurement is a significant part of the national economies in the EU (see [separate factsheet](#)). The Commission estimated the total value of calls for tenders above the thresholds set out in the EU procurement Directives¹⁸ to be approximately 14% of EU GDP in 2016¹⁹.

Given the level of financial flows generated and the close interaction between the public and the private sectors, public procurement is highly vulnerable to corruption. As noted by the OECD: 'weak governance in public procurement hinders market competition and raises the price paid by the administration for goods and services,

¹⁸ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement.

¹⁹ Public Procurement Indicators http://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm#maincontentSec3.

directly impacting public expenditures and therefore taxpayers' resources'²⁰.

A 2013 study of eight Member States concluded that in 2010 the overall direct costs of corruption in public procurement in five selected economic sectors ranged from €1.4 billion up to €2.2 billion.

A recent study estimates the annual cost of corruption in public procurement in EU Member States to be €5.33 billion²¹.

The EU Anti-corruption Report (2014) concluded that public procurement appeared to be most vulnerable to corruption in sectors such as construction, energy, transport, defence and healthcare. Based on prosecutions for corruption in public procurement in the Member States, the most frequent problems are at the pre-bidding stage.

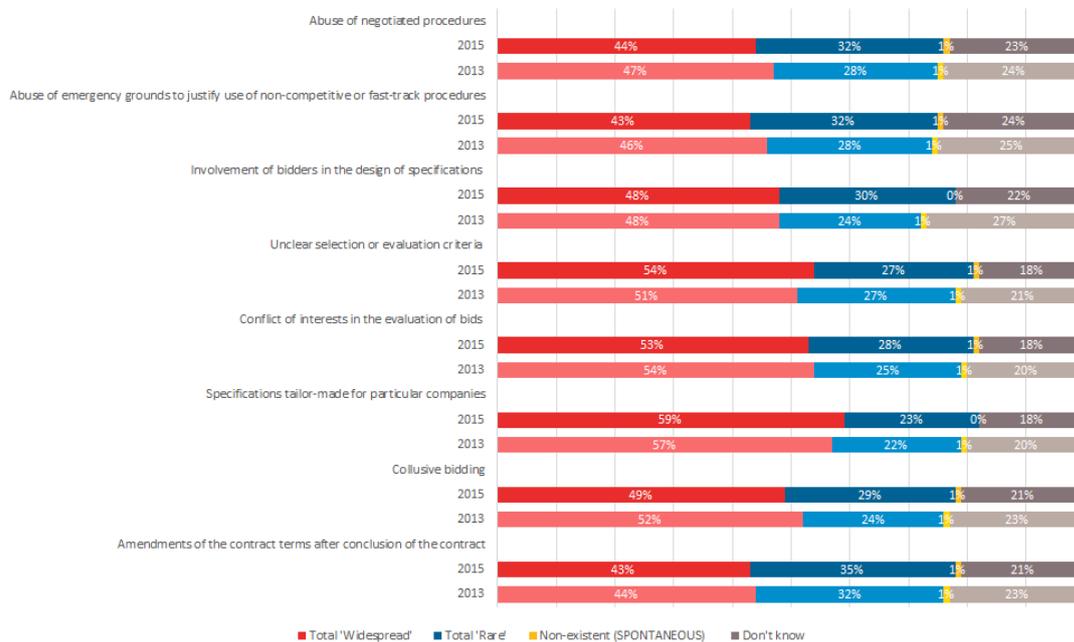
The most common practices include:

- drafting tailor-made specifications to favour certain bidders;
- splitting public tenders into smaller bids to avoid competitive procedures;
- conflicts of interest affecting not only procurement officials, but also higher level officials of contracting authorities;
- unjustified use of emergency procedures or exemptions of tenders from publication.

However, weak monitoring and verification of the post-award phase also raises concerns, leaving room for behaviour such as insufficient justification for amendments to public contracts, deliberate modification of the quality of deliverables, and the payment of kickbacks.

A 2015 Eurobarometer survey of businesses confirms that a number of these issues continue to be of concern to economic players in EU Member States.

Figure 8 – Perceptions of how widespread corruption practices are in public procurement procedures



Source: Flash Eurobarometer 428 (2015) Business attitudes towards corruption in the EU²².

²⁰ OECD (2009) Principles for Integrity in Public Procurement, <http://www.oecd.org/gov/ethics/48994520.pdf>.

