European Commission

Quality of Public Administration
A Toolbox for Practitioners

Theme 2: Ethics, openness & anti-corruption

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 must 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 assessments and 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.

Social Europe

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Contents

Integrity is a core principle of good governance. 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 and standards;
- ✓ Explores the role of laws, regulation and institutions within the integrity policy framework;
- ✓ Looks at integrity & corruption risk at three levels: organisational (micro), sectorial (meso) and administration-wide (macro);
- ✓ Emphasises the importance of transparency and accountability in building public trust;
- ✓ 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;
- ✓ Explains that there are no 'silver bullets' or 'one-size-fits-all' approaches – instead, a customised mix of measures is appropriate to address integrity and corruption risk.

Introduction

Ethics can be defined in several ways, but, for 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. 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** (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 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 (entrusted authority) for personal or private gain (undue advantage).[2] It comes from the Latin *corruptus*, the

[1] This conflates the two meanings of integrity, relating to wholeness and standards. See also W. Erhard, M.C. Jensen and S Zaffron (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.

past participle of *corrumpere*, meaning 'spoilt' or 'broken'. The most common manifestation of corruption is bribery, but the phenomenon is much larger and often involves **collusion** (a secret agreement between parties) and **fraud** (deliberate deception to achieve gain) - these terms are not synonymous, however. Corruption may also lead to theft or **embezzlement** (misappropriation or diversion of entrusted property or funds) by public officials, and can sometimes be identified by **illicit enrichment**, which involves "*a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income*", in the words of the United Nations Convention Against Corruption (UNCAC, Article 20), as well as **trading in influence** and **abuse of function** (Articles 18-19).

Corruption is often 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; 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 must 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. A central concern in integrity policies is the anticipation and resolution of potential **conflicts of interest**, defined by the Council of Europe 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*" (Article 13)[5]. The EU's Financial Regulation defines conflict of interest as "*where the impartial and objective exercise of the functions of a financial actor or other person … is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient*".

Overleaf, we offer descriptions of many of the main **concepts** in promoting ethical practices and tackling corruption, drawn from a variety of sources including, among others, the UN and Council of

[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*.
[5] https://rm.coe.int/16806cc1ec

Europe Conventions, OECD, USAID Risk Assessment Handbook, many of which have been summarised in an EU-funded report by Transparency International.[6]

Term	Meaning
Public resources	Resources include public funds (cash, grants, loans and other forms of credit, loan guarantees, equity, taxes, welfare benefits and other transfer payments), public assets, decision-making powers and influence over contracts, jobs and non-executive positions, approval and rejection processes, audit, investigatory and law enforcement powers, and access to medical treatment, education, justice and official documentation.
Personal or private gain	The 'gain' or 'advantage' which results from corruption can be tangible or non-tangible, and can include financial rewards (cash, loans, fees, donations, stocks, sponsorship, etc.), other valuables (gifts, holidays, entertainment, inside information), favours (including sexual), contracts and/or employment (including honorary positions with influence, as well as paid positions). The advantage might not be gained personally by the public official, but instead by their relatives, friends, associates, private enterprise, charity, political party or election campaign. It may be immediate or conditional (for example, the promise of future employment or contracts).
State capture	State capture is one of the most pervasive and pernicious forms of so-called grand corruption, whereby businesses (e.g. large corporations), powerful individuals (e.g. oligarchs) and/or criminal enterprises use corruption of public officials (buying favours, bribery, extortion, etc.) and/or illegal contributions to political parties and candidates, in order to influence and shape policy formulation, public spending, laws and regulations, privatisations, procurements, judicial outcomes, official appointments and economic conditions to their own (usually very substantial) interests, including collusion to block reforms and place barriers to fair competition. It is the antithesis of good governance.
Favouritism (preferential treatment)	A situation where principles and values (non-discrimination, impartiality, equality of opportunity, fair competition, etc.), are not applied universally. Instead, some citizens, businesses or other organisations are treated more favourably than others in complying with rules and allocating public resources. Favouritism includes **patronage** (also known as **cronyism**), in which a person is selected for a job or other public benefit because of their connections or affiliations, not through merit (ability, suitability or qualifications) or entitlement. Where the relationship is family or friends, this is known as **nepotism**.
Bribery	The promising, soliciting, offering, giving and/or acceptance, directly or through intermediaries, of an undue advantage (which can be financial or in-kind) with the aim of inducing an action or non-action in relation to the duty of the official. Bribes can take many forms, including all the above advantages. A distinction is sometime made between bribery as active (promising or giving bribes) or passive (requesting or receiving the bribe). Bribery may be one-off or part of a continuing relationship and regular arrangement. Some examples of bribery include: • **Facilitation payments (or grease payments)**: Typically, small bribes made to secure or expedite the performance of a routine or necessary action, usually one to which the payer is entitled. This might include accessing documents or signatures from a municipal official, getting an appointment with a public doctor, passing immigration or progressing goods through customs checks. • **Kickbacks**: These are bribes that are fulfilled after the award of a contract, whereby the successful tenderer 'kicks back' part of their contract fee to the official(s) of the buying institution. When the solicitation of bribes is accompanied by threats of adverse consequences (e.g. injury, loss of life, harassment, prosecution, etc.) - in other words, blackmail - it is characterised as extortion.
Obstruction of justice	Obstruction takes many forms (and covers both public and private spheres of life), but essentially it is about interference with justice and law enforcement officials in the exercise of their duties, through physical force, threats and intimidation.

[6] Transparency International (2014), *Integrity of Public Officials in EU countries: International Norms and Standards*.

Trading influence	Improper influence over decision-making is one of the public resources that public officials (or another person, such as an associate) might seek to offer to gain an undue advantage, whether they have real authority or only the perception of it, whether the influence is exerted or not, or whether the supposed influence leads to the intended outcome or not. Unlike bribery, the recipient of the advantage is not the decision-maker. There is a thin line between lobbying and trading in influence, centring on the term 'improper influence'; under the Council of Europe Convention, there must be corrupt intent, while the UN Convention refers to 'abuse' of influence. See also patronage and state capture, which are also forms of disproportionate influence by special interest groups.
Inducement	By giving 'benefits' (for example, hospitality, conferences, foreign trips), the instigator seeks to exert influence with the aim of stimulating a preference to buy or use a product or service, or to promote loyalty to a specific supplier. This practice is a subtler form of bribery, as it is indirect and often established over the long-term, leading to what are termed improper relations. Like lobbying, it is not necessarily illegal, but it can be outlawed.
Revolving doors	This is the movement of individuals between public office & private companies when intended to exploit the period of government service for the benefit of the enterprises they regulate. Like lobbying, the movement of employment between public and private sectors is not unethical, unless it jeopardises the impartiality and integrity of the office.

Please note: unethical or corrupt practices should not be viewed as standalone, as they can act in combination. For example, bribery might happen in parallel with trading in influence, which in turn relies on nepotism and revolving doors.

As with conflicts of interest, in which officials are confronted by potential dilemmas about 'the right thing to do', some potential sources of integrity risk represent **grey zones** at the margins of ethical and unethical behaviour. For example, both lobbying and moving jobs across public and private sectors can be fully justified under the appropriate circumstances (e.g. lobbying gives a voice to civil society, which can be a positive counter-balance to special interests; equally, it is a fundamental right of citizens to seek gainful employment, and restricting officials from applying from private sector jobs in general would be a restraint of trade). However, it is also clear that there is an ever-present danger of crossing the line into unethical and corrupt practices, in which there is an intention to seek advantage and jeopardise the public interest. In the same way, the giving of gifts, hospitality or donations by private enterprises to public officials used to be a common business practice, but there must be a limit, a line that cannot be crossed, before there is a risk that influence is being bought (or appears to be so). In this regard, administrations typically set a (low) upper threshold to the value of such gifts, so that the giving is understood by all parties as merely a goodwill gesture.

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.

More troublesome, however, is the concept of **'legal corruption'**, identified by the EU-financed ANTICORRP project and the World Bank.[7] In these scenarios, particularly in captured states, laws are crafted in a way that makes unethical behaviour legitimate. For example, regulations might be adopted that permit the preferential allocation of public funds, or otherwise allows favourable treatment of businesses. While all legislation should comply with the EU's *acquis*, including State

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

aids rules, ANTICORRP's pan-European survey and case studies have shown that favouritism and discretionary allocation of public resources are also serious issues in some EU Member States, as well as pre-accession and neighbourhood countries.

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[8], inequality of women and minorities in access to positions of power, and 'brain-drain' from the economy.[9] In November 2016, the Commission published a series of thematic factsheets on public administration under the European Semester, including a factsheet on anti-corruption.

Every administration should 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[10], demonstrate vividly the scale of this challenge.

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).

[8] Tackling irregularities, fraud and corruption in European Structural and Investment Funds is covered under topic 8.3.
[9] See, for example: P. Mauro (2004), *The Persistence of Corruption and Slow Economic Growth*, IMF Staff Paper,; Augusto López Claros (2013), *Removing Impediments to Sustainable Economic Development The Case of Corruption*, Policy Research Working Paper 6704, World Bank; and A. Mungiu-Pippidi (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),
[10] 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.

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. [11]

- **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.[12]

- **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. 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: [13]

- 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);

[11] See OECD (2013), *Issues Paper on Corruption and Economic Growth*, prepared for the G20 Summit,
[12] See R. Karlins (2005), *The System Made Me Do it – Corruption in Post-Communist Societies*.
[13] Based on A. Mungiu-Pippidi (2014), *Why control of corruption works – when it does*, The Anti-Corruption Frontline

- The parties involved lack effective **constraints**, either normative (societal pressures, accepted rules, public opinion, external scrutiny and other accountability mechanisms) or legislative (enforced laws and regulations, including controls, audits, and sanctions).

This is not a fool-proof formula for identifying corruption or integrity risk, but it is a useful device for thinking about the problem.

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.[14]

Key questions	Ways and tools
2.1 How do public administrations set the **framework** for promoting integrity and combatting corruption?	Clear statements of ethical values & standards Laws & regulations Integrity coordinators Anti-corruption agencies
2.2 How can administrations manage integrity and corruption **risks**?	Risk assessments, risk matrices, heat maps Managing organisational risk Managing sector risk Managing country risk
2.3 What role can transparency and accountability play in (re)building **trust** among the public?	Open government & access to information External scrutiny
2.4 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
2.5 What can administrations do to **detect and act** on corruption when it occurs?	Whistle-blowing mechanisms Investigation, prosecution & sanctions
2.6 How best to approach **designing measures** to promoting integrity and tackling corruption?	Portfolios / packages of measures Innovative policy design Balancing rules-based & values-based measures

[14] 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, 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 that can incentivise integrity, deter corrupt activities and, if present, 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 of standards, regulations and institutions for promoting ethics and addressing corruption. There is no single package of measures that can be applied in every circumstance: the most effective policy response depends on local conditions.[15]

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 2.3) and can choose to shape the regulatory and procedural framework to serve the public interest – or political / private interests, as a form of 'legal corruption' 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.

[15] European Commission (2014), *Anti-Corruption Report* (ACR).

Codes of ethics are now increasingly common across Europe[16], 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, allowing them to be reviewed on an occasional basis to ensure their enduring relevance, and to consider how they are applied to various 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 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 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

[16] Utrecht School of Governance (2008), op. cit.

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 key 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 (summarised 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).[17] In practice, the two terms (ethics and conduct) are often used interchangeably.

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 specific 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

In some cases, this type of practical guidance on officials' behaviour is formulated as a **handbook for public officials**.

[17] A follow-up study captured the subsequent changes in practices across the EU. See T. Moilanen and A. Salminen (2007) *Comparative study on the public-service ethics of the EU Member States*, Ministry of Finance, Finland.

2.1.2 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. Article 83(1) of 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. 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 2.3.1), external scrutiny (topic 2.3.2), human resources management (topic 2.4.1), administrative simplification (topic 2.4.3), whistle-blower protection (topic 2.5.1), and investigation, prosecution and sanctions (topic 2.5.2). It is also relevant to other chapters, including the judiciary (theme 7) and public procurement (topic 8.2). The EU acceded to UNCAC in 2008[19], and all EU Member States have since 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

[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).

home and abroad, such as the United Kingdom's Bribery Act. This requires not only appropriate legislation, but just as importantly, rigorous enforcement with regards to prosecutions and penalties.

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 topic 8.3).

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 2.4.1).

Other relevant legal provisions include laws to **protect whistle-blowers** which is covered in more depth in topic 2.5.1.

2.1.3 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 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.

[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.

- **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 comprising: 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://www.governance-flanders.be/integrity-0 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 & awareness-raising - providing information on corruption & 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, receiving and responding to complaints, gathering intelligence, conducting investigations, and presenting a case for / against the imposition of sanctions (see topic 2.5).

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 & operational autonomy, and clear legal basis & 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 Managing integrity & corruption risk

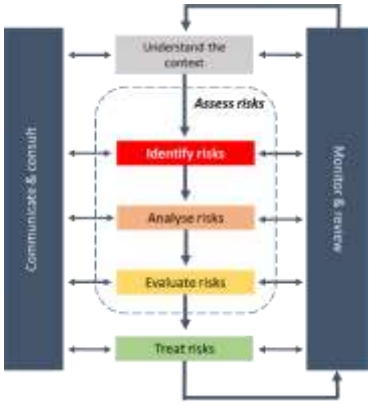
While integrity strategies are relatively rare, many Member States have **anti-corruption strategies**. These can be especially beneficial when corruption is systemic and requires a clear, comprehensive and centrally coordinated package of measures. In line with the qualities of policy-making (see theme 1), one of the key ingredients of a good strategy is a sound evidence base.

The strategy should be founded on understanding the risks to integrity and characteristics of (potential or actual) corruption in the domain under consideration, to help select the most suitable measures to address them.

The International Organisation for Standardisation (ISO) **defines risk** as "*the effect of uncertainty on objectives*". 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.

Risk management is a long-standing discipline in the public, private and voluntary sectors, with well-established tools and techniques. The process underpinning the internationally-recognised ISO 31000 risk management standard (see graphic, below right) captures the four key elements of risk management**:**

- ✓ **Identify risks** - Produce a comprehensive list of risks – events and circumstances that could affect or alter the achievement of objectives;
- ✓ **Analyse risks** - Understand the nature of each risk, the likelihood that it will emerge (based on the potential causes and available controls) and its consequences (impact);
- ✓ **Evaluate risks** - Determine whether to act on the risks, the options for treatment, and priorities;
- ✓ **Treat risks** – Adopt measures to manage the risks[21].



The ISO standard also highlights the importance of:

- ✓ Establishing the **context** before performing the risk assessment,
- ✓ Ensuring **communication and consultation** throughout the process, and
- ✓ **Monitoring and reviewing** risks regularly to ensure continuous vigilance, learning and improvement.

[21] Note, the ISO definition of risks as 'uncertainty' can also include risks with potentially positive outcomes, so options for treatment can include increasing the risk.

In many countries, sectors and organisations, incidences of corruption are isolated rather than indicative of a deeper malaise. But sometimes, corruption has become the norm, even accepted as such by perpetrators and victims alike. In such circumstances, 'risk' may seem too light a word to describe what is happening on a daily or regular basis. However, corruption is not a certainty and it can be combatted. It is realistic to expect that corrupt practices can be reduced to a minimal level (sporadic episodes), even if they will never be completely eradicated.

Corruption is not simply the obverse of integrity. There are behaviours that are not illegal (corrupt), but they *are* unethical. There are conflicts of interest that, if left unchecked, can become corrupt activities. There are grey areas where the boundary is blurred between the right and wrong thing to do. This is why the chapter refers to integrity risk, of which corruption risk is an integral element.

Perceptions can be just as damaging as actual experience if they lower social trust, perpetuate unethical behaviour or discourage investment in productive activity. Integrity and corruption risk management therefore is not purely a technical, inward-looking exercise. Risks should be considered in their full social and cultural complexity, and communication is an important part of risk management.

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.

2.2.1 Assessing risk

Risk assessment typically draws upon the generic tool of risk mapping, to produce a heat map and risk matrix. **Risk mapping** 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 2.4). The approach will depend on the level of the risk assessment:

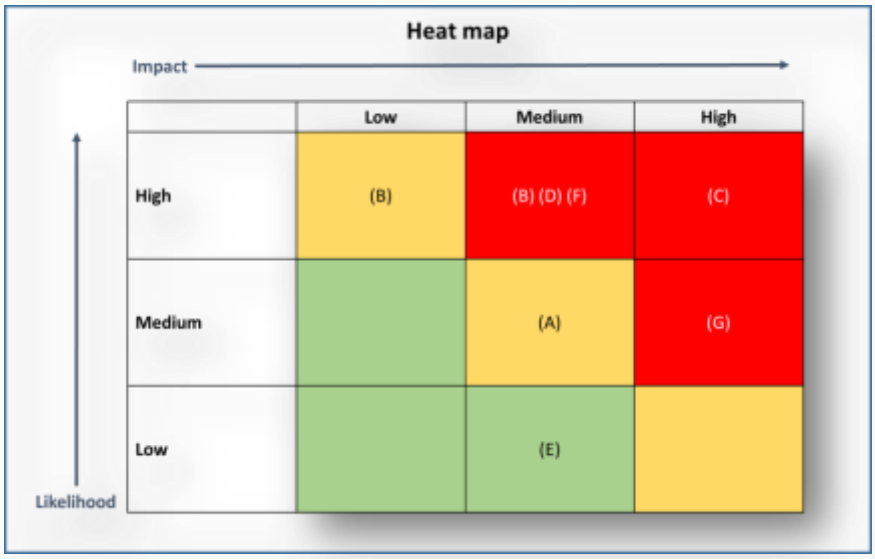
- For **sectors**, it will focus on strategic concerns, valuable for preparation of strategies and their measures.

