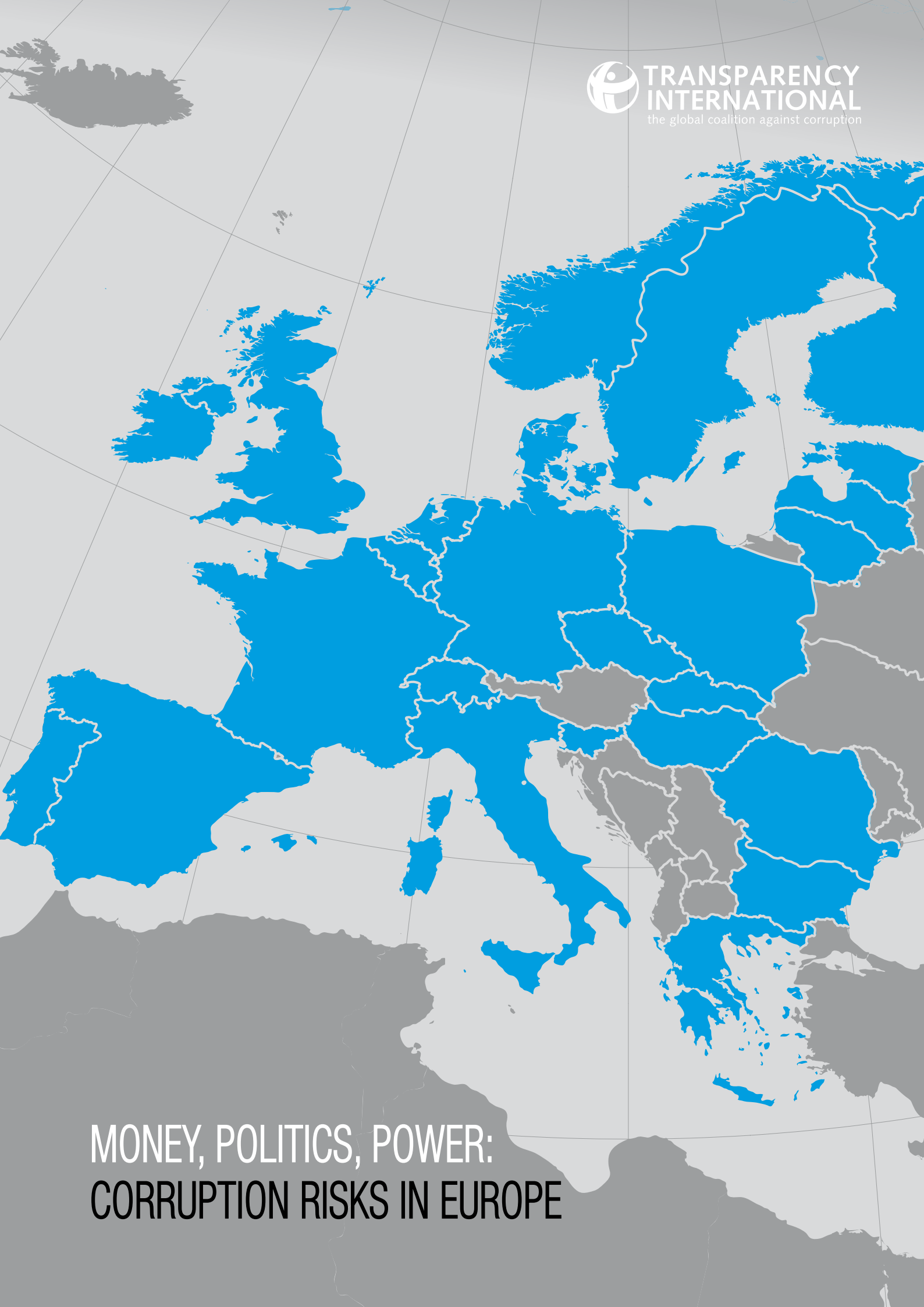
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Money, Politics,Power:Corruption Risks in Europe

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MONEY, POLITICS, POWER:
CORRUPTION RISKS IN EUROPE

Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

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Every effort has been made to verify the accuracy of the information contained in this report. Nevertheless, Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts. The report draws on research from 25 national reports, some of which were published in 2011. As a result, this report may not reflect some recent developments.

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1. EXECUTIVE SUMMARY

This report brings together the findings of 25 National Integrity System assessments carried out across Europe in 2011, in Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland,[1] Italy, Latvia, Lithuania, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the UK. It is part of a pan-European anti-corruption initiative, supported by the Directorate-General Home Affairs of the European Commission.

The initiative systematically assesses the anti-corruption systems of 25 European states, and advocates for sustainable and effective reform, as appropriate, in the different countries. It highlights important trends across the region, pointing to the most significant deficiencies and gaps in the national integrity systems and shining the light on some promising practices that emerge from the country assessments.

KEY FINDINGS

There is huge variation across the region with some integrity systems exhibiting more robust mechanisms than others. But, no country comes out with a completely clean bill of health after this 'integrity health check'. Greater commitment from all sectors – politicians at national and regional levels, businesses and civil society – is needed to ensure that the weak spots in the integrity systems of Europe are addressed.

> A number of countries in southern Europe – Greece, Italy, Portugal and Spain – are shown to have serious deficits in public sector accountability and deep-rooted problems of inefficiency, malpractice and corruption, which are neither sufficiently controlled nor sanctioned.

1 *In Ireland a National Integrity System assessment was conducted in 2009 and an update was carried out in 2011/2012 in the framework of this project.*

The report shows how the national integrity systems measure up against each other in terms of their overall strength. Of particular concern is that in some countries of Central and Eastern Europe – particularly the Czech Republic, Hungary and Slovakia – there has been a rolling back of positive progress on anti-corruption since accession to the EU. Furthermore, a number of countries in Southern Europe – Greece, Italy, Portugal and Spain – have serious deficits in public sector accountability and deep-rooted problems of inefficiency, malpractice and corruption, which are neither sufficiently controlled nor sanctioned (see Chapter 4). The links between corruption and the on-going financial and fiscal crisis in these countries can no longer be ignored. Here, corruption often constitutes legal but unethical practices resulting from opaque lobbying rules, trading in influence and revolving doors between the public and private sectors.

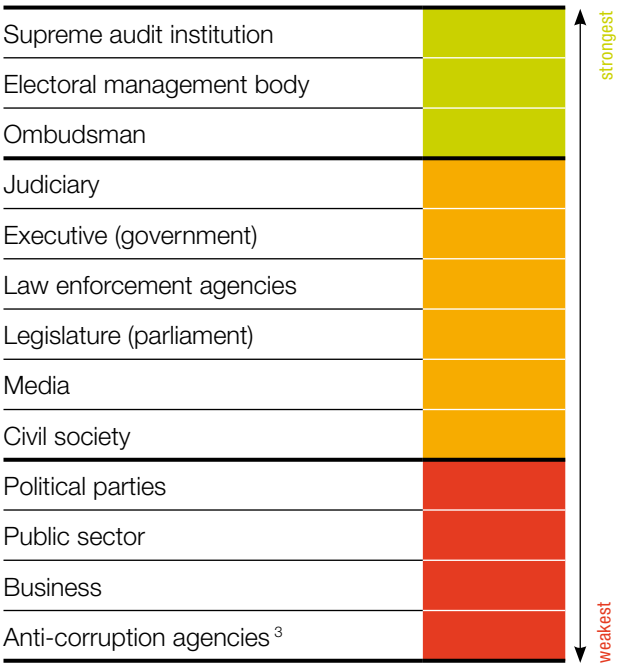
The report also highlights the best and worst performing institutions across the region. Political parties, public administrations and the private sector are assessed as the weakest forces in the promotion of integrity across Europe. Similar problems extend to parliaments, which are seen as generally falling short in putting forth and enforcing anti-corruption safeguards. These include codes of conduct for parliamentarians, the mandatory disclosure of interests, assets and income, and restrictions on post-employment once members leave parliament. The assessments also show that the private sector is not playing a meaningful role in preventing and combating corruption. Across all the countries, only two have a private sector that adequately engages with government and civil society on anti-corruption issues (Norway and Sweden). Public watchdog institutions such as supreme audit offices and ombudsman institutions emerge most positively in helping to drive integrity (see Chapter 5).

THE NATIONAL INTEGRITY SYSTEM APPROACH

The National Integrity System assessment approach provides a framework to analyse the robustness and effectiveness of a country's institutions in preventing and fighting corruption. The concept has been developed and promoted by Transparency International as part of its holistic approach to countering corruption. A well-functioning national integrity system provides effective safeguards against corruption as part of the larger struggle against abuse of power, malfeasance, and misappropriation. When institutions are characterised by a lack of appropriate regulations and unaccountable behaviour, corruption is likely to thrive with negative knock-on effects for equitable growth, sustainable development and social cohesion. Strengthening national integrity systems promotes better governance and ultimately contributes to a more just society.

Political parties, public administrations and the private sector are evaluated as the weakest players in the fight against corruption across Europe.

HOW DO INSTITUTIONS IN EUROPE MEASURE UP?[2]



Across the countries, there are common areas of strength and weakness. Understanding these common trends is crucial to the development of policies and actions at the national and regional levels to deal with corruption risks threatening national integrity systems across Europe (see Chapter 6).

KEY STRENGTHS

- **Legal frameworks**: Legislation on corruption prevention is relatively well-developed across the region. All countries assessed have signed and ratified the UN Convention against Corruption, except for Germany and the Czech Republic, whose absence is notable and troubling. Also, all European members of the OECD have ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.[4]

- **Public expenditure oversight**: Supreme audit institutions are generally assessed as strong players in the fight against corruption. Exceptions to this trend include those in Greece, Portugal, Romania and Spain, where oversight is weaker than the regional average.

- **Electoral processes**: Electoral processes are generally robust in the region, with electoral management bodies performing well in administering free and fair elections. Exceptions include Bulgaria and Romania, where electoral processes still pose significant problems.

2 *Institutions in order of strength based on the quantitative information presented in the National Integrity System assessments of 24 countries. An aggregate score for each institution was calculated by averaging each of the country scores for that institution/sector. Green represents an aggregate score of 71 or above out of 100, amber 61 to 70, and red 60 or less.*

3 *Note that only 12 out of the 24 integrity assessments included an anti-corruption agency, so the aggregate categorisation should be treated with caution.*

4 *Latvia, Lithuania and Romania are the only non-OECD member countries included in this assessment.*

KEY WEAKNESSES

- **Political party financing is inadequately regulated across the region**: Political party financing is a particularly high-risk area for corruption; even countries often described as having 'low corruption contexts' have not managed to insulate themselves against this risk. Sweden and Switzerland, for example, have no mandatory regulation of party financing and many countries have legislative loopholes and weak enforcement mechanisms.

- **Lobbying remains veiled in secrecy**: In most European countries, the influence of lobbyists is shrouded in secrecy and a major cause for concern. Opaque lobbying rules result in skewed decision-making that benefits a few at the expense of the many. Only six of the 25 countries assessed (France, Germany, Lithuania, Poland, Slovenia and the UK) have regulated lobbying to any degree and in many cases the implementation of lobbyist registers is severely lacking.

- **Parliaments are not living up to ethical standards**: Important integrity safeguards which should be in place in parliaments, including mandatory codes of conduct for parliamentarians, clear conflict of interest regulations and rules on disclosure of interests, assets and income have not been instituted in many European countries, and where they are in place, practical implementation is often found wanting. Eleven of the 25 countries do not cover all relevant aspects of MPs' interests and/or disclose only partial information: Belgium, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, the Netherlands, Slovenia and Switzerland.

- **Access to information is limited in practice**: Access to information laws are in place in all countries assessed apart from Spain, where a draft law is under consideration by parliament at the time of writing. However, in 20 of the 25 countries, implementation is found to be poor. Practical barriers to access include excessive fees (Ireland), long delays (the Czech Republic, Portugal, Slovenia, Sweden), low levels of public awareness of freedom of information laws (Germany, Portugal and Switzerland), lack of an independent oversight body (Bulgaria, Hungary and Latvia) and municipal authorities' failure and/or lack of capacity to comply with the rules (the Czech Republic and Romania).