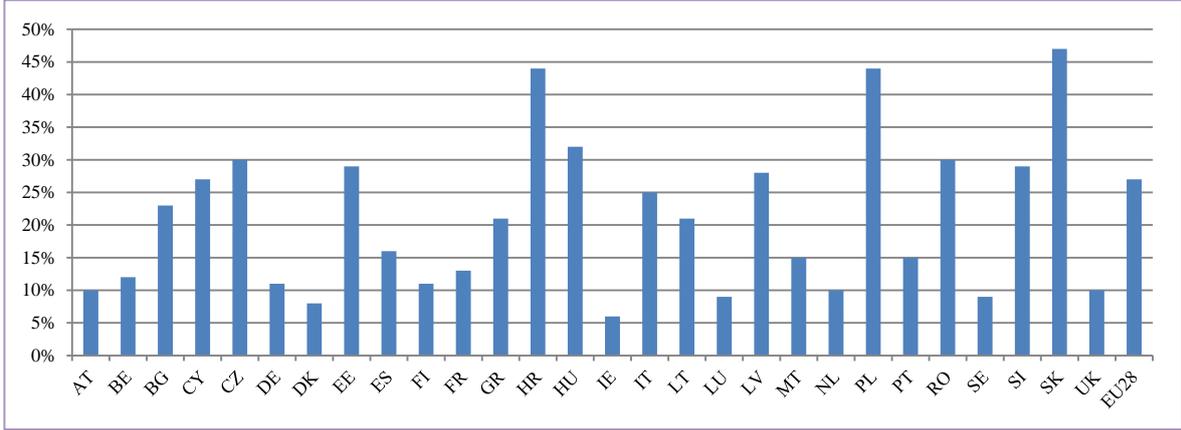
²¹ RAND Europe (2016) 'The Cost of Non-Europe in the area of Organised Crime and Corruption', RAND Europe. This study relies on data from the [Quality of Government Institute](http://www.rand.org/pubs/reports_papers/2016/04/01).

²² Flash Eurobarometer 428 (2015) Business attitudes towards corruption in the EU <http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/Survey/getSurveyDetail/instrument/FLASH/surveyKy/2084>.

The use of negotiated and direct award procedures is obviously justified in certain circumstances. However, in some cases they are used specifically to avoid compulsory competitive procedures. In some Member States, the use of non-competitive procedures is considerably above the EU average.

The unjustified use of negotiated procedures may increase the risk of corrupt practices. Likewise, single bidding in competitive markets can be used as an indication of possible corruption risks in public procurement, especially when supplemented by other red flags.

Figure 9 – Proportion of contracts for which there was a single bid (excluding framework contracts) 2006-2017



Source: European Commission based on OJ/TED data (Croatia 2013-2016, Romania & Bulgaria 2007 - 2016)

2.4.1. Corruption in healthcare

The **healthcare sector** is one of the sectors where petty corruption is a risk in some circumstances. It takes the form of unofficial payments to obtain differentiated treatment. Such corruption appears to be widespread in only a small number of EU Member States. Where it exists, however, it comes with considerable negative consequences for universal access to [healthcare](#). Several Member States have managed to achieve significant progress in recent years. Some Member States have registered progress in reducing informal payments through a combination of awareness-raising campaigns, active investigation and prosecution of cases and media coverage. While the root causes of this phenomenon are complex, for those countries most affected they include a general acceptance of bribery as an entrenched practice, low wages for health professionals, ineffective managerial structures and ineffective

control mechanisms²³. The fragmentation of the legal framework may also create loopholes and uncertainty, allowing informal payments to flourish.

Surveys of people in the EU on their direct experience with corruption confirm this picture, although a number of Member States continue to struggle with significant corruption risks in the healthcare sector. Besides informal payments, corruption risks in healthcare also concern issues such as privileged access and double practice²⁴, improper marketing, the procurement and certification of medical devices and the procurement and authorisation of pharmaceuticals²⁵.

²³ Ecorys (2017) Updated study on corruption in the healthcare sector. https://ec.europa.eu/home-affairs/e-library/documents/policies_en?policy=456

²⁴ Double practice refers to doctors working in both private and public health facilities.

²⁵ See footnote 23.

3. POLICY LEVERS TO ADDRESS THE CHALLENGES

Transparency and accountability are arguably the most important ingredients in minimising corruption²⁶. **Integrity in elections** and a transparent and **accountable political party financing regime** are also key elements in this respect. **Effective prosecution** of corruption, **fair trials** and a firm application of **dissuasive sentences** for corruption-related offences are key in fostering deterrence. An effective legal **protection of whistleblowers** and the presence of independent **media and civil society** are essential parts of a successful anti-corruption framework.