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

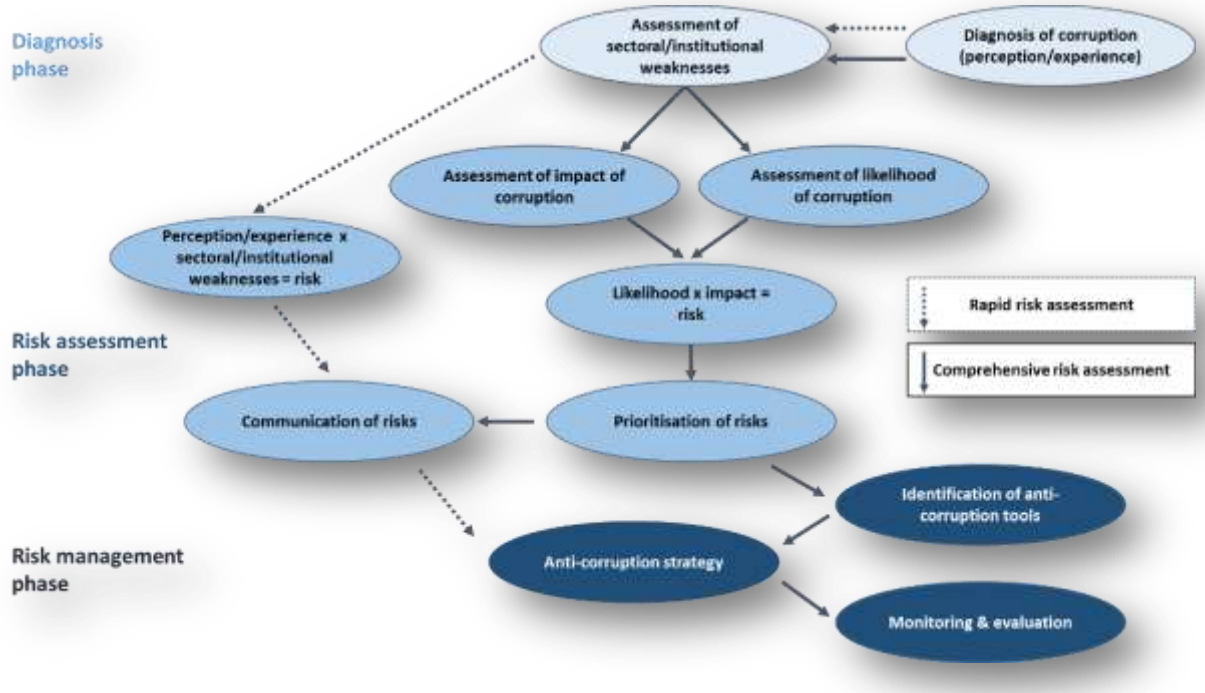
The following example of part of an organisational risk assessment is illustrative only (in this case, receipt of gifts). Each risk assessment should be tailored to the situation in the specific sector or institution under review, and hence the 'potential risk' column should be formulated according to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

Whatever the topic, 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 **yellow** 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 and hence a cycle of continuous learning and improvement. As the diagram below shows[22], 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.



[22] Based on Transparency International's *Gateway Corruption Risk Assessment Toolbox*.

How to put these tools into practice? Here, it is useful to recognise **three levels of integrity risk management**, summarised below:[23]

Level	What	Why	Who
Micro	**Organisations**	Organisations are the building blocks of the public administration. They are also where public officials are employed. Each body has its unique character and culture, and specific issues it faces to promote and maintain integrity, and to identify (ideally just potential or only isolated) incidents of corruption or conflicts of interest, and take preventative or corrective action.	Top management, integrity champions, working groups and/or internal audit (within an overall framework from the centre of government) - but also external checks, audits, ombudsmen & experts
Meso	**Sectors** (including cross-cutting disciplines)	Many organisational risks are shared across policy sectors (e.g. health, law enforcement), or within the same function or process (e.g. procurement). There are benefits from common approaches, especially where there is systemic risk and/or where horizontal solutions are the most or only effective option (e.g. sector-wide pay, terms and conditions).	Centre of Government, integrity coordinators, ACAs and/or line ministries – but also parliamentary committees, supreme audit authority, ombudsmen, sector associations, NGOs, media, etc.
Macro	**Countries** (whole administrations)	Some organisational and sector risks are best tackled at the level of the whole administration (e.g. ethical codes for all public servants, generic legislation). Moreover, while some forms of state capture or improper relations have a specific organisational or sectorial character, some are pervasive throughout the administration, coming from the top, and hence require country-wide solutions.	Centre of government, integrity coordinators, ACAs – but especially parliament, supreme audit authority, ombudsman, civil society, independent and investigative media.

Risk analysis can also be applied to EU funds through 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 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 topic 8.3 for further details).

2.2.2 Managing organisational risk

As the building blocks of the public administration, it is important to tackle corruption risk on an organisational basis. Every public body is its own organism, and unless integrity is embedded into its 'DNA', there is always the risk of unethical behaviour and practices. Each organisation has its distinct goals (vision & mission), structures, management and administrative cultures (values). They

[23] Regional Cooperation Council (2015), *Corruption Risk Assessment in Public Institutions in South East Europe, Comparative Study and Methodology* proposes a further category of 'targeted *ad hoc* assessments' which focus on a specific project, department, working process, policy, etc.

have a set of functions and processes which might not be entirely particular to that public body, but which are best understood within that context (see also theme 4). For many years, individual public organisations have assessed the risks they face from a range of perspectives - strategic, operational, financial, etc. Increasingly, this is extending into integrity risk and becoming systemised for the whole administration, typically by integrity coordinators and anti-corruption agencies (ACAs) at the centre of government (see also topic 3.3) that develop and disseminate integrity risk methodologies that can be applied to any and every institution, leading to the adoption and implementation of integrity plans.

These methodologies (e.g. protection of confidential information, identification of vulnerable positions) are mostly generic in that they do not depend on the sector in which the public body is operating, but supplemented by identifying risks and counter-measures which are tailored to the individual circumstances of the organisation.

This form of risk management involves compiling a register of all potential integrity risks facing the organisation as the basis for action. The starting point is the **integrity risk analysis**: a method for mapping the structural vulnerabilities of an organisation that could taint the integrity of an organisation and its employees. It enables institutions to identify what their risks are or could emerge, whether there are sufficient appropriate measures to mitigate these risks, and what measures could still be taken or perhaps improved. Such assessments can help senior managers:

- ✓ Improve financial and operational management by ensuring the adequate identification, assessment and integration of integrity risks in the decision-making process;
- ✓ Enhance planning of integrity measures, focus on priorities, and allocate resources effectively;
- ✓ Change attitudes and organisational culture by encouraging open communication regarding integrity risks; and
- ✓ Enhance accountability.

The vulnerabilities that are mapped in the risk analysis fall into two categories:

- **Generic risks** that are common for all administrative structures (e.g. recruitment, selection and human resources management, public procurement, asset management, etc.); and

- **Specific risks** related to operational specialisms (e.g. in the case of customs, physical checks at the border).

Examples of integrity risks include:

- Confidential information might fall into the wrong hands, because:
  - Information systems are not properly protected;
  - The files containing that information are not stored in a secure, locked room;
  - Employees do not handle the information with the necessary care and discretion (e.g. they share or leak information with incompetent third parties, or do not take the necessary care of the carriers on which the information is stored).

- Certain employees have special responsibilities, because they:
  - Decide on awarding benefits to citizens;
  - Deal with budgets of the organisation;
  - Have access to confidential information;
  - Carry out inspections;
  - Prepare or evaluate tenders for contract awards to works, supplies or service providers.

Employees with a vulnerable function, for example, can expose the organisation to higher risks if they do not take their responsibilities seriously. Every integrity risk analysis should therefore include a mapping of these vulnerable functions and set out measures to make these functions extra resistant.

An integrity approach should be founded on **three pillars: prevention, detection and reaction**[24]. The risk analysis is pivotal to the prevention pillar, but also contributes to the detection and reaction pillars by identifying more effective and efficient follow-up. By learning from the risk analysis findings, as a continuous cycle of improvement, a proper risk analysis is a well-founded starting point for a successful integrity policy.

Responsibility for organisational risk assessment partly depends on the context, and can be guided by sector risk analyses (see topic 2.2.3) and country risk analyses (see topic 2.2.4). For organisations where the overall integrity risk is assessed to be low, because the sector is low-risk, the functions and processes performed by the organisation tend to have low vulnerability, and there have been no reported incidences of corruption, then there is a case for **self-assessment**. An organisation is usually more aware of the risks when it has laid them bare itself. By taking responsibility and carrying out integrity risk analyses themselves, organisations can build made-to-measure integrity policies that are not just documents, but also implemented in daily practice. As the analysis is not a one-off exercise, but a cycle that should be repeated on a regular basis, it is worth the organisation investing in building up its expertise.

In the Flemish public administration, as the example overleaf shows, each public entity is responsible individually for its internal control, which is about embedding control measures in all its activities and processes, to achieve organisational results more efficiently and effectively. The overall internal audit division, Audit Flanders, evaluates the control measures of the different entities – in other words, checks their systems, but does not perform the controls itself.

[24] Including both sanctions and incentives. An example of the latter would be tax officers receiving a % of any discovered fraud, so they get higher pay offs for being honest

Inspiring example: From internal control to integrity risk analysis with Audit Flanders (Belgium)

The Flemish internal audit division, Audit Flanders, conducts audits in all entities of the Flemish public administration at regional and local level, to check the extent to which the authorities control their organisations and processes. To get a proper overview, Audit Flanders screens the control measures based on 10 different themes that are listed and defined in the guidelines for organisational management:

1. Goals, process and risk management
2. Stakeholder management
3. Monitoring
4. Organisational structure
5. HR policy
6. Organisational culture
7. Information and communication
8. Finance management
9. Facilities
10. Information and communication technology

These themes are closely linked with each other, but there is also something else that binds them - integrity. It is not only important that each organisation's goals under the 10 themes are being reached, but also how they are being reached: qualitatively, efficiently, effectively and ethically. For this reason, Audit Flanders checks what an authority does to stimulate integrity, safeguard it and act upon it / follow it up.

To help steer this process, the Flemish Integrity Coordinator has developed and disseminated guidelines for internal control specifically from the integrity point of view, along with guidelines on identifying vulnerable functions. Even with this guidance, the entities asked for help on how to practically set up and carry out integrity risk analyses. Hence, a practical roadmap was prepared which can be found at: https://www.bestuurszaken.be/integriteitsrisicoanalyse (Flemish only)

Source: Kristien Verbraeken, Integrity Coordinator, Flemish Government, kristien.verbraeken@bz.vlaanderen.be

Alternatively, some organisations hire **external advisors** to help them to make an integrity risk analysis. Their role can be valuable to facilitate the process and possibly be a driving force behind the project, if they understand the ins and outs of an integrity risk analysis and can draw on experience from elsewhere.

The upsides of these two options should be weighed against the downsides, depending on the context:

- Self-assessment alone can itself be a risk, especially in sectors or institutions where corruption is endemic. In such an environment, it is helpful - or indeed can be essential - to have an external perspective with the assessment performed by outside experts.

- Leaving the risk assessment *entirely* to an outside expert, however, is not optimal. Information that is necessary to carry out the risk analysis must be gathered and transferred by the organisation itself. Often this collection of information is already a large part of the work that needs to be done, such as through personnel surveys or customer satisfaction surveys. Moreover, the external partner does not have the insider's knowledge of possible breaches or incidents that might have occurred or signals that the organisation receives on

certain areas of concern. Transferring all that knowledge to someone outside the organisation takes time and the information can become blurred in transmission.

The guide to corruption risk assessment (op. cit.) of the Regional Cooperation Council (RCC) sets out many of the **pros and cons** of self-assessment vs external assessment:

	Pros	Cons
Self-assessment	☑ Tailored assessment process based on 'insider' knowledge of internal environment and working processes ☑ Learning and development process can help develop confidence of public officials in what they are doing well ☑ Conducted with internal resources	☒ Danger of being merely a checklist or low quality ☒ Possible absence of sufficient commitment of superior and/or staff ☒ Lack of sufficient knowledge or/and experience for implementation of assessment ☒ Time-consuming
External assessment	☑ Potentially broader scope of assessment ☑ Expert knowledge and experiences in assessment methodology ☑ Independent and objective assessment ☑ Less time-consuming for the subject under assessment	☒ Less in-depth assessment ☒ Possible concealment of certain internal particularities or vulnerabilities from external evaluators ☒ Superficial or insufficient knowledge of working processes in institution, sector or project under assessment

The RCC guide argues that self-assessment with independent validation or/and supervision can mitigate or eliminate the basic deficiencies of both 'internal only' and 'external only' approaches. In contexts where the integrity risk is high, it is preferable to pursue a **mixed approach** involving external experts working alongside or leading the internal team, to maximise the objectivity. The outsiders could be civil servants from the integrity office or ACA, a civil servant from another public organisation (potentially from another policy field, to avoid sector risk), or an external consultant.

As well as setting out the overall framework, the integrity coordinator or anti-corruption agency can provide **detailed guidance** and **valuable extra help** across their administrations by, for example:

- ✓ Disseminating examples of real-life risk analyses (functional and process) in other bodies of comparable size and scope; and

- ✓ Conducting regular master-classes involving organisations that have made integrity risk analyses.

Inspiring example: Flemish roadmap and resources for integrity risk analysis (Belgium)

The Flemish roadmap sets out six steps to set up and carry out an integrity risk analysis:

- Step 1: Assemble a multi-disciplinary working group
- Step 2: Perform an integrity scan
- Step 3: Compile a vulnerability matrix
- Step 4: List and scrutinise measures
- Step 5: Determine priorities
- Step 6: Make a plan of action

Each organisation decides whether it is necessary or feasible to carry out all of them.

The practical roadmap and the accompanying guidelines are a valuable resource for the regional administration of Flanders. But a picture is worth a thousand words, which is why the Office of the Flemish Integrity Coordinator has published, on its website, examples from organisations that have already made an integrity risk analysis. These are categorised according to:

- ✓ The **size** of the organisation;
- ✓ The **type** of organisation (department or agency);
- ✓ The **method applied** for the integrity risk analysis (processes or functions).

To illustrate their examples and to share their practical experiences, the organisations filled out a result form, and added attachments and templates that can be consulted and downloaded (in Dutch) at this website: http://www.bestuurszaken.be/integriteitsrisicoanalyse/voorbeelden. In addition, the Office organised master classes, where organisations that already have done integrity risks analyses share their practical knowledge with other colleagues who want to start on a risk analysis. During our integrity event in 2014 we had two master classes which were very well attended and very much appreciated by more than 200 participants.

Source: Kristien Verbraeken, Integrity Coordinator, Flemish Government, kristien.verbraeken@bz.vlaanderen.be

All six steps are presented overleaf for illustration, as applied to Flemish government entities. For organisations where self-assessment would not be sufficient, and either external assessment or a mixed approach is more appropriate, step 1 should be adjusted accordingly.

Step 1: Assemble a multi-disciplinary working group

Management appoints an employee to be the project leader, who brings together a working group of colleagues from various parts of the organisation, with different functions, and with in-depth knowledge of the organisation. It is an advantage if the working group also includes colleagues who are familiar with:

- The functions and processes of the organisation (e.g. HR manager, process managers);
- Internal control (e.g. internal auditors);
- Integrity and ethics (e.g. integrity officer); and
- Communications (e.g. communications director or manager).

Step 2: Perform an integrity scan

Together with the working group, the project leader will start with the gathering of all available relevant information and data, and proceed to check their accuracy and whether they are all up to date. Specifically, the working group should check whether the following information and data on the organisation exist and how correct they are:

- List of functions;
- List of vulnerable functions;
- List of processes;
- Where available, former (integrity) risk analyses

This is essential for project efficiency and choosing the most suitable method, as an integrity risk analysis can be based on functions or processes. Both methods are equally valid, but obviously start from different perspectives.

- **Functional approach**: This makes it easier to develop concrete measures and regulations for specific function groups, and to give extra attention to vulnerable functions, and provides a more fragmented view on the processes in which the functions operate;

- **Process approach**: This offers better insights into the course of the processes / process flows, the parts and stages of processes, which processes are vulnerable and which processes could have a bigger impact in case of risks. In a process-based risk analysis, it is worthwhile to make a distinction between core processes, management processes (or steering processes) and supporting processes.

The **choice** of approach depends on what is already available in the organisation and the context - an institution that is in the middle of a reorganisation would have to assess whether the processes or functions will survive the transition and therefore base the analysis on what remains stable.

As both processes and functions tend to change over the course of time anyway, it is necessary to regularly check if the analysis and the corresponding measures are still valid. If this information is not yet available, then the working group will gather the intelligence themselves, for instance by: interviewing employees with relevant knowledge e.g. line managers; a brainstorm or workshop; self-evaluation; and/or the use of checklists.

Step 3: Compile a vulnerability matrix

Based on the lists of functions and/or processes, the working group makes an overview of all **potential risks** (= vulnerabilities). In large organisations, line managers or other colleagues that have relevant knowledge and information can fill out the matrix for their own entity. Hereby an example of a vulnerability matrix in a table that gives an overview of the potential risks:

Vulnerable functions or processes

	Permissions (e.g. fees, licenses, permits)	Collecting payments	Awarding grants & subsidies	Preparing tenders & awarding contracts	Making payments	Inspection	Enforcement	Assessing appeals	File handling
Contact with third parties									
Conflicts of interest									
Contact with important, sensitive or personal information or budgets									
Use of means (e.g. budgets, cars, materials)									
Inappropriate behaviour									

Positions of power or control									
Monopoly positions									

To make sure that everybody knows what the **activities and situations** in the 1st column entail, it is advisable to add a description of each one, to ensure the table is completed in a consistent way. In the remaining columns, these vulnerable activities and situations are linked with the organisation's functions and processes. Refining the **matrix** is possible by:

1. Dividing the processes in specific sub-activities
2. Adding the functions and functionaries to the table.

This vulnerability matrix should be designed to give an overview of all possible risks that could occur in the organisation.

Step 4: List and scrutinise measures

The next step is to use the vulnerability matrix as the template to record systematically **existing measures** under the 3 pillars: prevention, detection, and reaction. In this way, the working group gets an overview of the extent to which potential risks are covered. Below are some examples of general measures, but these can be complemented by specific measures that are tailored to the type of process under consideration. For example, in the case of preventative measures, these might seek to avoid vesting too much power (opportunity) in one person. Clearly, some of the detective measures may also act to deter, and hence double-up as preventative.

Pillar	Examples
Prevention *Taken in advance to prevent integrity breaches from happening*	General measures • Regulations; • Charters and code of conducts; • Labour law; • Swearing-in of functionaries; • Human resources management, including personnel surveys, coaching, training, team days, appreciation, motivation, wage grading, organisational culture, welcoming policy, function rotation, mobility policy, exit policy; • Exemplary leadership; • Information management
	Specific measures • 'Four eyes' principle;[25] • Double signature; • Separation of functions, etc.
Detection *Aimed at ascertaining integrity breaches in the event of them occurring.*	General measures • Points of report within the organisation, including direct managers, staff representatives, trusted intermediaries, complaints managers; • Points of contact at the central level for the entire public administration, such as centralised internal audit, Ombudsperson, a central point of reports;

[25] According to this principle, there are always at least two employees who have to approve actions in case of vulnerable or fraud-prone processes.

	• External points of report, such as the police and public prosecutor; • Audit and control, including investigation by internal control, Court of Auditors, external audit firms; and • Receiving signals via personnel surveys.
Reaction *Taken as a response to integrity breaches*	General measures • Integrity policy (if not already in place); • Remedy policy, including training and guidance; • Internal sanctions policy, covering fair warning, reprimand, transfer, suspension and dismissal; • External sanctions policy, namely prosecution.

Having completed the matrix, the next requirement is to **look critically** at the measures in place, both general and process-specific. The following table sets out the lines of enquiry as a potential checklist for scrutinising their quality and application.

Check	Criteria	Questions
Quality	Clarity	Are the measures clear to everyone, and can everyone use them?
	Transparency	Are the measures transparent in the sense that there are no catches or 'flies in the ointment'?
	Openness	Have the measures been communicated and do the employees know where they can find the measures?
	Completeness	Are there still other measures that can be thought of and that have not been listed yet?
	Coherence	The measures are not contradicting each other?
	Relevance	Are the measures still up to date?
	Sustainability	Are the measures still valid in the medium-long term? Are they stable?
	Efficiency	Are the measures proportional to the result?
Application	Knowledge	Are the measures known by the entire organisation?
	Applicability	Are the measures applicable to the organisation?
	Acceptability	Are the measures acceptable to the employees of the organisation?
	Implementation	Are the measures put into practice?