- **High corruption risks remain in public procurement**: Legislative frameworks have been brought in line with EU procurement directives, but it is an open secret in many European countries that the rules are systematically circumvented and that this can be done with impunity. Problems with public procurement are most acute in Bulgaria, the Czech Republic, Italy, Romania and Slovakia.

- **Protection for whistleblowers is severely lacking**: The vast majority of EU member states have failed to introduce dedicated whistleblower protection legislation, in either the public or private sector. Of the 25 countries, only six have dedicated whistleblower legislation – Hungary, the Netherlands, Norway, Romania, Switzerland and the UK – and in all but two of the countries assessed (Norway and the UK), whistleblowers do not have sufficient protection from reprisals in practice.

In order to move forwards and address these weaknesses, a detailed set of recommendations targeted at national governments, EU institutions, political parties, businesses and civil society are presented in Chapter 7. If the governance and integrity standards in place in these countries are to improve, a concerted effort to implement these recommendations by a range of stakeholders is required. As a first step, governments must take the lead and address the following headline recommendations.

HEADLINE RECOMMENDATIONS

Governments in Europe must:

- Institute mandatory regulations on **political party financing**, including implementing clear rules on disclosure of donations and closing loopholes that hamper their effectiveness.
- Introduce **mandatory registers of lobbyists**, including a broad definition of lobbyists that extends regulations to public affairs consultancies, corporate lobbyists, law firms, NGOs and think-tanks.
- Adopt **codes of conduct for parliamentarians** that provide specific guidance for members on how to deal with ethical dilemmas and spell out mechanisms on addressing the management of conflicts of interest.
- Ensure that **access to information laws** adhere to Article 19's fundamental principles.[5]
- Address specific **practical barriers to access to information**.
- Adopt a proactive approach to **making information 'public by default'** in an easily accessible electronic format.
- Adopt or amend **legislation for the protection of whistleblowers** to ensure adequate protection for those working in the public and private sectors, including consultants, temporary workers and trainees, and ensure proper implementation including awareness-raising among public sector agencies, companies and the general public.

5 *See: www.article19.org/data/files/pdfs/standards/righttoknow.pdf*

2. BACKGROUND AND METHODOLOGY

This report synthesises the findings of 25 National Integrity System assessments implemented across Europe in 2011.[6] The assessments were carried out in-country and were coordinated by Transparency International's national chapters. In each country, a lead researcher, or group of researchers, in consultation with an expert advisory group and the national chapter, conducted the research between February and December 2011.

THE NATIONAL INTEGRITY SYSTEM METHODOLOGY

The National Integrity System assessment approach provides a framework to analyse the robustness and effectiveness of a country's institutions in preventing and fighting corruption. When the institutions and sectors that make up the National Integrity System work together effectively, like moving parts in a complex machine, they support each other and allow the anti-corruption system to run smoothly.

The National Integrity System is generally considered to comprise the following institutions: legislature, executive, judiciary, public sector, law enforcement agencies, supreme audit institution, electoral management body, ombudsman, anti-corruption agencies, political parties, media, civil society and business. These particular institutions may not constitute the entire integrity system in every country. Transparency International therefore allows scope for the methodology to be adapted to local circumstances, based on suggestions from a national advisory group, the lead researcher and the national chapter.

Each of the institutions and sectors included in the National Integrity System is assessed along three dimensions that are essential to its ability to prevent corruption:

- Its overall **capacity** in terms of resources and legal status, which underpins any effective institutional performance.
- Its **internal governance** regulations and practices, focusing on whether the institution is transparent, accountable and acts with integrity. These are all crucial elements to preventing the institution from engaging in corruption. Examples of internal governance mechanisms include access to information rules, whistleblower protection for those who report wrongdoing and measures to control the revolving door between the public and private sectors.
- The extent to which the institution fulfils its assigned **role in the anti-corruption system**, such as providing effective oversight of the government (for the legislature) or engaging with civil society and government in the fight against corruption (for the business sector).

6 *The assessments were carried out in Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the UK. When 'average scores' are mentioned in this report, they refer to the aggregate of the scores for a particular institution across 24 countries, The assessment in Ireland does not include any scores. See footnote 1.*

Each dimension is measured by a common set of indicators. The assessment examines both the legal framework and the actual institutional practice, thereby highlighting discrepancies between the formal provisions and reality on the ground. The assessment is primarily qualitative using a combination of primary and secondary data, including national legislation, secondary reports and research, and interviews with key experts. On the basis of the qualitative information gathered, scores are attributed for each indicator and aggregated to produce an overall score for each institution. The resulting country reports are both wide in scope, as they encompass more than 150 indicators, but also in-depth in their coverage, as each indicator section provides comprehensive qualitative information on the main issues covered by the respective indicator. For a detailed understanding of the national integrity system in a particular country, readers should refer to the National Integrity System reports published by Transparency International's national chapters in the region.[7]

METHODOLOGY FOR THE REGIONAL ANALYSIS

The substantive information gathered in the 25 National Integrity System assessments can be analysed in a number of ways – country-by-country, institution-by-institution or by cross-cutting issue. This report combines these modes of analysis to give a comprehensive overview of findings. The regional analysis draws mainly on the 25 national assessment findings. Additional secondary sources from Transparency International and other organisations were also drawn upon where relevant.

The 25 national assessments reveal crucial weaknesses that may undermine the overall aim of preventing corruption. This report seeks to highlight the most significant of those deficiencies and gaps and suggest some ways in which they can be tackled.

It is important to note that this report does not provide an overall ranking of countries, but rather identifies common problems that arise in several countries and, in particular, focuses on those that are seen as posing serious corruption risks in the region. By pointing out examples of good or promising practices, it is hoped that some cross-national learning will be facilitated.

7 *See: www.transparency.org/enis*

3. INTRODUCTION AND CONTEXT

For many in Europe, corruption is assumed to exist only in other countries, particularly in developing ones. This has meant that corruption prevention has not been a political priority in many countries of the region. The research carried out within the framework of the European National Integrity Systems project shows that this complacency is ill-informed and that when it comes to safeguards against corruption, there is much to be done to get the European house in order. There is huge variation across the region with some integrity systems revealed to be much more robust than others. However, all countries in Europe, even those usually considered to be the 'cleanest of the clean', have some deficits in their anti-corruption frameworks. This report highlights the major integrity deficits in the region and represents a call to action: it suggests that it is time for Europe to wake up to the corruption risks that it has so far failed to address.

> All countries in Europe, even those usually considered to be the 'cleanest of the clean', have some deficits in their anti-corruption frameworks.

A BACKDROP OF ANGER AT INCREASING CORRUPTION

Across the region, despite reluctance among politicians to prioritise the issue, there is growing concern among the general public that corruption is on the rise.[8] Transparency International's 2010/11 Global Corruption Barometer revealed that the majority of Europeans felt corruption was on the increase in their countries. A 2012 Eurobarometer poll[9] shows that this concern has not disappeared, with 74 per cent of Europeans stating that corruption is a major problem in their country. Never theless there are huge differences across the region: while 98 per cent of respondents in Greece consider corruption a major problem, the corresponding figure is 19 per cent in Denmark. A number of countries stand out when it comes to the perception of increased corruption, namely the Czech Republic, Greece, Portugal, Romania, Slovakia, Slovenia and Spain.[10] Popular discontent with corruption has brought people out onto the streets in these and other European countries to protest against a combination of political corruption and perceived unfair austerity being meted out to ordinary citizens.

8 *Transparency International 2010/11 Global Corruption Barometer, see: http://archive.transparency.org/policy_research/surveys_indices/gcb/2010_11*

9 *Special Eurobarometer 374 / Wave EB76 1 (February 2012), see: www.ec.europa.eu/public_opinion/archives/ebs/ebs_374_en.pdf*

10 *93% of respondents in Slovenia believe corruption has either increased or stayed the same in the past 3 years, while the corresponding figure in Slovakia is 85%.*

CORRUPTION'S CLOSE LINK TO THE FINANCIAL CRISIS

The on-going financial crisis has brought into stark relief the price of complacency about corruption in Europe. While caused by a confluence of factors that differ from country to country, the failure to put in place adequate measures to prevent, detect and sanction legal and illegal forms of corruption is among them.[11] Greece, Italy, Portugal and Spain top the list of the Western European countries found to have serious deficits in their integrity systems. Research also suggests a strong correlation between corruption and fiscal deficits, even in so-called 'rich' countries. Those European countries that perform worst on global indicators measuring the 'control of corruption' also run the highest budget deficits.[12]

The national assessments of these countries provide ample evidence of systemic problems and failure to implement anti-corruption safeguards that may have contributed to the economic problems in Europe. They also reveal that countries traditionally thought to be immune to corruption have gaps and loopholes in their integrity systems. A clear example is the unwillingness to regulate political party financing in Sweden and Switzerland.

> Greece, Italy, Portugal and Spain top the list of the Western European countries found to have serious deficits in their integrity systems.

'LEGAL CORRUPTION' DAMAGES ECONOMY AND SOCIETY

It is not only traditional forms of corruption such as bribery that are linked to poor macro-economic outcomes. In the context of the financial crisis, weak oversight and ineffective regulations have been widely linked to what may be considered 'legal corruption'.[13] Legal corruption goes beyond bribery and includes influence peddling, for example the excessive and undue influence of lobbyists in the European corridors of power.[14] It is promoted through opaque lobbying rules, trading in influence and the existence of revolving doors between the public and private sectors. All of these factors have resulted in a more subtle form of policy capture that skews decision-making to benefit a few at the expense of the many.[15] Other contributing factors to the crisis are the lack of protection for whistleblowers[16] and scant or false budget data published by governments.[17] All of these forms of unethical practice are found to varying degrees in European countries.

11 *Kaufmann, D. (2010) Can Corruption Adversely Affect Public Finances in Industrialized Countries? The Brookings Institution, see: www.brookings.edu/opinions/2010/0419_corruption_kaufmann.aspx.*

12 *Ibid.*

13 *Kaufmann, D. and Vicente, P.C. (2011), Legal Corruption, Economics & Politics, 23, pp. 195–219.*

14 *Rowell, A. (Spinwatch), Pohl, P. (Friends of the Earth Europe), Haar, K. (Corporate Europe Observatory), and Vassalos, Y. (Corporate Europe Observatory) (2010), Banking on the bankers – regulation and the financial crisis, in Bursting the Brussels Bubble: The battle to expose corporate lobbying at the heart of the EU, see: www.alter-eu.org.*

15 *Mendes, E.P. (2009), Legal Corruption: The Cause of the Global Economic Crisis?, Peace and Conflict Monitor Special Report, see: www.monitor.upeace.org/innerpg.cfm?id_article=599.*

16 *de Bunt. V. (2010), Walls of Secrecy and Silence, Criminology & Public Policy, Special Issue: The Global Economy, Economic Crisis, and White-Collar Crime, 9, 3, pp. 435–453.*

17 *Barber, T. and Hope, K. (2010), Brussels attacks Greece over false data, Financial Times, 13 January 2010.*

Recent research has found that tackling the extent of state capture, and other forms of 'legal corruption', has a positive effect on fiscal deficits, very similar to that of lowering traditional forms of corruption.[18] Even from a purely economic perspective, then, there is a strong argument for countering corruption in all its manifestations. However, this is not just about economics – the crisis should be seen as a wake up call for European countries to address underlying governance issues and to reform political systems so that corruption and maladministration can be seriously addressed.

It is against this backdrop of crisis, austerity and public concern about increasing corruption that we present the findings of the National Integrity Systems assessments across Europe. The crisis has revealed a need for change and greater accountability in financial and political institutions. With this in mind and reflecting on the results of the national assessments, the message is clear – now, more than ever, complacency about corruption in Europe must become a thing of the past.

> Legal corruption goes beyond bribery and includes influence peddling, for example the excessive and undue influence of lobbyists in the European corridors of power. It skews decision-making to benefit the few at the expense of the many.