Law enforcement needs to be complemented by a sound prevention policy, which can only be implemented in a context of improved quality of institutions quality and public sector governance.

Appropriate policy measures vary from one country to the next. The measures detailed in this section are necessary, but neither exhaustive nor guaranteed to eradicate corruption²⁷. An essential condition for the success of any policy is political will from the top, both from elected politicians and appointed officials. There also has to be an independent and impartial judiciary that demonstrates a willingness and capacity to investigate, prosecute and sanction corruption.

Reducing corruption can be achieved when there is a real culture change in public bodies and wider society. The simple adoption of statutory legislation or administrative measures will not suffice, but effective and sustainable implementation of both will make a difference in tackling corruption. Some Member States that have faced serious

challenges in dealing with corruption have set up complex and sophisticated legal and institutional frameworks and adopted numerous targeted strategies or programmes. Other Member States have less comprehensive frameworks in place but face lower risks of corruption. This is due to established preventive mechanisms, practices or traditions, for example involving the suppliers and recipients of public services or high levels of transparency.

3.1. Use of preventive policies

Transparency is a particularly strong tool in the fight against corruption. Freedom of access to information improves good governance and helps to make government more accountable. In areas of particular risk, such as healthcare and public procurement, prompt and proactive disclosure of relevant data in a clear and easily searchable format can eliminate corruption opportunities to a great extent and allow civil oversight of decisions of high financial impact.

There is a general trend towards more open government and making public data more widely available. 21 EU Member States are parties to the Open Government Partnership, a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance²⁸.

Building integrity in public administration, including by strengthening the **merit-based component**²⁹ and implementing an effective **corruption prevention** policy, requires addressing issues such as conflict of interest, clientelism and favouritism. Only by doing so is it possible to prevent the emergence of an environment conducive to covert trading in undue

²⁶ OECD (2013) 'Issue Paper: Corruption and Economic Growth'.

²⁷ Such measures are regularly recommended in peer evaluations under the Council of Europe's Group of States against Corruption (GRECO), the UN Convention against Corruption (UNCAC) and the OECD.

²⁸ <http://www.opengovpartnership.org/about>

²⁹ Charron, N., Dahlström, C. & Lapuente, V. (2016) 'Measuring Meritocracy in the Public Sector in Europe', European Journal on Criminal Policy and Research, Volume 22, Issue 3, pp. 499-523.

influence between public and private players.

In the complex world of public policy-making, public administrations want to engage in a continuous dialogue with outside stakeholders to ensure that all interested parties can have their say. As lobbying activities can raise the risk of corruption and regulatory capture³⁰, it is desirable to have mechanisms in place to monitor such activities and ensure transparency, be it through legislation or a voluntary registration of lobbyists. By creating clarity about the relationship between authorities and external stakeholders, such mechanisms can help to reduce the risk of corruption. So far, relatively few Member States have taken such steps, though some are either planning legislation or rules, or are discussing possible new mechanisms.

3.2. Sound external and internal administrative verification mechanisms

Verification mechanisms within public bodies play an important role in preventing and detecting corruption. While law enforcement is of utmost importance in fighting corruption, deep-rooted corruption can be effectively tackled only by a comprehensive approach aiming to increase prevention and verification mechanisms at all levels of public administration. Strong and independent courts of audit can play a prominent role in advancing anti-corruption reforms, developing corruption risk analyses and notifying other relevant authorities of suspected corruption. In a number of Member States, internal verifications (particularly at local level) are still weak and uncoordinated and could be strengthened in combination with strong prevention policies to deliver tangible and sustainable results.

³⁰ This term refers to the situation in which rather than acting in the public interest, state agencies with regulatory capacities advance the commercial or political concerns of special interest groups that dominate the specific industry or sector in which the agency is active.

3.3. Asset and interest disclosure

Asset disclosure for officials in sensitive posts is a practice which helps to consolidate the accountability of public officials, ensures better transparency and makes it easier to detect potential cases of illicit enrichment, conflicts of interest, incompatibilities, and to detect and investigate potential corrupt practices. An effective system for declaring assets may contribute to a transparent public service that enjoys higher levels of public trust.

