



EUROPEAN  
COMMISSION

Brussels, 3.2.2014  
COM(2014) 38 final

**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN  
PARLIAMENT**

**EU ANTI-CORRUPTION REPORT**

# **I. Introduction**

## ***Policy background and objectives of the Report***

Corruption seriously harms the economy and society as a whole. Many countries around the world suffer from deep-rooted corruption that hampers economic development, undermines democracy, and damages social justice and the rule of law. The Member States of the EU are not immune to this reality. Corruption varies in nature and extent from one country to another, but it affects all Member States. It impinges on good governance, sound management of public money, and competitive markets. In extreme cases, it undermines the trust of citizens in democratic institutions and processes.

This Report provides an analysis of corruption within the EU's Member States and of the steps taken to prevent and fight it. It aims to launch a debate involving the Commission, Member States, the European Parliament and other stakeholders, to assist the anti-corruption work and to identify ways in which the European dimension can help.

EU Member States have in place most of the necessary legal instruments and institutions to prevent and fight corruption. However, the results they deliver are not satisfactory across the EU. Anti-corruption rules are not always vigorously enforced, systemic problems are not tackled effectively enough, and the relevant institutions do not always have sufficient capacity to enforce the rules. Declared intentions are still too distant from concrete results, and genuine political will to eradicate corruption often appears to be missing.

To ensure an EU contribution, the Commission adopted the Communication on Fighting Corruption in the EU in June 2011,<sup>1</sup> establishing the EU Anti-Corruption Report to monitor and assess Member States' efforts in this area with a view to stronger political engagement to address corruption effectively. The report is hereby published now for the first time; further reports will be issued every two years.

In line with international legal instruments,<sup>2</sup> this report defines corruption in a broad sense as any 'abuse of power for private gain'. It therefore covers specific acts of corruption and those measures that Member States take specifically to prevent or punish corrupt acts as defined by the law, and also mentions a range of areas and measures which impact on the risk of corruption occurring and on the capacity to control it.

The report focuses on selected key issues of particular relevance to each Member State. It describes good practices as well as weaknesses, and identifies steps which will allow Member States to address corruption more effectively. The Commission recognises that some of these issues are solely national competence. It is, however, in the Union's common interest to ensure that all Member States have efficient anti-corruption policies and that the EU supports the Member States in pursuing this work. The report therefore seeks to promote high anti-corruption standards across the EU. By highlighting problems – as well as good practices – found inside the EU, the report also lends credibility to the EU's efforts to promote anti-corruption standards elsewhere.

---

1 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0308:FIN:EN:PDF> .

2 Notably the United Nations Convention against Corruption, as well as Council of Europe anti-corruption legal instruments, including the Resolution (97) 24 on the twenty Guiding Principles for the fight against corruption and the recommendations No. R (2000) 10 on codes of conduct for public officials and No. R (2003)4 on common rules against corruption in the funding of political parties and electoral campaigns.

Corruption is a complex phenomenon with economic, social, political and cultural dimensions, which cannot be easily eliminated. An effective policy response cannot be reduced to a standard set of measures; there is no ‘one size fits all’ solution. The report therefore examines corruption within the national context of each Member State, and suggests how the most relevant issues for each Member State can be addressed in the national context.

Further explanation about the methodology of the report is provided in the Annex.

### *The wider policy context*

The **financial crisis** has put additional pressure on Europeans and their governments. In the face of the current economic challenges both in Europe and elsewhere, stronger guarantees of integrity and transparency of public expenditure are required. Citizens expect the EU to play an important role in helping Member States to protect the licit economy against organised crime, financial and tax fraud, money laundering and corruption, not least in times of economic crisis and budgetary austerity. Corruption alone is estimated to cost the EU economy EUR 120 billion per year, just a little less than the annual budget of the European Union.<sup>3</sup>

Europe 2020 is the **EU’s growth strategy** over the present decade to foster a smart, sustainable and inclusive economy, thus helping the EU and its Member States to deliver high levels of employment, productivity and social cohesion. Research suggests that the success of the Europe 2020 strategy also depends on institutional factors such as good governance, rule of law, and control of corruption.<sup>4</sup> Fighting corruption contributes to the EU’s competitiveness in the global economy. In that context, anti-corruption measures have been highlighted with respect to a number of Member States as part of the European Semester – a yearly cycle of economic policy coordination involving a detailed analysis of Member States’ programmes for economic and structural reform as well as country-specific recommendations. More generally, improving the efficiency of public administration, especially if combined with greater transparency, can help mitigate corruption-related risks. The Commission Communication for a European Industrial Renaissance of January 2014 therefore places emphasis on quality public administration as an important aspect of the EU’s growth strategy.<sup>5</sup>

### *Structure of the report*

The EU Anti-Corruption Report covers all 28 EU Member States. It has the following structure:

- I. **Introduction**, presenting the policy background and objectives.
- II. Results of **Eurobarometer surveys** of 2013 on perceptions of corruption and experience of corruption.

---

3 The total economic costs of corruption cannot easily be calculated. The cited figure is based on estimates by specialised institutions and bodies, such as the International Chamber of Commerce, Transparency International, UN Global Compact, World Economic Forum, Clean Business is Good Business, 2009, which suggest that corruption amounts to 5% of GDP at world level. See also the Commission Communication on Fighting Corruption in the EU of 6 June 2011: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0308:FIN:EN:PDF>.

4 Excellence in Public Administration for competitiveness in EU Member States (2011-2012).: <http://ec.europa.eu/enterprise/policies/industrial-competitiveness/monitoring-member-states/improving-public-administration/>

5 COM(2014)14.

- III. **Horizontal chapter**, describing corruption-related trends across the EU. It summarises the main findings. The conclusions and suggestions for future steps for each Member State are set out (only) in the respective country chapters.
- IV. **Thematic chapter**, focusing on a cross-cutting issue of particular relevance at EU level. The issue in focus in this first report is public procurement, which is of crucial importance for the internal market; it is covered by extensive EU legislation, and subject to significant corruption risks. The chapter covers corruption and anti-corruption measures within national systems of public procurement.
- V. **Annex on methodology**, describing how the report was prepared as well as methodological choices and limitations.
- VI. **Country chapters**, covering each of the 28 Member States. These chapters do not provide an exhaustive description of corruption-related issues and anti-corruption measures. Instead, they highlight selected key issues identified through the individual assessment of each country on its own merits and with due regard to the national context.
  - a) **Introduction**, providing a snapshot of the general situation regarding corruption. It presents selected indicators including perceptions, along with facts, trends, challenges and developments relevant to corruption and anti-corruption measures.
  - b) **Issues in focus**. Several issues are identified and analysed for each country. While the emphasis is on vulnerabilities and areas for improvement, the analysis is forward-looking and points to plans and measures going in the right direction, and identifies issues that require further attention. Good practices which might be an inspiration for others are highlighted. The range of issues in focus is not limited to the matters covered by the thematic chapter (public procurement). Some country chapters do, however, include a specific analysis of public procurement; this is the case for countries where substantial problems with public procurement have been identified.

The selection of key issues in each country chapter is based on the following considerations:

- severity and impact of the problem in relation to other corruption-related challenges in the country;
- scale of potential spill-over effect for a wider range of policies (for example, major loopholes in public procurement controls creating significant risk of diversion of public funds) and
- ability to point to constructive and concrete future steps.

### ***Future steps and follow-up***

The points for further attention set out in each country chapter reflect the Commission's attempt to identify measures likely to give **added value** in addressing key outstanding issues in regard to preventing and fighting corruption. They are tailored to the context and needs of each country. They are concrete and targeted, without going into excessive detail, and aimed at tangible changes on the ground. The report, where relevant, draws on and supports

**recommendations already formulated by other corruption reporting mechanisms** (notably Council of Europe’s Group of States against Corruption – GRECO – and OECD), some of which have not yet been followed by Member States.

As follow-up to the report, the Commission wishes to engage in a constructive, forward-looking debate on the best ways to address corruption, notably on the points that it has identified for further attention. The Commission hopes to see a wide debate about anti-corruption measures with active participation of the Member States, the European Parliament, national parliaments, the private sector and civil society, and looks forward to itself actively participating in discussions both at EU level and in Member States.

Additionally, the Commission intends to put in place a **mutual experience-sharing programme** for Member States, local NGOs and other stakeholders to identify best practices and overcome shortcomings in anti-corruption policies, raise awareness or provide training. These efforts should be linked to the issues for attention contained in the report, and facilitate the follow-up action. The mutual experience-sharing programme will be launched after the adoption of the report, building on feedback received and discussion with stakeholders on the specific needs that it could address.

The Commission intends to carefully analyse feedback in relation to this first report, reflect on possible gaps and errors, and draw lessons for the second report. The methodology will be reviewed, and additional consideration will be given to the possibility of developing new corruption indicators.

Future work will look into issues like how the measures suggested in this first report were implemented, and take the stock of the experience-sharing programme.

## **II. Results of Eurobarometer survey on perceptions of corruption and experience of corruption**

Two Eurobarometer surveys were carried out in preparation for the EU Anti-corruption Report in early 2013: the 1) Special Eurobarometer<sup>6</sup> and a 2) a business-focused ‘Flash survey’<sup>7</sup>. For most countries, the ranking of the CPI index<sup>8</sup> published by Transparency International tends to correspond to answers given by the Eurobarometer respondents.

Taking together the Special Eurobarometer data, firstly on general perceptions of the prevalence of corruption and secondly on actually being expected to pay a bribe (personal experience in bribery), it is clear that Member States can be characterised in different ways.

---

6 A survey conducted among the general population in all Member States every two years, based on face-to-face interviews with a sample of 1000 or 500 respondents (depending on the size of the population). A total of 27 786 persons (representative sample) participated in this survey in late February and early March of 2013. The survey dealt inter alia with corruption perception generally, personal experience with corruption as well as attitudes towards favours and gifts. While the Eurobarometer surveys are run every second year since 2007, the Commission decided in 2013 to tailor questions to the needs of this report. Therefore, any comparison with previous years should be undertaken with caution. Full report is available at [http://ec.europa.eu/public\\_opinion/archives/eb\\_special\\_399\\_380\\_en.htm#397](http://ec.europa.eu/public_opinion/archives/eb_special_399_380_en.htm#397).

7 A phone-based survey, so-called Flash Eurobarometer, covered six sectors in EU28, and was launched for the first time in 2013, carried out between 18 February and 8 March. Businesses from the energy, healthcare, construction, manufacturing, telecommunications and financial sectors (all company sizes) were requested to provide their opinion. Full report is available at [http://ec.europa.eu/public\\_opinion/archives/flash\\_arch\\_374\\_361\\_en.htm#374](http://ec.europa.eu/public_opinion/archives/flash_arch_374_361_en.htm#374)

8 Corruption Perception Index (CPI) is published every year by Transparency International: <http://cpi.transparency.org/cpi2013/>.

Answers confirm a positive perception and low experience of bribery in the case of **Denmark, Finland, Luxembourg and Sweden**. Respondents in these countries rarely indicated that they had been expected to pay a bribe (less than 1% of cases) and the number of people who think that corruption is widespread (20%, 29%, 42% and 44% respectively) is significantly below the EU average. In the case of the **UK**, only 5 persons out of 1115 were expected to pay a bribe (less than 1%), showing the best result in all Europe; nevertheless, the perception data show that 64% of UK respondents think corruption is widespread in the country (the EU average is 74%).

In countries like **Germany, the Netherlands, Belgium, Estonia and France**, while more than half of the respondents think corruption is a widespread phenomenon, the actual number of people having had to pay a bribe is low (around 2%). These countries also appear among the good performers on the Transparency International Index. **Austria shares similar features with this group** with the exception of a somewhat high number of respondents (5%) who reported to have been expected to pay a bribe.

In some countries a relatively high number of people indicated that they had personal experience with bribery, but with a clear concentration on a limited number of sectors, including **Hungary (13%), Slovakia (14%) and Poland (15%)**. In these countries, one sector, namely healthcare, provides the bulk of instances of bribery. There is evidence that structural problems in healthcare provide incentives to pay a bribe for medical staff. Indeed, in all the countries mentioned, the detailed answer show that healthcare is referred to by the highest number of individuals, while all other institutions or sectors (e.g. police, customs, politicians, public prosecutors' services, etc) were named by less than 1% of respondents. Corruption in a broader sense is perceived as widespread in these countries (82% in Poland, 89% in Hungary and 90% in Slovakia).

In certain countries, including **Portugal, Slovenia, Spain and Italy**, bribery seems rare but corruption in a broader sense is a serious concern: a relatively low number of respondents claimed that they were asked or expected to pay a bribe in the last 12 months. While personal experience of bribery is apparently rare (1-3%), the perception is so heavily influenced by recent political scandals and the financial and economic crisis that this is reflected in the respondents' negative impression about the corruption situation overall (90, 91, 95 and 97% respectively).