18 *Kaufmann, D. (2010), Can Corruption Adversely Affect Public Finances in Industrialized Countries? The Brookings Institution, see: www.brookings.edu/opinions/2010/0419_corruption_kaufmann.aspx*

4. SPOTLIGHT ON COUNTRIES: HOW ROBUST ARE THE INTEGRITY SYSTEMS ACROSS EUROPE?

A National Integrity System assessment provides a clear picture of how resistant a country's institutions are to corruption. Notwithstanding the diversity across the region, analysing the results from 25 European countries, patterns and distinct clusters of countries with similar or shared challenges can be identified. Each country's integrity system is embedded within a distinct historical, cultural, institutional and legal context. Therefore, the work of strengthening the integrity systems in Europe will involve each country prioritising the most crucial issues and tailoring solutions to their own national context.

> Even the 'integrity leaders' have left themselves open to corruption risks by taking a light-touch approach to some aspects of the integrity system. Switzerland and Sweden have no mandatory regulation of party financing, while Denmark, Germany and the UK's political party financing systems are far from exemplary.

INTEGRITY LEADERS

The national assessments reveal a small group of countries leading the pack on integrity issues. This pocket of countries lies in Northern Europe and is made up of Denmark, Norway and Sweden. The integrity leaders exhibit very strong judicial systems and law enforcement agencies, as well as active, well-resourced and well-respected watchdog institutions (ombudsman, electoral management bodies and supreme audit institutions). They have entrenched transparency and accountability mechanisms – for example, the Swedish Ombudsman has existed since 1809,[19] while its first Freedom of the Press Act (the first access to information law of its kind) has been in place since 1766. Denmark and Norway have also had such laws in place since 1970 and demonstrate a long history and culture of administrative transparency.

These leaders are followed by relatively strong performers, including Germany, Finland, Switzerland and the UK, which have strong systems overall but lack a coherent approach to fighting the not insignificant corruption risks which remain in the system.

19 *Website of the Swedish Ombudsman, see: www.jo.se/Page.aspx?MenuId=12&ObjectClass=DynamX_Documents&Language=en*

Even these two groups are vulnerable to corruption risks by taking a light touch approach to some aspects of the integrity system. In particular, Sweden and Switzerland have no mandatory regulation of party financing. The political party financing systems in Denmark, Germany and the UK are also far from exemplary. The national assessments highlight a number of reforms needed to insulate these party-financing systems against corrupt influences. The failure to adequately regulate lobbying is another area where these 'leaders' do not perform well.

Among the other countries Belgium, France and the Netherlands exhibit relatively robust national integrity systems, but with some notable weaknesses. Parliamentary integrity mechanisms, for example, are significantly lacking and whistleblower protection for those who report corruption is also weak in all three countries.

> Of the new EU member states, it is Bulgaria and Romania that continue to raise most cause for concern regarding the anti-corruption framework.

EUROPE'S NEWCOMERS: WARNING SIGNS OF ROLLING BACK ON PROGRESS MADE SINCE ACCESSION TO THE EU

Eight years after their accession to the EU and more than 20 years after the fall of communism, how are the EU's 'newcomers' – Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia – performing on integrity issues?[20] Apart from Bulgaria and Romania, which continue to have serious integrity deficits, the majority of the newly acceded countries' can be classified as exhibiting mixed progress in the fight against corruption.

Of the new EU member states, it is indeed Bulgaria and Romania that continue to be the greatest cause for concern regarding the anti-corruption framework. A plethora of laws have been passed in both countries, under the watchful eye of the EU institutions, but this flurry of legislative activity has not been accompanied by the widespread adoption of ethical norms, actions and behaviour. A case in point is the Supreme Judicial Council in Bulgaria – the main body responsible for personnel policy in the judiciary – that enjoys a high level of institutional autonomy according to the law. But, in practice the body has been involved in a series of scandals, suggesting that there have been external influences colouring its decisions.[21] In order for such problems to be eliminated, institutional reforms may be insufficient. Ultimately, the change may only come about through a cultural shift that creates a strong sense of professional ethics to help officials understand and adhere to the law.

20 *Of the 10 countries that acceded to the EU in 2004, all but Cyprus and Malta are assessed under the European National Integrity Systems assessment. Bulgaria and Romania, who acceded in 2007, are also assessed.*

21 *Transparency International Bulgaria National Integrity System Assessment and original source, see: www.bnr.bg/sites/horizont/Shows/Current/NeshtoPoveche/society/Pages/sad.aspx (in Bulgarian).*

In Romania, efforts have been made to strengthen the legal framework surrounding the judiciary, law enforcement and anti-corruption agencies. Despite this, prosecutions for corruption-related crimes remain rare and there is still a sense that those involved in corruption are cloaked in a veil of impunity.

> The evidence suggests that since accession to the EU in 2004, there has been a rolling back on progress made in the fight against corruption in the Czech Republic, Hungary and Slovakia.

In the Czech Republic, Hungary and Slovakia, while the legal frameworks are relatively well developed, many problems are identified when it comes to implementation of anti-corruption rules and reforms. Indeed there is evidence that since accession to the EU in 2004, there has been a roll back on progress made in the fight against corruption. In Hungary recent constitutional changes highlight the risks of abuse of power by a strong executive and a parliament in which the opposition has little oversight of the ruling majority. Checks and balances appear to be severely compromised by the new arrangements. Furthermore the process of constitutional change has been widely criticised as lacking in transparency and meaningful consultation. It remains to be seen what the long-term effects of this new constitutional order will have on the integrity framework in Hungary, but the initial signs raise cause for concern. In Slovakia, a failure to effectively regulate political financing and continued widespread political corruption have meant that trust in politics and parliament is at an all-time low. This was exemplified by the mass demonstrations in February 2012 where the public demanded more accountability and an end to political cronyism, which remains a serious problem in Slovak politics.[22]

Estonia, Lithuania, Poland and Slovenia have strengthened their integrity systems considerably in recent years, but they still suffer from a number of important flaws that require attention to ensure that the fight against corruption is consolidated. The assessments reveal that the business and civil society sectors in these countries are relatively weak when it comes to anti-corruption commitments and that they are not fully performing their role in contributing to the integrity of the overall system.

22 *BBC News Slovaks rally against corruption in Bratislava, see: www.bbc.co.uk/news/world-europe-17322096*

Latvia, in contrast, outperforms its neighbours and exhibits a generally strong integrity system. The executive and judiciary together with the Corruption Prevention and Combating Bureau (CPCB) and the State Audit Office form the stronger part of the anti-corruption framework. In the Latvian context, it has been the CPCB in particular that has managed to bring the fight against corruption to an unprecedented level of intensity. However, this is not to say that all is well, as concerns about political corruption continue.

> The assessments of Greece, Portugal and Spain highlight in particular that inefficiency, malpractice and corruption are neither sufficiently controlled nor sanctioned.

SOUTHERN EUROPE: INEFFICIENCY AND CORRUPTION FUEL INDIGNATION

The assessment finds that a cluster of Southern European countries shares some common challenges when it comes to combating corruption. In 2011 there was an unprecedented movement of thousands of angry people, known as the 'indignados', who took to the streets outraged at incompetence and corruption among politicians. The movement was most pronounced in Greece, Italy, Portugal and Spain. The public administrations in these countries were found seriously wanting in terms of the legal framework of accountability and integrity mechanisms, and its implementation in practice. Greece, Portugal and Spain highlight in particular that inefficiency, malpractice and corruption are neither sufficiently controlled nor sanctioned. In Greece, despite extensive reported cases of corruption, according to official data, approximately only two per cent of civil servants have been subject to disciplinary procedures.[23] Following this trend, in Portugal, a recent study found that less than five per cent of all corruption related proceedings end in a conviction.

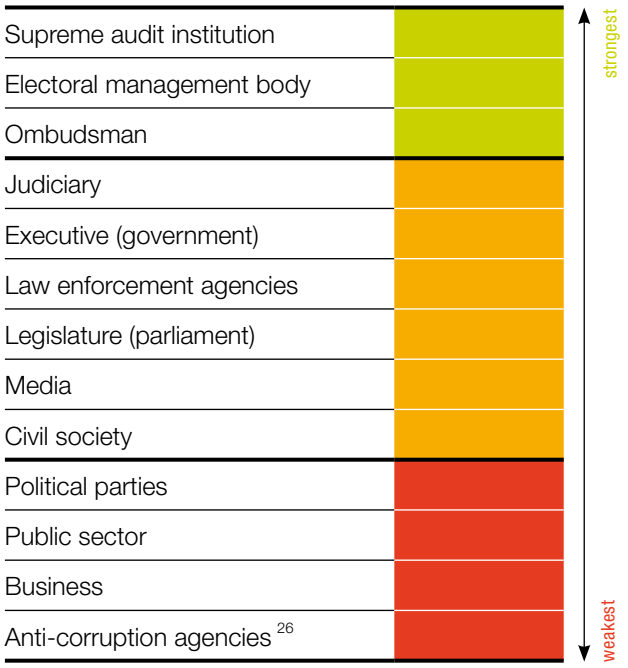
23 *De Sousa, L. (2010) A corrupção participada em Portugal 2004-2008. Resultados globais de uma pesquisa em curso, [Final Report]. Lisbon: PGR/DCIAP and CIES-ISCTE*

5. SPOTLIGHT ON INSTITUTIONS: THE BEST AND WORST ACROSS EUROPE

The national assessments examine a range of institutions and evaluate their resources, independence, transparency, accountability and integrity in both law and practice. They also look at the institutions' performance in contributing to the overall integrity of the anti-corruption system. The institutions assessed include the core branches of government and administrative arms of the state (legislature, executive, judiciary, public administration and law enforcement agencies), as well as the public institutions charged with watchdog functions (electoral management bodies, ombudsman, audit institutions, anti-corruption agencies). The assessment also looks at non-state actors that play a crucial role in the governance of countries – political parties, the media, civil society and business. This chapter takes an aggregate view of the institutions, across the 25 countries, providing a unique opportunity to identify the institutions that are performing best and worst across the region.

THE BEST AND THE WORST: AN ASSESSMENT OF INSTITUTIONS ACROSS THE REGION

HOW DO INSTITUTIONS IN EUROPE MEASURE UP?[25]



25 *Institutions in order of strength based on the quantitative information presented in the National Integrity System assessments of 24 countries. An aggregate score for each institution was calculated by averaging each of the country scores for that institution/sector. Green represents an aggregate score of 71 or above out of 100, amber 61 to 70, and red 60 or less.*

26 *Note that only 12 out of the 24 integrity assessments included an 'anti-corruption agency' so the aggregate categorisation should be treated with caution.*

The watchdog institutions such as the audit institutions, ombudsman institutions and electoral management bodies perform best. Judicial systems are also generally robust. This is perhaps not particularly surprising, given Europe is a region where the rule of law and electoral democracy are, with few exceptions, well entrenched. However, a bleaker picture emerges of the core governance institutions such as parliaments and governments. They are particularly weak when it comes to putting in place and enforcing anti-corruption safeguards, such as codes of conduct, disclosure of incomes, assets and interests, and post-employment restrictions to combat the revolving door syndrome.

Civil society and the media are not playing an adequate role as independent watchdogs. Political parties, the vital link between citizens and government, are hampering anti-corruption efforts. Political parties, along with public administrations, business sectors and anti-corruption agencies, are the weakest links in the anti-corruption systems across Europe. Given the massive influence of political parties on societies, public administrations and businesses, their weak performance is a major cause for concern and a key area where reform is needed.

It is also notable that there is a clear gap between the letter of the law and what happens in practice across the institutions. In general, practical implementation lags significantly behind the legal framework across the region.

Political parties, the vital links between citizens and government, are hampering anti-corruption efforts. They, along with public administrations, business sectors and anti-corruption agencies, are the weakest links in the anti-corruption systems.