Approaches towards asset disclosure for elected officials range from requiring the disclosure of a considerable amount of information, to more limited disclosure or non-disclosure policies. Asset disclosure does not automatically imply publication, which has to be balanced with the right to data protection. Some Member States which apply asset disclosure systems do not publish all asset declarations. They do, however, require public officials to submit detailed asset declarations to relevant authorities. For professional public officials in certain sectors, asset disclosure could be a way forward to avoid conflicts of interest. Across these different approaches, there is a general trend towards stricter asset disclosure requirements for public officials.

Verification is an important ingredient in any effective asset declaration system. In some Member States, bodies in charge of monitoring asset disclosure have limited powers and tools. In others there is little evidence of active implementation or enforcement of those rules. In a few countries, the verification system is complex and cumbersome, reducing its effectiveness. Not many Member States have a system of thorough verification. In those that do, substantial checks are carried out by specialised independent anti-corruption/integrity agencies that have the necessary powers and tools to check the origin of assets of concerned public officials against a wide range of databases (tax administration, trade register, etc.) to identify potential incorrect declarations.

3.4. Addressing conflicts of interest

Conflicts of interest in decision-making, allocation of public funds and public procurement, particularly at local level, form a recurrent pattern in many Member States. Conflicts of interest reflect a situation where public officials act or intend to act or create the appearance of acting for the benefit of a private interest³¹. The issue of conflict of interest has therefore been included in the scope of a wide range of anti-corruption instruments and review mechanisms, including those related to the UN Convention against Corruption (UNCAC), GRECO and the OECD.

Regulations and sanctions applicable to conflicts of interest vary across the EU. Some Member States have dedicated legislation that covers a wide range of elected and appointed public officials, as well as specialised agencies tasked to carry out checks.

Conflict of interest is also addressed by sectorial legislation, such as in public procurement. The level of scrutiny varies among Member States, with some having independent monitoring agencies, and others relying on ethics commissions that report to the country's parliament.

As with asset disclosure, it is vital to verify declarations to effectively prevent conflicts of interest. This means adequate monitoring capacity and the tools necessary for effective checks. Particular

³¹ 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 being 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 to it. See Recommendation No. R (2000) 10 of the Committee of Ministers to Member States on codes of conduct for elected officials:

[http://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf).

difficulties that arise across the board stem from the scarce and weak sanctions applicable to elected officials.

One particular area of risk concerns the mobility of labour between the public and private sectors. Prohibitions on certain activities for public office holders while in office can help address concerns. Clear rules that address the 'revolving door phenomenon' include cooling-off periods and effective implementation of verifications and of transfers between the two sectors, as well as the application of dissuasive sanctions for transgressing the rules. Such rules are key to promoting integrity and eliminating opportunities for corruption.

3.5. Effective whistleblower protection

Protecting whistleblowers helps to prevent and detect corruption and other wrongdoing in the public and private sector. In some EU Member States, cultural norms sometimes discourage staff from speaking out. Whistleblower protection is about more than enshrining the concept in legal provisions — it is about changing cultures in the long term. In the shorter term, countries can adopt and implement legislation to make it clear that retaliation against whistleblowers is not tolerated. The Council of Europe issued a detailed recommendation in 2014, setting out 29 principles for whistleblower protection, for example that the burden of proof should be on the employer in cases of alleged retaliation³².

Whistleblowers need legal and psychological assistance. The choice between public or private funding for advisory and support services raises complex questions about the impact on their independence. Examples from the UK and the Netherlands show there are

³² Council of Europe Recommendation on whistleblower protection

http://www.coe.int/t/dghl/standardsetting/cj/Whistleblowers/protecting_whistleblowers_en.asp.

different ways of ensuring support. In the UK, a self-funding charitable organisation called Public Concern at Work plays a leading role. The Netherlands recently established a House for Whistleblowers (Huis voor Klokkeluiders), a part of the National Ombudsman, to handle reports from the public and private sectors, provide advice and start investigations into the reported wrongdoing.

As in other areas, implementation is key. Some countries are widely considered to have good whistleblower legislation, but it is not being sufficiently implemented in practice³³. One of the conclusions of an experience-sharing workshop organised by the Commission in 2015 is that a law is more likely to prove effective if its adoption is the outcome of a broad public debate and awareness-raising effort, with civil society playing a key role in such debates³⁴.

3.6. Investigating, prosecuting and sanctioning corruption

The ability of a judicial system to impose dissuasive criminal sanctions plays a major deterrent role and is a clear sign that corruption is not tolerated.