Step 5: Determine priorities

After listing the measures and putting them under scrutiny, the risks must be **weighed**. This weighing takes account of two aspects: what is the chance that the risk might materialise, and what would be the impact if it did.

Chance of the risk: Assessing probability of a risk happening is linked to the qualities and application of the existing measures, put under scrutiny in step 4. The higher the measure quality and the better its application, the smaller the chance that the risk might actually occur, with the opposite also holding true. The results of this assessment can be categorised in different ways, of which the following table is just one example:

Class	Chance	Probability
1	0%	Totally unlikely
2	0 to 5%	Unlikely
3	5 to 25%	Possible
4	25 to 50%	Probable
5	50 to 100%	Almost certain

Impact of the risk: This can be evaluated using a range of metrics, including: financial damage to the organisation; waste of taxpayers' money; loss of good reputation, which makes citizens and/or enterprises to lose their trust in the organisation; negative influence on the workings of the organisation; negative influence on the work atmosphere, tensions and blurring of moral standards; harming costumers, relations or citizens; legal implications for the employees; political and governmental implications, etc. Again, impact can be classified in different ways, the following being an example:

Class	Impact
1	Small
2	Limited
3	Rather substantial
4	Serious
5	Disaster

If the scores are awarded by a small group, an individual score will have more weight. To avoid this, it is a good practice to organise a meeting with the project group. During this meeting, the person who is most knowledgeable about the risk can give an account on the specific risk. Afterwards the whole group can award a score. Awarding scores is best done anonymously to avoid group pressure.

To weigh the scores, the working group should multiply the chance class with the impact class, as shown in the matrix overleaf to give an overall risk score.

Chance	Impact					
	X	**1**	**2**	**3**	**4**	**5**
	1	1	2	3	4	5
	2	2	4	6	8	10
	3	3	6	9	12	15
	4	4	8	12	16	20
	5	5	10	15	20	25

The risk score gives an indication of the overall risk level, ranging from a low to a moderate to a high 'inherent risk' (also known as 'gross risk')- the risk associated with a particular activity or attribute of an organisation before taking account of any mitigating controls.

Risk score	Likelihood that the risk would lead to a considerable to high impact
Acceptable (1-5) =low inherent risk	Very limited to almost non-existent.
Damaging (6-12) =moderate inherent risk	From limited to high.
Critical (13-25) =high inherent risk	Very high.

Once the scores are known, it is necessary to check to what extent the risks are covered by the existing measures, or that there is some 'residual risk' (also known as 'net risk') - the risk of an adverse event happening after taking account of these mitigating measures. This allows the working group to focus on extra or enhanced measures.

Risk coverage	Interpretation
Sufficient = low residual risk	The risk is limited to an acceptable level by the existing measures.
Partial = moderate residual risk	The risk is partly covered by the existing measures. Complementary measures are desirable and can lead to a better control of the risk.
Insufficient = high residual risk	The risk is insufficiently covered by the existing measures or there are no measures in place. Complementary measures are necessary to reduce the risk to an acceptable level.

Step 6: Make a plan of action

After the risks, the existing and lacking measures, the quality of the measures and the chance and impact of the risks are determined, the project group can decide which measures should be taken according to priority and translate them into concrete points of action:

- ✓ **How** one wants to realise the measures;
- ✓ **Who** is going to realise the measures;
- ✓ **What** means are necessary for their realisation (personnel and financial);
- ✓ How the **quality** of the measures will be guarded;
- ✓ How the **stakeholders** will be informed of the progress; and
- ✓ **By when** the measures will be realised (timing)

This leads to a prioritisation of actions by time horizon:

- ✓ **Short term:** The weighing of the risks indicates which actions are most urgent. It makes sense that one starts with realising the actions with the highest priority scores. In addition, it is advisable to also realise those actions that can be achieved with small efforts, and to include them as quick wins in the plan for the first year.

- ✓ **Mid-long term:** The other actions are to be inscribed in the action plan for the medium to long term. It is important to limit the number of years to realise all measures. An organisation is in continuous development and one should make sure that the measures fit the current needs of the organisation.

The implementation of the measures is best inscribed in the **management and internal control processes** of the organisation. It is also vital that it is very clear who is responsible for the implementation and follow-up of the measures and that their realisation is effective and measurable. With planning that is stretched over several years, one should check at regular points in time whether the implemented measures indeed achieve the desired results, and if necessary adjust them. After finishing the entire multi-annual planning, a **new cycle** of analysis can start with new measures. Integrity risk analysis is an exercise that an organisation should repeat regularly, to ensure that the measures keep up-to-date with the evolutions of both the organisation and society.

By translating the general measures and points of concern into concrete actions, the integrity risk analysis lays the foundation for an **overall integrity policy** and approach to deter, detect and address corruption (see the example of the Flemish Integrity Coordinator in topic 2.1.3, which followed an official decision to launch an integrated and coordinated integrity policy). The Dutch Integrity Office give a clear description of what an integrity policy plan should include.

Inspiring example: Defining an integrity policy plan (The Netherlands)

"*In such a plan, the organisation determines its (multi-annual) ambitions, visions and goals with regards to the integrity policy to be put into place, next to the policy measures, instruments and procedures with which it is to be realised. A thorough integrity plan describes the concrete activities and results, also names the roles and tasks of the different players who in the organisation have a functional responsibility in terms of the integrity policy. And finally, the integrity plan provides a clear planning and monitoring, ensures the cohesion of the policy and names the means (such as time and budgets) that will be invested for the implementation of the integrity policy plan*."

Source: Dutch National Integrity Office (BIOS)

This broader context for integrity policy is illustrated by the case of **Slovenia**. Integrity planning was mandated by the 2010 Integrity and Prevention of Corruption Act (IPCA), and has been put in place across the administration over the following years. In the words of the Slovenian Commission for Prevention of Corruption (CPC), an integrity plan is "*a tool for establishing and verifying the integrity of the organisation. It is a documented process for assessing the level of vulnerability of an organisation, its exposure to unethical and corruption practices*". The Commission for the Prevention of Corruption website includes a sample integrity plan and methodology that employs a risk management approach. Subsequently, the Slovenian Government has adopted the Public Administration Development (PAD) Strategy 2015-2020 to set out the vision, objectives, development guidelines and measures for PAD, including integrity strengthening, and a two-year Action Plan for the Implementation of the PAD Strategy 2015–2016 (see topic 4.1). In parallel with the PAD Action Plan, a Programme of Government Measures for Combating Corruption 2015-2016 was also adopted, alongside numerous additional activities.

Inspiring example: Integrity planning (Slovenia)

One of the strategic goals of Slovenia's PAD Strategy is 'zero tolerance' to corruption and strengthening of integrity. The 'zero tolerance' approach includes, *inter alia*:

- ✓ The Code of Ethics for government and ministry officials;
- ✓ Legislative footprint and notification of lobbying activity;
- ✓ Drafting of the amendments to the Integrity and Prevention of Corruption Act (IPCA);
- ✓ The reduction of corruption risks in the public administration, with a focus on enhanced transparency of public funds;
- ✓ The reduction of corruption risks in the judiciary;
- ✓ Centralisation and computerisation of public procurement procedures in the public health system;
- ✓ Effective and transparent control of bearers of public authority and their sectoral organisations (chambers and associations);
- ✓ Identification of (past) corrupt activities involved in banking transactions and the preparation of the legal basis for their identification and prevention;
- ✓ Revision of the legal basis for the Bank Asset Management Company (BAMC) operation;

According to the IPCA (Articles 47-50), government bodies, local authorities, public agencies, public institutes, commercial public institutions and public funds are obliged to develop and adopt integrity plans. Within each organisation, the integrity plan is devoted to:

- ✓ Identifying relevant corruption risks in different working fields;
- ✓ Assessing the kind of danger that corruption risks may pose;
- ✓ Determining measures to reduce or eliminate corruption risks.

Adopted in 2010, the IPCA set an obligation to all the above-mentioned to draw up integrity plans by 5 June 2012, based on guidelines produced by the CPC and submit them to the CPC. Through the integrity plan, it will be possible to identify the level of exposure of an entity to corruption risks and risks of unethical and other unlawful behaviour. By identifying risks and risk factors, it is possible to assess the existing control mechanisms, evaluate their likelihood to occur and the level of damage they may cause and finally propose measures to minimise or suppress risks.

The integrity plan consists of: assessment of corruption exposure of the institution; personal names and work posts of the persons responsible for the integrity plan; a description of organisational conditions, staff and typical work processes including corruption risk exposure; assessment and proposed improvements, regarding:

- ✓ The quality of regulations, management, administration, etc.;
- ✓ The integrity of staff and institution;
- ✓ Transparency and efficiency of processes; and
- ✓ Measures for timely detection, prevention and elimination of corruption risks.

The Slovenian integrity planning methodology was developed based on the application of international conventions, standards and principles. Additional ideas came from: a methodology used by Slovenian government auditors for controlling financial risks; the Victorian Managed Insurance Authority (VMIA) and its manual 'Risk Management, Developing & Implementing a Risk Management Framework'; the Australian/New Zealand standard 'Risk management - Principles and Guidelines' (AZ/NZS ISO 31000:2009)[26].

The preparation of the integrity plan starts with convening a working group, whose tasks are:

- ✓ Recording data, and gathering and examining information and materials that represent an additional source for the working group to identify risk factors of corruption and other unethical practices at the institution;
- ✓ Providing an explanation to employees of the objective, purpose, method and activities to draw u the integrity plan, and inviting them to cooperate with the working group; and
- ✓ Identifying and assessing the current situation by identifying the risks of corruption and other unethical practices in the following sources of risk (organisational, employees, processes).
- ✓ Improving proposals of measures to eliminate identified exposure to risks and introduction of preventive measures to reduce potential for the emergence of new risks.

Regarding the **procedure**, once the working group has drafted the integrity plan, it is adopted by the head of the institution, together with the final plan of improvement and measures (corruption risk register). With this decision, the working group is dissolved and a 'custodian' of the integrity plan is appointed. The custodian ensures that proposed measures and improvements are implemented and accepted before the time limit/deadline. The custodian should report on the realisation of the measures to the head of the institution at least every three months. The adopted integrity plan is sent to CPC.

As can be seen, the **custodians** play a very important role within each institution. These are public servants, including teachers and nurses, not risk management professionals. Approximately 80% of custodians were appointed by heads of their institutions, in agreement with the custodian. The CPC organises trainings for custodians, and for example, trained around 700 between September and November 2015.

[26] ISO 31000 was published in 2009 as an international standard for the implementation of risk management

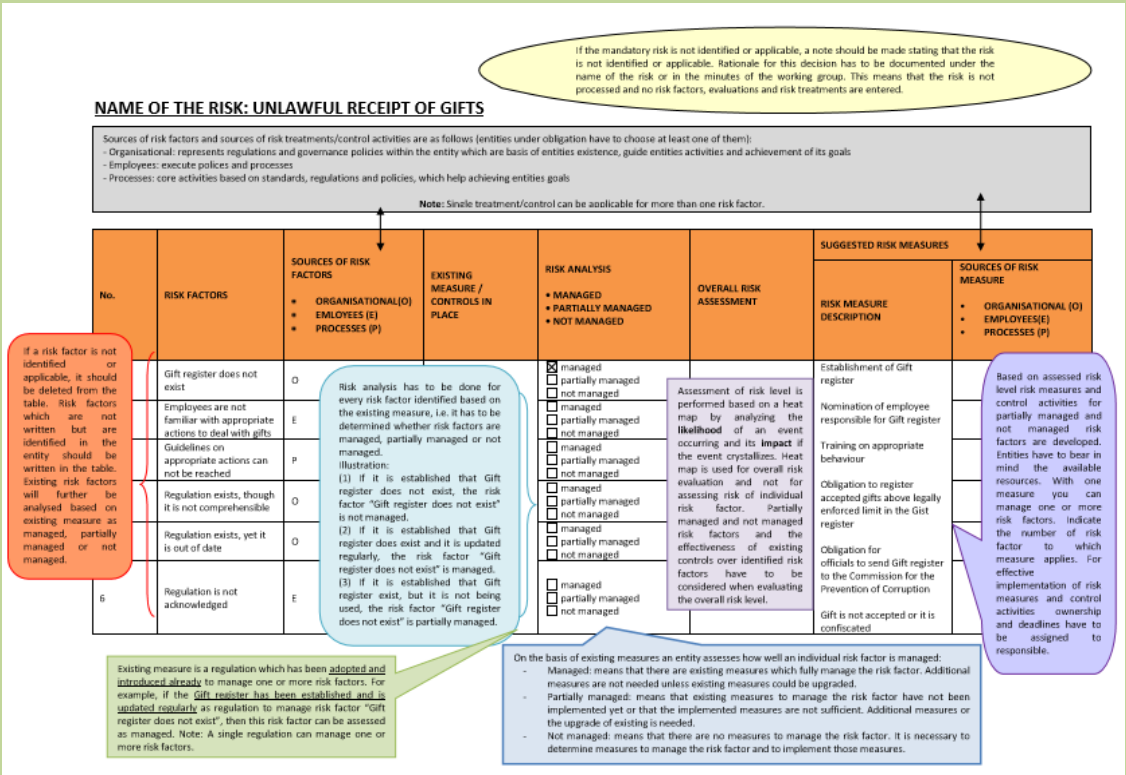
In preparing the plan, the **risk matrix** in its early days was completed manually (generic template overleaf).

No.	RISK FACTORS	SOURCE OF RISK FACTORS • ORGANISATIONAL (O) • EMPLOYEES (E) • PROCESSES (P)	EXISTING MEASURE	RISK ANALYSIS OF THE RISK FACTORS • MANAGED • PARTIALLY MANAGED • NOT MANAGED	OVERALL RISK ASSESSMENT	SUGGESTED RISK MEASURES	
						RISK MEASURE DESCRIPTION	SOURCE OF RISK MEASURE • ORGANISATIONAL (O) • EMPLOYEES (E) • PROCESSES (P)
1				☐ managed ☐ partially managed ☐ not managed			
2				☐ managed ☐ partially managed ☐ not managed			
3				☐ managed ☐ partially managed ☐ not managed			
4				☐ managed ☐ partially managed ☐ not managed			
5				☐ managed ☐ partially managed ☐ not managed			

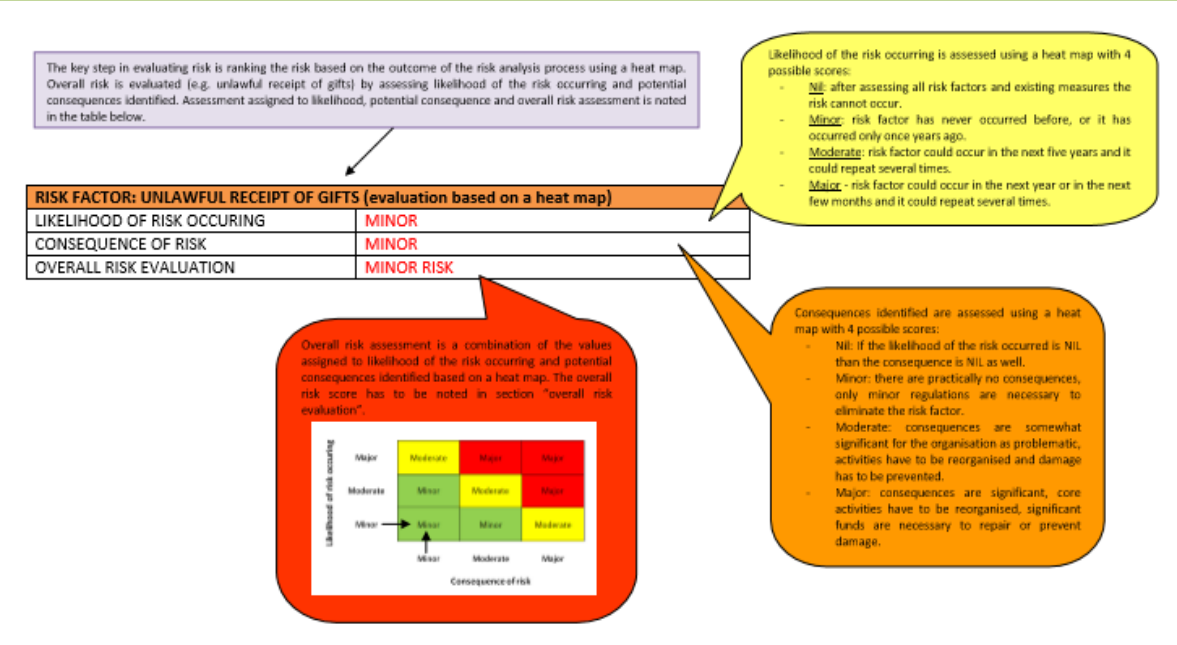
There were six pre-determined risk areas covered, plus one which would be tailored to the nature of the organisation:

- ✓ Unlawful receipt of gifts;
- ✓ Conflict of interest;
- ✓ Restrictions on business activities due to conflict of interest;
- ✓ Illegal lobbying;
- ✓ Protection of whistle-blowers;
- ✓ Public procurement;
- ✓ Possible additional risks which may be identified in their working environment, taking account of the nature of their activities

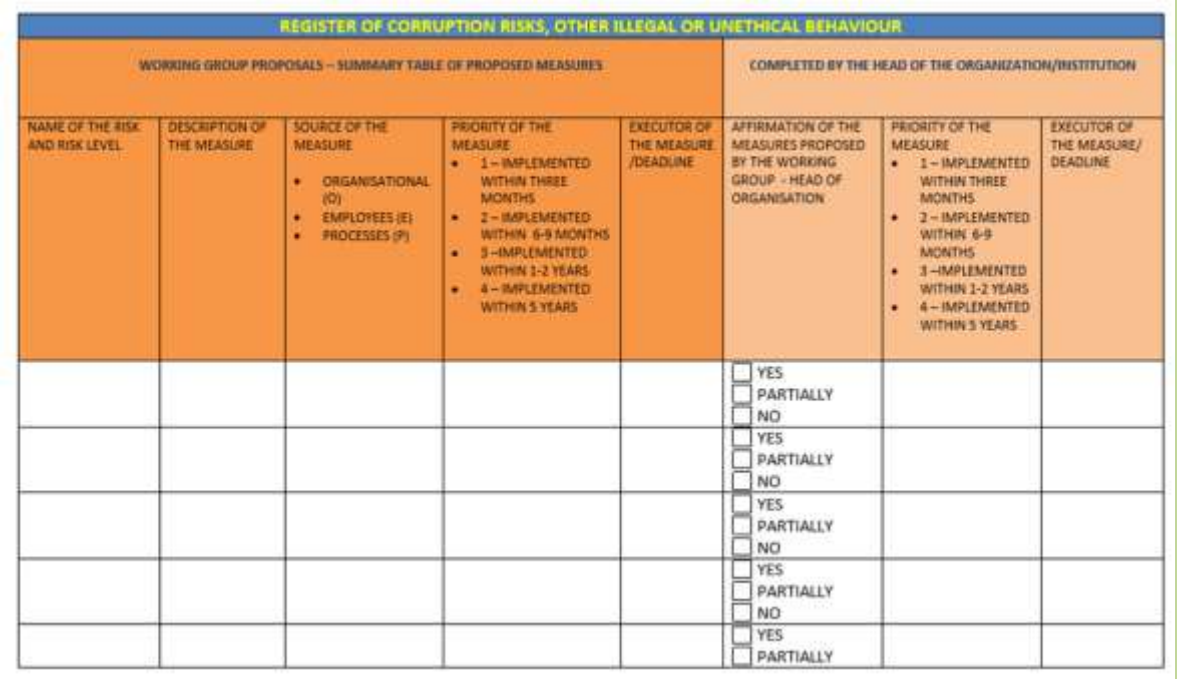
The example below is a partial extract from CPC guidelines, with annotations to help the user.