STRONG WATCHDOGS

Supreme Audit Institutions perform a key role in auditing public spending and promoting transparent and reliable financial reporting by governments. When examining the integrity systems across the region, supreme audit institutions appear to be among the strongest.[27] The national assessments find that audit institutions in Europe are well-resourced and perceived to be independent. These findings are corroborated by the Open Budget Index's assessment that in most European countries supreme audit institutions are generally relatively strong.[28]

A further indicator of the strength of supreme audit institutions is the degree to which their findings are acted upon by governments and public bodies. In Denmark, for example, ministries are legally obliged to respond to criticisms raised through the auditing process by the Public Accounts Committee and the Supreme Audit Institution. While this obligation to provide official ministerial statements compels the government to act on the findings of audit reports, it also ensures that the findings are made public.

There are some exceptions to this trend and it is interesting to note that these correlate with the countries worst hit by the financial crisis. In Greece, Portugal, Romania and Spain supreme audit institutions perform well below the regional average.

> Across the region, supreme audit institutions appear among the strongest institutions. The national assessments find that audit institutions in Europe are well-resourced and seen as independent.

In Portugal, the Supreme Audit Court is assessed as the strongest institution in the national integrity system, however the national report finds that there is still much room for improvement. The independence of the court is not entirely assured due to the political nomination of its president. Its performance also falls below expectations, not due to the quantity of audits carried out, but because it merely controls the technical accounting aspects of public spending. Sometimes it even helps the audited institutions to better fit their uncontrolled spending within the technical accounting standards, instead of analysing the adequacy of management of public funds based on social impact.

In Greece, unlike most other European systems, the Court of Audit is accountable to the executive and not to parliament. Its independence has been called into question, as the head of the Court of Audit is selected by the Council of Ministers.[29] The on-going fiscal crisis in Greece has triggered a debate on institutional reform that might strengthen budgetary oversight and lead to higher quality data, but the fruits of this have yet to be seen.[30]

27 *In more than a half of the countries assessed, the supreme audit institution was among the top two and in 75 per cent of countries they are rated in the top three of the institutions evaluated.*

28 *See Annex 1: Open Budget Index 2010 – Strength of Supreme Audit Institutions, see: www.internationalbudget.org/wp-content/uploads/2010_Data_Tables.pdf. Only 13 EU countries, plus Norway, were included in the Open Budget Index 2010.*

29 *Sustainable Governance Indicators (2011), see: www.sgi-network.org/index.php?page=indicator_quali&indicator=M11_6*

30 *Sitoropoulos, D.A., Featherstone, K. and Colino, C. (2011), Sustainable Governance Indicators: Greece Report, see: www.sgi-network.org/pdf/SGI11_Greece.pdf.*

Ombudsman institutions are designed to guarantee every citizen an avenue to voice grievances over maladministration and to provide an opportunity for resolution prior to seeking redress within the often costly, cumbersome and backlogged judicial system. While there is variation across the region, the overall assessment of the ombudsman institutions in Europe is broadly positive, with the exceptions of Italy and Latvia, where a more critical assessment emerged.

Italy does not have a national ombudsman, and in only 14 of its 20 regions can citizens complain to regional ombudsman offices, which are often lacking in independence and resources. Germany does not have a central ombudsman either, but in contrast to Italy, the functions are fulfilled at the state level by a variety of other judicial and administrative structures, and so it is not seen as a gap in its national integrity system.

In Latvia a low public profile, questionable personal authority and weak public outreach activities, limit the ombudsman's influence. In Bulgaria, the ombudsman is a relatively new institution and to date has been poorly resourced. There are also concerns over the independence of the office due to the highly politicised nature of the appointment process, although the fear of politicisation has not been borne out in practice to date.

Even where ombudsman institutions perform well, they are often criticised for poor outreach and communication strategies. Among the public, there is often a lack of awareness, confusion and uncertainty about their role, especially with the proliferation of ombudsman offices in different sectors. Inaccessibility is the main reason ombudsman offices tend to be under-utilised, especially by the most disadvantaged, who are less likely to know of the existence of the ombudsman and have more difficulty in registering complaints or grievances. It seems that many ombudsman institutions are hidden behind bureaucracy and formality, and so lack a human face.[31]

Anti-corruption agencies buck the trend of Europe's strong watchdog institutions. They are generally assessed as weak players in the fight against corruption. Many countries in Western and Northern Europe do not have a dedicated anti-corruption agency and it is important to note that only 12 of the 25 national assessments included an 'anti-corruption agency'. It is a matter of debate whether standalone anti-corruption agencies are crucial to the fight against corruption.[32] The national assessments indicate that where strong and well entrenched watchdog institutions, judicial systems and law enforcement are in place to perform the key functions of prevention, detection and public education about corruption, the system may not require an additional anti-corruption agency.

In some post-communist countries of Central and Eastern Europe, for example Latvia and Slovenia, anti-corruption agencies have been important players in building the integrity of the system. In a number of other countries – such as Romania and Slovakia – the success of anti-corruption agencies has been hampered by perceived and actual politicisation of the agencies. For anti-corruption agencies to properly perform their role, they need to be fully independent and well-resourced, and the Corruption Prevention and Combating Bureau (CPCB) in Latvia provides an example of such an agency.

31 *See also Bokhari, S. (2005), A Comparative Study of Ombudsman Offices in Australia, Pakistan and the United Kingdom: Evolution, Efficacy and Challenges, see: www.policy.hu/bokhari/Ombudsman_An%20Introduction.doc.*

32 *Hussman, K., Hechler, H. and Peñailillo, M. (2009), Institutional arrangements for corruption prevention: Considerations for the implementation of the United Nations convention against corruption article 6, Chr. Michelsen Institute, see: www.u4.no/publications/institutional-arrangements-for-corruption-prevention-considerations-for-the-implementation-of-the-united-nations-convention-against-corruption-article-6/*

POLITICIANS AND PARLIAMENTS: WEAK RULES REGULATING POLITICIANS' ETHICAL BEHAVIOUR

Among the more worrying trends to emerge is that **parliaments**, the fundamental cornerstone institution of any democracy, are not living up to transparency, accountability and integrity standards. The assessments find that only 3 out of 24 national parliaments have appropriate and well-functioning integrity mechanisms for their MPs.[33]

Public confidence in parliaments in the region is assessed as low, which may in part be explained by numerous scandals involving MP expenses (the UK), pension fraud (Norway), patronage (the Czech Republic) and various cases of conflict of interest between MPs and business people (Bulgaria). Some of the specific problems identified, such as weak codes of conduct and asset declaration systems, are further discussed in Chapter 6.

There are exceptions to this rule, as some parliaments emerge as relatively strong and have robust oversight mechanisms, through which the parliament can keep a check on the executive's actions and decisions. In particular, parliaments in Germany, Norway, Sweden and Switzerland have the legal and practical mechanisms to provide strong oversight of the executive. This is primarily achieved through committee structures with robust investigative powers, and strong budget oversight.

Political parties are among the weakest links to emerge from the national assessments. There are a number of areas where they do not live up to transparency, accountability and integrity standards. The most significant gap in the integrity systems is the inadequate regulation of party political financing. This is discussed in more depth in Chapter 6.

These findings are reflected in public opinion surveys. In almost all EU countries surveyed in Transparency International's Global Corruption Barometer 2010/11 political parties were rated as the most corrupt sector by the public.[34] In the vast majority of European countries, more than 50 per cent of people stated that political parties in their country were 'corrupt' or 'extremely corrupt'. Most startling are the results at the upper end of the spectrum – in Greece, Ireland, Italy, Romania and Spain, more than 80 per cent of people stated that political parties were 'corrupt' or 'extremely corrupt'.

The national assessments provide clear evidence of structural problems that partly explain the mistrust of political parties; namely weak regulation of party financing and widespread reluctance of parties to make their financial dealings fully transparent.

> In Greece, Ireland, Italy, Romania and Spain, more than 80 per cent of people believe political parties are corrupt or extremely corrupt.

33 *Only 3 of the 24 assessments attributed a score of 50 or higher to their parliament's integrity mechanisms either in law and/ or in practice. The qualitative data supports this overall finding.*

34 *See Annex 2: Transparency International (2010/11), Global Corruption Barometer Europe Results. The only exceptions were Bulgaria (where the judiciary was rated as most corrupt) and the Netherlands, Norway and Switzerland (where the private sector was rated as most corrupt).*

PUBLIC AND PRIVATE SECTORS – NEITHER SIDE FULLY PLAYS ITS PART IN THE FIGHT AGAINST CORRUPTION

The national assessments reveal major corruption risks and vulnerabilities, as well as problems of inefficiency and lack of transparency in the **public administrations** of some European countries. This is particularly evident in Bulgaria, the Czech Republic, Greece, Italy, Portugal, Romania, Slovakia and Spain,[35] and often relates to public contracting and procurement processes (see Chapter 6 for further discussion). It is at the interface between public administration and the private sector, in processes like public procurement, that many corruption risks are found.

The assessments also show that the **private sector** is not playing a meaningful role in preventing and combating corruption in Europe. For the private sector to play its part, it should engage with both the government and civil society on anti-corruption measures. Across all the countries assessed, only two were found to have a private sector that adequately engages with government and civil society on anti-corruption issues (Norway and Sweden), while moderate to weak scores were the norm across the region.

> Only two countries were assessed as having a private sector that adequately plays its role in the integrity system (Norway and Sweden), while the business sectors' anti-corruption efforts in all other European countries was assessed as moderate to weak.

The internal standards of corporate governance and integrity in the business sector are also weak. While there is variation across the region, small- and medium-sized enterprises tend not to prioritise anti-corruption and have weaker standards of corporate governance. This is corroborated by other research such as the World Economic Forum Executive Opinion Survey 2011. It found that in a half of the European countries assessed, corporate executives have a relatively poor view of the ethical behaviour of firms in their country.[36] Given the importance and influence of the business sector in European countries, change in attitudes and behaviour towards corruption in the sector will be crucial to strengthening the overall integrity systems of the region.

35 *In Spain, the National Integrity System report reveals that many corruption issues are concentrated at the regional and local levels of public administration, but in central administration the problems relate more to inefficiency and lack of transparency.*

36 *See Annex 3: WEF Executive Opinion Survey Results. 12 of the 25 European countries assessed were ranked outside the top 50 of 142 countries worldwide when it comes to executives' opinions of ethical behaviour of firms in their countries.*

6. DRILLING DOWN: GAPS AND LOOPHOLES

This chapter highlights a number of weaknesses that are undermining one or more aspects of the integrity system in a significant number of countries across the region. For governments, businesses and civil society to ignore these gaps and loopholes in the national integrity systems across the region would be at best short-sighted, and would leave European countries exposed to significant corruption risk.

6.1 POLITICS: MONEY AND UNDUE INFLUENCE

Political parties and businesses exhibit the highest risks of corruption across Europe; with few exceptions they are rated among the weakest sectors when it comes to anti-corruption safeguards.[37] One of the intersections at which parties and businesses meet – political party financing – is a particularly high-risk area, which even countries often described as 'low corruption contexts' have not managed to insulate themselves against. This is an internationally recognised problem and indeed, Article 7 of the UN Convention against Corruption calls on governments to enhance transparency in the funding of political parties and candidates for elected public office. Weak party financing rules, along with inadequate regulation of lobbying and conflicts of interest are among the most problematic areas.

REGULATION OF PARTY FINANCING: CURBING THE INFLUENCE OF MONEY IN POLITICS

Most European countries have taken steps to regulate political party and campaign financing by introducing laws on disclosure of finances and requiring parties and candidates to report on the donations received, including the origin of the donation, the amount and party expenditure. Some countries have banned certain types of donation considered to be more prone to corruption, such as donations from large corporations, or have placed caps on individual donations. Another route has reduced the need for private money by providing state subsidies, shortening campaigns, providing subsidised access to the media or curbing the amount that parties may legally spend. Despite increased regulation of this area, there are gaps in the legal frameworks and problems of enforcement across the region.