As for countries lagging behind in the scores concerning both perceptions and actual experience of corruption, these include **Croatia, the Czech Republic, Lithuania, Bulgaria, Romania and Greece**. In these countries, between 6% and 29% of respondents indicated that they were asked or expected to pay a bribe in the past 12 months, while 84% up to 99% think that corruption is widespread in their country. Croatia and the Czech Republic appear to make a somewhat more positive impression with slightly better scores than the rest of the countries from the same group.

Countries not mentioned above (i.e. Latvia, Malta, Ireland, Cyprus) do not show results that diverge considerably from the EU average on any of these aspects.

**At European level, three quarters of respondents (76%) think that corruption is widespread in their own country.** The countries where respondents are most likely to think corruption is widespread are Greece (99%), Italy (97%), Lithuania, Spain and the Czech Republic (95% in each). **A quarter of Europeans (26%), compared with 29% showed by the 2011 Eurobarometer, consider that they are personally affected by corruption in**

**their daily lives.** People are most likely to say they are personally affected by corruption in Spain and Greece (63% in 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). **Around one in twelve Europeans (8%) say they have experienced or witnessed a case of corruption in the past 12 months.** Respondents are most likely to say they have experienced or witnessed corruption in Lithuania (25%), Slovakia (21%) and Poland (16%) and least likely to do so in Finland and Denmark (3% in each), Malta and the UK (4% in each).

**Around three quarters of Europeans (73%) say that bribery and the use of connections is often the easiest way of obtaining certain public services in their country.** This belief is most widespread in Greece (93%), Cyprus (92%), Slovakia and Croatia (89% in each). **Similarly to 2011, around two in three Europeans (67%) think the financing of political parties is not sufficiently transparent and supervised.** Most likely to hold that view are respondents from Spain (87%), Greece (86%), and the Czech Republic (81%), while those least likely to hold this view are respondents from Denmark (47%), the UK (54%), Sweden (55%) and Finland (56%). **Just under a quarter of Europeans (23%) agree that their Government's efforts are effective in tackling corruption;** around a quarter (26%) think that there are enough successful prosecutions in their country to deter people from corrupt practices.

For the business-focused Flash survey the country results show striking variations: a difference of 89 percentage points between the highest (Greece: 99%) and lowest (Denmark: 10%) levels of perceived corruption. (The same result is reflected in the 'Special Eurobarometer' presented above: 20% vs 99%.) Indeed, all but one of the respondents from Greece are of the belief that corruption is widespread in Greece.

**At European level, more than 4 out of 10 companies consider corruption to be a problem for doing business, and this is true for patronage and nepotism too.** 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.** Corruption is most likely to be considered a problem when doing business by companies in the Czech Republic (71%), Portugal (68%), Greece and Slovakia (both 66%).

### **III. Main Findings of this Report**

The individual country analyses revealed a wide variety of corruption-related problems, as well as of corruption control mechanisms, some of which have proved effective and others have failed to produce results. Nevertheless, some common features can be noted either across the EU or within clusters of Member States. The country analyses show that public procurement is particularly prone to corruption in the Member States, owing to deficient control mechanisms and risk management. An assessment of corruption risks, including both good and negative practices in public procurement appears in the following section.

This summary reviews the main issues that are assessed in more detail in the country chapters. They are condensed into four subject areas (A. Political dimension, B. Control mechanisms and prevention, C. Repression, D. Risk areas), though there may be some overlap, given the complex nature of the issues under examination. More detailed background and analyses can be found in the country chapters.

## **A. Political dimension**

### ***Prioritising anti-corruption policies***

Anti-corruption policies have become more visible on the political agenda in most Member States. The financial crisis drew attention to integrity issues and accountability of decision-makers. Most of the Member States confronted with serious economic difficulties have acknowledged the seriousness of corruption-related problems and developed (or are developing) anti-corruption programmes to address the attendant risks and the risks of diversion of public funds. For some Member States, economic adjustment programmes include explicit requirements related to anti-corruption policies. Even if not formally linked with an adjustment programme, anti-corruption policies complement adjustment measures, especially in countries where corruption poses a serious problem. Recommendations on effectively fighting corruption were also made in the context of the European Semester of economic policy coordination.

This report is not premised on the assumption that over-arching anti-corruption strategies are indispensable to prevent or fight corruption. However, the long-standing absence of comprehensive anti-corruption strategies in some Member States which are facing systemic corruption problems turned out to be an issue of concern, since the type of problems that need to be addressed require a comprehensive coordinated approach at central level. In some of these Member States a national anti-corruption strategy was recently adopted, while in others no such strategy is yet in place. Anti-corruption strategies adopted in some Member States based on impact assessments of previous strategic programmes following public consultations and actively involving civil society and a range of public and autonomous institutions in the fields of enforcement and monitoring, are mentioned as positive steps, with the caveat that results remain to be seen at the implementation phase.

Most Member States that face serious challenges in dealing with corruption have set up complex and sophisticated legal and institutional frameworks, as well as numerous targeted strategies or programmes. However, these alone do not necessarily lead to tangible results. By contrast, in other Member States where relevant regulation or strategic programmes are lacking, corruption has been visibly reduced by preventive systems, practices, traditions involving the suppliers and recipients of public services or, in some cases, high standards of transparency.

### ***Political accountability***

Provoked by the crisis, social protests have targeted not only economic and social policies, but also the integrity and accountability of political elites. High-profile scandals associated with corruption, misuse of public funds or unethical behaviour by politicians have contributed to public discontent and mistrust of the political system.

Integrity in politics is a serious issue for many Member States. Codes of conduct within political parties or elected assemblies at central or local level are the exception more than the rule. When such codes are in place, they often lack an effective monitoring mechanism or clear sanctioning regulations, rarely leading to the application of dissuasive penalties. In some cases, insufficient accountability has generated a perception of quasi-impunity of political elites.

Concerns in some Member States relate not only to growing public mistrust, but also to a reputational risk in the international context. As a consequence, Member States are now



giving far greater priority to fighting corruption, with substantial steps being taken or radical reforms announced.

In some Member States, politicisation of recruitment for mid-management and lower positions in public administration at central or regional/local level have been highlighted as serious problems. Such practices increase the susceptibility to corruption, raise the risk of conflicts of interests, weaken control mechanisms and affect the credibility of the public administration as a whole.

### ***Liability of elected officials for corruption***

***A fundamental challenge regarding anti-corruption policies is the lack of a harmonised definition of ‘public official’ at EU level which would include elected officials. The Commission has put forward a proposal in 2012 for a directive on criminal law protection from fraud and related offences to the EU financial interests<sup>9</sup> which contains a definition of public official including persons holding a legislative office. The negotiations in the Council<sup>10</sup> and in the European Parliament<sup>11</sup> on the proposed Directive show a lack of support for the proposed definition aiming at a criminalisation of corruption committed by the elected officials. However, in the Commission’s view, in order to come to a common approach in the EU, there is a need for a clear harmonisation of criminal liability of elected officials for corruption offences.***

### ***Financing of political parties***

One of the broader background issues which experience shows to have an impact on corruption is the financing of political parties. Recent large-scale corruption cases involving illegal party funding affected politicians in some Member States. Vote-buying and other forms of undue influence of the electorate were also noted in a number of Member States.

GRECO evaluations on party funding have had a visible impact on the reform of the legal and, to some extent, institutional framework in this area. With some exceptions, most Member States have recently amended their legislation on party funding and increased transparency standards, including on donations. In two Member States there is no restriction on anonymous donations. The publication of accounts of political parties is not mandatory in one of these Member States. However, the main political parties concluded a voluntary agreement to ensure financial transparency. Moreover, amendments to the party financing legislation aiming at compliance with GRECO recommendations are forthcoming. The other Member State in question has not announced plans to further amend its legislation following GRECO recommendations. Another Member State has recently revised its party funding legislation but loopholes remain as regards caps for donations, regime of sponsorships from state-owned companies, supervisory mechanisms and sanctioning powers.

---

9 COM(2012) 363.

10 See general approach of 3 June 2013, Council Doc. 10232/13.

11 See opinion of the Committee of Legal Affairs, A7-0000/2013.

*Well-regulated and transparent party funding system – Finland*

*Finland amended the Act on Political Parties in 2010 taking into account all the recommendations made by GRECO. Finland previously had only limited regulations on political party financing. The new legal framework aims at transparency of financing of election candidates, political parties, as well as other entities affiliated to political parties. If applied as intended, the Act will substantially increase the transparency of political funding. According to GRECO, Finland may serve as an inspiration to other countries.*

In some cases, political parties have raised their integrity standards and sanctioned or dismissed members involved in corruption scandals. In one Member State, significant achievements were noted in improving the transparency and accountability of the parliamentary system. Nevertheless, even in countries with such examples of political accountability, integrity responses are not part of generalised practice.

Considerable shortcomings remain in the supervision of party funding. The impact of recent legislative reforms remains to be seen. It is often the case that once a legislative loophole has been closed (such as transparency of and caps on donations), others seem to emerge (e.g. light loans regime, multiple donations schemes, insufficient supervision of foundations or other entities linked to political parties, etc). Proactive supervision and dissuasive sanctioning of illegal party funding are still not regular practices across the EU and more efforts are needed to ensure consistent implementation.

## **B. Control mechanisms and prevention**

### *Use of preventive policies*

Preventive policies cover a wide variety of aspects including clear-cut ethical rules, awareness-raising measures, building a culture of integrity within various organisations, setting a firm tone from the top in relation to integrity issues, to effective internal control mechanisms, transparency, easy access to public interest information, effective systems for evaluation of performance of public institutions, etc. There is a considerable divide among Member States concerning prevention of corruption. For some, the implementation of preventive policies has been fragmented so far, failing to show convincing results. For others, effective prevention has contributed to a long-standing reputation of ‘clean countries’. Although corruption is not considered a major issue in these latter countries, active and dynamic integrity and prevention programmes are in place and considered a priority by most central and local authorities. For other Member States, corruption has been seen as a lesser problem for a long time, hence no active stance on promoting comprehensive preventive actions is taken.

*Active promotion of public sector integrity – The Netherlands*

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

*In addition, many Dutch cities and communities are implementing a local integrity policy which has improved the detection of integrity cases (increased from 135 in 2003 to 301 in 2010). Local integrity policies have evolved over the past 20 years, becoming an integral part of local governance.*

### ***External and internal control mechanisms (other than law enforcement)***

Control mechanisms play an important role both for the prevention and the detection of corruption, within public bodies. Some Member States place a high burden on law enforcement and prosecution bodies or on anti-corruption agencies that are seen as solely responsible for addressing corruption in the country. While the activity of these institutions is of utmost importance, deep-rooted corruption cannot be tackled without a comprehensive approach aiming to enhance prevention and control mechanisms throughout the public administration, at central and local levels.

Some Courts of Audit have played a prominent role in pushing anti-corruption reforms forward. In a few Member States, the Court of Audit is active in notifying other relevant authorities of suspected corruption. In some cases, it is also the institution responsible for verification of party and electoral campaign financing. However, its pro-activeness is not matched by effective internal and external controls at regional and local levels.

In many Member States internal controls across the country (particularly at local level) are weak and uncoordinated. There is a need to reinforce such controls and match them with strong prevention policies in order to deliver tangible and sustainable results against corruption.

### ***Asset disclosure***

Asset disclosure for officials in sensitive posts is a practice which contributes to consolidating the accountability of public officials, ensures enhanced transparency and facilitates detection of potential cases of illicit enrichment, conflicts of interests, incompatibilities, as well as the detection and investigation of potential corrupt practices.

Approaches towards asset disclosure for elected officials range from requiring a considerable amount of information to be disclosed,<sup>12</sup> to more limited disclosure or non-disclosure policies. For professional public officials in certain sectors asset disclosure could be a way forward to avoid issues of conflict of interests. In spite of these different approaches, a general trend can be noted towards stricter asset disclosure requirements for public officials. A few Member States that traditionally did not have asset disclosure regimes have recently introduced or announced the introduction of such systems.

An important aspect concerns their verification. In some Member States, bodies in charge of monitoring asset disclosure have limited powers and tools. In others there is little evidence of active implementation or enforcement of those rules. In a few countries, the verification system is complex and cumbersome, affecting its effectiveness. There are few examples of thorough verification among Member States: in these, substantial checks are carried out by specialised independent anti-corruption/integrity agencies that have the necessary powers and tools to check the origin of assets of concerned public officials against a wide range of databases (tax administration, trade register, etc.) to identify potential incorrect declarations.