The guidance also included an explanation of how to assess the chance ("likelihood") and impact ("consequences") of the risk, the link to the 'traffic light' system (red, yellow, green) for the overall risk assessment after the scores have been evaluated, and the presentation of these overall risk assessment in 'heat map' format.



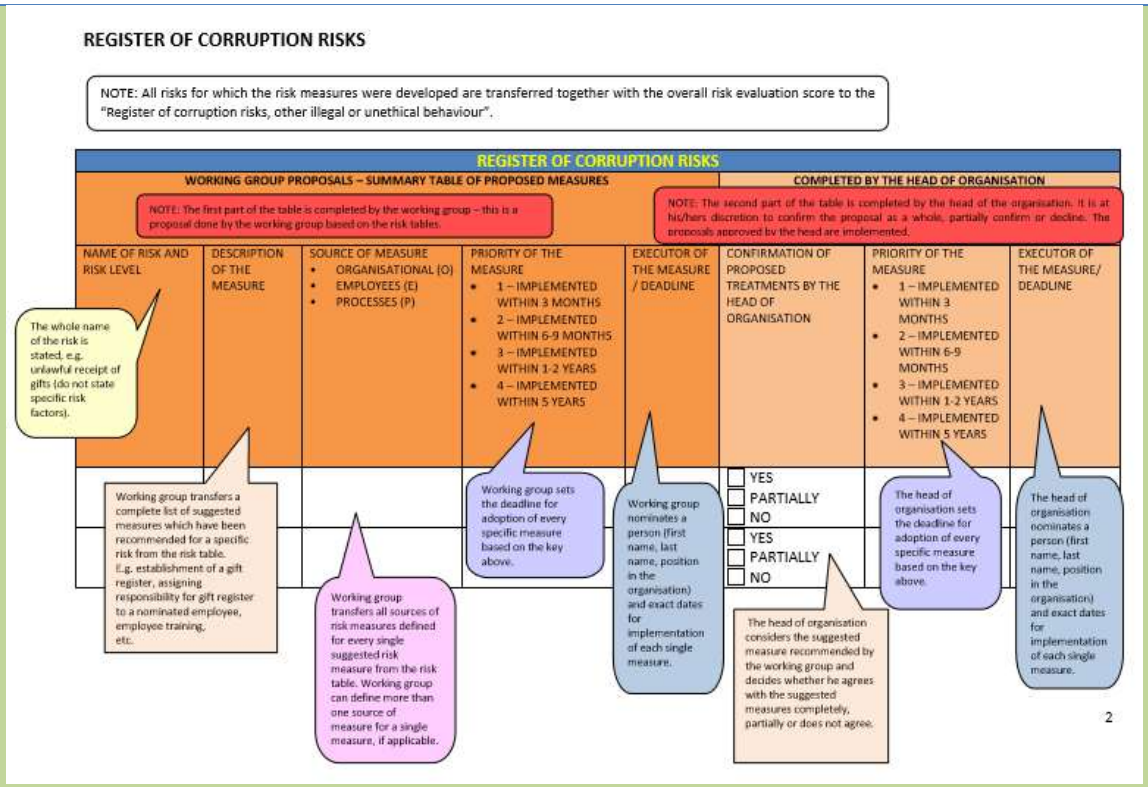
Once the risks have all been identified and assessed, and risk measures proposed and evaluated, the working group was required to complete the risk register below. The final step is for the register to be forwarded to the head of the organisation for his/her affirmation and prioritisation of the proposed measure, including assigning an 'executor' of the measure and setting a deadline for its implementation.



REGISTER OF CORRUPTION RISKS, OTHER ILLEGAL OR UNETHICAL BEHAVIOUR

WORKING GROUP PROPOSALS – SUMMARY TABLE OF PROPOSED MEASURES					COMPLETED BY THE HEAD OF THE ORGANIZATION/INSTITUTION		
NAME OF THE RISK AND RISK LEVEL	DESCRIPTION OF THE MEASURE	SOURCE OF THE MEASURE • ORGANISATIONAL (O) • EMPLOYEES (E) • PROCESSES (P)	PRIORITY OF THE MEASURE • 1 – IMPLEMENTED WITHIN THREE MONTHS • 2 – IMPLEMENTED WITHIN 6-9 MONTHS • 3 –IMPLEMENTED WITHIN 1-2 YEARS • 4 – IMPLEMENTED WITHIN 5 YEARS	EXECUTOR OF THE MEASURE /DEADLINE	AFFIRMATION OF THE MEASURES PROPOSED BY THE WORKING GROUP - HEAD OF ORGANISATION	PRIORITY OF THE MEASURE • 1 – IMPLEMENTED WITHIN THREE MONTHS • 2 – IMPLEMENTED WITHIN 6-9 MONTHS • 3 –IMPLEMENTED WITHIN 1-2 YEARS • 4 – IMPLEMENTED WITHIN 5 YEARS	EXECUTOR OF THE MEASURE/ DEADLINE
					☐ YES ☐ PARTIALLY ☐ NO		
					☐ YES ☐ PARTIALLY ☐ NO		
					☐ YES ☐ PARTIALLY ☐ NO		
					☐ YES ☐ PARTIALLY ☐ NO		
					☐ YES ☐ PARTIALLY		

Again, the CFC prepared annotated guidelines to help working groups and head of the organisation to interpret the headings and fill in the register.


REGISTER OF CORRUPTION RISKS

NOTE: All risks for which the risk measures were developed are transferred together with the overall risk evaluation score to the "Register of corruption risks, other illegal or unethical behaviour".

REGISTER OF CORRUPTION RISKS

WORKING GROUP PROPOSALS – SUMMARY TABLE OF PROPOSED MEASURES

NOTE: The first part of the table is completed by the working group – this is a proposal done by the working group based on the risk tables.

COMPLETED BY THE HEAD OF ORGANISATION

NOTE: The second part of the table is completed by the head of the organisation. It is at his/hers discretion to confirm the proposal as a whole, partially confirm or decline. The proposals approved by the head are implemented.

NAME OF RISK AND RISK LEVEL	DESCRIPTION OF THE MEASURE	SOURCE OF MEASURE • ORGANISATIONAL (O) • EMPLOYEES (E) • PROCESSES (P)	PRIORITY OF THE MEASURE • 1 – IMPLEMENTED WITHIN 3 MONTHS • 2 – IMPLEMENTED WITHIN 6-9 MONTHS • 3 – IMPLEMENTED WITHIN 1-2 YEARS • 4 – IMPLEMENTED WITHIN 5 YEARS	EXECUTOR OF THE MEASURE / DEADLINE	CONFIRMATION OF PROPOSED TREATMENTS BY THE HEAD OF ORGANISATION	PRIORITY OF THE MEASURE • 1 – IMPLEMENTED WITHIN 3 MONTHS • 2 – IMPLEMENTED WITHIN 6-9 MONTHS • 3 – IMPLEMENTED WITHIN 1-2 YEARS • 4 – IMPLEMENTED WITHIN 5 YEARS	EXECUTOR OF THE MEASURE/ DEADLINE
					☐ YES ☐ PARTIALLY ☐ NO		
					☐ YES ☐ PARTIALLY ☐ NO		

The whole name of the risk is stated, e.g. unlawful receipt of gifts (do not state specific risk factors).

Working group transfers a complete list of suggested measures which have been recommended for a specific risk from the risk table. E.g. establishment of a gift register, assigning responsibility for gift register to a nominated employee, employee training, etc.

Working group transfers all sources of risk measures defined for every single suggested risk measure from the risk table. Working group can define more than one source of measure for a single measure, if applicable.

Working group sets the deadline for adoption of every specific measure based on the key above.

Working group nominates a person (first name, last name, position in the organisation) and exact dates for implementation of each single measure.

The head of organisation considers the suggested measure recommended by the working group and decides whether he agrees with the suggested measures completely, partially or does not agree.

The head of organisation sets the deadline for adoption of every specific measure based on the key above.

The head of organisation nominates a person (first name, last name, position in the organisation) and exact dates for implementation of each single measure.

2

All institutions are obliged by the IPCA to **send their integrity plans to the CPC**. After analysing and processing all the integrity plans, the CPC will determine (at the national level) an exposure of different institutions, their organisational conditions, processes and employees to corruption and other illegal and unethical behaviour. The main goal is to strengthen integrity and anti-corruption culture in a public sector by identifying risks, planning and implementation of adequate measures. By putting in place an overall integrity plan system, causes of corruption will be eliminated, which will result in strengthening the rule of law and people's confidence in the institutions.

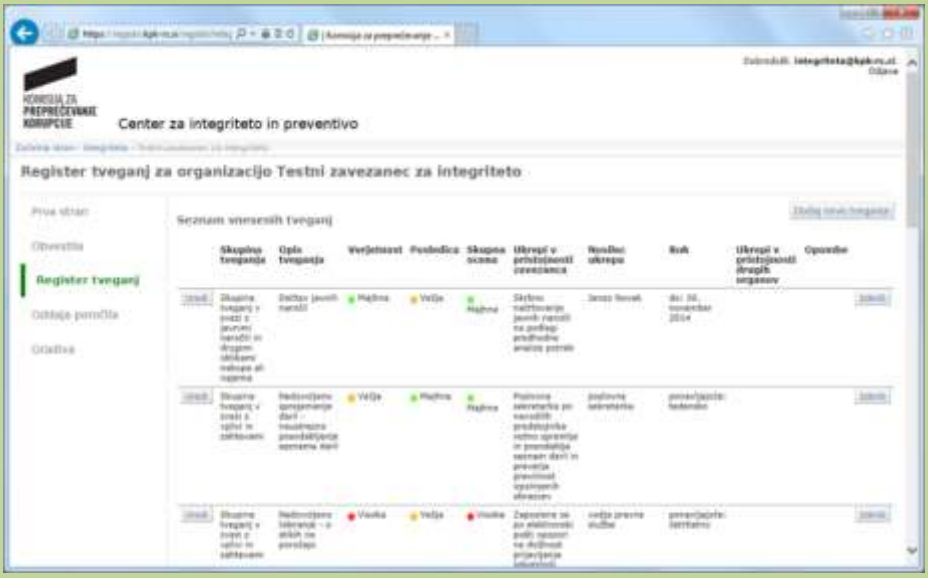
Over the last four years, the CPC has revised the integrity plan, and built and now manages an electronic application, the **E-Register**, so that public entities can more easily fill in their risk analysis and register of implementation measures online (see extract below). In this way, all the data is gathered automatically by the CPC. This application allows printouts, comparisons and data analysis, and provides the user with help / explanation when entering any data. A video guide is available on the web. The CPC has also educated several thousand public employees, and reviewed almost all the integrity plans it received and responded to institutions.


Skupina tveganj v zvezi z vplivi in zahtevami

IME TVEGANJA: ZAHTEVA NEETIČNEGA ALI NEZAKONITEGA RAVNANJA

ZAP. ŠT.	DEJAVNIKI TVEGANJA (različni primeri dejavnikov tveganj)	OBSTOJEČI UKREP	OBVLADOVANJE DEJAVNIKA TVEGANJA	SKUPNA OCENA TVEGANJA	PREDLAGANI UKREPI / OPIS UKREPA (različni primeri ukrepov)
1	Predpis (navedite ime predpisa ali več predpisov) obstaja, vendar se ne uporablja		☐ je obvladan ☐ je delno obvladan ☐ ni obvladan	Verjetnost: Posledica: Skupna ocena:	Izobraževanje zaposlenih
2	Predpis (navedite ime predpisa ali več predpisov) obstaja, a ni jasen		☐ je obvladan ☐ je delno obvladan ☐ ni obvladan		
3	Predpis (navedite ime predpisa ali več predpisov) obstaja, a ga zaposleni ne poznajo		☐ je obvladan ☐ je delno obvladan ☐ ni obvladan		
4	Ne upoštevajo predpisa (navedite ime predpisa ali več predpisov) pri svojem delovanju		☐ je obvladan ☐ je delno obvladan ☐ ni obvladan		
5	Zaposleni ne prijavijo zahtev po neetičnem ali nezakonitem ravnanju		☐ je obvladan ☐ je delno obvladan ☐ ni obvladan		
7	Proces zaščite prijavitelja ni ustrezno načrtovan		☐ je obvladan ☐ je delno obvladan ☐ ni obvladan		Sprejetje ustreznih navodil o postopku ravnanja v primerih zahteve po neetičnem ali nezakonitem ravnanju

The risk matrix allows self-monitoring, to change the internal risk management culture. Moreover, the CPC's objective is good governance, which involves managing different types of risk, not only for business or just corruption.



As at August 2016, the state-of-play was that 70% of more than 2 000 public entities had completed the risk matrix, identifying over 10 300 risks, and 79% had submitted at least 1 report, with over 14 300 measures.

Total number of public entities[27]	**2 029**
Number of entities that completed risk matrix	1 418 (**70%**)
Number of entities that submitted at least 1 report	1 608 (**79%**)
Number of risks identified	10 357
Number of measures prepared	14 313
Total number of users[28]	**2 442**
Number of active users	2 066 (**85%**)

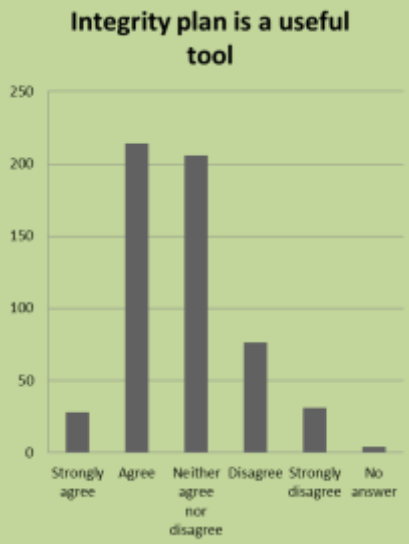
The CPC has checked, and will do so in the future on a yearly basis, how the entities plan to implement the integrity plans as they must report that to the CPC. A fine may be imposed on the responsible person of the body or the organisation obliged to draw up and adopt the integrity plan if it fails to do so. The CPC has recently developed an electronic registry which enables every subject to manage data from its integrity plan for its own use, as well as to submit data to the CPC for further supervision.

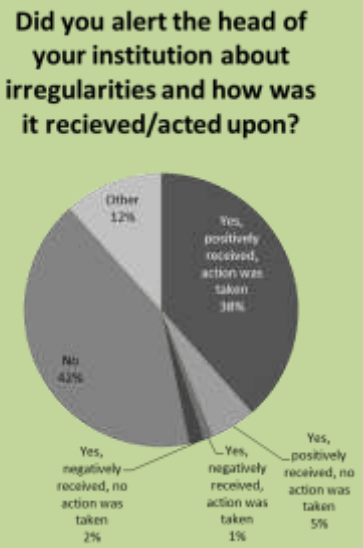
The CPC has surveyed the custodians to find out what they thought of the integrity plan, whether they had brought irregularities to the head of their institutions, and if so, what happened next. The results are presented below.[29] The largest group of custodians agreed or strongly agreed that the integrity plan was a useful too. In 38% of cases, custodians reported that they had alerted the head, the information had been well received and action taken.

[27] This number contains also some institutions that were recently closed or in the process of being closed. The percentages are therefore only approximate

[28] 'Users' are persons registered in the application as integrity plan custodians or their 'deputies' – persons who have the authority to log in the system and edit data in the application. Not all institutions appointed deputies. Active users are those that actually logged into the system. Not all the users need to log in – if the custodian enters the data then there is no need for the deputy to login.

[29] The question put to the custodians was whether they ever faced the situation in which they had to report some wrongdoing to the head of the institution and if so, how was this information received. The aim was to know what happened if the custodian reported, and hence the following diagram does not differentiate the possible reasons for *not* reporting (i.e. no wrongdoing, decided not to report, afraid to report, etc.).





As at end 2015, the CPC was using the information from investigations and system analysis of public sub-sectors to suggest updates to integrity plans, and using the information from the E-Register and analysis of its data to suggest new policies and amendments to laws/acts.

Under the PAD Strategy:

- Special attention will be paid to training public officials.
- There will be reformed classification of high-risk jobs.
- More effort will be put into consistent sanctioning of possible integrity violations.
- Efficient supervisory and preventive activities of the Commission for Prevention of Corruption must be ensured.
- Individual ministries, including affiliated bodies, will have to enhance their internal supervisory mechanisms, including consistent corruption risk management and violations of integrity through their Integrity Plans.
- Systematic and thorough risk management will be reinforced. All of the identified risks that influence the use of public funds would be gathered in a National Risk Register that will be set up as a uniform national risk register for the entire public sector.

Inspired by the E-register of corruption risks developed and run by the CPC and on the basis of the planned measures of the PAD Strategy, the Slovenian Ministry of Public Administration intends to merge all kinds of management risks in the public administration under one roof (financial risks, operational risks, health risks, environmental risks, security risks etc.), since all these risks eventually affect public finances, and analyse various risk assessment methodologies that are currently in use.

Taken in the round, these measures should significantly contribute to stable and transparent performance of public duties and raising citizens' trust in the rule of law.

For further information on Slovenia's integrity plans: Vita Habjan-Barborič, Commission for the Prevention of Corruption, vita.habjan@kpk-rs.si; see also https://www.kpk-rs.si/en/prevention

If the sector effectively comprises just a single organisation, such as one agency responsible for border management for example, then to all intents and purposes, sector = organisation.[30] But this is rare in public service. Hence, the need to consider sectorial integrity and corruption risk.

[30] The exception would be, for example, if the agency was divided into separate, autonomous units (e.g. for land, sea and air borders), each of which was considered an organisation in operational terms, and responsible for its own risk analysis. In this case, the interior ministry (or whichever is responsible for border control) might wish to conduct a sector analysis to consider risks that are common to all units.

2.2.3 Managing sector risk

If every public body conducted an organisational risk analysis, would that be enough to ensure – and reassure - that integrity risk was being fully addressed? What about those institutions where corruption is pervasive, and where even an external input into risk assessment cannot successfully shine a spotlight on unethical activities? What about the wider context for the organisation's systems and performance that are set at a higher, supra-organisational level, such as regulations, sector-wide pay structures, employment terms & conditions, etc.? Is there a risk of 'contagion' across organisations, as malpractices in one body are transplanted into others through staff movement or close collusion?