Only two of the 25 countries assessed lack any binding rules to regulate political donations – Sweden and Switzerland. This is a significant area of risk. In Switzerland, despite a tradition of open policy-making, political finance remains a black box, devoid of transparency. Given that public funding of political parties in Switzerland is minimal and that the vast majority of party funding comes from private sources, when voters go out to cast their vote in a referendum or election, they can only speculate about the influence of companies and wealthy individuals on Swiss national politics. In Sweden, a light touch approach has been taken to political financing regulations and while there is a voluntary agreement among most parties to disclose their budgets, the names of specific donors are not included.

37 *In a notable exception, the assessment of the National Integrity System in Norway finds political parties and business to be relatively strong when compared to other Norwegian institutions. However, these two groups are still perceived by the public to be among the sectors most prone to corruption (according to Transparency International's Global Corruption Barometer 2010/11). The discrepancy may in part be explained by a gap between public perception and reality, although further research is required to substantiate this.*

In the Netherlands, there are regulations in place, but these are wholly inadequate, as the rules only apply to political parties at the central level who have chosen to receive a state subsidy. For all other political parties (those not receiving a subsidy and those at the regional or local levels) no rules on political financing exist.[38]

It is perhaps easy to dismiss these legislative gaps by referring to the above-mentioned countries as 'low risk' when it comes to corruption. However, in a similar 'low risk' context, in 2008 and 2009 serious vulnerabilities were exposed in Finland's political financing system. A number of scandals emerged related to parties and politicians failing to disclose the source of campaign funds amid speculation that business executives and others had been donating money to campaigns in order to garner favourable political decisions.[39] The main flaw in Finland's party financing regulations (which were amended in 2010) was the absence of any penalties for non-compliance with the rules. This shows that countries that are generally considered to be 'clean' are far from immune to corruption and that every measure should be taken to ensure that political systems operate in an open and transparent manner.

LIMITING CORPORATE AND INDIVIDUAL DONATIONS TO ENSURE DEMOCRACY IS 'NOT FOR SALE'

Large private donations are a risk to democracy, particularly when they involve companies with vast sums at their disposal developing close relationships with political parties and thus gaining substantial influence in a country's politics and policies.

Some European countries have opted for a complete ban on corporate donations (Belgium, Estonia, France, Hungary, Latvia, Lithuania, Poland and Portugal), a policy that is not a panacea and must be accompanied by generous public funding of the political party system. It must also be accompanied by other measures such as disclosure and an independent oversight body, and the ban must be carefully implemented to ensure that funding does not simply go beneath the regulatory radar through the use of other opaque channels.

> It is quite worrying that a number of European countries assessed here continue to allow undisclosed contributions of any value to political parties (Greece, Sweden, Switzerland) thus shielding influential donors from public scrutiny.

38 *Note that a revised bill on the Financing of Political Parties is being considered by parliament at the time of writing of this report. On the 3rd of April 2012 the House of Representatives voted in favour of the proposed bill whereby donations over €1000 will have to be registered and donations above €4500 will have to be disclosed (applicable to political parties at central level and regardless of whether they receive a subsidy). This law will be considered by the Senate (from 17 April 2012). These rules do not apply to political parties at local level.*

39 *See, for example, Financial Times 10 June 2008 Funding Scandal taints Finland's Reputation: www.ft.com/intl/cms/s/0/054fd33a-3679-11dd-8bb8-0000779fd2ac.html#axzz1n1d9lcF2.*

Another approach to reduce the excess of private money in the political system is to place limits on large contributions from individual and/or corporate donors. While only about half of the European countries assessed have a ceiling in place for individual donations to political parties (see Annex 4), there is wide variation in the levels at which contributions are capped.

While establishing a reasonable ceiling is not always straightforward, there is a pattern in Europe of placing limits on donations to curb the influence of a few large donors on the politics and policies of a country. In the UK, the absence of any limit on the amount individuals or corporations can donate contributes to the on-going erosion of public confidence in the political process.

SHINING THE LIGHT ON POLITICAL DONATIONS: REGISTRATION AND PUBLIC DISCLOSURE RULES

There is no one-size-fits-all approach to controlling the amounts of contributions by individuals and corporations. However, increasing transparency in the realm of party financing is an important step towards safeguarding the integrity of national political systems and restoring citizens' trust in them. Registration and disclosure of donor details are important measures in this regard. Registration, if not full public disclosure, of all donations is becoming accepted as a good governance practice.[40] By continuing to allow undisclosed contributions, a number of European countries show a wilful disregard for such transparency.

Greece, Sweden and Switzerland continue to allow undisclosed contributions to political parties thus shielding political party funding from public scrutiny. Complete bans on undisclosed donations are in place in 10 countries (Bulgaria, the Czech Republic, Estonia, France, Lithuania, Latvia, Poland, Portugal, Slovakia and Spain), while the remaining countries continue to allow undisclosed donations below a certain threshold.

In Germany, while the identity of donors of all contributions above €500 must be recorded, public disclosure of the donor must only be made in the annual financial statement of the party if the contribution exceeds €10,000 per year, but contributions above €50,000 must be immediately disclosed. The assessment of Germany criticises these thresholds as being too high to allow citizens sufficient insight into the sources of political party funding.

Many of the assessments show that disclosure thresholds are being abused by a common practice of making donations just below the limit and thereby keeping them secret. In the case of Ireland, there is a relatively low threshold for anonymous donations (€127) and a higher threshold for public disclosure (€5049). Both the National Integrity System assessment and Group of States against Corruption (GRECO) have noted that this anomaly could be used in extreme cases to allow large anonymous donations to be made to political parties by splitting them into smaller sums below the disclosure threshold.[41]

40 *Article 12 of the Council of Europe Recommendation (2003)4 requires donations to political parties to be registered. The nature and value of donations must be specified and for donations over a certain value, donors should be identified.*

41 *See GRECO (2009), Evaluation Report on Ireland: Transparency of Party Funding, see: www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)4_Ireland_Two_EN.pdf. A bill on party financing published in 2011 (not yet passed into law) would curtail corporate donations and reduce donation and disclosure thresholds and require parties to publish annual audited accounts.*

PROMISING PRACTICES: LATVIA'S POLITICAL FINANCING REGULATION

Latvia's Political Financing Law imposes comprehensive transparency requirements on political parties. The regulatory framework envisages clear, timely and comprehensive public disclosure procedures for both revenue and expenditure. Parties are obliged to produce two kinds of report – (1) declarations of election revenue and expenditure and (2) annual reports. No later than 10 days after the receipt of declarations/ reports, the Corruption Prevention and Combating Bureau (CPCB) is obliged to publish them in the official bulletin and online. All citizens are guaranteed the right to request hard copies of the declarations and reports at either the CPCB or the respective party. No later than 15 days after the receipt of a donation, a party must inform the CPCB and the CPCB must publish the information on its website. All the information, which is to be published according to the law, is available on the CPCB website. The database of donations provides searchable and up-to-date data about the recipients, sources, value, and date of donations. The assessment finds that data as recent as one day old is available online. Similar online databases are available about membership dues paid to parties and party declarations and annual reports.

Some limitations of transparency also exist, one of the most serious being that often persons, who are not formally related to the party, place advertising or carry out other activities for the benefit of the party without granting a formal donation with the aim of avoiding financial transparency and accountability.

LEGAL GAPS FACILITATE BYPASSING OF DISCLOSURE RULES

In some countries transparency is thwarted by lax legal provisions around membership fees where parties may define which contributions are to be regarded as donations and which as membership fees. This was found to be particularly problematic in Romania.

Another legal gap that allows parties to keep contributions secret and bypass financing rules is the practice of funnelling money through foundations or affiliated associations that are not subject to the transparency and accountability requirements of political parties. The assessment of Hungary finds that much of the mysterious money circulating in political circles comes from foundations closely affiliated to political parties.[42] In Italy and Slovenia, this was also identified as a problematic area.

42 *OSCE/ODIHR (2010), Election Assessment Mission Report Republic of Hungary, see: www.osce.org/odihr/elections/71075, p.16 cited in Transparency International Hungary (2012), National Integrity System Assessment Hungary, see: http://media.transparency.org/nis/cogs/assets/hu/pdf/Corruption_Risks_in_Hungary_NIS_2011.pdf*

THE EU DIMENSION: 'EUROPARTY' POLITICAL AND ELECTORAL FINANCING

At the EU level, there is room for improvement in the transparency of political parties (commonly called 'Europarties'). Party finance reports should be made available in a citizen-friendly, searchable database. In this regard, downloadable data in an open data format, instead of the commonly used pdf format, would be a major step forwards.[43] Similarly, reporting donations, including in-kind donations (e.g. reporting support by companies for Europarty events), also requires more attention.

Given the upcoming European Parliament elections in 2014, transparency in electoral financing also requires attention. Currently the regulations[44] and the reporting practices do not go far enough to make election campaign financing fully transparent. A special European Parliament finance report could address some of these concerns and contribute to an increase in citizens' trust and ultimately in voter turnout in 2014.

FAILURE TO ENFORCE RULES: IMPUNITY FOR POLITICAL PARTIES DESPITE IRREGULARITIES

Despite the increased regulation of party financing in most European countries, effective enforcement has not necessarily followed suit. The national assessments reveal that laws are often breached with impunity. In order for laws to be effective, it is essential that independent regulatory agencies are in place and that they are equipped to perform oversight and impose suitable sanctions where rules are breached. In a number of countries, political financing enforcement agencies were found to be weak and lacking in independence. This was particularly problematic in Greece and the Netherlands.[45]

In contrast, in Poland, the National Electoral Commission, a body controlling the finances of political parties, is independent and apolitical. This is exemplified by the severe penalties imposed on parties for not fulfilling transparency obligations. Several political parties, including the Polish Peasant Party, Democratic Party, Labour Union and the Social Democracy of Poland, learned a painful lesson about non-compliance, when they lost the right to receive public subsidies for three years as a result of their financial reports being rejected.

In other cases, a formalistic method to monitoring, where a purely accounting approach is taken rather than detailed verification of the parties' accounts, has meant that breaches are not detected and followed up on. The national assessments of Italy, Slovakia and Slovenia highlight this as a cause of continued impunity for parties involved in political financing scandals.

43 *The election commission of the United States of America has set a good example in this regard.*

44 *Regulations governing political parties at European level and the rules regarding their funding are available online, see: www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003R2004:20071227:EN:PDF.*

45 *In the case of the Netherlands, in the Proposed Bill on the Financing of Political Parties currently before Parliament, it is foreseen that the Minister of the Interior and Kingdom Relations will be in charge of enforcing these rules. This includes the possibility of administrative fines for political parties which do not live up to these rules. This does not entirely meet the criteria of "independent supervision" however.*

LOBBYING: LIFTING THE VEIL OF SECRECY AROUND THE INFLUENCE OF LOBBYISTS

In most European countries, the influence of lobbyists is shrouded in secrecy and a major cause for concern. When undertaken with integrity and transparency, lobbying is a legitimate avenue for interest groups to be involved in the deliberative process of law making. It is when lobbying is non-transparent and unregulated that problems arise. Corporate lobbying in particular raises concerns because it often involves companies with vast sums at their disposal developing close relationships with lawmakers and thus gaining undue and unfair influence in a country's politics and policies.

The role of regulation of lobbying is to make the public aware of the interests behind proposals and the links between lobbyists and policy-makers. Regulation of lobbying is a relatively new practice and in many places legislation lags behind the skyrocketing growth of the industry.[46] Most European countries have yet to implement legislation to control lobbying and those that have often lack enforcement mechanisms and sanctions for non-compliance.

Only six of the 25 countries assessed have regulated lobbying to any degree – France, Germany, Lithuania, Poland, Slovenia and the UK (see table on p.29). Within this group, only Lithuania and Poland have national 'lobbying laws'. Hungary regulated lobbying through legislation from 2006 to 2010, but this was rolled back in 2011 and there have been a number of failed attempts to legislate in Bulgaria, Latvia and Romania.