---

<sup>12</sup> Asset disclosure does not automatically imply publication, which has to be balanced with the right to data protection. Some of the Member States which apply asset disclosure systems do not publish all asset declarations. They do however require public officials to submit detailed asset declarations to relevant authorities.

### *Rules on conflict of interest*

Conflicts of interest reflect a situation where public officials act or intend to act or create the appearance of acting to the benefit of a private interest.<sup>13</sup> The issue of conflicts of interest have therefore been included in the scope of a wide range of anti-corruption instruments and review mechanisms, including those related to the UN Convention against Corruption (UNCAC), GRECO and OECD.

Regulations and sanctions applicable to conflicts of interest vary across the EU. Some Member States have dedicated legislation that covers a wide range of elected and appointed public officials, as well as specialised agencies tasked to carry out checks. The level of scrutiny varies from one Member State to another: some have independent agencies that monitor conflicts of interest, but the capacity to cover these situations countrywide is limited and follow-up of their decisions is insufficient; others have an ethics commission in charge of such verifications that reports to Parliament; checks on MPs are in some cases carried out by a Parliamentary commission, or, in some other cases, by a commission tasked to carry out checks on conflicts of interest and asset declarations, albeit often with limited capacity and sanctioning powers. Verifications on substance are often formalistic and mostly limited to administrative checks. The monitoring capacity and tools necessary to carry out substantial checks are often insufficient.

Particular difficulties that arise across the board stem from the scarce and weak sanctions applicable to elected officials. Where they cover conflicts of interest, the codes of conduct of various elected assemblies are usually not accompanied by dissuasive sanctions. Party discipline and self-control may not be sufficiently effective in this regard. Also, cancellation of contracts and procedures concluded or carried out in conflict of interest situations or the recovery of estimated damages are often left to general civil regulations and are not effectively implemented in practice.

Conflicts of interest in decision-making, allocation of public funds and public procurement, particularly at local level, form a recurrent pattern in many Member States. This report analyses the particular challenges in this regard at regional and local level in those Member States where such problems appear more severe. There is a (sometimes wide) difference between regions and local administrations and a coherent approach towards imposing minimum standards and raising awareness in this regard is lacking. Conflicts of interest are as a rule not incriminated in the EU Member States. In one Member State, conflicts of interest are criminalised, although there is not yet an established track record of successful prosecutions. Some forms of conflicts of interest are also incriminated in another Member State (i.e. illegal interest in an activity that public officials manage or supervise).

Mobility of labour between the public and private sectors are essential for the functioning of a modern society and can bring major benefits to both the public and the private sector. It implies however a potential risk that former public officials disclose information from their previous functions that should not be disclosed and that former private sector staff take up

---

13 The Council of Europe has defined conflict of interest as a situation ‘in which the public official has a private interest which is such as to influence or appear to influence, the impartial and objective performance of his or her official duties’, private interest being understood to mean ‘any advantage to himself or herself, to his or her family, close relatives, friends and persons or organisations with whom he or she has or has had business or political relations.’ It includes also any liability, whether financial or civil, related thereto. See Recommendation No. R (2000) 10 of the Committee of Ministers to Member States on codes of conduct for elected officials:  
[http://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf).

public functions that result in conflicts of interest with regard to their former employer. This situation is expressly addressed in some Member States only, and implementation is often weak.

## **C. Repression**

### *Criminal law*

Criminal law against corruption is largely in place, meeting the standards of the Council of Europe, UN and EU legislation. One Member State has not ratified UNCAC. The main obstacle to ratification of this Member State lies in the lack of criminal liability for elected public officials for bribery.

Some Member States have introduced or are planning substantive criminal and criminal procedure reforms. A common objective is to make procedures more efficient and speedier, and to reinforce anti-corruption tools (including better definition of offences, in some cases higher sanctions, and fast-track provisions). In drawing the fine line between legitimate and illegitimate behaviour, some Member States still have a narrow scope of incrimination.

The quality of transposition of **Framework Decision 2003/568/JHA on combating corruption in the private sector** is uneven.<sup>14</sup> There are particular shortcomings in the transposition of the provisions on criminalisation of all elements of active and passive bribery, as well as liability of legal persons. Even for Member States that have transposed the Framework Decision, information on enforcement is scarce.

### *Effectiveness of anti-corruption agencies*

It is for the Member State alone to decide which institutional structures for tackling corruption their national context may require, depending on the extent and nature of corruption in the country, constitutional and legal framework, traditions, link with other policies in the country, overall institutional setting, etc.

Several Member States have central anti-corruption agencies that combine prevention and repression tasks, while others have dedicated anti-corruption agencies for prevention, some of which are also empowered to deal with verification of wealth, conflicts of interest, incompatibilities, and in some cases party funding. Some other countries have dedicated law enforcement or prosecution services for combating corruption.

It is now widely acknowledged that the setting up of specialised anti-corruption agencies, whether they focus on prevention or repression or both, is not a panacea. The results achieved vary. However, the country analyses in this report show that some of these agencies have been effective drivers of anti-corruption reforms in their country.

The achievements of some anti-corruption agencies have been more sustainable than others. Factors affecting their (temporary or long-term) success include: guarantees of independence and absence of political interference, merit-based selection and promotion of staff, multidisciplinary collaboration among operational teams and with other institutions, swift

---

14 COM(2011) 309 final, Second Implementation Report of FD 2003/568/JHA of 6 June 2011: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0309:FIN:EN:PDF>.

access to databases and intelligence, and provision of necessary resources and skills. These elements are not consistently brought together in all Member States.

#### *Good practices concerning anti-corruption agencies*

*The Slovenian Commission for Prevention of Corruption (CPC) has consolidated its role in seeking to 'uphold the rule of law through anti-corruption efforts', as recognised also by the Slovenian Constitutional Court. In spite of limited resources, CPC has a solid track record of implementation, with over 1 000 reviews and investigations per year. It has verified the assets and interests of leaders from all main political parties, recently revealing breaches of asset disclosure legislation and allegedly unexplained wealth of important political figures.*

*The Romanian National Anti-Corruption Directorate (DNA). A specialised prosecution office for combating medium and high-level corruption, DNA has built a notable track record of non-partisan investigations and prosecutions into allegations of corruption at the highest levels of politics, the judiciary and other sectors such as tax administration, customs, energy, transport, construction, healthcare, etc. In the past seven years, DNA has indicted over 4 700 defendants. 90.25 % of its indictments were confirmed through final court decisions. Nearly 1 500 defendants were convicted through final court decisions, almost half of them holding very high level positions. Key to these results has been DNA's structure which incorporates, apart from prosecutors who lead and supervise investigations, judicial police and economic, financial and IT experts.*

*The Latvian Bureau for Prevention and Combating of Corruption (KNAB) has established a solid reputation in Latvia and beyond. It combines tasks related to prevention, investigation and education, including the control of party financing. KNAB also acts as a pre-trial investigatory body endowed with traditional police powers and access to bank and tax databases. More recently the Bureau underwent a period of internal turmoil.*

*The Croatian Bureau for Combating Corruption and Organized Crime attached to the State Attorney General's Office (USKOK) has established a track record of proactive investigations and successful prosecutions including in notable cases concerning high level elected and appointed officials.*

*The central Spanish specialised anti-corruption prosecution office achieved a solid track-record of investigations and prosecutions, including in high-level cases involving allegations of complex schemes of illegal party funding. Catalonia Anti-Fraud Office, a regional anti-corruption agency specialised in prevention and investigation of corruption and fraud is the only one of its kind in Spain. Aiming to prevent and investigate misuse of public funds, it is also entrusted with guiding other entities.*

In some Member States, anti-corruption agencies that investigate politicians subsequently face direct or indirect pressure. Such pressure includes public statements or other challenges to the legitimacy of the agencies' leadership or institutional powers and competences. It is important to secure the guarantees necessary for these anti-corruption agencies to continue carrying out their tasks without undue pressure.

#### ***Capacity of law enforcement, prosecution and judiciary***

The efficiency of **law enforcement and prosecution** in investigating corruption varies widely across the EU. Factors considered when evaluating their efficiency include the estimated extent and nature of corruption they must address, the balance with preventive measures, the

political will to support their independence, the capacity and resources at their disposal, the potential obstacles to investigations, the effectiveness of the judiciary, in particular its independence, etc. The assessment is difficult as corruption crime statistics lack coherence in most Member States. There are hardly any up-to-date accurate consolidated statistics following all procedural stages of corruption cases.

Repressive measures alone are not sufficient to tackle corruption in an effective manner. Nevertheless, the ability of a judicial system to impose dissuasive criminal sanctions plays a major deterrent role and is a clear sign that corruption is not tolerated.

Some Member States place particular emphasis on the repressive side and law enforcement becomes the most visible aspect of anti-corruption efforts. Outstanding results can be seen also in Member States where prosecution as a whole (beyond services specialised in corruption) is effective. In some other Member States, successful prosecution is scant or investigations are lengthy.

Independence of the judiciary is a key element of anti-corruption policies from the point of view of the capacity of the justice system to effectively handle corruption cases, including at high levels, as well as from the viewpoint of integrity standards within the justice system itself. Effective independence safeguards and high ethical standards within the judiciary are essential to securing the necessary framework for an effective judiciary which renders justice in corruption cases in an objective and impartial manner without any undue influence. Independence of law enforcement and prosecution is noted as a problem in some Member States. Without judging the overall institutional structure that reflects the constitutional, legal and cultural setting of each Member State, and is subject to separate mechanisms and procedures at EU level – notably the annual EU Justice Scoreboard and the rule of law framework announced and outlined by President Barroso in his State of the Union speech in 2012 and 2013 – particular concerns have been raised on some occasions regarding the exposure of prosecution services and courts to political interference in corruption cases. Examples include non-transparent or discretionary application of procedures to appoint, promote or dismiss leading prosecutors working on corruption cases as well as dismissals or attempts to discredit anti-corruption institutions or their leaders without an apparent objective reason. In other cases anti-corruption law enforcement agencies have seen political actors interfere in their management and functioning. The wide-ranging powers enjoyed by some anti-corruption institutions are not always matched with accountability, leading to perceptions that they might be shying away from high-profile cases or resorting to controversial investigative methods.

There is no uniform standard that can be considered a model for appointment and dismissal procedures for heads of law enforcement or prosecution services. Such decisions are in the hands of governments in most Member States as an expression of political accountability and reflecting the location of law enforcement and prosecution within the executive branch. Regardless of the procedure followed, the process needs to be credible and merit-based to avoid any impression of political bias and to allow police and prosecutors to investigate corruption wherever they discover it.

Lack of effective coordination among law enforcement and anti-corruption agencies was also highlighted as a weakness in some Member States.

Individual country analyses highlights concerns with regard to the integrity of the **judiciary** when working on corruption cases and concerns regarding its independence or integrity, as illustrated by the range and nature of corruption cases involving judges or prosecutors. A

specialised anti-corruption court set up in one Member State has faced considerable challenges (and even temporary dissolution), affecting its stability and capacity to build a convincing track record.

In several Member States there appears to be a lack of judicial determination and capacity to tackle complex or sensitive corruption cases. In some Member States corruption cases risk becoming time-barred where judicial procedures turn out to be excessively long and cumbersome. There are situations in which the way procedural rules are applied in practice lead to considerable delays, in some cases aimed at avoiding finalisation of court proceedings.

The limited dissuasiveness of court sentencing was also highlighted in several Member States where the frequency of suspended or weak sanctions for corruption was noted as a pattern. There are however other cases in the courts have recently handed down dissuasive prison sentences for corruption.

In one Member State, the role of tribunals of inquiry has been assessed as decisive for driving forward legislative and institutional reforms with regard to corruption cases, but the analysis also raised questions regarding the length of their proceedings and actual impact on prosecutions.

*It should be noted that procedural shortcomings can often obstruct the investigation of corruption cases in certain Member States. Examples include excessive or unclear provisions on lifting immunities, or flawed application thereof and statutes of limitations which impede the finalisation of complex cases, notably in combination with lengthy proceedings or inflexible rules on access to banking information that hamper financial investigations and cross-border cooperation.*

#### **D. Specific risk areas**

##### ***Petty corruption***

Petty corruption remains a widespread problem only in a few Member States. Numerous anti-corruption initiatives have failed to tackle petty corruption in these countries. Several Member States where petty corruption was seen as a recurrent problem decades ago have managed to achieve progress in this area, as shown by surveys on direct experiences with corruption that reveal positive trends and sometimes even rank them above the EU average in this regard. Despite the promising progress towards reducing petty corruption in general, a number of Member States still struggle with risk-prone conditions in the healthcare sector, where incentives to give unofficial payments against differentiated treatment persist.