It is right to recognise that some risks are shared across organisations and cannot be tackled by action at the individual organisational level alone. They require or merit sectorial approaches. For example, the risks facing doctors, teachers and police are largely the same (or similar), irrespective of the clinic, school or station that is subject to analysis. Some solutions require collective action at the sector level, for example regarding sectorial codes of conduct, sector-specific legislation & regulations, organisational restructuring, or funding arrangements. Sector risk management also deals with the question: what happens when an organisation's management is the problem, or when unethical or corrupt practices are so ingrained that integrity risk management at the institutional level is unlikely to happen or be taken seriously (just 'going through the motions')? To understand the potential temptations that may be placed in the path of public officials and the absence of restraining factors, especially where integrity is the exception and not the rule, it is essential to also identify risks by sector to design the most effective counter-measures.

The purpose of a sectorial analysis is to pinpoint potential risks that can repeat across organisations, prepare sector guidelines for all applicable organisations, and seek shared solutions, especially where failure to act across the sector can undermine the efforts of any individual organisation.

The health sector (see annex to this theme) 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 an effective case for a comprehensive and multi-faceted sector strategy. Another example 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".

At the sectorial level, it falls to policy-makers (e.g. within sector ministries or the centre of government), rather than top management of individual organisations, to commission or conduct integrity risk analyses and identify suitable measures. Once established, this framework can then be disseminated down to all relevant bodies in the sector, to help shape the development of organisational measures at the micro-level. They can also inform whole administration measures at the macro-level.

Many examples exist of sectorial studies and guidelines[31], which apply the standard risk management process of identification, assessment and measure design. The first step is to return to the formula: **risk = opportunity – constraints**.

Anticipating opportunities

Many risks at the sector level are generic in nature, such as the absence of an adequate legal base to deter or detect different forms of corruption, or insufficient attention to ensuring meritocratic recruitment and promotion. These should be considered here, but dealt with at the macro / country level (legislation, codes of ethics and HRM guidelines) or micro / organisational level (codes of conduct, and HRM practices). Equally, though, myriad risks reflect the specific circumstances of the sector. For example, temptation to engage in corrupt activities can arise from coming into direct contact with criminals, which poses a higher risk for the average police officer than the average

[31] For example: DG HOME (2013), *Study on Corruption in the Healthcare Sector;* Deutsche Gesellschaft für Technische Zusammenarbeit (2004), *Preventing Corruption in the Education System*, A Practical Guide (commissioned by the Federal Ministry for Economic Cooperation and Development); Transparency International (2014), *Innovative Anti-Corruption Reforms in the Judiciary*, Anti-Corruption Helpdesk (funded by the EU); OECD (2012), *Tax administration: detecting corruption;* World Bank (2005), *Customs Modernization Handbook*; PwC and Ecorys (2013), *Identifying and Reducing Corruption in Public Procurement in the EU.*

professor. Similarly, daily interactions with business means potential conflicts of interest (including 'revolving doors') are more prevalent in tax administration than other fields of public finance management. The table below sets out some general risk factors that can shape the thinking about 'opportunity', both in terms of the public official's power relationship with the citizen/enterprise and the public resources available to them.

Sector 'red flags': opportunities

Question	Explanation
Is there scarcity of provision of the public service?	Too much demand for a public service relative to its availability (which might reflect funding levels) can create the conditions for bribery & extortion to arise, to get access to the service. A prime example would be healthcare.
Is the user base fragmented?	Linked to scarcity of supply, the risk of corruption is likely to be higher when there are many service users (whether citizens or businesses) and they are, in effect, competing for access to the public service. In these cases, the risk is also higher than desirable if sector-wide standards and solutions (such as centralised / automated access) could be applied but have not been considered.
Is there an imbalance of information between providers and users (information asymmetry)?	A manifestation of the 'power' imbalance between service provider and user, the provider has privileged access to information (such as service availability & cost) and the user is disadvantaged (for example, due to ignorance of their rights or the provider's obligations). This may be the result of insufficient transparency or choice, due to a natural monopoly of the public administration, few alternative providers in the public and/or private sectors, 'cartel' behaviour among existing service providers or high barriers to entry, expensive private providers, etc.
Is decision-making concentrated in individuals or small groups?	If the organisation of the sector lends itself to either a) individuals having discretionary power to take decisions (such as individual doctors, professors or public officials), or opportunities for collusion among small groups (e.g. units of police or border guards working in partnership), the risk might be higher if both opportunity is present and constraints (including controls or sanctions) are absent.
Is the sector characterised by large public spending?	The 'opportunity' and incentive to engage in unethical practices is likely to higher when the stakes are greater (in the absence of controls and other constraints). An important secondary question concerns the nature of this spending: is it characterised by procurement of works, supplies or services?
Is the sector characterised by close ties with business?	The risk of state capture and 'revolving doors' is higher when there is either a highly active lobby on behalf of the industry's interests, or the nature of the sector means that the administration is engaged in regular interaction with industry representatives (especially individual companies), such as regards standards, specifications, fees, tariffs, etc. Moreover, revolving doors is a higher risk when the competences required to regulate cross-over with the competences required to operate in the sector.
Are public officials exposed to criminals?	The risk of corruption is higher where the official's job involves direct contact with criminals, who can seek to elicit, or intimidate the official, into unethical behaviour and activity.

These 'red flags' send a signal only. They do not lead the policy-maker towards specific sector risks, which requires a more in-depth analysis of the 'pinch points' in the system. Overleaf are **examples** of decisions from a selection of sectors, where officials can misuse and abuse the power entrusted in them and their roles as gatekeepers to public resources. These are grouped into two categories:

- **Permissive**, whereby the public official allows something that should not happen; and
- **Obstructive**, whereby the official denies something that should happen.

In many cases, the outcome might simply be the result of error, incompetence or negligence, of course. Integrity becomes the issue when the permissive or obstructive decisions are the *consequence* of bribery, kickbacks, favouritism, state capture or any other form of corruption or conflict of interest.

	Permissive decision	Obstructive decision
Border control	• Allowing the passage of goods which are illegal or strictly controlled (smuggling); • Allowing the passage of people against their will (trafficking) or who represent a threat to the rule of law (e.g. criminals) or security (e.g. terrorists), including those subject to arrest warrants or travel bans; • Accelerating passage of goods or other traffic; • Failure to report suspicious activity or documents; • Overlooking minor irregularities; • Selling information to criminal groups (e.g. regarding patrol schedules, investigations); • Providing fake alibis for criminals' location; • Diverting seized goods for private sale or transfer to criminal interests	• Denying passage of goods and people where there is no breach of law or standards involved; • Obstructing investigations, including tampering with evidence; • Seizing property or funds from asylum seekers or illegal migrants.
Customs	• Accelerating the processing of documents or inspection of goods for speedy clearance; • Not physically inspecting goods; • Ignoring undeclared items on the cargo manifest, or certifying fictitious exports; • Enabling importers to benefit from preferential tariffs (e.g. by accepting a false declaration of country of origin); • Permitting goods in transit, or goods under suspense regimes, to be released for domestic consumption; • Issuing import licenses, warehouse approvals, and authorised trader status approvals without proper justification.	• Holding up passage of goods despite documentation being in order
Education (from pre-school to university and adult)	• Allowing enrolment despite the prospective student failing to meet entry criteria; • Favouring access to one student over another, where there are limited places available, on the basis of non-objective criteria; • Employing or promoting teachers who lack the necessary qualifications, experience and/or attributes; • Falsifying exam results to provide undeserved qualifications (including selling certificates to non-enrolled / non-attending students)	• Denying admission to prospective students who fulfil the entry criteria, despite availability of places; • Denying job or promotion opportunities to suitably qualified staff; • Falsifying exam results to deny deserved qualifications; • Denying access to information
Healthcare (primary, secondary or tertiary)	• Enabling patients to move up the waiting list for treatment, for non-medical reasons (jumping the queue); • Seeking fees for free-of-charge services, or higher payments than official tariffs; • Encouraging patients of public medical professionals to switch to their private practices to gain treatment;	• Denying patients access to treatment to which they are legally entitled; • Denying access to information

	• Using publicly-funded facilities, including treatment rooms, support staff time, medicines and medical devices, for private practice; • Promoting treatments or medicines in which the medical professional has a financial or other interest; • Employing or promoting medical professionals who lack the necessary qualifications, experience and/or attributes.	
Judiciary (prosecutors, court staff and judges)	• Seeking or imposing maximum sanctions for minor transgressions; • Accelerating cases or accepting appeals, influencing other judges or simply decide a case in a certain way. • Interference by politicians in the judicial process, so that laws are not applied equally and people in positions of power receive special treatment or go unpunished; • Manipulation by politicians of the appointment or dismissal of judges and prosecutors; • Using discretion to determine salaries and promotions for judges and prosecutors to influence decisions.	• Not investigating cases so that the prosecution does not proceed; • Altering court records or losing documents; • Delaying court cases or denying appeals to slow down the process of justice (possibly leading to drop-out)
Law enforcement (police) and **inspection**, (e.g. fire, safety, environmental)	• Waiving the obligation to caution, arrest or impose on-the-spot fines when the citizen or business has transgressed the law; • Altering the evidence to reduce the chance of successful prosecution; • Providing false statements in court to pervert the course of justice (perjury); • Leaking or selling sensitive information (commercial or personal)	• Targeting law-abiding citizens or enterprises to intimidate or seek 'protection' from over-enforcement (shakedown) • Falsifying the evidence to enable / increase the chance of successful prosecution ('plating' or 'fitting up')
Procurement	• Drafting technical specifications, terms of reference or selection criteria to favour certain bidders; • Splitting tenders into small bids without economic justification, to avoid competitive procedures; • Unjustified use of emergency procedures; • Sharing the tender dossier with potential bidders in advance of the formal launch to give them a head-start in preparing their bid; • Coaching the preferred bidder in how to prepare a winning tender; • Ensuring the evaluation committee is loaded with officials that are favourable to a certain tenderer; • Members of evaluation committees having undeclared conflicts of interest; • Insufficient justification for amendments to public contracts, post-award, including modification of the specification and increase in the budget	• Unjustified exclusion of bidders; • Discriminating between tenderers in the interpretation of their bids, and supporting evidence to score one more highly than others
Public finance management	• Diverting resources intended for regional or local self-government;	

	• Diverting sectorial budgets away from intended recipients (e.g. education from schools & universities, health from clinics & hospitals, etc.)

Note, the table focuses solely on corruption, not fraud (such as falsifying number of patients, students or targets to claim higher budget allocations or allowances).

Often, the obstructive decision appears to be simply the converse of the permissive. However, both the target and the motivation for the unethical behaviour is likely to be very different. For example:

- **Permissive**: Border guards that 'turn a blind eye' to smuggling or trafficking are dealing with (typically organised groups of) criminals in return for money, favours or possibly to avoid retribution.
- **Obstructive**: Border guards that seek to stop the rightful transportation of goods and people are looking to extort bribes from otherwise passive citizens or entrepreneurs.

The context for the behaviour also needs to be understood, not just the potential for these actions. This means examining constraints, or put another way, challenging the conditions in which corruption and conflicts of interest can flourish.

Analysing constraints (or their absence)

To recap, the 'constraints' on corruption and conflicts of interest can be legislative or normative - ideally the latter. Regulating behaviour may be necessary in the interests of clarity and avoidance of doubt as to the 'right thing to do', but laws cannot always foresee every eventuality. Moreover, if authorities are required to fall back on the full power of law enforcement to impose integrity, then the battle is already half-lost. Peer pressure and societal expectations are often a better discipline for promoting ethics and discouraging corrupt activities, as well as a more positive instrument for 'doing the right thing' and feeling good about it. Again, we can identify some general 'red flags' to question whether weak constraints are likely to be a factor in sector risk:

Sector 'red flags': constraints

Question	Explanation
Is there a peer pressure around corruption?	Rather than being a normative constraint, group behaviour by colleagues may be a factor in encouraging unethical acts, especially for new entrants. The attitude of management is especially critical.
Is the sector characterised by public (in)tolerance of corruption?	Irrespective of whether corruption is generally 'accepted' as a reality in society, citizens and businesses might be more inclined to tolerate corruption as 'normal' in some sectors (e.g. paying extra for access to treatment, or gifts as 'thank you' for the service – see healthcare annex).
Is remuneration in the sector below market-levels?	The ethical risk can be exacerbated if the salary package is a) significantly lower than levels in the economy generally and/or b) lower than levels offered in the private sector in the specific sector or its professions. In these cases, there might be a higher risk that officials try to 'top-up' their incomes with bribes and non-cash inducements.
Is the sector characterised by weak internal management & controls?	The sector might be characterised by insufficient supervision, for example by a specific regulatory body, or poor inspection, perhaps because this has been corrupted too. Such weaknesses are likely to be revealed in a regulatory and institutional analysis of the sector.

Is the sector characterised by limited external scrutiny?	Where there are external pressure groups, for example specialist NGOs or citizens' / business associations with a particular interest in the sector, it is more likely to be subject to a spotlight on unethical practices.
Is there a perception of weak sanctions, especially among officials?	Even if the sector is subject to strong control mechanisms, the penalties – whether financial, reputational or job / career- oriented - might be inadequate, especially relative to the expected gains from unethical behaviour

Again, these questions only provide a partial guide into the conditions that might prevail. Each sector should be considered from its own unique perspective. The annex elaborates healthcare as a case study at more length; the police service offers an alternative example below.

Conditions for corruption: the police service

This EU-funded study noted that, while the nature of corruption varies across Member States, and can include both, private and collective gain, there are special types of corrupt practices available only to police officers. The main types of corrupt activities include favouritism, bribery, kickbacks, extortion, fixing of investigations/evidence, failing to report violations or protection of illegal activities, diversion of police resources and theft, and internal payoffs. The discretion which is necessary for many police duties, and the regular contact with criminals can create both opportunity and pressure to act corruptly. Moreover, police officers are sometimes said to be poorly paid, relative to their responsibilities which can create problems around status. The study finds that law enforcement officers in major cities and land border areas can be more vulnerable to corruption due to greater pressures from criminals or citizens.

On the 'constraints' side, the secrecy involved in much police work means most civilians do not regularly witness or monitor officers' day-to-day activities, while external oversight of their work can be poor. Police structures are often fragmented, operating in small units. Police culture is characterised by a high degree of internal solidarity and secrecy, which can create conspiracies of silence (*omerta*), mirroring the criminal community, and an institutional environment that can tolerate corruption. Moreover, management can also be either complicit, if they have themselves worked their way up from 'the beat' (patrolling the streets), or ignorant, if they join at graduate entry level at an elite level. Variable factors include: historical roots (regarding mafia presence or the influence of former security services), community structures, the organisation of the police force (i.e. hierarchical structures, decentralisation and strength of connection to local politics) and the level of anti-corruption activities. Many police forces have internal affairs departments to investigate corruption and other misconduct, but these can suffer from lack of independence in practice.

Source: Study on anti-corruption measures in EU border control.

Identifying mitigating measures

In designing possible measures at the sectorial level, COGs and line ministries should bear in mind several factors:

- ✓ **Precision**: Many sector studies are thorough in their problem and risk analysis, and can cite real-world examples of unethical acts in evidence, but often become much vaguer when recommending ways forward. Concrete proposals should be prescribed, to be practically applied.

- ✓ **Innovation**: Action to address corruption is notoriously complex, causality is often hard to establish and the effects can be unpredictable (e.g. the example of higher pay and greater

bribery). It cries out for evidence-based policy making and sophisticated experimentation, especially in the field of behavioural insights, group behaviour and network effects.

✓ **Implementation**: Who will carry out these measures? In many cases, it will be the existing public bodies (e.g. ministries, agencies, municipalities, schools, hospitals, courts, etc.), who will need to be influenced and incentivised. In other cases, new systems and even institutions (e.g. inspectorates) may be merited, which will need to be set-up, organised on an ongoing basis, and funded. A plan of action is required to ensure measures are not just wishful thinking.

The following examples are themselves necessarily broad. More specific proposals are contained in sector studies already cited (see also the annex on healthcare):

Risk	Possible measures
Abuse of discretionary power by officials	Reducing personal discretion or concentration of power, by: • Spreading decision-making authority over several individuals, including employing the 'four eyes' principle, e.g. involving a 3rd party in checking and signing off spending decisions (e.g. public finance management, procurement), or requiring the first-line officer to be accompanied by a second-line officer at document control points (border management); • Rotating responsibilities for tasks and/or territories, so that individuals do not build up a power base or entrench corrupt relations with others, through for example random changes of daily duty rosters, random changes in shift allocation and duration, rotation of team members, etc. (e.g. border guards, law enforcement, customs); • Computerising admissions procedures (e.g. healthcare, education), computerised case management and random allocation of cases (judiciary), and use of eProcurement; • Use of independent collegiate bodies or judicial councils to appoint judges, rather than single officials or the executive (judiciary); • Use data collection and storage systems on passenger information to deter border guards from fixing 'travel histories', and as evidence in criminal cases
Lack of clarity over rules and rights	Establish and widely publicise rules, such as: • Codes of conduct (all); • Funding arrangements (all); • Limits on payments and gifts, including any laws or regulations on bribery and the applicable penalties (all); • Service charters, to ensure that patients, students and parents know their rights (e.g. healthcare, education); • Rights of citizens regarding police corruption, and what to do if they experience it (law enforcement); • Criteria under which officials can exercise official delegations (customs).
Poor access to information	Increase transparency in the policies and practices of public administrations by publishing information in an easy-to-understand form, accompanied by explanatory context where appropriate, on: • Tenders, awards and (subject to justified exceptions for commercial confidentiality, contracts (public procurement); • Available school / university places, fees (if applicable) and testing processes (education); • Waiting lists and queuing times (healthcare); • Regular publication of police activity and performance statistics (law enforcement). Data visualisation can be employed to present data in a graphical format which communicates information to the viewer more effectively (such as scorecards). The annex includes a specific example of electronic waiting lists within hospitals and poly-

	clinics - on a confidential basis for purely internal purposes - so that managers and physicians can see which patients are due for treatment and when. The system then requires that any changes, for example to jump the queue, are registered, explained and authorised.
Opaque business links	Increase transparency in business relations with public administrations with initiatives like the Sunshine Act, originally developed for US healthcare and since adopted in France and the Netherlands. In its various forms, according to context, such sector-specific laws can oblige manufacturers of drugs, devices, biological and medical supplies to report: contracts entered into with healthcare providers (other than commercial sales agreements); information on payments or other benefits above a minimum value to medical professionals and teaching hospitals; any information concerning ownership or investment interests of medical professionals and their immediate family members in their companies. Non-sensitive data can then be made available on a public website. Non-compliance can be punishable with fines and/or other sanctions.
Weak internal controls	Compensate for individual organisations' inadequate controls (especially in cases of systemic corruption): • Centralise data and intelligence on detected corrupt practices and patterns (all); • Develop & disseminate common guidelines for use of 'red-flagging' indicator systems (all); • Conduct random and *ad hoc* user surveys with businesses and citizens on a sectorial basis, to determine their experience with public services, exposure to unethical and corrupt practices (all – examples can be found in Bulgaria and Malta with passengers at border crossing points); • Use integrity testing as a form of 'mystery shopping' (see topic 4.1), but with the specific intention of ensuring ethical behaviour, subject to controlled conditions and legal safeguards to protect the fundamental rights of the officials being tested (see annexed example of healthcare, but can be other sectors too); • Employ electronic surveillance (video / audio) as a corruption-prevention tool, as well as security, subject to its legal status as allowable in investigations and prosecution, the practicality and cost of reviewing data volumes, and the limitations of its coverage (e.g. video at border crossings, cameras in police cars); • Perform random inspections by external control units of personal belongings, cars or working spaces, to identify any excessive amounts of cash or goods, subject to national laws allowing such investigation (police, border guards, potentially others).
Weak external scrutiny	Establish properly-resourced oversight bodies with clear mandates and *modus operandi*, such as: • School management committees and parent-teacher associations to monitor admissions, appointments and results (education); • Health boards and complaints bodies with the involvement of citizens and civil society organisations (healthcare); • Police oversight bodies tasked with preventing, identifying and investigating misconduct (law enforcement); • Court users' committees (judiciary); • Ombudsman and audit authorities (all). Encourage 'civil society' watchdogs (e.g. patient or parent groups) to identify and report on corruption, with awareness-raising campaigns and reporting hotlines (all).
Hidden corruption	Generate leads for investigations based on risk analysis methods, such as: • Data analysis - cleaning, modelling and interrogating data to identify valuable information, including anomalies (e.g. the incidence of single tenderers for public procurements as a 'red flag' analysed by the EU's ANTICORRP project, or the 'Organspende Skandal' in Germany - see annex); • Data mining – applying statistical algorithms to data to identify patterns and systematic relationships within data sets, and subsequently make predictions • Data washing - bringing together two different data sets to detect abnormalities (e.g. matching anti-money laundering data from suspicious activity reports with employee records);

	• Proper screening of contractors and beneficiaries, especially their ultimate beneficiary owners (public procurement)
Allocation of public funds	Establish a clear policy framework that clarifies roles & responsibilities, publish regulations on the allocation and disbursement of resources, and utilise public expenditure tracking surveys (PETS) and participatory budgeting to engage the public in oversight, engagement and actual allocation, as well as setting up internal controls and internal / external audit.