THE EU DIMENSION: LOBBYING IN THE CORRIDORS OF BRUSSELS

An estimated 3000 lobbying entities have an office in Brussels and target European institutions to influence legislation.[47] It is crucial for transparent EU decision-making that their goals and methods are made clear. The European Parliament and European Commission have had registers of lobbyists since 1996 and 2008 respectively, and these merged in 2011 to create a single 'Transparency Register'. However, the register remains voluntary and it has come in for some criticism because of this.

> 19 of the 25 European countries assessed have yet to implement legislation to control lobbying and those that have often lack enforcement mechanisms and sanctions for non-compliance.

46 *Transparency International (2009), Controlling Corporate Lobbying and Financing of Political Activities, see: http://www.transparency.org/whatwedo/pub/policy_position_06_2009_controlling_corporate_lobbying_and_financing_of_pol*

47 *See: www.alter-eu.org/sites/default/files/documents/bursting-the-brussels-bubble.pdf.*

Slovenia has a mandatory register of lobbyists, regulated under the Integrity and Prevention of Corruption Act 2010. France and Germany have voluntary registers, but try to incentivise lobbyists to register by providing them with registration passes for easier access to parliament. Given their voluntary nature and the lack of rules on financial disclosure by lobbyists, both are criticised as being weak. In addition, the German register only covers lobbying associations; companies and law firms are not included in the register. In the UK in 2010 the government introduced a rule that bans lobbying by ministers and senior officials for a two-year period from the date they leave public office. The UK and Irish governments are both currently considering the introduction of mandatory registers of lobbyists.

The only two stand-alone lobbying laws in Europe – in Lithuania and Poland – have been criticised on various fronts. In Poland, the law limits registration to 'professional lobbyists'. According to the assessment of Poland, the number of professional lobbyists registered by the Ministry of Administration and Digitalization is 299. However, usually only 20 of them are present in a second registry of professional lobbyists run by the Sejm (higher chamber of the Polish parliament). As of 23 August 2011, only 15 lobbyists were on this list, which is implausible given the level of lobbying activity known to be taking place.[48] In Lithuania, the national assessment finds the lobbying law to be completely deficient and the number of registered lobbyists is much lower than the actual number operating in the country.

PROMISING PRACTICES: SLOVENIA'S LOBBYING REGULATIONS

In Slovenia, the Integrity and Prevention of Corruption Act 2010[49] provides for mandatory registration of lobbyists. Lobbyists are entered into a register containing the name of the lobbyist, their tax number, address, name and registered office of the enterprise, sole proprietor or interest organisation if they employ the lobbyist and the area of registered interest. All information except the tax number is made publicly available online. Public officials may agree to contact a lobbyist only after checking whether the lobbyist has been entered in the register of lobbyists. Legitimate lobbying can only take place after a person/organisation has entered the register of lobbyists. 'Lobbied persons' are obliged to report contact with lobbyists within three days. During the lobbying process, lobbyists must report to the Commission for the Prevention of Corruption (CPC) about their work and there are sanctions in place in the case of wrongful lobbying including – a written admonition, a ban on lobbying in a specific case, a ban on lobbying for a specific period of time, which should not be less than three months and not more than 24 months, or deletion from the register.

Some flaws in the legislation include the lack of a mandatory code of conduct for lobbyists and the lack of provisions on financial disclosures by lobbyists. Apart from these, the law is assessed as generally robust. However, in practice there have been problems with its implementation. While more lobbyists are entering their details into the register, public officials rarely report contact with them and so the degree of contact and influence remains opaque. In order to incentivise public officials to report contact with lobbyists and to increase public awareness of the law, the CPC publishes weekly updated lists of reported lobbying contacts.

48 *An amendment to the law is being considered at the time of writing of this report.*

49 *English language version of the law available, see: www.regulatelobbying.com/images/Slovenia_Lobbying_Law-3.pdf.*

Overall, voluntary registers are a poor substitute for their mandatory counterparts. A mapping by Transparency International France and Regards Citoyens published in 2011 revealed that between July 2007 and July 2010, 9300 hearings (between ministries and lobbyists) took place involving nearly 5000 organisations, represented by more than 16,000 people. These numbers differ greatly from the 127 lobbyists registered in March 2011 in the Official Register of the National Assembly.[50]

Germany's register has likewise been criticised as being extremely weak,[51] because of its voluntary nature and its narrow scope covering only lobbying associations, the fact that it is not accompanied by a code of conduct for lobbyists, there are no obligations for financial disclosures by lobbyists and there is no monitoring mechanism to ensure that information in the register is actually correct. Other EU states have not enacted lobbying regulations, although some parts of Italy have done so at the regional level.

Overall the findings suggest that lobbying in the national parliaments of Europe remains opaque and inaccessible to the average citizen.

REGULATION OF LOBBYISTS IN EUROPE

Country	Regulation of lobbyists
Lithuania	Law on Lobbying since 2001
Poland	Law on Lobbying since 2005
Slovenia	Regulated via Integrity and Prevention of Corruption Act since 2010
France	Code of conduct for lobbyists with voluntary register since 2009 (registration for access to parliament)
Germany	Voluntary register for lobbying associations (registration for access to parliament)
UK	Partially regulated by 2010 rule limiting lobbying activity by former ministers and senior officials
Belgium	None
Bulgaria	None
Czech Republic	None
Denmark	None
Estonia	None
Finland	None
Greece	None
Hungary	Regulated from 2006-2010, but abandoned 2011
Ireland	None
Italy	None
Latvia	None
Netherlands	None
Norway	None
Portugal	None
Romania	None
Slovakia	None [52]
Spain	None
Sweden	None
Switzerland	None

50 *Transparence International France and Regards Citoyens (2011), Lobbying à l'Assemblée nationale, see: www.transparence-france.org/ewb_pages/div/Etude_TI_France_Regards_citoyens.php.*

51 *Chari, R., Murphy, G. and Hogan, J. (2007), Regulating Lobbyists: A Comparative Analysis of the United States, Canada, Germany and the European Union, The Political Quarterly, 78, 3, pp. 422–438.*

52 *Note that in Slovakia, there is no dedicated lobbying regulation. However, there is an open system of public consultation on government bills, which is considered by some as a form of regulation of lobbying.*

CONTROLLING THE REVOLVING DOOR BETWEEN PUBLIC AND PRIVATE SECTORS

Post-employment restrictions for parliamentarians, members of the executive and senior public officials are important for regulating conflicts of interest and controlling what has become known as the 'revolving door' between the public and private sectors.[53] Regulating the revolving door aims to ensure that decisions are made in the public's interest rather than select private interests, by preventing the abuse of switching sectors ('sides') and individuals unfairly and unethically leveraging insider networks and knowledge.[54] Regulation of these potential conflicts of interest via post-employment restrictions is an internationally recognised norm.[55] However, this is still relatively under-regulated across Europe.

In a number of countries there are no post-employment restrictions for members of the executive: the Czech Republic, Denmark, Hungary, Italy, Romania, Slovakia, Sweden and Switzerland. In others, regulations are in place but are too vague (Ireland and the Netherlands), contain too much scope for exceptions (Portugal), contain cooling off periods after leaving office which are considered too short (Ireland and Poland), are overly reliant on voluntary compliance (the UK) or they are not enforced and so potential conflicts of interest frequently arise (Bulgaria).

PROMISING PRACTICES: NORWAY'S POST-EMPLOYMENT RESTRICTIONS FOR PUBLIC OFFICIALS AND POLITICIANS[56]

Guidelines on post-employment for public sector officials were adopted in Norway in 2005. These are complemented by specific regulations concerning politicians, which apply to ministers, state secretaries and political advisors. The rules introduce the possibility of a 'cooling off' period or 'quarantine' of a maximum of six months and/ or exclusion from case processing for a maximum of one year for public officials transitioning to the private sector. Where a cooling off period is deemed necessary, the former employer has the duty of remuneration. A clause on post-employment restrictions in relation to transition to a new position must be included in the employee's contract from the beginning of the employment. The rules specify that such restrictions are most likely to be relevant for executive positions or positions with special responsibility or influence, positions in close contact with such executive positions and positions with authority to negotiate or purchase.

In the case of politicians, the rules are similar. However, an independent Quarantine Commission supervises the subsequent employment of politicians and it can impose liquidated damages if a politician fails to deliver information on potential transition to a new position. Apart from that, the political leadership in a ministry must wait for six months after departure from public office, before being allowed to return to their former position.

It is important to note that the type of post-employment restriction and the length of time limits imposed on activities may vary across national contexts. 'Cooling off periods' for specific cases should be proportionate to the threat imposed.

53 *The term 'revolving door' refers to the movement of individuals back and forth between public office and private companies, in order to exploit their period of service to the benefit of their current employer. According to data from the Organisation for Economic Co-operation and Development (OECD), more than 75 per cent of new entrants in senior positions in the UK government came from outside the public service, who after a period of four to five years, sought to return to the private sector or the not-for-profit world. Some sectors that have been particularly prone to the revolving door phenomenon include health, agriculture, finance, energy and defence.*

54 *Transparency International (2010) Working Paper No 06/2010: Regulating the Revolving Door, see: http://www.transparency.org/whatwedo/pub/working_paper_06_2010_regulating_the_revolving_door*

55 *Article 12 of the UN Convention against Corruption calls for 'restrictions […], for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure'.*

56 *OECD (2010), Post-public Employment: Good Practices for Preventing Conflict of Interest, see: www.oecd-ilibrary.org/governance/post-public-employment_9789264056701-en*

6.2 PARLIAMENTS: A POVERTY OF INTEGRITY

A key weak spot in the integrity systems of the region is that parliaments, the fundamental cornerstone institution to any democracy, are not living up to integrity standards. The national assessments examine whether important integrity safeguards are in place in parliaments, including mandatory codes of conduct for parliamentarians, clear conflict of interest regulations and rules on disclosure of interests, assets and income. Unfortunately in many cases, European countries have not yet instituted these crucial safeguards, thus exposing themselves to risks of corruption and fuelling distrust among the public.

> **Only 3 national parliaments have appropriate and well-functioning integrity mechanisms for their MPs.**

PARLIAMENTS NOT LIVING UP TO ETHICAL STANDARDS

Codes of conduct are an important part of the anti-corruption framework for parliaments as they impose binding, enforceable rules for what is clearly legal and acceptable and what is not for politicians, officials and their interlocutors. When those in power and those who engage with them are fully aware of what is expected of them, the punishments imposed for non-compliance and that they are being monitored, it is reasonable to assume that they will be more inclined to act with integrity.[57] The adoption of an enforceable code of conduct can also be seen as a commitment to integrity by parliamentarians.

It is true that codes of conduct are a relatively new concept for continental law countries. However, their added value is to have everything organised in one single document, which provides specific guidance for members on how to deal with difficult situations when it comes to ethical dilemmas and spells out mechanisms for addressing the management of conflicts of interest. It should not replace legislation, but complement it. It is also important to note, that what is often permitted by law, might not necessarily be ethical and the document should provide clarity on these types of issues, and identify ways of addressing them, through training, advisory services and enforcement mechanisms etc.

57 *Office for the Promotion of Parliamentary Integrity (2011), Parliamentary Ethics: A Question of Trust, see: www.europarl.europa.eu/pdf/oppd/Page_8/codes_of_conduct_FINAL-ENforweb.pdf*

CODES OF CONDUCT FOR PARLIAMENTARIANS

Codes of conduct for parliamentarians	
France	Yes
Germany	Yes
Greece	Yes
Ireland	Yes
Latvia	Yes
Lithuania	Yes
Poland	Yes
UK	Yes
Belgium	No
Bulgaria	No
Czech Republic	No
Denmark	No
Estonia	No
Finland	No
Hungary	No
Italy	No
Netherlands	No
Norway	No
Portugal	No
Romania	No
Slovakia	No
Slovenia	No
Spain	No
Sweden	No
Switzerland	No

PROMISING PRACTICES: POLAND'S CODE OF CONDUCT FOR PARLIAMENTARIANS

In Poland, MPs are subject to the principles of parliamentarians' ethics. The principles set rules of behaviour for deputies and provide occupational principals for MPs: selflessness, openness, integrity, care for the good name of the parliament and accountability. Moreover, parliamentarians are obliged to report, in the register of benefits, information about the positions they hold and the relevant remuneration; financial interests; donations received; and trips financed from other sources than their own, the institution they are employed by or the party of which they are a member. Cases of conflict of interest are regulated through a number of different regulations. Deputies who fail to conform to the code of ethics have to answer to the Deputies' Ethics Committee, which can, in a resolution, caution, reprimand or admonish them. Such a resolution is then published in Kronika Sejmowa and in the Parliamentary Information System.