##### ***Corruption risks at regional and local level***

Corruption risks are found to be higher at regional and local levels where checks and balances and internal controls tend to be weaker than at central level. There are considerable variations within some Member States when it comes to good governance and effectiveness of anti-corruption policies.<sup>15</sup>

In many Member States, wide discretionary powers of regional governments or local administrations (which also manage considerable resources) are not matched by a

---

<sup>15</sup> Findings of Quality of Government Institute, University of Gothenburg, Sweden.



corresponding level of accountability and control mechanisms. Conflicts of interest raise particular problems at local level. More efforts are needed to disseminate good practices applied by some regions or local administrations and create a level playing field, for both elected and appointed officials at local level, particularly as regards transparency standards, asset disclosure, prevention and sanctioning of conflicts of interests, as well as control of public spending.

On the positive side, effective preventive practices have been noted at local or regional level. In one Member State, a network of over 200 regional, municipal and provincial administrations was set up, working together to prevent corruption and mafia infiltration in public structures.

### ***Selected vulnerable sectors***

In several Member States, the analysis highlighted some sectors which seem particularly vulnerable to corruption, calling for targeted responses.

Urban development and construction are sectors where corruption vulnerabilities are usually high across the EU. They are identified in the report as being particularly susceptible to corruption in some Member States where many corruption cases have been investigated and prosecuted in recent years. In response to risks in this area, one Member State established a specialised prosecution service for combating environment and urban planning crime, covering a wide range of offences including corruption. Environmental planning was pinpointed as an area vulnerable to corruption in one Member State where granting of planning permits, particularly for large-scale projects, has been affected by allegations of corruption and illegal party funding.

Healthcare, another sector where corruption vulnerabilities can be seen across the board, in particular regarding procurement and the pharmaceutical industry, has been assessed in more detail in a number of Member States. These countries are currently developing strategies and reforms to tackle healthcare corruption. However, tangible results are scarce so far. Informal payments, and corruption in public procurement and in the pharmaceutical sector remain matters of concern.

Corruption in tax administration, which was highlighted as a serious problem in one Member State, requires a targeted strategic response.

Overall, most of the above-mentioned Member States lack coherent risk assessment mechanisms or sector-specific strategies to tackle corruption in vulnerable sectors.

### ***Integrity and transparency of the financial sector***

The need for enhanced integrity and transparency standards within the financial sector has often been raised in the aftermath of the financial crisis. This report raises such issues with regard to a number of Member States.

A report by the Parliamentary Assembly of the Council of Europe links ‘grand corruption cases’ with tax evasion through offshore companies and tax havens.<sup>16</sup> The report refers to the Stolen Asset Recovery Initiative of the World Bank<sup>17</sup> and the UNODC which analysed 150

---

16 <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=18151&lang=EN>.

17 <http://star.worldbank.org/star/>.

grand corruption cases and found a direct link between large-scale corruption by high-level public officials and the concealment of stolen assets through opaque shell companies, foundations and trusts. Furthermore, it indicated obstacles to investigating and tracing stolen assets due to lack of access to information on beneficial ownership and the use of sophisticated multi-jurisdictional corporate structures.

The same report by the Parliamentary Assembly listed one Member State among other Council of Europe members ‘harbouring or tolerating more or less questionable financial and legal arrangements of the offshore system’. More recently, the Member State in question announced plans to revise its legal framework on access to banking information.

In another Member State, recent controversies involving the financial sector, including major banks, over issues such as fixing interest rates, irresponsible and speculative lending, and failing to exercise due diligence, raised concern about regulation and enforcement of existing rules. The role of banks in facilitating or allowing money laundering was also widely debated. Plans for a publicly accessible register of the owners of registered companies stand to improve transparency.

Another Member State has committed itself to strengthen its banking supervision and regulatory framework, as well as safeguards against money laundering.

### ***Foreign bribery***

Member States that effectively address corruption within their own borders often face challenges regarding the behaviour of their companies abroad, especially in countries where corrupt practices are widespread. The OECD conducts strict monitoring in this field, highlighting in its regular evaluations both good and less satisfactory results of enforcement. There are good practices in a number of Member States, either in relation to a significant number of successful prosecutions and a high level of sanctions, in prioritising foreign bribery cases or in the recent adoption of a comprehensive bribery act strengthening the legal and procedural tools for preventing and prosecuting corruption, especially foreign bribery.

#### *A sound legislative framework to tackle domestic and foreign bribery – UK Bribery Act*

*The Bribery Act 2010, which came into force on 1 July 2011 places the UK 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.*

The OECD has criticised other Member States for insufficient or non-existent prosecution of foreign bribery, considering the corruption risks their companies face abroad.

### ***State-owned companies***

In some Member States, shortcomings exist regarding the supervision of state-owned companies where legislation is unclear and politicisation impedes merit-based appointments and the pursuit of the public interest. Moreover, there are insufficient anti-corruption safeguards or mechanisms to prevent and sanction conflicts of interest. There is little transparency regarding the allocation of funds and, in some cases, purchase of services by these companies. Recent investigations into alleged misuse of funds, corrupt practices and money laundering linked to state-owned companies indicate the high level of corruption-related risks in this area, as well as the weakness of control and prevention.

For a few Member States, the report highlights the need for more transparency and efficient checks on accelerated privatisation processes that may raise the risks of corruption.

### ***Links between corruption and organised crime***

In the Member States where organised crime poses considerable problems, corruption is often used as a facilitator. In one Member State, numerous cases of alleged illegal party funding at central or regional level were also linked to organised crime groups. Links between organised crime groups, businesses and politicians remain a concern for those Member States, particularly at regional and local levels, and in public procurement, construction, maintenance services, waste management and other sectors. Research has showed that in another Member State organised crime exercises influence at all levels, including in politics. Political corruption there is often seen as a tool for gaining direct or indirect access to power; that country was considered to have the highest level of shadow economy among EU Member States. Overall corruption remains a serious threat as a means for organised crime groups to infiltrate public and private sectors, as stated by the EU Serious and Organised Crime Threat Assessment carried out in 2013 by Europol.

## **E. Background issues**

*There are a number of background issues which – although not in themselves necessarily linked to corruption – can have an impact on the extent to which an environment opens the door to corruption. Effective policies in these areas can have the effect of reducing the opportunities for corruption.*

### ***Transparency policies and freedom of information***

Openness and transparency can act as a disincentive to corruption, and can help to reveal transgressions when they occur. While most Member States have adequate legislation in this field, and some are on the way to adopting laws, implementation of transparency standards is uneven. One Member State has developed an online application that offers an overview of all public sector expenditure on goods and services (*see also the public procurement section*). It

also provides details on management and supervisory boards of all state-owned and state-controlled companies and their annual reports.

Effective anti-corruption policies in some Member States stem partly from a tradition of openness, transparency and disclosure of documents.

*Moves towards transparency of decision-making in public administration - Greece*

*A law adopted in 2010<sup>18</sup> obliges all public institutions to publish online their decisions, including in relation to public procurement. As from 1 October 2010, all public institutions, regulatory authorities and local governments are obliged to upload their decisions on the internet through the 'Clarity' programme (diavgeia – διαύγεια).<sup>19</sup> The decisions of public entities cannot be implemented if they are not uploaded on the Clarity websites. Only decisions that contain sensitive personal data and/or information on national security are exempted from this obligation. Each document is digitally signed and automatically assigned a unique number. If there is a discrepancy between the text published in the Government Gazette and that on Clarity websites, the latter prevails. Concluded public contracts are also published.*

***Whistleblowers' protection***

Adequate whistleblowing mechanisms that codify processes within public administrations to allow official channels for reporting what they may perceive as irregularities or even illegal acts can help overcome detection problems inherent to corruption (and indeed in other areas). However, whistleblowing faces difficulties given the general reluctance to report such acts within one's own organisation, and fear of retaliation. In this regard, building an integrity culture within each organisation, raising awareness, and creating effective protection mechanisms that would give confidence to potential whistleblowers are key.<sup>20</sup>

***Transparency of lobbying***

In the complex world of public policy-making, it is desirable for public administrations to engage in a continuous dialogue with outside stakeholders. All interested parties should be able to have their say, but this should be done in a transparent way. As lobbying activities can raise risks of corruption and regulatory capture, it is desirable to have mechanisms in place to frame such activities, be it through legislation or a voluntary registration of lobbyists.

Such mechanisms can help to create both clarity and transparency in the relationship between public authorities and outside stakeholders. As such, they can help to reduce the risk of corruption. So far, this area has been developed in relatively few Member States, though some other Member States have legislation or rules in the pipeline or are debating the possibility of introducing new mechanisms.

---

18 Law 3861/2010.

19 <http://diavgeia.gov.gr/en>.

20 Transparency International conducted, within an EU co-funded project, a comparative analysis of the legal framework on whistleblowers' protection across the EU, see [http://www.transparency.org/whatwedo/pub/whistleblowing\\_in\\_europe\\_legal\\_protections\\_for\\_whistleblowers\\_in\\_the\\_eu](http://www.transparency.org/whatwedo/pub/whistleblowing_in_europe_legal_protections_for_whistleblowers_in_the_eu).

## **IV. Public Procurement**

### **A. General overview of the EU framework**

#### *Size of public procurement market in the EU*

Public procurement is a significant element of the national economies in the EU. Approximately one fifth of the EU's GDP is spent every year by public authorities and by entities governed by public law in procuring goods, works and services.<sup>21</sup> Approximately 20% of this total concerns public procurement exceeding the thresholds above which EU procurement rules apply. The Commission estimated the total value of calls for tenders above those EU thresholds to be approximately EUR 425 billion in 2011.<sup>22</sup>

#### *Relevance of anti-corruption policies within public procurement*

Given the level of financial flows generated, and a number of other factors, public procurement is an area prone to corrupt practices. According to 2008 research on public procurement and corruption, the costs added to a contract as a result of corrupt practices may amount to between 20% to 25%, and in some cases even 50% of the total cost of the contract.<sup>23</sup> As pointed out by the OECD in its Principles for Integrity in Public Procurement, *'weak governance in public procurement hinders market competition and raises the price paid by the administration for goods and services, direct impacting public expenditures and therefore taxpayers' resources. The financial interests at stake, and the close interaction between the public and private sectors, make public procurement a major risk area. [...]*<sup>24</sup>

A 2013 study on identifying and reducing corruption in public procurement in the EU concluded that in 2010 the overall direct costs of corruption in public procurement for only five sectors (i.e. road and rail; water and waste; urban/utility construction; training; research and development) in eight Member States<sup>25</sup> ranged from EUR 1.4 billion up to EUR 2.2 billion.<sup>26</sup>

The individual country assessments of this report point to public procurement as one of the areas most vulnerable to corruption, as also illustrated by a number of high-level corruption cases involving one or more countries. Given that the corruption risk level in the public procurement process is rather high, anti-corruption and anti-fraud safeguards in public procurement are a matter of priority for both EU Member States and EU institutions.<sup>27</sup>

Weaknesses in the prevention and repression of corruption in public procurement adversely affect management of national and EU funds.

---

21 [http://ec.europa.eu/internal\\_market/publicprocurement/docs/modernising\\_rules/public-procurement-indicators-2011\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/public-procurement-indicators-2011_en.pdf).

22 [http://ec.europa.eu/internal\\_market/publicprocurement/docs/modernising\\_rules/public-procurement-indicators-2011\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/public-procurement-indicators-2011_en.pdf).

23 [http://www.nispa.org/files/conferences/2008/papers/200804200047500.Medina\\_exclusion.pdf](http://www.nispa.org/files/conferences/2008/papers/200804200047500.Medina_exclusion.pdf).

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

25 France, Italy, Hungary, Lithuania, Netherlands, Poland, Romania and Spain.

26 'Identifying and Reducing Corruption in Public Procurement in the EU – Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption', 30 June 2013, PricewaterhouseCoopers and ECORYS.

27 More specific examples are given in the section on positive and negative practices.

## *Current EU legal framework*

The main objective of EU legislation on public procurement (i.e. the ‘Public Procurement’ Directive, the ‘Utilities’ Directive, the Directive covering public procurement in defence and security sectors and the ‘Remedies’ Directives)<sup>28</sup> is to ensure respect for the principles of the Treaty on the Functioning of the European Union, and in particular the principles of freedom of movement of goods, freedom of establishment and freedom to provide services, as well as other principles deriving therefrom. The public procurement legislation aims to ensure that procurement markets are kept open Union-wide so as to contribute to the most efficient use of public funds, thus promoting a fair, uniform and transparent platform for public spending. This can also positively influence the overall EU anti-corruption policies where transparency and fair competition play an important role in preventing corrupt practices.