In each case, the pros, cons and limitations need to be carefully weighed. There is always the risk that the supposed 'cure' is not only ineffective but also has unforeseen and unintended consequences, making the public service less efficient, by adding costs or time without countervailing benefits (additional checks slow down service delivery; automation removes flexibility). Centralisation can reduce discretion, but place too much decision-making power in the hands of a few individuals. At the other end of the spectrum, decentralisation can fragment the decision-making process and create complexity that can be exploited for personal gain. As ever, there is no 'magic pill', rather a cocktail of measures will most likely be needed that motivates as well as mitigates against risk, as the example below illustrates:

Innovative anti-corruption measures in the judicial system

Fighting corruption in the judiciary remains a great challenge, particularly in countries where the separation of powers is weak and courts and prosecutors are subject to political influence. While eradicating undue influence in the judiciary requires a complete overhaul of social norms and values, there are several operational reforms that may help prevent political influence and reduce certain types of corruption. They usually include measures such as:

- ✓ The introduction of an adequate case management system,
- ✓ Ethical and technical training for judges, court staff and prosecutors,
- ✓ Appropriate salaries and benefits,
- ✓ The adoption of clear rules for the appointment, promotion, transfer and removal from office of judges and prosecutors

Inefficient case management limits the judiciary's capacity to deal with cases, undermines citizens' trust in the judicial system and allows a supportive environment for corrupt practices. If there are no rules and if proceedings are slowly creating bottlenecks and backlogs, both court users and staff would have an incentive to resort to bribery. Improved case management systems often include the simplification of procedures and the use of technology, such as the establishment of an adequate infrastructure for the management of data, records and documents in a way that transparency is increased and the opportunities for court staff to manipulate proceedings, or alter/destroy documents are reduced significantly. Many countries have been reforming their case management systems with successful results. To achieve the expected outcomes, a comprehensive computerised system, covering lower and higher courts as well as police and prosecutors (joint case management), seems to be more effective than stand-alone eGovernment systems. In addition, staff, judges, prosecutors, lawyers and users should receive the appropriate training to operate and use the system adequately. It is also that the use of technology in case management is accompanied by measures aimed at enhancing judicial accountability to the world outside. Civil society, the media, and court users should be able to easily access cases and monitor court procedures. Case tracking, which refers to the possibility of following the progression of cases online, is considered a promising practice with regards to increasing transparency and accountability in the management of cases. Other innovative approaches include the adoption of specialised prosecution bodies, the recording and monitoring of court proceedings, and limitations to immunity, prosecutorial discretion and duration of proceedings.

Source: Transparency International (2014), Innovative Anti-Corruption Reforms in the Judiciary, Anti-Corruption Helpdesk (funded by the EU)

2.2.4 Managing country risk

When risk management is performed comprehensively at every level in the public administration, it can cover 100s or 1000s of entities and a multitude of employees. This represents a huge collective effort and requires coordination. While individual organisations can (and do) take the initiative to conduct their own integrity risk analysis, more systematic risk management typically falls to the Centre of Government (COG)[32], designing and disseminating the overall framework and methodology. While line ministries can commission sector studies on their own, a planned approach to sector risks typically takes place within an integrity policy and anti-corruption strategy, again prepared at the COG. The COG role might be played by the Head of the Government's Office or by an overall Integrity Coordinator or ACA (see topic 2.1.3).

But some risks can only be fully understood or addressed by setting sights higher, at the level of the entire administration. This is what investors would call country risk. There are two perspectives here:

- ✓ The **values-based** agenda is about setting an overall direction and tone which applies across the whole administration, for example by agreeing and promoting codes of ethics that apply irrespective of organisation or position (see topic 2.1.1). Such codes would normally provide an overarching framework for sectorial codes of conduct and organisational values statements, or at least complement them. It is about leadership from the top on integrity, and expressing intolerance of corrupt behaviour and unethical practices. It can also involve engaging with the public, raising awareness and changing perceptions.

- ✓ The **rules-based** agenda is about generic legislation or rules, such as defining corruption and conflicts of interest, outlawing bribery, or protecting whistle-blowers (see topic 2.1.2). It is also about whole-of administration policies and practices, such as human resources management (e.g. recruitment and selection), the role of eGovernment, etc (see topic 2.4).

As signalled at the start of this topic, **anti-corruption strategies** are often the vehicle for articulating values- and rules-based approaches, as the manifestation of the country's integrity policy. As an illustration, Lithuania's adopted its first anti-corruption strategy in 2001, as the culmination of a process of political ownership and preparatory steps throughout the 1990s that date back to its restored independence 11 years previously. A new National Anti-Corruption Programme was adopted in 2015 for the period up to 2025.

[32] See topic 3.3 on COG coordination.

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 Lithuania to be performed. Referred to as **Corruption Maps**[33], 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**[34], which provides for the following measures to prevent corruption:

[33] http://www.stt.lt/lt/menu/sociologiniai-tyrimai/ (in Lithuanian)
[34] http://www.stt.lt/en/menu/legal-information/laws/ (in English)

- Determining the probability of manifestation of corruption;
- Corruption risk analysis;
- 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**[35] 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 was adopted in 2015. The overarching objective is to ensure a long-term, effective and targeted anti-corruption and control system in the Republic of Lithuania in 2015-2025. The programme covers the most important provisions of the national anti-corruption policy in the public and private sectors. The specific objectives are:

- Striving for greater management efficiency in the public sector, transparency and openness of decision-making and procedures, accountability to the public, and higher resilience to corruption in the civil service;
- Ensuring the application of the principle of unavoidable liability;
- Reducing the supervisory and administrative burden on economic entities, by transforming the system of institutions carrying out the supervision of economic entities;
- Ensuring fair competition, and transparent and rational purchase of supplies, works or services in public procurement;
- Increasing transparency, reducing and eliminating possibilities of manifestations of corruption in the field of healthcare; and
- Promoting zero tolerance for corruption and encouraging the involvement of the public in anti-corruption activities.

The priority fields of the programme are: political activities and legislation; activities of the judiciary and law enforcement institution; public procurement; healthcare and social security; spatial planning, state supervision of construction and waste management; supervision of activities of economic entities; public administration, civil service and asset management; and anti-corruption education and awareness raising.

For further information: Romualdas Gylys, Head of Corruption Prevention Department, romualdas.gylys@stt.lt

[35] http://www.stt.lt/lt/nkkp-2011-2014/ (in Lithuanian)

In Lithuania, corruption risk analysis falls under the 2002 Law on Corruption Prevention and is conducted by the Special Investigation Service (in Lithuanian, STT), with the 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, based on 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, based on 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 minimised 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.

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.

- 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.

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)

Country risk management can be applied in all circumstances, but is especially relevant when corruption is endemic, or the main country risk is grand corruption, such as state capture and political patronage. It seeks to answer the question: what happens when the system is the problem? In these cases, responses at the level of individual organisations or even sectors are inadequate to the challenge. Here, analysis and solutions can often originate outside the existing system, either from an incoming government, an independent and active legislature or judiciary, public pressure, and/or international bodies (including financial institutions).

For example, the 2013 study '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 corruption in the management of EU funds and state-owned enterprises in the Czech Republic, Slovak Republic and Poland (see also theme 8).

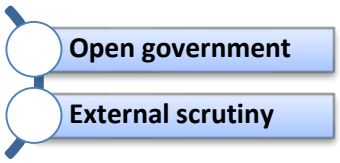
Where no structures exist, or they do but integrity is not a political priority, it can be **civil society** that takes actions into its own hands, as seen in the 'Corruption Kills' protests in Romania in 2015 that brought down the government. Private initiatives through social media and websites can give a voice to frustrations, as evidenced by the ongoing 'Edosa fakelaki' in Greece.

Inspiring example: Edosa fakelaki (Greece)

Edosa fakelaki means 'I gave an envelope' and is a website which is a private initiative of Ms Kristina Tremonti. After her family had to pay a bribe of €300 to ensure the urgent treatment of her grandfather, she set up the website so that others could share their experiences of bribery of all kinds (not just healthcare), both active and passive. Similar initiatives have been set up in India, Indonesia, Kenya, Pakistan, the Philippines and Zimbabwe. The website has gained a lot of media attention and spurred public debate. As at July 2016, the website had already received almost 1 900 anonymous reports on corruption, covering almost €5.4 million in bribes. The website covers all sectors, but the most reported complaints relate to healthcare bribery (1 193 reports and over €2 million of bribes, averaging €1 856), followed by driving licences and urban planning.

Source: DG HOME, Study on Corruption in the Healthcare Sector. See also: www.edosafakelaki.org (Greek only)

2.3 Building public trust through transparency and 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.

2.3.1 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 7). 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.

Digitalisation now allows the public to monitor the extent to which public administrations meet their obligations on transparency, and to hold them accountable for public spending and integrity, *inter alia*. 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 (see topic 1.1.3), 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. European Union Member States have reached an important political commitment laying out the vision of open government in EU eGovernment Action Plan 2016-2020 and Tallinn Declaration 2017 in which, at all levels of public administration strive to be open, transparent, efficient and inclusive, providing borderless, interoperable, personalised, user-friendly, end-to-end digital public services to all citizens and businesses. [36]
Many have also become part of the Open Government Partnership and prepared their National Action Plans with civil society.

Openness and transparency has been highlighted by the OECD as essential to **public trust**, and is integral to the vision of the EU's eGovernment Action Plan 2016-2020, also comprising one of its

[36] Ministerial Declaration on eGovernment - the Tallinn Declaration, October, 2017
EU eGovernment Action Plan 2016-2020 Accelerating the digital transformation of government (COM(2016) 179 final)

seven principles: "*Public administrations should share information and data between themselves and enable citizens and businesses to access control and correct their own data; enable users to monitor administrative processes that involve them; engage with and open up to stakeholders (such as businesses, researchers and non-profit organisations) in the design and delivery of services*." (See also topic 5.4 on 'open by default'). Transparency is measured by the eGovernment Benchmark and the Digital Economy and Society Index (DESI) and is subject to several projects funded under Horizon 2020: DigiWhist, OpenBudget.eu and YourDataStories.

In Italy, 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)

"OpenCoesione" is the Italian open government strategy on cohesion policy, co-ordinated by the Department for Cohesion Policy of the Italian Presidency of the Council of Ministers. OpenCoesione aims at more efficient and effective results thanks to public availability of data on all funded projects and at greater public participation and collaboration on projects and policy themes. The OpenCoesione initiative is centred around the 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 with the aim of reducing disparities, attracting business, and enhancing opportunities and the quality of services.

In accordance with EU Regulations, OpenCoesione hosts the Italian web portal for the publication of data on funding opportunities, as well as on financed projects and beneficiaries, for the 2014-2020 programming period. In addition, data on financed projects of the 2007-2013 period have also been published on the portal in open format since the launch of the initiative in 2012.

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, European regional policy is effective or not. The OpenCoesione web portal enables citizens, researchers, journalists and 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 funding opportunities offered by cohesion policy to citizens, firms, local authorities, etc.;
- Information on financed 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 web portal 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, 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 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 visualisation 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 the 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 the Structural Funds' 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 citizens 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 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 the administration lay the foundations for more tailored and targeted actions at regional and local levels. Many citizens and businesses rely on municipal government, particularly for information, transactions and services (see also theme 5). 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.

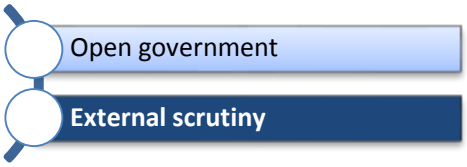
The Local Government Transparency Code 2014 is a tool to embed transparency in local authorities and sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. The code preserves the principles of transparency by asking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

- Respond to public demand;
- Release data in open formats available for re-use;[37]
- Release data in a timely way.

Source: https://www.gov.uk/government/publications/local-government-transparency-code-2015

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 can investigate behaviour and hold 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;

[37] 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/

- **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).

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"*.[38]

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 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

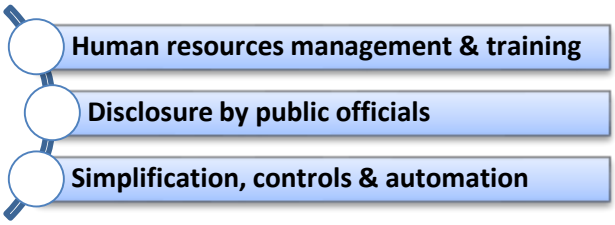
[38] A. Mungiu-Pippidi (ed) (2013), *Controlling Corruption in Europe: The Anticorruption Report* (op. cit.)

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.

2.4 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 the public are the foundation of well-functioning organisations (see theme 4). 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.

2.4.1 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 4.3). 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;
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 various 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.

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"*. [39]

Even within merit-based systems, recruitment and appraisal techniques are among the trickiest to get right. Interviewees can be asked about their reaction to various ethical situations where there may be **conflicts of interest**, like the scenarios used in dilemma training (see topic 2.4.2), and 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 a portfolio of HRM practices together, 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.

[39] C. Dahlström, V. Lapuente and C. Toerell (2011), *The Merit of Meritocratization: Politics, Bureaucracy, and the Institutional Deterrents of Corruption*, Political Research Quarterly,

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 tests 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.

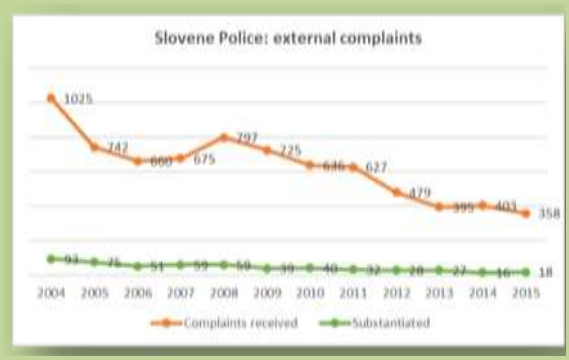
In 2008, a working group was set up to implement the new Code of Police Ethics in the Slovene police through a programme named "*Strengthening the police ethics and integrity*" on three organisational levels. The approach was based on raising police officers' awareness of the importance of ethics and 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)

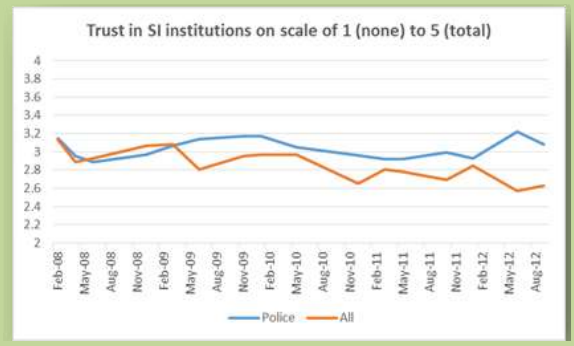
Statement	Mean	Standard deviation
Lecture was useful	**4.67**	0.614
Acquired knowledge I will use in my daily work	**4.36**	0.790
High level of integrity is necessary for the police officer's work	**4.60**	0.667
High level of leader`s integrity is important	**4.72**	0.578
High level of integrity contributes 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, right).

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, right).

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 2.2.2), organisations 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 integrity 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, 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 a large set of alternative dilemma scenarios, meaning the selection of a sample of scenarios can be tailored to the specific audience.

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 for this financial year was allocated EUR 75 000. Due to various circumstances – illness to 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 7), 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.

2.4.2 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 8). This enables investigators (and the general population, if published openly[40]) 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

[40] The public interest must 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.

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.

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: Extracted from a 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.

2.4.3 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: R. Hanna, S. Bishop, S. Nadel, G. Scheffler and K. Durlacher (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*".[41]

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 5). This is particularly true for enhancing the business

[41] A. Mungiu-Pippidi (ed) (2013), *Controlling Corruption in Europe: The Anticorruption Report* (op. cit.)

environment, in terms of both regulatory reform and administrative burden reduction: the less red tape, the lower the corruption risk (see theme 6). 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 8). 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.

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. To unearth illegal activities and permit action to be taken, the Business Information Service (BIS) devised a methodology, implemented by the Provincial Health Authority (*Azienda Sanitaria Provinciale* - ASP) 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 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. The 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. When on-line electronic invoicing was introduced in March 2015 in all public administrations, the ASP improved the control software that verifies any hidden fraud in electronic invoices verifying the purchase order, and now check all bills of ASP Catanzaro. This has provided a strong deterrent to any scams that officials and supplier firms could implement with online bills, and decreased corruption risk.

- 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. The ASP has improved the software that analyses traffic on the corporate network without infringing the privacy of employees. The new software also analyses the volume of traffic entering and exiting each station, and if it exceeds certain established parameters, suggests an alert.

In accordance with Law 97/2016, the ASP of Catanzaro introduced anti-corruption mechanisms by adopting the Three-year Plan for the Prevention of Corruption and the Three-Year Programme for Transparency. The two documents were published on the ASP's website: www.asp.cz.it.

For further information: Giuseppe Romano, Dir. Servizio Informativo Aziendale, giuseppe.romano@asp.cz.it

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 (eGovernment, 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 Doing Business report. A better business environment helps to combat corruption by default.

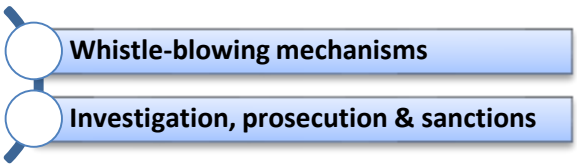
Online services cut opportunities for corruption

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 7.3).