Of the 25 countries, only eight have codes of conduct in place for parliamentarians. In some countries, rules of procedure cover ethical issues (Denmark, Finland and Switzerland). In Bulgaria and Slovenia, there have been repeated attempts to pass comprehensive codes of conduct, but the parliaments have failed to adopt them. Even where codes of conduct do exist, they often include gaps, as is the case with Germany. Codes of conduct should by no means be considered a panacea to combating corruption and wrongdoing by MPs, but their value as an integrity mechanism should not be underestimated.

DETECTING AND PREVENTING ILLICIT ENRICHMENT: DISCLOSURE OF MPS' INTERESTS, ASSETS AND INCOME

Another important safeguard of parliamentary integrity is a robust asset declaration system, which aims to prevent and reveal conflicts of interest among members of parliament and avoid illicit enrichment or other illegal activities by monitoring wealth variations among politicians. Such a system should allow citizens to monitor their elected officials and hold them to account.

All European countries assessed have established some kind of interest, asset and income declaration system, but the robustness and effectiveness of these systems varies considerably (see Annex 5).[58] There is still some hesitation to allow full public disclosure in Europe – 11 of the 25 countries do not cover all relevant aspects of MPs' interests and/or disclose only partial information.

The national assessments find that the majority of countries require mandatory disclosure of interests, assets and income by MPs, although some of the Nordic countries (Denmark and Finland) have a voluntary disclosure system in place. Norway and Sweden have moved from voluntary to mandatory disclosure in recent years.

THE EU DIMENSION: THE EUROPEAN PARLIAMENT'S CODE OF CONDUCT

The European Parliament adopted its own code of conduct in December 2011. In many respects, this represents a step forwards and has the potential to expose undue influence on the work of the European Parliament and reduce the threat of corruption, bribery, and conflicts of interest. In particular, there is a ban on MEPs acting as lobbyists; a requirement to disclose a more detailed declaration of financial interests; the creation of an advisory committee on the implementation of the code; and a call for the creation of a monitoring procedure to ensure that the code is adequately enforced.

There are still some weaknesses, however. The code does not include a 'cooling off' provision to prevent MEPs from moving straight into lobbying jobs after the end of their term. Moreover, it does not outlaw all secondary employment that creates a conflict of interest, or include an obligation for MEPs to keep a record of all significant meetings with interest representatives in connection with their work – a 'legislative footprint'. It does not allow for stronger sanctions in the case of serious breaches of the code.

58 *While the focus here is on asset declaration among parliamentarians, similar programmes for members of the executive, high-ranking public sector employees and members of the judiciary should also be in place. It is beyond the scope of this report to detail the variation across all of these targets of asset disclosure programmes, but it is important to note that a holistic approach to asset declaration is crucial to its success.*

PROMISING PRACTICES: LATVIA'S COMPREHENSIVE ASSET DECLARATION SYSTEM[59]

Latvia's asset declaration is wide-ranging and comprehensive in scope. At its heart is the Conflict of Interest Law that applies to all members of the legislature and public officials, ranging from the president to city council members. The conflict of interest regulations require public officials to disclose information about their income, property, stock and other securities, savings, transactions performed, debts and loans given. The only categories of information in this comprehensive disclosure that are not publicly accessible are the officials' place of residence and personal identification number and those of his or her relatives and other persons specified in the declaration. The declarations have to be renewed annually and are reviewed by the State Revenue Service.

In practice, there is on-going concern that public officials can hide assets under the names of other individuals, who are not subject to general income and asset declarations. To counteract this, a controversial one-off measure obliging the declaration of property ownership by the general public was adopted in December 2011.

There are several other mechanisms in place that prevent conflicts of interest, including a limit on additional positions that public officials can hold and a regulation that officials may not obtain income from capital shares and stocks in companies that are registered in tax-free or low-tax countries and territories.

> In France and Slovenia MPs' declarations are not made available for public scrutiny at all. This is highly problematic as it means they have no real value as a public accountability mechanism.

Best practice indicates that asset disclosures should be made publicly available, if they are to provide an effective mechanism for citizens to hold their elected officials to account.[60] In two of the countries assessed – France and Slovenia – MPs' declarations are not made available for public scrutiny at all. This is highly problematic as it means they have no real value as a public accountability mechanism.[61]

A number of countries limit public disclosure, providing only a summary of the declarations or for their partial disclosure. In Belgium, the Czech Republic, Germany, Greece, Hungary, Italy, the Netherlands and Switzerland, the law falls short of providing full, or in some cases any, publication of income and asset disclosures. Furthermore, in many countries, for example Slovakia, the oversight and verification mechanisms surrounding these disclosures are found wanting and the public is not convinced of the veracity of asset declarations.

59 *See: http://right2info.org/information-of-high-public-interest/asset-declarations/asset-declarations#latvia*

60 *Messick, R. (2009) Income and assets declarations: Issues to consider in developing a disclosure regime. Bergen: Chr. Michelsen Institute, see: www.u4.no/publications/income-and-assets-declarations-issues-to-consider-in-developing-a-disclosure-regime/*

61 *At the time of writing, in France, proposals for a new law on conflicts of interest is on the agenda, which would include more far-reaching rules on public disclosure of members' assets, but it remains to be seen whether this will progress within the lifetime of the current legislature.*

6.3 PUBLIC SECTOR: LIMITATIONS ON ACCESS TO INFORMATION

Access to information is a key component of transparent and accountable government. It is crucial to enabling citizens to monitor those in positions of power and to expose corruption and mismanagement. Indeed, the freedom of information advocacy organisation ARTICLE 19 has described information as 'the oxygen of democracy'.[62] Article 13a of the UN Convention against Corruption also explicitly calls on governments to ensure that the public is ensured effective access to information.

ACCESS TO INFORMATION LEGISLATION IN EUROPE FAR FROM FLAWLESS

Access to official information is legally guaranteed in all but one of the countries assessed. At the time of writing, a long-awaited draft Law on Transparency and Access to Public Information is before parliament in Spain and is expected to be adopted.

When examining the existing legal frameworks on access to information, there are significant issues with both the quality of laws and their implementation. The access to information laws in place vary across the region in terms of 'age' and quality. Sweden adopted its first Freedom of the Press Act in 1766, while Germany is the most recent European country to adopt such a law, doing so in 2005. Globally, there has been an explosion of access to information laws since the early 1990s. In 1987 there were 13 countries with such laws, compared to 75 just 20 years later in 2007 and 89 in 2011.[63]

In some countries, there has been a worrying trend towards limiting the scope of those institutions that fall within the remit of access to information laws and the broadening of exceptions that are permitted according to the legal framework. Broad exceptions provide 'escape clauses' for government (e.g. state security, economic sensitivity), allowing them to avoid providing information to citizens. For example, in 2003, amendments to the Irish law expanded the scope of exceptions and also added provisions to address the 'problem' of 'serial' or frequent requesters and to impose hefty new fees for requests.[64] The Programme for Government published in 2011 includes a commitment to roll back these amendments and fully restore the original 1997 Freedom of Information Act. However, no draft legislation to implement these reforms has yet been approved.

> The findings show that while the laws are in place in all but one European country, in 20 of the 25 countries examined, problems with the implementation of freedom of information acts were identified.

62 *See: www.article19.org/pages/en/freedom-of-information-more.html.*

63 *Callamard, A. (2008), Towards a Third Generation of Activism for the Right to FOI, Article 19, see: www.article19.org/data/files/pdfs/publications/mozambique-unesco-world-press-freedom-day.pdf*

64 *Mendel, T. (2011), Amending Access to Information Legislation: Legal and Political Issues, The International Bank for Reconstruction and Development/ The World Bank, see: http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Mendel%20-%20Amending%20ATI%20Legislation,%20legal%20and%20political%20issues_0.pdf.*

ACCESS TO INFORMATION IN LAW AND PRACTICE

Country	Law	Notable problems identified in practice?
Estonia	Public Information Act 2000	No
Finland	Act on the Openness of Government Activities 1971	No
Greece	Code of Administrative Procedure 1986	No
Portugal	Law on Access to Administrative Documents 1993	No
Slovakia	Act on Free Access to Information 2000	No
Belgium	Law on the Right of Access to Administrative Documents 1994	Yes
Bulgaria	APIA: Access to Public Information Act 2000	Yes
Czech Republic	Law on Free Access to Information 1999	Yes
Denmark	Access to Public Administration Files Act 1970	Yes
France	Law on Freedom of Access to Administrative Documents 1978	Yes
Germany	Act to Regulate Access to Federal Government 2005 (in addition further acts exist in 11 out of 16 federal states)	Yes
Hungary	Act CXII of 2011 on Informational Self-determination and Freedom of Information	Yes
Ireland	Freedom of Information Act 1997 (amended 2003)	Yes
Italy	Law on Administrative Procedure and the Right of Access 1990	Yes
Latvia	Law on Freedom of Information 1998	Yes
Lithuania	Law on the Provision of Information to the Public 2000	Yes
Netherlands	Act on Public Access to Government Information 1991	Yes
Norway	Freedom of Information Act 1970	Yes
Poland	Act on Access to Public Information 2001	Yes
Romania	Law on Free Access to Public Information 2001	Yes
Slovenia	Access to Public Information Act 2003	Yes
Sweden	Freedom of the Press Act 1949	Yes
Switzerland	Federal Law on the Principle of Administrative Transparency 2004	Yes
UK	Freedom of Information Act 2000	Yes
Spain	No access to information law enacted	Yes

In Sweden, a country long considered at the vanguard of access to information, legal provisions for transparency in the public administration are strong. Public access to official records is a fundamental principle with constitutional protection (in the Freedom of the Press Act). However, the increasing privatisation and contracting out of public services to bodies to which the access to information rules do not apply, has reduced transparency in practice.

On the positive side, there are a number of examples of strong access to information laws, many of which have undergone amendments in recent years, including Slovenia (2005), Bulgaria (2008) and the UK (2010).[65]

ACCESSING INFORMATION IN PRACTICE – LAWS IN PLACE BUT IMPLEMENTATION FOUND WANTING

In practice numerous barriers exist to access to information across the region. Among the barriers reported in the national assessments are excessive fees (Ireland), long delays (the Czech Republic, Portugal, Slovenia and Sweden), low levels of public awareness of the freedom of information law (Germany, Portugal and Switzerland), extensive exemptions regarding business and company secrets (Germany), lack of an independent oversight body (Hungary and Latvia) and municipal authorities' failure and or lack of capacity to comply with the rules (the Czech Republic and Romania).

PROMISING PRACTICES: SLOVAKIA'S FREE ACCESS TO INFORMATION

Slovakia's access to information legislation is evaluated as comprehensive in the national assessment of Slovakia. The Act on Free Access to Information Act 2000 allows for any person or organisation to receive, within 10 working days, information held by a state agency, municipality or private organisation that makes public decisions. There is a classification system in place to protect personal information, trade secrets and intellectual property. In cases where institutions fail to respond to requests, those seeking information can appeal to a higher agency or demand a review in court. Fines can be applied where non-compliance is proven.

Apart from responding to information requests, the law also requires proactive publication of information by government bodies. The 2010 amendment of the Freedom of Information Act requires public institutions to disclose all contracts, invoices, and financial transactions relating to the public on the internet. The amended Act is retroactive and applies to all contracts signed since 2000. Contracts must be published either in the central register of contracts (a publicly accessible electronic information system of the public administration), in the Commercial Bulletin, or on the official website of the public authority.