The public procurement legislation also includes provisions which are more directly relevant to anti-corruption policies such as exclusion from the tendering process of an entity against which a final court decision on corruption charges has been handed down, detailed provisions on publicity and transparency of various stages of the procurement cycle, minimum standards for remedies, specific provisions on abnormally low tenders, as well as provisions setting certain requirements for modification of contracts. The award of works concessions is presently subject to a limited number of secondary law provisions<sup>29</sup> while service concessions are currently only covered by the general principles of the Treaty on the Functioning of the European Union.

Some Member States have specific legal provisions dealing with corruption in the area of public procurement or apply specific measures aimed at reducing the risk of corruption as detailed below. Most Member States however deal with corruption in public procurement through their general legislation on corruption.

A Tenders Electronic Daily (TED) database, the online version of the ‘Supplement to the Official Journal of the European Union’, is updated regularly with tenders from across Europe. Contract notices and contract award notices above the thresholds of the Public Procurement Directives are published in OJ/TED. The 2012 Annual Public Procurement Implementation Review noted that the number of contract notices and contract award notices

---

28 Directive 2004/18/EC of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ L 134, 30.4.2004, p. 114; Directive 2004/17/EC of 31 March 2004 coordinating the procurement procedures of entities in the water, energy, transport and postal services sectors, OJ L 134, 30.4.2004, p. 1; Directive 2009/81/EC of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, OJ L 216, 20.8.2009, p. 76.

Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, OJ L 395, 30.12.1989, p. 33, as amended by Directive 2007/66/EC and Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, OJ L 76, 23.3.1992, p. 14–20.

29 The award of works concessions is presently subject to basic rules of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts while the award of services concessions with a cross-border interest is subject to the principles of the Treaty, and in particular the principle of free movement of goods, freedom of establishment and freedom to provide services as well as to the principles deriving therefrom such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency.

advertised has continued to grow steadily over the past years.<sup>30</sup> This shows that the Directives and TED have contributed to increasing publicity of tenders and awards of public contracts.

### ***Monitoring of correct application of EU public procurement rules***

In fulfilling its role as guardian of the Treaties, in cases of potential violation of European public procurement rules, the Commission acts upon complaints or on its own initiative. In this regard, the Commission strives to ensure compliance with the public procurement rules whatever the reasons for their violation, regardless of whether a violation has been committed knowingly or is the result of insufficient knowledge or errors.

As a general rule, the Commission does not investigate whether a violation of EU public procurement rules might be due to corruption. This falls within the competence of the Member States. Nevertheless, infringement procedures<sup>31</sup> often refer to irregularities pointing to certain vulnerabilities in the application of public procurement rules that are also highly relevant when assessing the effectiveness of corruption prevention and control mechanisms.

The Commission's 2012 Annual Public Procurement Implementation Review pointed to 97 pending infringement cases for incorrect application of the public procurement rules, over half of them concerning only three Member States. Most of these cases related to allegations of: unjustified use of the negotiated procedure without prior publication, discrimination, direct awards, lack of transparency, unjustified amendment of the contract, incorrect application of the internal rules or infringement of general principles of the Treaty.<sup>32</sup>

Judging by the type of cases where the Commission opens infringement procedures for an alleged breach of the EU rules on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts the negotiated procedure without publication is the type of procedure most affected by irregularities. Most cases of wrong application concern the infrastructure sector, followed by sewage/waste, procurement of IT services, railways, the health sector and energy.

### ***Ongoing EU legislative reforms***

A comprehensive evaluation has shown that the Public Procurement Directives have achieved their objectives to a considerable extent.<sup>33</sup> They have resulted in greater transparency, higher levels of competition, and measurable savings through lower prices. Nevertheless, further improvement is considered necessary for the simplification of procedures, and to strengthen anti-fraud and anti-corruption guarantees. The Commission therefore proposed in December

---

30 SWD(2012) 342 final: [http://ec.europa.eu/internal\\_market/publicprocurement/docs/implementation/20121011-staff-working-document\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/implementation/20121011-staff-working-document_en.pdf).

31 Infringement procedures stand for the procedures launched by the European Commission against a Member State in case of an alleged failure to comply with EU law. Each Member State is responsible for the implementation of EU law (implementing measures before a specified deadline, conformity and correct application) within its own legal system. The European Commission is responsible for ensuring that EU law is correctly applied. Consequently, where a Member State fails through act or omission to comply with EU law, the European Commission has powers of its own to try to bring such violation ('infringement') of the EU law to an end and, where necessary, may refer the case to the European Court of Justice. The Commission can launch three types of infringement procedures: i.e. in case of failure to notify implementing measures within the deadlines set, when transposition is not in line with the EU rules and when there is an incorrect application (action or omission attributable to the Member States).

32 Other violations included: confusion of selection and award criteria, incorrect application of the rules on public-public cooperation (other than in-house), calculation of the contract value, selection criteria (problems other than discriminatory criteria), undue exclusion from the procedure, framework agreements and undue use of the defence and security exemption.

33 Evaluation report (SEC(2011) 853 final).

2011 a revision of the Public Procurement Directives. The proposed new legislation covers procurement in the water, energy, transport and postal services sectors,<sup>34</sup> public works, supply and service contracts,<sup>35</sup> as well as concessions, regulated at EU level. The Commission has proposed provisions regarding conflicts of interest (for the first time defined in EU legislation), centralised data on corruption, fraud and conflicts of interest, stricter rules governing modification of contracts, broader exclusion criteria, and monitoring of concluded contracts. The Commission's proposal is currently under discussion in the European Parliament and the Council. The proposal also included the setting up of oversight monitoring of the implementation of public procurement rules, red flagging and alert systems to detect fraud and corruption. However, Member States raised fundamental objections to such measures which were considered too cumbersome for their administrations.

The proposal on award of concession contracts<sup>36</sup> aims at reducing the uncertainty surrounding the award of such contracts and seeks to foster public and private investment in infrastructure and strategic services giving best value for money. The proposed directive on concessions also contains provisions requiring Member States to adopt rules combating favouritism or corruption and preventing conflicts of interest, aimed at ensuring transparency of the award procedure and equal treatment of all tenderers.

The new public procurement package is expected to be adopted in early 2014.

### ***Results of Eurobarometer surveys on corruption***

According to the 2013 flash Eurobarometer survey on corruption relevant to businesses<sup>37</sup>, more than three out of ten (32%) companies in the Member States that participated in public procurement say corruption prevented them from winning a contract. This view is most widely held amongst companies in the construction (35%) and engineering (33%) sectors. More than half of company representatives from Bulgaria (58%), Slovakia (57%), Cyprus (55%) and the Czech Republic (51%) say this has been the case.

---

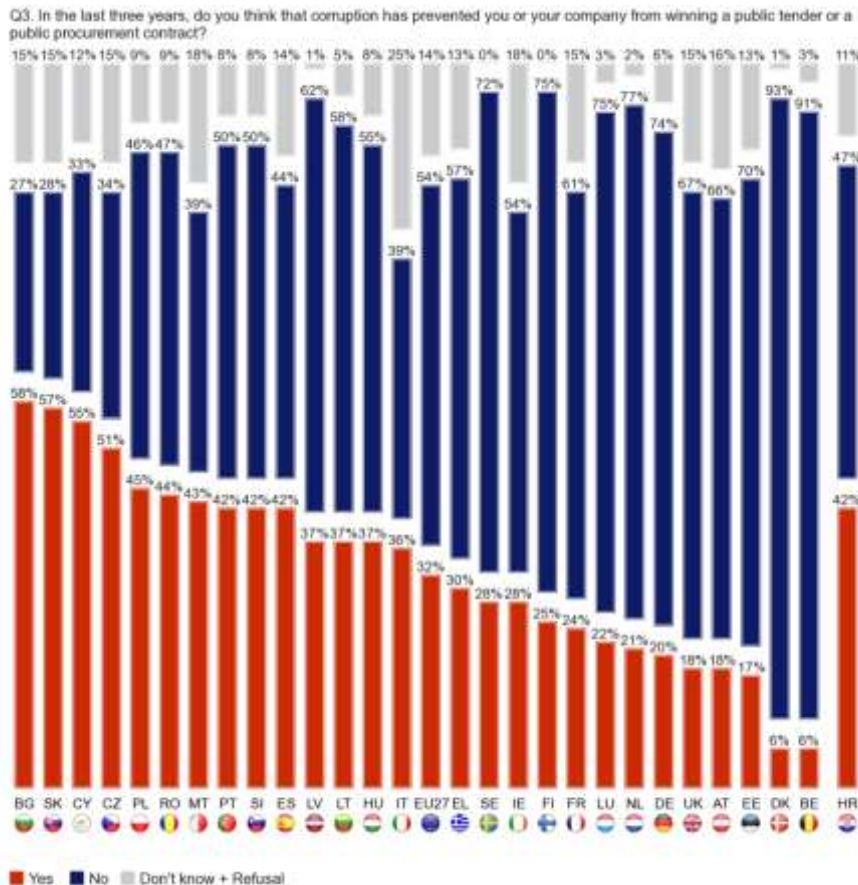
34 COM(2011) 895 final: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0895:FIN:EN:PDF>.

35 COM(2011) 896 final: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0896:FIN:EN:PDF>.

36 COM(2011) 897 final: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0897:FIN:EN:PDF>.

37 2013 Flash Eurobarometer 374.





According to the same survey, red tape (21%) and criteria that seem to be tailor-made for certain participants (16%) are the main reasons why companies have not taken part in a public tender/procurement process in the last three years. More than four out of ten companies say that a range of illegal practices in public procurement procedures are widespread, particularly specifications tailor-made for specific companies (57%), conflict of interest in bid evaluation (54%), collusive bidding (52%), unclear selection or evaluation criteria (51%), involvement of bidders in the design of specifications (48%), abuse of negotiated procedures (47%), abuse of emergency grounds to justify the use of non-competitive or fast-track procedure (46%), amendments to the contract terms after conclusion of the contract (44%). Engineering and construction companies are generally the most likely to say that all of these practices are widespread.

More than half of all companies say that corruption in public procurement managed by national (56%) or regional/local authorities (60%) is widespread.

According to the 2013 Special Eurobarometer survey on corruption, (45%) of the Europeans interviewed believe that bribery and the abuse of positions of power for personal gain are widespread among officials awarding public tenders. The countries where respondents are most likely to think that there is widespread corruption among officials awarding public tenders include the Czech Republic (69%), the Netherlands (64%), Greece (55%), Slovenia (60%), Croatia (58%) and Italy (55%). Countries with the most consistent positive perceptions of officials in this area include Denmark (22%), along with Finland (31%), Ireland (32%), Luxembourg (32%) and the UK (33%).

## **B. Positive and negative practices in addressing corruption risks in public procurement**

### ***General comments***

This chapter reviews the corruption risks associated with public procurement based on the findings of the country-specific assessments of this EU Anti-Corruption Report, as well as on other Commission studies and data. All stages of the public procurement cycle are considered for the purpose of the current analysis: i.e. pre-bidding (including needs assessment and specifications), bidding (including the contracting process: selection, evaluation and contract award) and post-award. The phase of contract implementation is also taken into account. This is in accordance with the analysis of the OECD dating from 2009 that highlighted the need to take further measures to prevent corruption risks that occur during the entire public procurement cycle, starting with the phase of needs assessment up to contract management and payment, including also the use of national security and emergency procurement.<sup>38</sup>

While this section looks generally at positive and negative practices across the EU, public procurement aspects have also been analysed more in depth in some of the country-specific chapters. The choice of Member States for which such in-depth country-specific analysis of corruption risks in public procurement was carried out was based on an assessment of the extent of the problem and/or the seriousness of the challenges it raised in those particular countries. This does not mean that issues of public procurement do not require further attention in the remaining Member States, but that the Commission decided to give more prominence to other corruption-related issues that seemed to be more salient than public procurement.

Suspected cases of corruption and conflict of interest in the management of EU funds, under the applicable EU regulations in force, can lead to interruption and/or suspension of payments until appropriate corrective measures have been taken by the Member State, including the strengthening of the management and control systems.

Neither the general nor the country-specific analyses aim at establishing universal benchmarks in this area, but rather seek to present vulnerabilities and corresponding solutions (on both prevention and repression sides) which have either succeeded or failed in practice.

### **Specific findings**

#### ***Risk areas and patterns of corruption***

Judging from the prosecuted cases of corruption in public procurement in the Member States, the most frequently occurring problems concern: drafting of tailor-made specifications to favour certain bidders, splitting of public tenders in smaller bids to avoid competitive procedures, conflicts of interest affecting various stages of procedures and concerning not only procurement officials, but also higher level of contracting authorities, disproportionate and unjustified selection criteria, unjustified exclusion of bidders, unjustified use of emergency procedures, inadequate analysis of situations where the bid prices were too low, excessive reliance on the lowest price as the most important criterion to the detriment of criteria regarding quality of deliverables and capacity to deliver, unjustified exceptions from publication of bids. Apart from the public procurement procedure, audits have in many cases identified risks related to the post-award phase, when kickbacks may also occur, and for

---

38 <http://www.oecd.org/gov/ethics/oecdprinciplesforintegrityinpublicprocurement.htm>.

instance the quality of deliverables is intentionally compromised. Other post-award patterns identified in corruption cases include: insufficient justification for amendments to public contracts, subsequent amendment of contracts modifying the specification terms and increasing the budget.