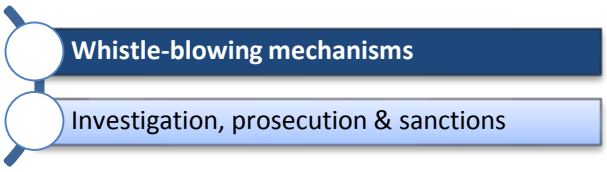
Source: Quoted from 'Doing Business 2015' (see theme 6)

2.5 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.[42] 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.

2.5.1 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.)

There are many examples of where whistle-blowing could have played a vital role in revealing risks or cases 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 most cases nothing is done about the wrong-doing, 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.[43]

[42] 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 A.J. Brown (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.

[43] For example, Public Concern at Work and the University of Greenwich, *Whistleblowing: the inside story*, based on research into 1,000 whistle-blowing cases

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[44]. 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 commissioned an 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.

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.

[44] 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.

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 several 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.

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 offers, for the first time, legal protections for workers who report concerns about wrongdoing across the public, private and non-profit sectors. Public sector bodies are required to have in place whistle-blowing policies which meet the requirements of the Act.

The legislation meets the commitment included in the Programme for Government 2011 to 2016 to introduce comprehensive legislation on whistle-blower protection. The Minister for Public Expenditure and Reform at the time, Mr 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 several notable 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 (TII) said that the Act offers a safety net to workers in all sectors of the Irish economy for the first time. TII 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. TII, a non-profit organisation, has lobbied for blanket legislation on the issue since 2007.

Since the enactment of the legislation in July 2014, the Department of Public Expenditure and Reform has undertaken a number of measures to assist in the effective implementation of the protections afforded to workers under the Act:

- The Department issued guidance to assist public bodies in the performance of their obligations under the Act (the Workplace Relations Commission also published a code of practice on protected disclosures for employers in general).
- The Department provided grant funding for 2016 for the establishment of a free, independent legal advice centre for workers who are considering making a disclosure of wrongdoing.
- The Department is currently seeking to put in place a framework from which public bodies may draw down services relating to protected disclosures, including, *inter alia*, acting as a third party recipient of disclosures, investigating allegations of wrongdoing, and providing training to employees and management.

Quotes from http://www.rte.ie/news/2014/0715/630799-whistleblowers-legislation/
For further information: Michael Perkins, Government Reform Unit, Department of Public Expenditure and Reform, Michael.Perkins@per.gov.ie

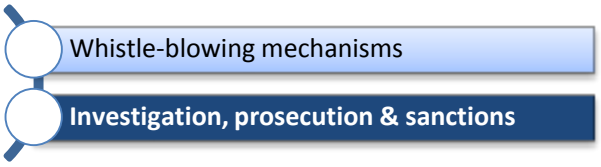
Research suggests that reporting suspected wrongdoing to a regulator or to the media (external whistle-blowing) is more effective than reporting the suspected wrongdoing to one's employer (internal whistle-blowing)[45]. Where laws do exist across the EU, they tend to provide compensation or redress in 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 viewed 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.[46] 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

[45] See J. Rothschild and T.D Miethe (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 T.M. Dworkin and M.S. Baucus (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.
[46] http://www.surrey.ac.uk/sbs/files/Five%20Paradoxes%20in%20Managing%20Whistle-blowing.pdf

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.

2.5.2 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[47] has found that countries can be at least equally effective in dealing with corruption through their normal legal system - prosecution and courts - so 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 2.4.1), 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.[48] 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.

[47] A. Mungiu-Pippidi (op.cit)
[48] Center for the Study of Democracy (2012), op. cit.

2.6 Designing measures

The consensus among the integrity community is that the most effective approach to promoting ethics and openness, and tackling corruption and conflicts of interest, is a **portfolio or package of counter-measures**. It is rare to find the 'silver bullet' that reduces integrity risks in one strike. Each of the measures set out in this chapter (codes of conduct, asset disclosure, dilemma training, whistle-blower protection, etc.) is meritorious on its own terms, but is unlikely to be successful in isolation. Recent research on extortion by traffic police in Ghana provides a handy illustration of this point.

The wages of sin

In theory, higher pay cuts corruption. In practice, the opposite happens

Whether the miscreants are African policemen, European politicians or American university basketball players, the same remedy for corrupt behaviour is offered: pay people more money. It sounds intuitive. But does legitimate lucre really drive out the filthy kind? New research involving a natural experiment in West Africa suggests that it does not—and that conventional economic theories of corruption are wrong.

In 2010, Ghana began to move public officials to a new salary structure. The earliest and biggest beneficiaries were police officers, whose pay abruptly doubled. It was hoped that they would start behaving better as a result—and especially that they would stop extorting money from drivers at roadblocks. There was certainly much room for improvement: surveys around that time by Transparency International, a watchdog, found that 91% of Ghanaians believed their police were corrupt, an even higher proportion than thought the same of politicians. As it happened, a large survey was already under way of lorry drivers plying the roads of Ghana and its neighbour, Burkina Faso. Drivers with their papers in order were asked to record how many times they were stopped and how much money they paid to police and customs officials along the route.

Two American economists, Jeremy Foltz and Kweku Opoku-Agyemang, have examined the data on 2,100 long-haul journeys. Oddly, they find that Ghana's police became more corrupt after their salaries increased, both absolutely and relative to Burkina Faso's police and Ghanaian customs officers. The cops erected more roadblocks, detained lorries for longer (the average driver was stopped 16 times as he drove through Ghana, for eight minutes each time) and extracted more money. Economic theory suggests the opposite should have happened, for two reasons. First, corruption is risky. You might lose your job if you do it, and the more you are paid, the bigger that loss would be. Second, officials are thought to have an income target. If they are underpaid, they will behave corruptly to make up the difference. The fact that some British MPs cheated on their expenses a decade ago was put down to the fact that they earned less than similarly qualified people. Ghana's president, John Mahama, said last year that there was "no justification" for corruption now that salaries were higher.

Employees in the rich world who suddenly receive more money per hour—when their taxes are cut, for example—tend not to work less, as they might do if they had a fixed income target in mind. They work more. But given that the rewards from corruption had not gone up, this does not explain why Ghanaian police officers engaged in more graft. Mr Foltz and Mr Opoku-Agyemang, whose research was funded by the International Growth Centre at the London School of Economics, suggest that corrupt superiors or greedy relatives might have demanded more money from the officers. Another possibility is that the cops' expectations went up. The pay rise may have boosted their sense of their own worth, leading them to demand more money. It might be that the risk of being caught in Ghana is so low that normal calculations of risk and reward do not apply. Perhaps a combination of higher pay, political leadership and stiff punishments would have stopped corruption: it did in Singapore, for example. But money alone is not enough. In Ghana, some are astonished that anybody could have believed that higher pay would have made cops less greedy. That is just not human nature. As Ransford Van Gyampo, a political scientist at the University of Ghana, puts it: "In spite of how big the sea is, it still receives rain."

Source: The Economist, 30 January 2016

This makes a point about **innovative policy design** (see theme 1). The causality in public policy may seem obvious, but often it is oblique. While it is intuitive to believe that low pay creates the conditions for bribery and extortion, which is likely to be true, increasing pay does not *necessarily* lead to the desired outcomes, although it might be a desirable policy on its own terms and contribute to alleviating the conditions for corruption. Policy-makers needs to look beyond simple causality for solutions (inadequate pay stimulates informal payments to fill the gap) and to focus instead on both underlying factors and the wider context. The example above suggests (though it remains unproven) that the officers saw the higher pay as reinforcing their sense of entitlement and worth, and that it merely exacerbated the problem in the absence of a broader package of measures (controls and constraints).

A 2015 study by the U4 Anti-Corruption Resource Centre argues that the theoretical base for tackling corruption *sometimes* misses the most powerful reason it happens, which is that **corruption can 'solve problems'**. Where unethical practices have become the established way to access services or rights in a weak system, or filled the space where a streamlined and user-friendly administrative processes should be, then ingrained 'problem-solving' behaviour will be hard to shift, unless the underlying failures in service design and delivery are addressed. Hence, part of the answer should be to examine the cause of corruption from all perspectives, including those of the perpetrator / victim (who are often tied in a symbiotic relationship).

Putting corruption into context

Despite significant investment in anti-corruption work over the past 15 years, most systemically corrupt countries are considered to be just as corrupt now as they were before the anti-corruption interventions. A growing number of authors argue that anti-corruption efforts have not worked because they are based on inadequate theory, suggesting that collective action theory offers a better understanding of corruption than the principal-agent theory usually used. This paper argues that both theories are in fact valuable, but both miss out an important third perspective, which is that corruption can serve important functions, solving difficult problems that people face, especially in weak institutional environments. Effective anti-corruption initiatives are so hard to achieve because they often require insights from all three of these perspectives.

- **Corruption as a principal-agent problem**: Principal-agent theory highlights the role of individuals' calculations about whether or not to engage in or oppose corruption; the influence of transparency, monitoring, and sanctions on those calculations; and the technical challenges of monitoring and sanctioning corrupt behaviour.

- **Corruption as a collective action problem**: Collective action theory highlights the relevance to individuals' decisions of group dynamics, including trust in others and the (actual or perceived) behaviour of others. When corruption is seen as 'normal', people may be less willing to abstain from corruption or to take the first step in implementing sanctions or reforms. This theory highlights the challenges of coordinated anticorruption efforts.

- **Corruption as problem-solving**: Corruption can sometimes provide a way of dealing with deeply-rooted social, structural, economic and political problems. Anti-corruption interventions need to better understand the functions that corruption may serve, particularly in weak institutional environments, and find alternative ways to solve the real problems that people face if anti-corruption work is to be successful.

Each of the three perspectives adds to our understanding of the challenges that anti-corruption efforts face. They suggest the following considerations:

- Effective anti-corruption initiatives will be driven by the context, not the theory. Different perspectives on corruption may be most useful in particular contexts and circumstances. For example, principal-agent theory inspired interventions like monitoring, transparency and sanctions may have a big impact in contexts where corruption is relatively isolated, but in other contexts could backfire by increasing public perceptions that corruption is pervasive, risking inducing a sense of 'corruption fatigue' among potential challengers and reformers.

- Collective action problems are sometimes deliberately crafted and maintained to undermine the effectiveness of institutions meant to challenge corruption.

- Effective anti-corruption initiatives need to recognise and engage with the real political dynamics that underpin corruption, as well as to address the perception that corruption is 'normal', when it exists.

- Understanding the functions that corruption performs for those who engage in it, and trying to provide alternative solutions, are likely to be important first steps for any effective anticorruption intervention.

- Coordinated action, such as that provided by a reform coalition, will be important in addressing corruption, so it may be helpful to consider how such a coalition might arise: the most pressing collective action problem may be not corruption itself, but the formation of a strong coalition that can coordinate efforts to tackle it.

Source: H. Marquette and C. Peiffer (2015), "Corruption and Collective Action", Developmental Leadership Program (DLP) & U4 Anti-Corruption Resource Centre

As the OECD has pointed out in 'Towards a Sound Integrity Framework', it is important to **strike the right balance between rules-based and values-based measures**. Rules-based approaches "*provide a clear framework for public servants and reduce the immediate risks for integrity violations, but their control-bias might also lead the organisational culture in undesirable directions. If the risk-approach is taken too far it might be seen as a sign of distrust by management, thus undermining employees' intrinsic motivation, which might in turn reduce their tendency to behave ethically. In sum, like all other possible instruments, risk analyses (and the subsequent measures) should be situated in a careful balance between rules-based and values-based instruments that is sensitive to the specific context of the organisation*."

Two frameworks for integrity management

	Compliance approach (rules)	Integrity approach (values)
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 Molainen, Office for the Government as Employer, Government of Finland

2.7 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 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.**

Initiatives should be targeted especially 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.[49] 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.[50]

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, 5, 6 and 7). 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.

[49] *Controlling Corruption in Europe*
[50] See A. Mungiu-Pippidi, *Transformative Power of Europe* (2014) and *Becoming Denmark: Historical Paths to Control of Corruption* (2013)

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.

Trust cannot be regulated, so while laws and contracts provide the foundations of anti-corruption strategies, ultimately the 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.

Annex: Healthcare as a case study of risk management

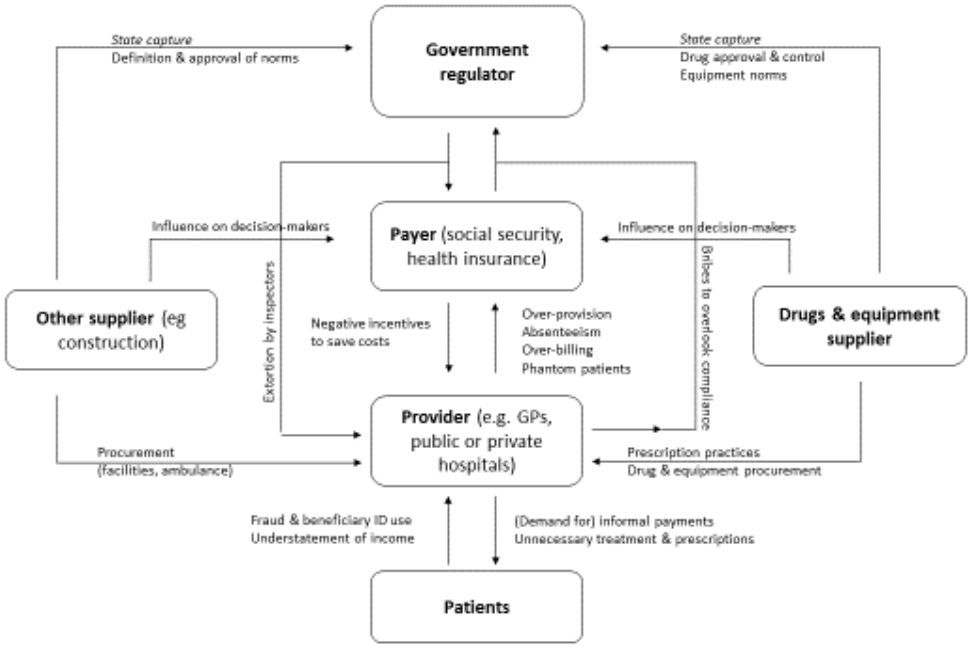
Spending on healthcare across Europe amounts to more than €1 trillion per annum, with around three-quarters of Europeans visiting a medical practitioner or institution in a typical year. There are many weak spots for potential malfeasance, inter alia:

- The vast number of actors involved across the public sector, enterprises and citizens;
- The separation of patient and payer (state or insurance) in most cases;
- The huge procurement contracts for buildings, equipment, and medicines;
- The complex relationships and information asymmetries; and
- The scarcity of supply of medical services which creates the conditions for bribery and extortion.

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%).

Perhaps uniquely, healthcare has a combination of ingredients that set the sector up for power and position to be abused.

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 K. Hussman (2010), "Addressing corruption in the health sector: securing equitable access to health care for everyone", DFID Practice Paper.

To better understanding the extent, nature and impact of corrupt practices, countries' capacity to prevent and control corruption, and the effectiveness of measures, the European Commission commissioned a study of corruption in the healthcare sector, published in 2013, which drew on fieldwork across all 28 Member States, including 82 illustrative case studies. The analysis focused on three specific fields:

- Medical service delivery;
- Procurement and certification of medical devices; and
- Procurement and authorisation of pharmaceuticals.

The study's main overall conclusions and recommendations, including *general* approaches to reducing healthcare corruption in these fields, are summarised below.

Corruption in the Healthcare Sector

The study concluded that healthcare corruption occurs in all EU Member States, but varies in its nature and the prevalence. More specifically, bribery in medical service delivery occurs most frequently, and is considered systemic, in (former) transition economies of Central and Eastern Europe. In Western European countries, bribery in medical service delivery is rarer and restricted to specific areas such as isolated cases in pre- and post-surgery treatment. Procurement corruption and improper marketing relations by providing money or sponsoring of conferences, trips and leisure activities occur throughout the EU. Healthcare procurement corruption seems to occur less frequently in countries where public procurement is highly regulated.

Corruption in healthcare may be provoked by weaknesses in the healthcare system (low salaries, relatively low levels of healthcare spending or research budgets, close ties between the industry and healthcare providers) or flaws and loopholes in healthcare supervision, anti-corruption legislation or judicial effectiveness. Integrity violations and misuse of rights and opportunities depend on personal motivations, norms and values. A general acceptance, or at least tolerance, of corruption is considered one of the main

drivers behind widespread corruption in healthcare, across all of the described typologies. Corruption and conflicts of interest will persist as long as it accepted to offer or receive financial or other benefits. However, we encountered in almost all Member States an overall decline in tolerance. Corruption scandals, effective sanctioning, the implementation (and enforcement) of stricter anti-corruption and healthcare transparency regulations, self-regulation initiatives by the industry or healthcare providers, EU accession, increased living standard, and the economic crisis, all have contributed to a general increased awareness and decreased public acceptance of corruption in healthcare.

There is in no single policy in the successful fight against corruption. However, it is clear from our research that all successful policies in the fight against corruption are a combination of strong, independent institutions, and a general rejection of corruption by the society. In terms of specific recommendations:

- To address drivers of corruption that prevail in all Member States, **EU-wide** policies are needed. It is recommended to: a) set clear and effectively enforced general anti-corruption rules (e.g. like the UK Bribery Act and US Foreign Corrupt Practices Act), b) introduce independent and effective judicial follow-up on corruption cases, and c) implement sound and transparent general procurement systems. General public procurement policies should also apply for the healthcare sector. Another aspect that can be addressed at EU level concerns self-regulation, for example through a Code of Conduct or Code of Ethics of the industry. Self-regulation should also be organised at a national level.

- At **national level**, it is recommended that Member States have structures that specifically deal with fraud and corruption in the healthcare sector. These structures should not only have a mandate to control, but also to sanction violations. In addition, transparency in healthcare systems should be improved, for example by publication of waiting lists (and queuing times). Also, transparency in the relations between the industry and healthcare providers can be initiated by either the sector itself or government policies (such as transparency enhancing initiatives resembling the Sunshine Act). The obligation of physicians to prescribe generic instead of brand medicines is another good transparency enhancing policy that can be stimulated at MS level. It is also important for national governments to stimulate independent media involvement, 'civil society' watchdogs and patient groups to identify and report on corruption. Awareness raising campaigns and fraud and corruptions reporting hotlines are good examples of mobilisation of countervailing powers.

Finally, we found that policies and practices that work in one country do not necessarily work in another country. As the effectiveness of a policy depends on multiple factors, simply developing policies such as Sunshine Act-like initiatives will most likely prove insufficient. We therefore recommend to systematically evaluating the policies and their effects to enable successful implementation in specific contexts.

The applicability and effectiveness of individual policies and practices is strongly context-dependent. It also has turned out to be difficult to prove the effectiveness of individual policies and practices. Not only because a fairly large number of policies and practices have only very recently been introduced and in general it takes a long time until deeply embedded habits cease to exist. But in particular, since single policies and practices won't be sufficient in most cases. In many cases, it is a combination of a variety of measures which is needed.