Removing challenges to the capacity of the judiciary to effectively prosecute and punish corruption may involve measures related to procedural, budget and quality of staff issues. Other measures involve dealing with excessive or unclear legal provisions on lifting immunities and statutes of limitations which impede the finalisation of complex cases, notably in combination with lengthy proceedings or inflexible rules on access to banking information that hamper financial

³³ Transparency International, Whistleblowing in Europe: Legal protections for whistleblowers in the EU, <https://www.coe.int/en/web/cdcj/activities/protecting-whistleblowers>.

³⁴ Anti-Corruption Experience Sharing Programme http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organised-crime-and-human-trafficking/corruption/experience-sharing-programme/index_en.htm.

investigations and cross-border cooperation.

However, the essential element for handling corruption cases effectively, including at high levels, is the ability of the judiciary to act independently, delivering justice in corruption cases in an objective and impartial manner without any undue influences.

The real and perceived independence³⁵ of the judiciary also has an impact on the overall prevention of crime, including corruption-related offences.

Integrity within the judiciary is key to ensuring independence and impartiality. Corruption is not only about the relation between judicial staff and others (public and private parties, prosecutors and the accused in criminal cases); it is also about internal relations in the judiciary, including appointments, allocation of cases and career opportunities. Clear expectations about integrity, a clearly defined career path, and credible and merit-based appointment procedures at all levels greatly contribute to a well-functioning independent judiciary.

4. CROSS-EXAMINATION OF POLICY STATE OF PLAY

As with any institutional changes or legislation, there may be some budgetary implications in terms of (mostly human) resources, as well as short-term costs for new IT systems, for example. Structural and legislative changes yield results mostly in the medium to long-term, and the long-term benefits have been assessed to substantially outweigh any short-term costs. Policies to reduce corruption benefit dynamic and competitive businesses, the taxpayer, and society in general, while limiting opportunities for abuse by vested interests.

The following examples from the Member States demonstrate a range of policies

³⁵ The EU Justice Scoreboard (2016) includes results of Eurobarometer surveys on perceived judicial independence from the point of view of individuals and businesses.

which have been implemented or are in the process of being implemented. Although there is no 'one-size-fits-all' solution to the problem of corruption, these short examples should be seen as case studies of what can be achieved with sufficient political will and attention to technical detail.

Active promotion of public sector integrity in the Netherlands

Integrity, transparency and accountability are actively promoted in Dutch public administration. Established by the Ministry of Interior and Kingdom Relations, the Office for the Promotion of Public Sector Integrity (BIOS) is an independent institute that encourages and supports the public sector in designing and implementing integrity policies.

In addition, many Dutch cities and communities are implementing a local integrity policy which has improved the detection of integrity cases. Local integrity policies have evolved over the past 20 years, becoming an integral part of local governance.

Asset and interests disclosure system in Romania

The National Integrity Agency (ANI) was established in Romania in 2007 to verify asset declarations, potential incompatibilities and conflicts of interest of holders of public office. The Agency became operational in 2008. The path towards establishing a functional agency was strenuous, but significant efforts have been made to develop and consolidate the institutional capacity of the Agency and a consistent jurisprudence in the courts. ANI has established a consistent track record of investigations, findings/referrals and sanctions. ANI has also established a public portal where all asset and interest declarations submitted by holders of public office are published, an important measure for transparency. In total, the Agency processes over half a million declarations annually. Steps have also been taken to provide guidance on incompatibilities and conflicts of interest, on the completion of asset and interest

declarations, and to train contact points in public institutions, with a view to raising awareness and improving the efficiency and accuracy of the declaration submission procedure.

Whistleblower protection in Ireland and the UK

The UK's 1998 Public Information Disclosure Act is widely considered a pioneer in the EU³⁶. The UK law aims to protect the public interest by shielding individuals in the workplace who make disclosures about wrongdoing, not limited to corruption. The UK law provides a good model also in another respect: its step-by-step approach encourages internal reports or reports to regulators in the first place, where possible, and allows wider disclosures when justified. External disclosure requires a higher level of substantiation.

Ireland's Protected Disclosures Act of 2014 builds on the UK system and goes further in requiring public sector bodies to put in place whistleblowing policies which meet the requirements of the Act. It applies to public and private sector employees, contractors, trainees, agency staff, former employees and job seekers. Unlike laws in other countries that require whistleblowers to demonstrate that they act in 'good faith' or in the 'public interest', in Ireland the motivation for making the disclosure is irrelevant. The provisions encourage all categories of individuals listed above to report wrongdoings and make it easier to defend those reporting. Interim relief is available to those who are dismissed for having made a protected disclosure. The Irish law also provides for an independent 'disclosures recipient' — a judge, serving or retired — to receive disclosures which contain highly sensitive material.