A 2013 study on identifying and reducing corruption in public procurement in the EU<sup>39</sup> identified four main types irregular practices concerning 96 cases in which corruption allegations have already been confirmed through final court decisions, or where there are strong indications of corrupt practices. These practices concern: (1) bid rigging (in the form of bid suppression, complementary offers, bid rotation and sub-contracting) when the contract is 'promised' to one contractor with or without the consent of public officials; (2) kickbacks, when the public official requests or accepts a bribe which will be accounted for in the tendering process, including administrative processes; (3) conflict of interest; (4) other irregularities including deliberate mismanagement/ignorance when public officials do not carry out proper checks or follow the required procedures and/or tolerate or ignore overt deliberate mismanagement by contractors.

While the use of negotiated and direct award procedures is justified in certain circumstances, there are cases in which it is done with the purpose of avoiding competitive procedure obligations. In some Member States, the use of non-competitive procedures is considerably above the EU average. The unjustified use of negotiated procedures also increases the risk of corrupt practices. With a view to countering the risk of abusive use of negotiated procedures or direct award, some Member States provide for the legal obligation of *ex-ante* notification of negotiated procedure without publication of notice to the public procurement oversight or review bodies.

Construction, energy, transport, defence and healthcare sectors appear to be most vulnerable to corruption in public procurement.

In several Member States where allegations of illegal party funding emerged, there were situations in which such funding was allegedly granted in exchange for beneficial decisions regarding the award of public contracts. In some other cases, the allegations concerned too close links between businesses and politicians at central or local level that encouraged alleged corrupt practices linked to the award of public contracts.

### ***Risks regarding public procurement at regional and local levels***

Public procurement at regional and local levels raise particular issues where local authorities have wide discretionary powers that are not matched with sufficient checks and balances, significant percentages of public funds are allocated at this level, and at the same time internal and external control mechanisms are weak. In convergence countries where a very substantial part of public investment is co-financed by Structural Funds, these risks are mitigated by the management and control requirements of the funds. However, their effective implementation poses a real challenge. In a few Member States, control mechanisms have revealed cases in which officials used local government assets to conclude transactions with companies related to them. In some municipalities and regions, a strong consolidation of 'clientele' networks around small interest groups was developed. Most of the cases have concerned charges or allegations of illegal party funding, personal illicit enrichment, diversion of national or EU

---

39 'Identifying and Reducing Corruption in Public Procurement in the EU – Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption', 30 June 2013, PricewaterhouseCoopers and ECORYS.

funds, favouritism and conflicts of interest. In a few Member States, there were cases in which some organised crime leaders at municipality level established their own political parties or infiltrated municipal councils to exert influence over local law enforcement or judiciary, and to rig public tenders. In order to address this risk, some municipalities have implemented anti-corruption measures such as establishing systems for internal financial management and control.

Construction linked to urban development, as well as waste management are among the sectors most prone to corruption at local level. High-level corruption cases involving regional and local officials in some Member States have revealed that re-zoning decisions<sup>40</sup> were at times taken under pressure from local developers in relation to future property construction contracts.

In some Member States local administrations have developed or are asked to develop their own integrity or anti-corruption action plans. While some of them are formalistic or unevenly enforced, and the actual impact is difficult to measure, others have pioneered the building models that work in practice. In some Member States, contracting authorities are obliged to develop their own integrity plans and assess corruption risks.

In a few cases, civil society initiatives have had a beneficial effect on the accountability of local administrations with regard to transparency of public spending.

#### *Open Local Government Initiative – Slovakia*

*In the framework of external monitoring of public spending, the Open Local Government initiative of Slovakia ranks 100 Slovak towns according to a set of criteria based on transparency in public procurement, access to information, availability of data of public interest, public participation, professional ethics and conflicts of interests. The project is run by Transparency International. More details can be found in the country chapter on Slovakia.*

#### *Guidelines for prevention of corruption in public procurement at local level – Germany*

*A Brochure on the Prevention of Corruption in Public Tendering agreed by the German Association of Towns and Municipalities jointly with the Federal Association of Small and Medium-Sized Building Contractors provides an overview of preventive measures against corruption in public procurement at the level of towns and municipalities.<sup>41</sup> These include: awareness raising and codes of conduct; rotation of staff; strict observance of the ‘four eyes’ rules; clear regulations on sponsoring and the prohibition on accepting gifts; establishing centralised authorities for tender/awarding; precise description of the tender and control of estimates; organisation of tender procedures, including secrecy of bids and prevention of belated manipulation of the bids; increased use of e-procurement; documentation of adjudication and careful control by supervisory bodies; exclusion of enterprises found guilty of corruption offences and establishing black lists/corruption registers.*

---

40 Decisions changing the zoning classification of a property/land or neighbourhood. Each classification entails different restrictions and obligations.

41 It is especially designed as guidelines for public tendering in one of areas most vulnerable to corruption, the construction sector, but is ultimately valid for all public procurement of municipalities.

### ***Conflicts of interest and asset disclosure***

Conflicts of interest in the Member States are covered by general legislation on prevention of corruption or by specific provisions on public procurement. The effectiveness of the prevention and detection of conflicts of interest in public procurement depends therefore on the effectiveness of the overall control mechanisms in this area. Particular vulnerabilities can be noted with regard to conflicts of interest affecting public procurement procedures at local level. Some Member States, through their anti-corruption or integrity agencies, carried out targeted checks on conflicts of interest in certain areas considered particularly vulnerable. This led to an increased number of detected cases involving conflicts of interest and identified public contracts concluded for private gain to the detriment of the public interest.

Where there are rules on asset disclosure applicable to public officials, they almost always apply to public procurement officers as well.

*See for more details the section on ‘Main Findings’, as well as sub-sections on conflicts of interest and asset disclosure.*

### ***Corruption risk management policies<sup>42</sup>***

Several Member States have recently undergone or are going through public procurement reforms aiming at increasing transparency and further supporting fair competition. In some Member States national anti-corruption strategies are in place, covering prevention and repression of corruption in public procurement. Nevertheless, frequent legislative changes have led in some Member States to legal uncertainty and weaknesses in the implementation process and corresponding control mechanisms. Complexity of legislation is also perceived in some Member States as an obstacle to smooth implementation.

The contracting authorities are asked to adopt integrity plans and assess corruption risks only in few Member States. In most cases such risk assessments are carried out with the support of either law enforcement or anti-corruption agencies. There are a few Member States that have been implementing red-flagging systems<sup>43</sup> for some time, raising awareness at both central and local level. A few Member States have also developed specific risk management tools tailor-made for particular challenges faced at their respective national or regional levels.

#### ***Risk management tools and public procurement platforms in Italy***

*Several networks and associations of regional and local administrations are actively implementing actions for prevention of mafia infiltration in public structures and promoting transparency of public procurement at regional level (e.g. Avviso Pubblico, ITACA<sup>44</sup>). Various other measures have been taken at the level of public authorities to prevent criminal infiltration in public contracts (e.g. CAPACI – Creation of Automated Procedures Against Criminal Infiltration in public contracts – project and guidelines issued by the Committee for Coordination of High Surveillance of Large Public Works for anti-mafia checks on large infrastructure projects). More details can be found in the country chapter on Italy.*

42 Risk management policies concern the identification, assessment, and prioritisation of risks followed by concrete actions aiming at mitigating and controlling the potential impact of such risks.

43 ‘Red flagging’ mechanisms aimed to help contracting authorities or public procurement central bodies detect corrupt practices are ‘alert systems’ that entail the identification and monitoring of certain indicators the occurrence of which, may point to a suspicion of corrupt behavior (e.g. the accumulation of a certain number of indicators may ‘flag’ an alert in the system that would require more thorough verification or checks).

44 Istituto per l’innovazione e trasparenza degli appalti e la compatibilità ambientale.

Data on corruption cases or conflicts of interests detected in public procurement procedures at national and/or regional/local level are rarely centralised or kept in a national register. Such centralised data gathering is largely seen by the Member States as an unnecessary administrative burden. However, such data could be used in the development of sound risk assessments and could also significantly contribute to the uniform implementation of anti-corruption policies at national and regional/local levels.

Regular and structured market studies are not common practice before the public procurement, with the exception of complex and high-value procurements. Unit costs databases are being developed only in very few Member States at either central or local level or are sector-specific. Such databases may help carry out comparative analysis between similar types of projects (e.g. supplies or works) and their deliverables. They can help identify risks or suspicions of corrupt behaviour if a serious mismatch is identified, despite limitations of such approach given the complexity of the products and the variety of inputs that feed into a final deliverable.<sup>45</sup>

### ***Transparency***

Partly as a result of the transposition and implementation process surrounding the Public Procurement Directives, notable improvements have been made in the level of transparency of public procurement procedures in the majority of the Member States. Some have taken extensive measures to ensure real-time publication of annual accounts and balance sheets of public authorities in user-friendly formats, including details on costs of public works and services.

#### *Tracing public money – online application of the Slovenian Commission for Prevention of Corruption*

*The online application ‘Supervizor’ provides information on business transactions of the legislative, judicial and executive branch, autonomous state bodies, local communities and their branches with legal personality, etc. The application indicates contracting parties, the largest recipients, related legal entities, dates, amounts and purpose of transactions. It offers an overview of the average EUR 4.7 billion a year spent by the public sector on goods and services. It also provides details on management and supervisory boards of all state-owned and state-controlled companies and their annual reports. This transparency system facilitates detection of irregularities in public contracts and expenditure.*

#### *National web portal to centralise information on public contracts – BASE – Portugal*

*Since 2008, after the entry into force of the Public Contracts Code, Portugal has put in place a national web portal, BASE ([www.base.gov.pt](http://www.base.gov.pt)) that centralises information on public contracts. The Institute of Construction and Real Estate (InCI) is responsible for the management of this portal. BASE receives data from the electronic edition of the Portuguese Official Journal and from the certified electronic platforms concerning open and restricted pre-award procedures. All public contracting authorities use the reserved area of the portal to record contract data, upload the contracts themselves and record information on their performance. From 2008 to 2011, the BASE only publicised contracts relating to direct awards. Since January 2012, the BASE must publicise all contracts resulting from all types of*

<sup>45</sup> For example for the building of a highway the materials may vary widely from one place to another depending on the climate, geographical features of the place where it is built, etc.

*procedures subject to the Public Contracts Code. It also publishes information on contract performance. The publication of contracts in both BASE and the Official Gazette is now mandatory for direct adjustments, increases of 15% in the price of already concluded contracts and potential penalties.*

#### *Public procurement electronic database – Croatia*

*In March 2013, a web portal and public procurement electronic database were launched by a local NGO as a result of an EU-funded project. The database consolidates information related to the implementation of public procurement procedures and companies involved in public procurement procedures, and is available free of charge to the public. The electronic database also contains information concerning assets and interests of public officials, in line with asset disclosure rules. Such aggregated data allow cross-checks to be carried out.*

In a few Member States access to documents and information regarding public procurement is limited by overly broad exceptions and a wide definition of confidentiality concerning public procurement documentation.

In some other Member States, procurement organised by state-owned enterprises does not follow the same transparency, competitive or supervision standards as the regular public procurement procedures. There were cases in some Member States where state-owned enterprises concluded non-competitive purchase contracts above market prices with favoured partners.

Publication of concluded contracts is not yet a widespread practice in the EU. There are some Member States where contracts are published in their entirety and in one Member State publication is even a precondition for the validity of the contract (i.e. the contract should be published within three months of being signed; or else it is null and void).

#### ***Integrity pacts and role of civil society***

Integrity pacts are agreements between the contracting authority for a particular project and the bidders, all committing themselves to abstain from any corrupt practices. Certain monitoring, transparency and sanctioning provisions are also included in such agreements. With a view to ensuring that they are effectively implemented, integrity pacts are often monitored by civil society groups. In some Member States which apply a far-reaching transparency policy, civil society has become very active in complex monitoring of procurement processes and public contracts. In some Member States, often at the initiative of NGOs, integrity pacts are implemented with regard to certain public procurements, particularly where large public contracts are concerned (e.g. large-scale infrastructure projects).