Source: Study on Corruption in the Healthcare Sector, October 2013

The analysis in the study is extensive, and hence readers are likely to find insights and potential initiatives that they can integrate into their own risk analyses at the sectorial and institutional levels. For example, drawing on Transparency International research, the study identifies corruption risks arising from **alternative forms of financing** (taxes, social insurance, private insurance, and out-of-pocket payments), including for example, the risk of over-charging, inappropriate or poor quality services, and diversion of funds. Hence, the choice of funding mechanism at the sector level may influence the formulation of counter-measures.

As an alternative to the standard, atomised terminology of corruption (kickbacks, nepotism, conflicts of interest, etc.), the DG HOME study proposed a more **sophisticated six-point typology to codify the complexity of corruption in healthcare** in the targeted fields[51]:

A. Bribery in medical service delivery;
B. Procurement corruption;
C. Improper marketing relations;
D. Misuse of (high-level) positions;
E. Undue reimbursement claims;
F. Fraud and embezzlement of medicines and medical devices.

In the interests of brevity, the briefing will focus on the meta-category A for illustration, translated here as 'informal payments to medical staff for services', as an example which has potentially wider lessons for integrity risks in other sectors.[52] In this form of integrity violation, patients make payments – usually cash, but can be non-financial (such as gifts) – typically to medical professionals but can be institutions, outside the formal funding arrangements for healthcare (taxation, insurance, pay-for-services). In other words, the service is free or a set cost, and the payment is additional, in order to access treatment more quickly (or at all), or to gain a better quality service (e.g. more attention, privileged use of equipment), or to reach a specific doctor or surgeon. The bribery can be 'active' (initiated by the patient) or 'passive' (suggested by the physician).

Regarding **impact**, there is limited information on the precise scale of informal payments. The DG HOME study notes that: "Within Europe informal patient payments are mainly associated with healthcare provision in former socialist countries. Nevertheless, unofficial payments for healthcare services were also identified in a few high-income European countries (i.e. Italy and Greece) …. Cases in other MSs are in general recorded to be more isolated and exceptional. However, some Western European MS do record systematic but often unconfirmed incidents of under-the-table payments". There is also evidence from the EU-funded ASSPRO research project on the efficiency and impact of patient payments policies in six Central and Eastern European (CEE) countries[53] that informal payments were common and widespread in most of them. ASSPRO found that informal payments are more frequent and higher (averaging €44 - €79) for hospital admissions than for individual physician visits (€8.23 - €16.16). These averages mask a wide range, with some forms of surgery involving payment of several thousand euros.

What are the **underlying factors** that explain informal payments? The 'risk = opportunity – constraints' formula is a useful analytical tool here. Bribery is often an expression of desperation to receive services which should be free-of-charge, to jump the waiting list, or simply to get access to treatment. There is a power imbalance in the doctor-patient relationship in information, knowledge and access, whereby physicians act as the gatekeepers of medical treatment, often as monopoly

[51] For example, bribery features under several headings
[52] Other categories will also be interesting to readers. 'Healthcare procurement' is subsumed within the second case study in this section, as is 'improper marketing relations' (indirect links to the procurement process). 'Misuse of high-level positions' and 'fraud & embezzlement' have wider currency for other sectors and hence readers are referred to the HOME study. 'Undue claims' is more restricted to healthcare and possibly other insurance based sectors (such as social welfare).
[53] Bulgaria, Hungary, Lithuania, Poland, Romania, and Ukraine.

providers or acting in collusion with other practitioners to regularise bribes within their clinics or hospitals. Controls are often weak, including lack of regulation, inspections, audits, asset disclosure, and little prospect of whistle-blowing, discovery or prosecution.

The DG HOME study notes several risk factors which increase the **likelihood** of informal payments being asked or offered:

- **Pay systems**: Physicians that are paid salaries (instead of fee-for-service) are more likely to ask for informal payments to supplement their income, and may have fewer incentives to provide high quality care, which can incentivise patients who wish to ensure adequate treatment.

- **Pay levels**: Physicians with low salaries and/or irregular pay have the incentive to ask for informal payments to complement their income.

- **Funding systems**: Tax-based systems are more prone to informal payments than social insurance systems.

- **Accessibility**: The greater the scarcity of healthcare provision, the greater the incentive for the public to make informal payment to secure better or faster access.

These risk factors are structural, rather than institutional, resulting from insufficient resources and policy choices over funding arrangements. So, is part of the answer to increase physician's pay? As with the research into Ghanaian police earlier, context is critical. According to the DG HOME study: "*Empirical evidence indicates that informal patient payments can represent a significant part of the income of the healthcare providers. In some instances, physicians may earn as much as a full additional salary from informal payments*."

No notable impact from salary rises (Hungary)

In Hungary, salaries were increased by 50% in 2004, ostensibly to stem emigration and encourage their retention, but which had no significant impact on the scale of informal payments. Several reasons were cited for the failure of higher income as a measure:

- The physician received only part of the pay rise (net of tax), but retained the total amount of the informal payments itself. Salaries remained among the lowest in the region.
- Existing regulations did not explicitly forbid accepting informal payments. Moreover, the Medical Chamber's Codes of Ethics actually accepted the receipt of informal payments.
- Patients were unaware of their rights, as there was limited access to information, including service delivery standards, official price schedules, and complaints procedures.

Studies also showed that the Hungarian population remained rather tolerant towards informal payments.

Source: DG HOME study, op. cit

What about **grey areas**?

- First, there is the practise of referral by publicly-funded doctors to their private clinics for specialist treatment or follow-up, which the DG HOME study describes as **misuse of dual practices**, an alternative to demanding informal payments and an indirect form of bribery in medical service delivery. Such referrals may be legal within the system, if it is not expressly disallowed, and may also be merited depending on the circumstances. But it can also be ethically questionable, especially if the implicit or explicit offer is to bypass waiting lists or avoid otherwise 'sub-standard' care. It suggests again lack of regulation and under-resourcing of the healthcare system.

- Second, it could be said that one person's bribe is another person's tip. 'Payment' in the form of cash or small gifts can also be an **expression of gratitude** and in some communities, it has become the accepted norm that, irrespective of charging systems, doctors and nurses should receive a gratuity, as the quote below suggests.

Quote from former Romanian medical student

"Later, when I started working as a junior doctor on the wards, I experienced the bribery system from the other side. Many of the older patients, particularly from rural areas, hadn't known anything other than giving gifts. I wouldn't take money from patients and this was quite well known in the hospital, yet many insisted they had to give me something to say thank you. I remember one patient coming for monthly chemotherapy from a village about 12 miles away. Having heard from other patients that I would refuse his money, he brought me a huge chicken and two litres of wine. When I protested, he said, 'I have to give you something!' Most patients would bring me something. If they were from the villages they would bring some vegetables – usually things they had grown themselves."

Source: DG HOME study, op. cit. (quoted from a newspaper article)

This does not mean that administrations should turn a blind eye to gift-giving, but rather that the solutions to 'bribery' need to take account of the **cultural context**. In the words of one interview report in the DG HOME study from Austria: "Patients feel more privileged when they make payment and this is often a matter of social status".

This points towards another significant factor in systemic bribery on the constraints side of the risk equation: **public tolerance**. In the words of the DG HOME study: "Informal payments are often embedded in a culture in which doctors are entitled to receive 'something extra'… *"There are also strong underlying cultural conditions, as it is much enrooted in the Portuguese culture (as in many south European countries) that the doctor would be doing a favour to the patient by treating him/her and therefore, it is very common to give presents ('cunhas') in return."* [From an interview report in Portugal]. There is evidence, however, that such tolerance where it existed previously is being steadily eroded across the EU.

What works as possible **counter-measures**? Again, the empirical evidence is patchy, but the DG HOME study proposes a mix of strategies on both the demand and supply side, in addition to generic anti-corruption measures. The United Nations Development Programme (UNDP) has also published a guide to 'Fighting Corruption in the Health Sector: Methods, Tools and Good Practices' with many

overlapping interventions. Extrapolating from these findings, there are several initiatives worth highlighting, as they may have wider currency, influencing how corruption risk analysis is conducted in other sectorial contexts:

- ✓ **Rules-based systems**: The relevant authorities should clearly formulate and widely communicate the limits on payments and gifts to patients and physicians alike, through bribery laws, regulations, stiffer sanctions, and/or codes of conduct. There is then no excuse from absence or ignorance of regulation.

Inspiring example: Penalties for payments (Austria)

The 2008 anti-corruption law applies heavy penalties on health practitioners who are corrupt. Interviewees suggest that the threat of high sanctions has had a major impact on this practice of receiving cash. An old convention had it that patients should leave a 'tip' for services received. The new climate following the law has reportedly completely eliminated this old practice as it is now regarded as illegal, when once it was perceived as polite behaviour.

Source: DG HOME study, op. cit.

- ✓ **Patient pressure**: There is strong evidence that civil society can make a vital contribution to combatting corruption and holding public administrations accountable for their integrity. Things change when people have had enough. Awareness-raising campaigns against fraud and corruption, the publication of patients' right and customer service standards, the establishment of complaints procedures, and anonymised reporting hotlines can all help to mobilise civic pressure (e.g. 'Edosa fakelaki' in Greece).

- ✓ **Direct exposure of bribery**: It is clear from case studies that media campaigns, journalistic investigations and whistle-blowing by [prospective] payers have revealed many incidences of bribery. The continued prevalence of informal payments in many EU health systems suggests this is only exposing the tip of the iceberg. However, the presence of an independent and active campaigning media, the willingness of bribery victims to step forward and the commitment to prosecute, can produce some visible success stories. Whether these are sufficient to deter others may depend on how 'unique' these outcomes are seen by fellow perpetrators.

Inspiring examples: Bribery exposure

- ✓ A physician in Varna, Bulgaria was arrested in 2012 because he requested informal patient payments to perform a caesarean section. When the pregnant woman came to the hospital for an emergency delivery, the physician on duty immediately asked for money. He said to the husband that he would not operate unless he received BGL 400 (about €200). Since the husband did not have the money, the physician agreed that it could be handed over at the follow-up appointment in the physician's private practice when he was supposed to take out the stitches from the surgery. The husband brought the money (marked banknotes that could be identified by the police). The marked banknotes were found on the physician's desk.

- ✓ A cardiac surgeon was accused in 2008 of having accepted bribes from patients whom he had operated on at the Rijeka University Hospital Centre, Croatia. The Office for Prevention and Corruption and Organized Crime (USKOK) caught him when pursuing a controlled delivery of a total amount of five

thousand euro in cash that he allegedly asked for an operation. He was sentenced to nine years in prison for taking bribes during 2001 - 2006. Because of dual citizenship, he evaded a penalty in Croatia; however, the Supreme Court of the Federation of Bosnia and Herzegovina pronounced the final verdict of the two and a half years in prison for bribery. After his release, he was no longer allowed to work as a doctor. Because of bad health (heart attack) he died after one year of being in custody.

- ✓ In May 2010, a Latvian journalist filmed with a hidden camera a Jelgava hospital physician (trauma-orthopaedic specialty) taking illegal payments of LVL 50 (about €30) to perform surgery. The physician had asked a patient's husband to pay above the official price of surgery (LVL 250 or about €170). The husband had complained to the journalist, agreed to the hidden filming and introduced the journalist as their son. In the first instance, the physician was only given a reprimand by the hospital administration, but later on was fired from the hospital. The physician admitted guilt. In July 2011, the public prosecutor punished the physician with 140 hours of public works.

Source: based on DG HOME study

- ✓ **Data analysis, inspection and audit**: As we will see with public procurement, scrutiny of performance data can show up inconsistencies and irregularities, as can information from household surveys and focus groups. There is an important role for inspectorates, quality managers, internal audit and supreme audit institutions in identifying and highlighting wrong-doing (see performance audit under theme 1). As the example below shows, the payment of bribes does not have to be proven to detect and correct dubious practices.

'Organspende Skandal' (Germany)

Two senior doctors in Leipzig were suspended after an investigation showed that they had manipulated records to push 38 liver patients up the waiting list for organs. It could not rule out that 'money had changed hands' in exchange. The head of the clinic as well as two senior doctors have been given a leave of absence while the institution conducts an internal probe. Public prosecutors have opened a preliminary investigation. The affair follows revelations in 2012 that other German hospitals engaged in dubious practices with organ transplants, such as the Göttingen and Regensburg university hospitals, which are alleged to have falsified medical records in nearly 50 cases, to push patients further up on the Eurotransplant waiting list. According to der Spiegel, the number of irregularities is much higher than initially assumed. The numbers vary between the hospitals: In the transplant centre in Göttingen, irregularities were discovered in at least 60 cases. In Leipzig, a total of 38 patients were unjustified marked as dialysis cases. In Munich, almost 30 violations against the guidelines for liver transplantations were discovered between 2007 -2012.

Source: based on DG HOME study

- ✓ **Integrity testing**: To make these exposures more systematic, where bribery is clearly systemic and hence drastic action is necessary, the health authorities may wish to engage in integrity testing, subject to controlled conditions and legal safeguards to protect the fundamental rights of the physicians being tested. Integrity tests could be described as a form of 'mystery shopping' but with the specific intention of ensuring ethical behaviour. It involves actors being employed to randomly visit clinics and artificially create the circumstances in which a corrupt physician might request a bribe (for example, explaining the supposed condition of the actor or relative, mentioning the urgency with which they want treatment, etc.). The actor sets up the 'opportunity', but must at no point offer payment or induce the subject to ask for one, meaning the process must be structured and as far as possible scripted. The testing should be authorised legally (e.g. by judges), and the

physicians (as a group, rather than the specific subject) should be made aware in advance that integrity testing is taking place.

- ✓ **Altering the funding arrangements**: The funding and structure of the healthcare sector creates conditions in which corruption can prevail, which calls for fundamental reforms. As an example of relatively minor but systemic change which appears to have suppressed the giving of informal payments, according to the DG HOME study, is the introduction of a mandatory small fee per doctor's visit in the Czech Republic. As the patient is obliged to contribute to the cost of care directly, they should be less inclined to 'top up' the payment. Intuitively, this is more likely to be successful where 'gift-giving' is a cultural legacy that needs to be addressed, subject to affordability by the patient (and other consequences for patient behaviour, such as postponing or avoiding treatment, or self-medication). Otherwise, there is a risk that the effect will simply be to raise the threshold cost of corruption (fee + bribe), rather than address the bribery itself.

- ✓ **Opening waiting lists to scrutiny**: As the Toolbox has argued, openness, transparency and accountability are vital to deter and detect corruption. While publishing waiting lists or times serves to highlight the delays that (non-bribing) patients are experiencing and increase public demand to reform healthcare services, a more direct and practical leverage can come from introducing electronic waiting lists within hospitals and poly-clinics - on a confidential basis for purely internal purposes - so that managers and physicians can see which patients are due for treatment and when. The system then requires that any changes, for example to jump the queue, are registered, explained and authorised. This requires online data registration systems to be in place (see theme 5), but is another example of the 'automation' approach to minimising harmful discretion in decision-making (see topic 2.4).

Inspiring example: Transparent waiting lists (Austria)

Some hospitals had official waiting lists that could be accessed internally (not by the public); any movement up or down the list has to be accompanied by an explanation. At the time of the study, there was a draft amendment under discussion regarding the formalisation of waiting lists and procedures for ensuring that waiting lists for medical treatments are transparently managed. Apart from this, however, there had been independent efforts to improve transparency in this area. In 2008-2009, the Vienna Hospital Association (except for one hospital) introduced a computerised registration system ('OPERA') towards greater transparency in waiting lists. This system was reportedly functioning well. As a result, receipt of payments for moving up waiting lists at public hospitals was considered to be a thing of the past, due to the practice of many hospitals to publish the lists, making any sudden move up a list questionable and subject to scrutiny and justification.

Source: DG HOME study, op. cit.

- ✓ **Active self-regulation**: Public intolerance of corruption can turn the tide, but the most powerful change comes from within. If even a minority of physicians say 'enough is enough', they can make it unacceptable for others to pursue unethical practices. In Slovakia, the doctor-led campaign has helped to break the cycle of corruption, by doctors themselves refusing to accept bribes, taking a high-profile stand, and making non-bribery the norm.

Inspiring example: Doctors against bribery (Slovakia)

In 2012, Milan Mrázik, a neurosurgeon from the northern city of Žilina, launched an initiative, 'Ďakujem, úplatky neberiem', meaning *I don't take bribes*. This involved doctors signing a public petition declaring that they do not accept bribes or other forms of informal payments, which they would openly declare by wearing or displaying a badge symbolising this stance. The initiative quickly spread and got the support of the Medical Trade Unions Association (LOZ), before gaining the support of Marian Kollár, the president of the Slovak Medical Chamber (SLK). Both institutions say that the campaign should be continued and supported. At the time of the study, 412 doctors were actively participating, constituting around 10% of the country's doctors.

The initiative makes a visible statement to patients that informal payments are not needed for extra or better care. It also acknowledges that, to be truly eradicated, corruption has to become socially unacceptable. The initiative has at times met the resistance of some doctors, who say that it is demeaning, given that doctors already take an oath that should prevent them from taking bribes or doing favours. They state that the campaign is simply stating the obvious and that the real problem, as well as the solution, lies in institutional reform and stricter disclosure rules. 'Ďakujem, úplatky neberiem' is an attempt to break the cycle of healthcare corruption and not only illustrates that there are alternatives, but also starts a wider social discussion about corruption, and its place in Slovakia's modern society. Undoubtedly, this is not the silver bullet, but it is considered as a positive step and a piece of the complex mosaic that contributes to a successful eradication of corruption.

Source: DG HOME study, op. cit. For further information: http://somprotiuplatkom.webnode.sk (Slovak only)

These represent a snapshot of measures that have been tried and applied in Member States, within the context of wider healthcare and integrity reforms. As before, the message is that **no single initiative is a silver bullet, and that corruption is not inevitable**. A U4 Anti-Corruption Resource Centre paper, an update of the DFID 'How to' note referenced in the Toolbox, prepared in the context of development assistance but nevertheless relevant, sets out some useful pointers to tackling healthcare corruption as a sector.

Healthcare integrity strategies

- Tackling corruption in the health sector is essential for achieving better health outcomes;
- What is deemed as 'corruption' and what constitutes an appropriate response will vary from country to country;
- Systematic analysis of vulnerabilities to corruption/abuse is necessary to identify problems, select priorities, and sequence interventions in a sector-wide approach;
- A political economy analysis of the sector can help you be selective, opportunistic and realistic when trying to influence the overall situation;
- Mitigating strategies should focus on corruption prevention by strengthening transparency, enforceable accountability and stakeholder participation in the health sector. These must be linked to measures to detect abuse and apply sanctions;
- Tackling corruption in health needs to be linked to broader governance reforms, including public finance, public administration and external oversight reforms. Both, 'supply' and 'demand-side' reform measures need to be supported, taking account of the government's commitment and implementation capacity, as well as the capacity and environment for civil society engagement;

- Strategies to address corruption can be systematically integrated into health sector plans using the WHO health systems model and/or health sector integrity strategies;
- Implementation of mitigating interventions can be monitored through sector reviews and external evaluations;
- In the absence of an integral sector-wide anti-corruption approach, health advisors should actively look for opportunities to address corruption and unethical behaviour in specific sub-sectors (e.g. drugs) or systems (hospital management, payroll management, etc.).

Source: K. Hussman (2011), "Addressing corruption in the health sector: Securing equitable access to health care for everyone"

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