³⁶ For greater details, see 'Toolbox on the quality of public administration', p. 139 <http://ec.europa.eu/esf/BlobServlet?docId=13941&langId=en>.

Transparency and the use of open data and e-procurement to prevent and detect corruption in Croatia, Estonia, Portugal and Slovenia

Regular and systematic collection, monitoring and publication of comprehensive public procurement data allows for greater transparency and helps to prevent corruption.

The online application of the Slovenian Commission for Prevention of Corruption 'Supervisor' provides information on the business transactions of a wide variety of public bodies, indicating the contracting parties, the largest recipients, related legal entities, dates, amounts and the purpose of transactions. It offers an overview of the average €4.7 billion a year spent by the public sector on goods and services. It also provides details on the management and supervisory boards of all state-owned and state-controlled companies and their annual reports. This transparency system makes it easier to detect irregularities in public contracts and expenditure.

Portugal has a national web portal, BASE, to centralise information on public procurement. BASE receives data on open and restricted pre-award procedures from the electronic edition of the Portuguese Official Journal and from the certified electronic platforms. All public contracting authorities use the reserved area of the portal to record contract data, upload the contracts themselves and record information on their performance. Between 2008 and 2011, BASE only publicised contracts relating to direct awards. Since January 2012, BASE must publicise all contracts resulting from all types of procedures that fall under the Public Contracts Code. It also publishes information on contract performance.

In March 2013, a web portal and public procurement electronic database were launched by a local NGO in Croatia. The database consolidates information on the implementation of public procurement procedures and the companies involved in such procedures. It is available to the public free of charge. The electronic database also contains information on assets and interests of public officials, in line with asset disclosure rules. Such

aggregated data allow cross-checks to be carried out.

Prosecuting foreign bribery in the UK

Member States that effectively address corruption within their own borders often face challenges with the behaviour of their companies abroad, especially in countries where corrupt practices are widespread.

The UK Bribery Act 2010 provides a legal framework which exceeds the requirements of the OECD Anti-Bribery Convention. The authorities also published guidelines³⁷ to help businesses adapt to the Bribery Act 2010.

Specifically, the Bribery Act 2010 introduces strict liability for a business that fails to prevent associated persons from bribing on its behalf in order to obtain or retain business or a related advantage. Commercial organisations thus commit the offence of failing to prevent bribery if employees or other associated persons commit offences of bribery. If the commercial organisation had adequate procedures in place, it can use this in its defence. In setting such strong incentives for companies to prevent bribery, the Act is considered to be an effective deterrent and has led companies to adopt comprehensive preventive procedures.

The UK Serious Fraud Office (SFO) has demonstrated a track record³⁸ of investigating and prosecuting serious cases of foreign bribery, including cases relating to the activities of prominent UK businesses. It has recently secured two deferred prosecution agreements³⁹ in cases prosecuted under Section 7 of the Bribery Act 2010, which refers to the failure to prevent bribery.

Date: 22.11.2017

³⁷ Serious Fraud Office Guidelines
<https://www.sfo.gov.uk/publications/guidance-e-policy-and-protocols/bribery-act-guidance/>.

³⁸ Serious Fraud Office Cases
<https://www.sfo.gov.uk/our-cases/>.

³⁹ Deferred Prosecution Agreements
<https://www.sfo.gov.uk/publications/guidance-e-policy-and-protocols/deferred-prosecution-agreements/>.

5. USEFUL RESOURCES

- EU Anti-Corruption Report
https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report_en
- Toolbox on the quality of public administration
<http://ec.europa.eu/esf/toolbox>
- World Bank World Governance Indicators
<http://info.worldbank.org/governance/wgi/pdf/WGi.pdf>
- OECD Principles for Integrity in Public Procurement
<http://www.oecd.org/gov/ethics/48994520.pdf>
- European Commission, Official Corruption Statistics
http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/docs/official_corruption_statistics_2011_2013_jan16_en.pdf
- Council of Europe Group of States against Corruption
http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp
- Council of Europe Recommendation on Whistleblower protection
http://www.coe.int/t/dghl/standardsetting/cdcj/Whistleblowers/protecting_whistleblowers_en.asp