#### ***Use of E-procurement***

E-procurement, apart from improving the efficiency of public procurement procedures, offers additional safeguards in terms of preventing and detecting corrupt practices because it helps increase transparency and allows for better implementation of standardised procedures, as well as facilitating control mechanisms. The current Public Procurement Directives contain provisions requiring all Member States to introduce e-procurement, including through the electronic publication of procurement notices, electronic communication (including the submission of bids), and new, fully electronic procurement such as dynamic purchasing

systems and e-auctions. At the time of the adoption, in 2004, the Directives were accompanied by an Action Plan.<sup>46</sup>

As shown by the 2012 Public Procurement Implementation Review, there has been some progress in the use of e-procurement, but overall it is still used in only 5% to 10% of procurement procedures carried out across the EU. However, a few Member States have made significant progress towards full implementation of e-procurement in the pre-award phases. This is particularly true of Member States in which e-procurement has become mandatory by national law and is expected to be gradually implemented.

The Commission's public procurement legislative package provides for a gradual transition towards full e-communication.

#### Good practices in the implementation of e-procurement

*Lithuania has made significant progress in providing online access to combined data on public procurement. The range of information published exceeds the requirements of EU law, including draft technical specifications, concluded and performed public contracts. Also, suppliers are required to indicate subcontractors in their bids. Since 2009, at least 50% of the total value of their public bids must be done electronically. As a result, the share of e-procurement rose from 7.7% to 63% in 2010, approaching the target of 70% by 2013.*

*Estonia has set up an e-procurement portal and related e-services (e.g. company registration and management portal and centralisation of public sector bookkeeping). The State Public Procurement Register is an e-Tenders portal where all public procurement notices have been published electronically since 2003. The Public Procurement Act provides for further developments such as e-Auctions, e-Purchasing system, and an e-Catalogue and requires electronic tenders for 50% of overall public procurement from 2013. In 2012, about 15% of public tenders were conducted via e-procurement, three times more than in 2011.*

*The Portuguese e-Procurement Programme was launched in June 2003 as a centralised and high-quality platform that promotes efficiency and competition through increased transparency and savings in the public procurement process. The portal – <http://www.ancp.gov.pt/EN/Pages/Home.aspx> – offers the possibility to download the entire bid documentation and specifications free of charge. It also disseminates calls for tender, receives suppliers' queries and manages all aspects of information exchange online. A Contract Management Tool ensures uploading of public contracts, allows monitoring of contracts concluded and enables e-invoicing. The Information Management System also helps collect, store and systemise statistics on the procurement process.*

*More details on these practices can be found in the respective country chapters.*

#### **Control mechanisms**

According to the EU legislation in force, the establishment of a **central procurement body** is optional. Most Member States have nevertheless implemented this option in their national legislation. As noted in the 2012 Public Procurement Implementation Review, most Member States designate specific authorities which handle many or all of the tasks related to procurement, with some exceptions where the institutions in charge are not designated specifically to handle procurement but it is only one of their tasks (e.g. competition

<sup>46</sup> [http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/actionplan/actionplan\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/actionplan/actionplan_en.pdf).



authorities). However, in some of the Member States where a central body exists, its capacity is limited by insufficient staff and training for dealing with ever increasing tasks.

The Remedies Directives leave it to the Member States to decide whether **reviews** are handled by administrative or judicial bodies. The choice between the two possibilities is split fifty-fifty among Member States. In a few Member States, there are insufficient guarantees for the independence of such review bodies from political interference, including as regards the appointment of their leadership and staff.

Over the last few years, a trend towards increased **professionalisation of public procurement** has been noticed, in the form of aggregation of demand and centralisation by means of framework contracts (accounting for 17% of the total value of above thresholds contracts awarded in the period 2006-2010<sup>47</sup>) and joint purchasing (12% of the total value respectively). Government administrations, at both central and local levels, are increasingly using specialised bodies, such as central procurement bodies, while greater use of framework contracts is changing the nature of the procurement function. Currently, practice varies widely across Member States.

In relation to **awareness and training on anti-corruption policies**, while this has improved over recent years in the majority of Member States, public procurement officials see a rather limited role for themselves in detecting corrupt practices. Moreover, the effectiveness of cooperation between public procurement authorities, law enforcement and anti-corruption agencies varies widely across the Member States. In many cases, the cooperation is formalistic and statistics show a low number of notifications about suspicions of corruption or conflicts of interests submitted by public procurement authorities to law enforcement or integrity agencies.

In some Member States, where control mechanisms, particularly at **local level**, are rather weak or fragmented, cases of favouritism in allocation of public funds within national, local and regional authorities involved in public procurement appear to be widespread.

While the **efficiency of control mechanisms** concerning pre-bidding, bidding and award phases has improved in the Member States, the implementation (post-award) phase is less closely monitored. Some national Courts of Audit or national audit offices have often pointed out that irregularities occur in the execution phase. In many Member States the courts of audit have become key players in identifying gaps and shortcomings related to public procurement procedures. Their recommendations in this field are often not sufficiently followed up.

Ownership of bidders and sub-contractors is very rarely checked in public procurement procedures. In at least one Member State legislation allows public contracts to be concluded with companies that have anonymous shareholders, while at the same time not offering sufficiently strong safeguards against conflict of interests.

Coordination of oversight, partial overlap, division of tasks or fragmented control mechanisms at central and local levels, including in the implementation phase, still pose problems in a number of Member States.

Control mechanisms for public procurement below the thresholds of the EU legislation are particularly weak in the majority of Member States. This raises concerns in particular in

---

47 'Public procurement in Europe- cost and effectiveness', PwC Ecorys London Economics, March 2011.

relation to the reported practices, whereby contracts are split into smaller ones to circumvent EU procurement requirements and checks.

### ***Debarment***

In line with the EU legislation, there are mandatory debarment/exclusion rules in place in all Member States according to which bidders against whom final court convictions for corruption have been handed down are excluded from the tender. Many national laws contain self-cleaning provisions.<sup>48</sup> Member States are not required to publish debarment lists,<sup>49</sup> and they generally do not publish such lists. In many Member States contracting authorities have cross-access to their internal debarment databases. International debarment lists are, as a rule, not considered as a basis for exclusion in EU Member States.

### ***Sanctions***

In most Member States corruption in public procurement is covered by criminal offences such as bribery and trading in influence. There are Member States where specific corruption-related offences affecting the course of public procurement are incriminated distinctively. As a rule, procurement procedures are suspended, interrupted or cancelled when a corrupt behaviour or a conflict of interest is detected. However, the situation is different in the case of concluded contracts in relation to which corrupt behaviour or a conflict of interest is detected or occurs after the award of the contract. In many cases, apart from the sanctioning of corrupt behaviour or conflicts of interest as such, separate civil action for the annulment of the public contract is required. This often entails lengthy procedures and risks producing effects at a too late stage when it is difficult or even impossible to fully recover the losses. In some other Member States, public contracts include an anti-corruption clause that guarantees more effective follow-up in the event of corrupt practices being proven within the lifetime of the contract (e.g. clear-cut procedures for declaring a contract null and void or for applying other contractual penalties).

In some Member States where corruption in public procurement raises particular concerns, the track record of prosecutions and final court decisions is weak, and few cases of public procurement corruption are finalised with dissuasive sanctions. These cases usually take a long time and, frequently, contracts or projects are already executed at the time when corrupt practices are discovered. Cases of corruption in public procurement are often complex and at times they may involve high-ranking officials. Specific technical knowledge is therefore required in order to ensure effective and fair judicial proceedings. In some Member States, shortcomings remain as to the training of prosecutors and/or judges on public procurement matters.

## **C. Conclusions and recommendations on public procurement**

The above-mentioned findings show progress as to the implementation of anti-corruption policies in public procurement within the Member States, but it remains an area of risk. Further efforts aimed at strengthening integrity standards are called for. The reform of the Public Procurement and Utilities Directives, as well as the proposed Directive on award of concessions, include anti-corruption and good governance standards as an important part of

---

48 Self-cleaning allows companies to take measures to remedy situations that have led to their inclusion on debarment lists and consequently lead to lifting such exclusion for public tenders.

49 Lists of companies excluded from public tenders due to, inter alia, final conviction decisions for corruption or other serious offences.

the overall modernisation drive. The minimum standards on conflicts of interests proposed in these Directives, preliminary market consultations, mandatory and voluntary exclusion criteria, self-cleaning rules, stricter provisions on modification and termination of contracts, centralisation of data on corruption and conflict of interest cases, as well as the monitoring and reporting obligations, respond to a large extent to the remaining concerns expressed above.

As regards possible further action to be taken by the Member States, the 17 country chapters where public procurement issues are highlighted, as well as the analysis in this section, point to the following general recommendations:

**1. *Need for systematic use of corruption risk assessments within public procurement***

- Risk assessments should be developed at the level of public procurement oversight, irrespective of their institutional setting, with the support of law enforcement or anti-corruption/integrity agencies.
- Ensure centralisation of data on detected corrupt practices and patterns, including conflicts of interests and revolving door practices. Base risk assessments on these centralised data.
- Develop, based on risk assessments, tailor-made measures for particularly vulnerable sectors and the most frequent types of irregularities encountered during or after the procurement cycle.
- Implement targeted anti-corruption policies for regional and local administrations. Risk assessments can also helpfully look into the particular vulnerabilities of this level of administration.
- Develop and disseminate common guidelines for use of red-flagging indicator systems. Help contracting authorities and oversight bodies detect corrupt behaviour, favouritism and conflicts of interest.

**2. *Implementation of high transparency standards for the entire procurement cycle as well as during contract implementation***

- Ensure common minimum standards of transparency at the level of regional and local administrations in relation to public procurement procedures and the implementation phase of public contracts.
- Consider some form of publishing or ensuring access to concluded public contracts, including the provisions on rights, obligations and penalty clauses, with the exception of well-defined, limited and justified exceptions of confidentiality for certain contractual clauses.
- Enhance transparency in public procurement procedures, pre- and post-award through publication online by all administrative structures (central, regional and local level) of the annual accounts and balance sheets and the broken-down costs of public works, supplies and services. Ensure more transparency of procurement carried out by state-owned enterprises, as well as within the context of public-private partnerships.

### ***3. Strengthening of internal and external control mechanisms for the entire procurement cycle as well as during contract implementation***

- Ensure sufficient capacity of public procurement review bodies, consultative organs and oversight bodies, as well as courts of audit, as the case may be, to carry out their verification tasks.
- Strengthen internal control mechanisms for purposes of prevention and detection of corrupt practices and conflicts of interests. Ensure sound and uniform methodologies for anti-corruption and conflict of interest checks during the public procurement cycle. Such methodologies should consider prioritisation of the most vulnerable procurement processes or levels of administration and ad-hoc unannounced checks by independent oversight bodies.
- Enhance control mechanisms and tools for the post-award and implementation phase of public contracts.
- Ensure adequate follow-up of the recommendations of the courts of audit identifying irregularities in public procurement.
- Carry out checks on ownership of bidders and subcontractors.
- Ensure adequate control mechanisms for procurement carried out by state-owned companies, as well as in the context of public-private partnerships.

### ***4. Ensuring coherent overview and raising awareness about the need and know-how for prevention and detection of corrupt practices at all levels of public procurement***

- Ensure effective coordination between authorities tasked with public procurement oversight.
- Develop and raise awareness about detailed guidelines on prevention and detection of corrupt practices and conflict of interests in public procurement, particularly at regional and local level.
- Provide tailor-made training for prosecutors and the judiciary on technical and legal aspects of the public procurement process.

### ***5. Strengthening sanctioning regimes***

- Ensure the application of dissuasive sanctions in relation to corrupt practices, favouritism or conflicts of interests in public procurement.
- Ensure effective follow-up mechanisms for repealing decisions and/or annulling public contracts in due time when corrupt practices have affected the process.

# **ANNEX**

## **Methodology**

### ***Scope of the Report***

As mentioned in the introduction this report defines corruption, in line with international legal instruments as any ‘abuse of power for private gain’. Although the exact meaning and scope of the concept are the object of academic debate, this implies that the Report covers two aspects. First, it covers specific acts of corruption and those measures that Member States take specifically to prevent or punish corrupt acts as defined by the law. Secondly, it covers certain types of conduct and measures which impact on the risk of corruption occurring and on the capacity of a State to control it. Consequently, the Report deals with a wide range of issues associated with corruption, including, in addition to bribery, trading in influence, abuse of office, aspects related to nepotism, favouritism, illegal lobbying, and conflict of interests. The aim of this first EU anti-corruption report is to keep the focus on a limited number of key corruption-related issues. Wider aspects are mentioned for contextual coherence.

Constitutional arrangements (degree of devolution of power, position of judiciary, prosecutors vs executive branch), the organisation and quality of the civil service, active role of the state in the economy, privatisation are relevant from a corruption point of view. The report does not make any general value judgement on constitutional arrangements, or on how the boundary is drawn between state and private ownership. Hence, it is neutral with respect to decentralisation, but does look into whether adequate control mechanisms to manage corruption risks are in place. The same applies to privatisation: the transfer of state assets in private hands carries certain corruption risks, but may reduce long-term risks related to corruption, nepotism and clientelism. The report looks only at whether transparent, competitive procedures are in place to reduce the risk of corruption. Finally, there are different legal and constitutional arrangements concerning the relation between prosecution services and the executive power. The report is neutral with respect to the different models, since it only examines whether the prosecutors are able to pursue corruption cases in an effective manner.

### ***Sources of information***

The Commission was determined to avoid duplicating existing reporting mechanisms and adding to the administrative burden on Member States which are subject to various resource-intensive peer review evaluations (GRECO, OECD, UNCAC, FATF, Moneyval). The report is therefore not based on detailed questionnaires or expert country visits. It is based on the abundance of information available from existing monitoring mechanisms, together with data from other sources including national public authorities, research carried out by academic institutions, independent experts, think-tanks, civil society organisations etc.

Furthermore, the report draws on corruption-related information concerning a wide range of policy areas (e.g. public procurement, regional policy,) coming from various Commission departments and the relevant EU agencies (Europol and Eurojust). Studies and surveys were specifically commissioned for the purpose of further extending the knowledge base in areas relevant to the report. An extensive study on corruption in public procurement involving EU funds, launched at the initiative of the European Parliament, was commissioned by OLAF. Its findings fed into both the thematic chapter and the national chapters. Another study concerned corruption in healthcare. Two Eurobarometer surveys were carried out in 2013: the first

targeted the general public, the second was done on a representative sample of companies in each Member State. Data on corruption at regional level were drawn from the Study on Quality of Government carried out by Gothenburg Quality of Government Institute. Finally, the Commission has used information generated by research projects co-funded by the EU, such as the National Integrity System reports carried out by Transparency International.

The EU Anti-Corruption Report also builds on the Cooperation and Verification Mechanism (CVM), a post-accession follow-up mechanism for Romania and Bulgaria that is managed by the European Commission. While these two mechanisms serve different purposes, the current report draws on the extensive knowledge and lessons acquired in the CVM process and makes references in the two country chapters accordingly. After the conclusion of the CVM procedure, this report will continue to follow up on those issues which are relevant in the context of corruption.

In relation to Croatia, extensive information was collected as part of the pre-accession process and related monitoring. More broadly, the monitoring of anti-corruption efforts that has been part of the enlargement process has brought many useful lessons that could have been applied in the context notably factors affecting sustainability of an anti-corruption agenda.

### *Preparatory process and supporting tools*

In September 2011, the Commission adopted a decision to set up a **group of experts on corruption** to support the work on the EU Anti-Corruption Report. The expert group advises on the overall methodology and the assessments contained in the report. Seventeen experts were selected following an open call to which nearly 100 candidates registered their interest. The selected experts come from a wide variety of backgrounds (public authorities, law enforcement, judiciary, prevention services, private sector, civil society, international organisations, research, etc). The experts act in their personal capacity and they do not represent the institutions they come from. The group started its work in January 2012 and has met on average every three months.<sup>50</sup>

The Commission also set up a **network of local research correspondents**, operational since August 2012. The network complements the work of the expert group, by collecting and processing relevant information from each Member State. It consists of experts on corruption coming from research institutions and civil society organisations. In order to ensure a fully unbiased approach, 28 external reviewers oversee the main deliverables of the correspondents and issue an opinion on the fairness of the correspondents' input.

The Commission organised two **workshops** with participation of national authorities (anti-corruption agencies, prosecution services, coordinating ministries), researchers, NGOs, journalists and business representatives. The first workshop took place in Sofia, on 11 December 2012, covering stakeholders from 14 Member States (AT, BG, CY, CZ, EL, ES, FR, HR, HU, IT, PT, RO, SK, SI). The second workshop took place on 5 March, in Gothenburg, Sweden, covering stakeholders from the 14 remaining Member States (BE, DE, DK, EE, IE, LU, MT, NL, LT, LV, PL, SE, FI, UK). The workshops were intended to inform about the Commission's work on the report and to obtain country-specific illustrative good and negative practices on anti-corruption related issues in the Member States.

---

<sup>50</sup> Names of members of the group and minutes of the meetings are available at the following link: <http://ec.europa.eu/transparency/regexpert/detailGroup.cfm?groupID=2725>.

The Commission has also received input from national anti-corruption authorities which are part of EPAC/EACN network (European Partners Against Corruption/European Contact-Point Network Against Corruption).

The Commission also gave an opportunity to authorities of Member States to see early drafts of the respective country chapters (without the issues recommended for follow-up by the Member States) and provide comments. These comments were carefully considered in the preparation of the report.

### *Assessment methodology and use of indicators*

The report is based primarily on **qualitative** rather than quantitative assessment. Qualitative assessment as indicated above is driven by the assessment of each country on its own merits. The focus is on what works and what does not work in terms of dealing with corruption in a particular country. Quantitative approaches play a lesser role, mostly because it is difficult to put a figure on how much of a problem corruption is, and even more difficult to rank the countries by results. The obstacle to using a quantitative approach is related to the fact that well-known surveys tend to compose their indexes using others' data. This creates a cascade effect: composite indexes building on this approach may reflect data gathered one or two years before their publication. Surveys tend to use for instance the Eurobarometer results; however, by the time the composite index is published, another more recent Eurobarometer survey may be available.

Perception surveys, given the hidden nature of corruption, provide over time for an important indicator of pervasiveness of the problem. Surveys are by definition confined to the limited scope of the questions answered and depend heavily on the openness of respondents. The results of surveys are also undoubtedly influenced by immediate events occurring at the time of the interviews. At the same time, when a country takes more robust measures against corruption leading to more cases being revealed, more coverage by the media and more public awareness, perception surveys might lead to a negative dynamic – more people than previously will report high levels of perceived corruption. Also, responses may be politically biased, associating the popularity of a certain government with ineffectiveness in implementation of policies. Still, the mere perception of widespread corruption can be considered in itself an indicator of inefficient policies.

Moving beyond perception surveys, there is interesting research on correlation between some economic and social indicators and corruption. For instance, corruption was examined in the light of potential correlation with the rate of economic growth, allocation of public funds, internet penetration, budget for prosecution, and enforcement of competition rules. However, in practice, difficulties were encountered as regards capacity to collect credible, comparable data of high quality across Member States as well as to demonstrate convincingly the link between those factors and corruption. Finally, there is a difficulty in drawing clear policy-oriented conclusions from these correlations.

Despite these limitations, the Commission resolved to take stock of the already existing indicators. An inventory of these indicators was compiled, as comprehensively as possible, without a substantive judgement on the reliability/relevance of available data. The list was obtained by compiling data from already existing surveys (run by the OECD, the World Bank, the World Economic Forum, Transparency International, academia, etc.), from the Eurobarometer, and many other sources. The inventory was not designed to be the basis of a new index on corruption, but to provide elements of analysis supplementing the qualitative assessment that is at the core of the report. During preparation of the list, the Commission

became aware that there might be a fundamental difficulty in relying primarily on indicators and statistical data for getting to the core of corruption problems, and most importantly for building actionable, tailor-made policy recommendations. Still, already established indicators directly relevant to the anti-corruption efforts supported by robust data were collected in order to examine the situation in Member States and identify areas for closer analysis in the country-specific research. These data (1) were used for scene setting (i.e. an introduction to the country chapters), and (2) serve as a starting/complementary point for further research on particular matters/sectors at country or EU level pointing to identification of problem and assessment of response; (3) ultimately, they also helped identify flows or lack of coherence in the different sources.

The interpretation of criminal justice statistics in the context of corruption deserves thoughtful consideration. In the case of serious crimes such as theft, robbery, burglary or assault, one could legitimately expect that a victim will report the crime to the police. Therefore, the crime statistics may indicate the scale of the problem. Corruption, unlike these crimes, is hidden, and in most cases there is no direct victim who could report the crime. Therefore the percentage of undetected cases is likely to be much higher for corruption than for other crimes.

A high number of cases reported to the law enforcement bodies, pursued through the courts and resulting in convictions may give an indication of the scale of the corruption problem. On the other hand, it also shows a positive picture: there may be less tolerance towards corruption, and therefore more willingness to report the crime; the law enforcement bodies and the judiciary are equipped with necessary means to detect and prosecute corruption cases. The contrary is also true: a low number of reported cases and prosecution is not necessarily a demonstration of low levels of corruption; it could result from the fact that there is no will to confront corruption, prosecutors and judges are not motivated, and/or they do not have the necessary tools and resources to deal with corruption cases. Furthermore, comparison of data on criminal proceedings is very difficult for the following two reasons: Firstly, there is no unified criminal definition of corruption within Member States, thus leading to different ways of recording corruption-related offences. Secondly, in view of differences in criminal procedures, for instance in requirements concerning evidence gathering, corruption might be prosecuted through other offences (e.g. fraud, money laundering).

The amount of available information on corruption, also beyond criminal cases, varies considerably among Member States. Again, the interpretation could be twofold as indicated above. On the one hand, correlation could be made between the scale of the problem and the quantity of available information. On the other hand there are cases where corruption is not prioritised and there is relatively little information that allows its scale to be measured and assess whether policy measures are sufficient and effective. This methodological challenge adds to the difficulty of making meaningful comparisons between Member States.

### ***Measures to address corruption***

The report rests on the assumption that there is no ‘one-size-fits all’ solution to the issue of corruption. It does not propose standardised solutions for all Member States: for example, what (legislative or other) solutions are needed to address the challenge related to conflicts of interests depends on a variety of factors, including the degree to which conflicts of interests are already perceived as an issue in a country, what cultural norms are in place, and the degree to which recognised societal norms need to be reflected in legislation. The report aims to present recommendations which fit the context of each Member State.



Comprehensive anti-corruption strategies were seen a decade ago as a universal recipe for putting corruption higher on the political agenda and to mustering political will and resources. Nevertheless, the results varied. While in some cases, the work on strategies was a catalyst for a genuine progress, in some others, impressive strategies had little or no impact on the situation on the ground. Therefore, the report is cautious about recommending the adoption of strategies, and it does so only where it appears that the effort of producing a strategy will lead to a positive engagement and significant improvement in cooperation between authorities.

Similarly to strategies, anti-corruption agencies have been very much in fashion. Again, diverse results followed. In some cases, where agencies have a strong mandate, independent committed leadership turned out to be the breakthrough development allowing them to prosecute high-level corruption cases. In other cases, the establishment of agencies might have played a negative role in creating an impression that other authorities do not need to do their share of the work. Therefore, the report assesses each situation on its own merits and takes account of the particular circumstances of each country, without imposing a 'one size-fits-all' solution.

The report draws attention to the fact that certain authorities that could play a key role in confronting corruption are not adequately equipped with human and financial resources. The Commission is keenly aware that in the current climate of austerity, allocating more resources for certain institutions and implementation efforts may face serious difficulties. However, such allocation may, in certain situations, bring substantial savings over time by reducing the cost of corruption. The report therefore, in some instances, advocates prioritising the allocation of resources to specific public bodies or programmes of key importance for preventing or fighting corruption.

### ***Synergy with existing monitoring mechanisms and benchmark for assessment***

At international level, the main existing monitoring and evaluation mechanisms are the Council of Europe Group of States against Corruption (GRECO), the OECD Working Group on Bribery, and the review mechanism of the UN Convention against Corruption (UNCAC). To prepare this report, the Commission drew extensively on the findings of these mechanisms (in particular GRECO and the OECD). The anti-corruption standards such those of UNCAC, or those set up by GRECO and the OECD (for example, the Council of Europe's Criminal Law Convention on Corruption and its Additional Protocol, the Civil Law Convention on Corruption, Twenty guiding principles for the fight against corruption adopted by the Committee of Ministers of the Council of Europe, Council of Europe Recommendations on financing political parties, Council of Europe Recommendations on codes of conduct for public officials, and the OECD Anti-Bribery Convention) play an important role in terms of setting the reference for assessment.

The report does not replicate the detailed, technical analysis included in GRECO or the OECD reports, though it builds upon their recommendations whenever they are still not implemented and relevant to key issues in focus as identified for a particular country chapter. By bringing to the fore selected recommendations that have been previously identified within other mechanisms, the report aims at promoting their implementation.

The synergy with GRECO is particular important given that it covers all EU Member States as well as other European countries of relevance for future enlargement and the Eastern Partnership. The Commission is currently taking measures which will allow full accession of the EU in the future, allowing also for closer cooperation in view of subsequent editions of the EU Anti-Corruption Report.