65 *Amendments in Slovenia in 2005 introduced a public interest override for exceptions, the first time since the law's inception in 2003. The Slovenian law is considered to protect the right to information adequately. Amendments in Bulgaria in 2008 also introduced a public interest override. The Bulgarian National Integrity System report concludes that after the 2008 amendments to the Access to Public Information Act, the Bulgarian legislation has harmonised with international standards. In the UK, 2010 amendments reduced the timelines for release of much historical material from 30 years to 20 years, while previous amendments in 2004 abrogated or limited various exceptions to the access to information legislation.*

THE EU DIMENSION: THE EU'S ACCESS TO INFORMATION RULES

At the EU level, Regulation 1049/2001 regarding Public Access to European Parliament, Council and Commission Documents grants citizens and businesses the right to access documents that are held, transmitted or received by the EU institutions in all areas of activity. The right of access to EU documents is now also recognised as a fundamental right in Article 15 of the Treaty of the Functioning of the European Union (TFEU).

The EU legislative process is still very complex and almost impossible for the public to follow and understand. There are efforts underway to reform the EU's access to document rules. The Danish presidency of the Council of the European Union is aiming to reach agreement on the reform by July 2012. The opportunity for reform is bolstered by the TFEU that – following the entry into force of the Lisbon Treaty – recognises 'a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium'.

Another problem is the provision of information in an unfiltered and incomprehensible format that serves to limit the release of politically sensitive information. In Lithuania the executive institutions tend to provide a lot of 'unfiltered' specific information that is difficult for a layperson to understand. In this way, the transparency and accountability that freedom of information laws aim to achieve is hampered by an incomprehensible unfiltered deluge of information. Similarly in the Czech Republic, uncontroversial information is increasingly made available, often online, but politically sensitive information remains difficult to access, as the public administration continues to deny or at least obstruct access.[66]

In Sweden, a Constitutional Committee in late 2010 examined the disclosure of public documents by the foreign and defence ministries. The audit revealed long delays, even where the law mandated the release of the requested information. The results indicated that even in countries with long-standing cultures of transparency in public administration, major problems can arise when it comes to the release of politically sensitive information.

For citizen accountability through transparency to be achieved, the public must receive timely and comprehensive access to public information in practice, but in many countries this is simply not the reality.

66 *Transparency International Czech Republic (2012) National Integrity System Assessment, p. 20, see: www.transparency.cz/doc/TIC_Studie_narodni_integrity_www.pdf*

6.4 PUBLIC PROCUREMENT: A CORRUPTION RISK HOTSPOT

Public procurement is a corruption risk hotspot across Europe. It has long been considered the government activity most vulnerable to waste, fraud and corruption due to its complexity, the size of the financial flows it generates and the close interaction it entails between the public and the private sectors.[67] The financial flows in procurement are indeed staggering: the total value of public procurement contracts in the EU is estimated at around 15 per cent of the EU's GDP (€1.7 trillion in 2008).[68] EU member states are subject to European regulation in this area. However, despite the EU Directives establishing a relatively tight procurement framework, high profile scandals involving public procurement projects continue to occur.

Paradoxically the complexity of the current legal framework imposed by the EU Directives can create problems for contracting authorities given the administrative burdens placed on them. Many of the measures to ensure good governance introduced through the Directives can hamper efficiency and value for money. If legislation is difficult to comply with, this may result in contracting authorities doing their utmost to avoid this administrative burden by manipulating its needs and the contracts around the various margins and thresholds imposed upon them.

LEGISLATIVE LOOPHOLES ALLOW BYPASSING OF PROCUREMENT RULES

Public procurement has been singled out as a particular area of concern, in need of immediate attention to prevent further losses to fraud and corruption. Problems appear to be most acute in Bulgaria, the Czech Republic, Italy, Romania and Slovakia. Legislative frameworks have been brought in line with EU law, but the rules are often systematically circumvented with impunity.

In the Czech Republic according to a survey carried out by the Association of Small- and Medium-Sized Companies in February 2010, three out of five managers of such companies believe that it is impossible to win a public contract in the Czech Republic without resorting to bribery, a kickback or some other 'incentive'.[69]

> In the Czech Republic, three out of five managers of small- and medium-sized companies believe that it is impossible to win a public contract in the Czech Republic without bribery, a kickback or some other 'incentive'.

67 *OECD (no date) Integrity in Public Procurement, see: www.oecd.org/document/5/0,3746,en_2649_34135_41883909_1_1_1_1,00.html.*

68 *See: http://archive.transparency.org/regional_pages/europe_central_asia/eu_liaison_office/eu_public_contracting*

69 *AMSP (2010) Názory podnikatelůna korupci, see: www.amsp.cz/uploads/soubory/pruzkum4_web_final.pdf (in Czech) cited in Transparency International Czech Republic (2012), Studie národní integrity Czech Republic, see: www.transparency.cz/studie-narodni-integrity/*

In Bulgaria, one of the key issues is that final public procurement contracts are not published and there is a common practice of renegotiation of the conditions in the annexes to the contracts.[70] This creates an impression of excessive tolerance towards some suppliers and the draining of additional funds. This practice is also found to be common in the Italy.[71]

In Romania, elaborate legislation is in place and yet there is a host of loopholes and ways in which the rules can and are systematically circumvented. These include, among others, establishing the tender criteria according to the specifics of a participant company, misuse of the state of emergency to negotiate contracts with a single company and providing confidential insider information to a participant to the tender.

In all of these cases, the legislation is in place and in line with EU law, but closer scrutiny of the procurement process by national independent procurement agencies and greater transparency of the various steps in the procurement process is clearly needed.

LIMITING TRANSPARENCY: ABUSE AND CIRCUMVENTION OF PROCUREMENT THRESHOLDS

Procurement rules generally include 'thresholds', or minimum contract values above and below which different procurement rules apply. There is considerable variation in how thresholds affect procurement processes in different countries. Although there is some uniformity around how above-threshold contracts are treated, contracts that fall below thresholds are covered only under very specific aspects of EU Directives and are generally treated differently in each member state. The differences in implementation, both above but particularly below thresholds can be the cause of an increased corruption risk.

Attempts to circumvent procurement rules are highlighted across many countries and the misuse of the thresholds is a recurring theme. In the Czech Republic, the threshold set for construction works is systematically abused. The law allows the contracting authorities to use a simplified below-the-threshold procedure for construction contracts if their value does not exceed 20 million CZK (approximately €800,000), which results in an accumulation of contracts just below the threshold.

In many cases, there are no provisions for tenders below the threshold to be publically announced or reported. In Hungary for instance, only 55 per cent of tenders below the threshold were publically announced resulting in little public scrutiny or oversight. In Estonia it is common practice for contracts to be split up in order to fall below the threshold and decrease the levels of reporting obliged to be undertaken for the procurement.

70 *Access to Information Programme (2011) Access to Information in Bulgaria 2010, p.27, see: http://store.aip-bg.org/publications/ann_rep_eng/2010.pdf, cited in Transparency International Bulgaria (2012) National Integrity System Assessment, see: http://media.transparency.org/nis/cogs/assets/bu/pdf/NIS%20BULGARIA%20ENG.pdf*

71 *Decarolis, F., Giorgiantonio, C. and Giovanniello, V. (2010) The Awarding of Public Works in Italy: An Analysis of the Mechanisms for the Selection of Private Contractors, see: http://www.bancaditalia.it/pubblicazioni/econo/quest_ecofin_2/QF_83;internal&action=_setlanguage.action?LANGUAGE=en cited in Transparency International Italy (2012) National Integrity System Assessment, see: www.nisitalia.org/*

NEGOTIATED PROCEDURES REMAIN SHROUDED IN SECRECY

Although in many countries open competitive tendering is the standard procedure used for procurement, a large proportion of contracts are still awarded using a restricted, negotiated or competitive dialogue procedure. In Latvia open bidding was used in 37 per cent of the cases and closed bidding in 0.7 per cent out of the total of 1393 state procurements above the thresholds in 2009, the remainder were contracted by the other methods. These forms of tendering such as the use of negotiated or restricted procedures can be manipulated to reduce competition and protect the interests of certain suppliers.

In some cases the use of negotiated procedure can bring flexibility to the authority and value for money to the taxpayer, but there are currently insufficient safeguards in place to ensure that corruption risks are eliminated. Moreover, enhanced disclosure and documentation on the tender processes would assist in increasing accountability and the legitimacy of using procedures other than open competitive tendering.

OVERSIGHT BODIES LACK CAPACITY TO EFFECTIVELY MONITOR PROCUREMENT PROCESSES

The mechanisms that exist to monitor public procurement and control the systems are often deficient. In Estonia, the capacity of the oversight body for state procurement is severely limited compared with the body monitoring the use of EU structural funds, which has double the capacity. Serious questions arise as to whether corruption risks in procurement of goods using state funds are exacerbated by lower levels of monitoring.

In Greece there is a complex arrangement of procurement oversight, split between multiple ministries with, in places, overlapping jurisdictions. Although these were recently brought together through a joint contract monitoring unit, they remain fragmented and need to be reinforced. Meanwhile, in Romania, there are no oversight provisions in the public procurement law. In Hungary, in September 2008, a report of the State Audit Office about the monitoring of the public procurement system found the oversight and monitoring mechanisms to be ineffective.[72]

Overall issues of weak capacity and over-complexity remain when it comes to procurement oversight bodies. These weaknesses inhibit the institutions from carrying out their monitoring tasks effectively.

72 *Hungarian State Audit Office (2008), Report on the monitoring of the public procurement system, see: www.asz.hu/ASZ/jeltar.nsf/0/EF2A44F5115DD750C12574C5004E1461/$File/0831J000.pdf cited in National Integrity System Assessment Hungary, see: www.transparency.hu/National_Integrity_Study*

THE EU DIMENSION: THE NEWLY PROPOSED EC DIRECTIVE ON PUBLIC PROCUREMENT

The European Commission has recently proposed a new Directive on public procurement to replace those of 2004. Although the proposed Directive shows some improvement in terms of enhanced use of e-procurement, greater standards of procurement reporting, and provides clearer definitions of conflicts of interest, there is a deficit of citizen inclusion in the monitoring of procurement activity. Many problems could also remain under the new Directive as many public procurement contracts will remain outside the scope of EU law due to high thresholds.

PROMISING PRACTICES: SWITZERLAND'S PROCUREMENT RULES

Switzerland has a robust procurement system that manages to effectively reduce the opportunities for collusion in most of the key areas. First, the system's online platform is particularly comprehensive. Awards are given based on value for money and all calls for tender and documentation are published on the 'simap.ch' platform for e-procurement. Many other files relating to procurement reporting and oversight are also included on the web platform. If a supplier gives false information or 'has made agreements that eliminate or substantially impair effective competition' then it is liable for debarment from future calls for tender. The Federal Office for Buildings and Logistics has introduced an integrity clause that should be included in every public contract. It has also provided standard documents that are widely used by various departments and administrative units.

GOING DIGITAL: E-PROCUREMENT AS A PANACEA TO CORRUPTION RISKS?

Many of the national assessments suggest that a transition from traditional procurement systems to e-procurement systems would enhance transparency. E-procurement gives contracting authorities the capacity to provide enhanced documentation and disclosure functionalities without the significant administrative burden of manual procurement. The assessments show, however, that some countries are still lacking in capacity to transition from manual to electronic procurement. Governments will have to make greater investments in order to resolve any outstanding technical barriers to implementation. The European Union may need to have more direct involvement by facilitating common platforms and standards for e-procurement around Europe that allow for interoperability between the different systems used by the member states.

PROMISING PRACTICES: WHISTLEBLOWER PROTECTION IN THE UK

The UK's dedicated whistleblower protection law – the Public Interest Disclosure Act 1998 (PIDA) – is one of the most advanced in Europe.[73] Along with Norway, it is one of only two countries in the assessment with dedicated whistleblower protection that extends to all workers, in the public and private sector, including contractors and consultants.

PIDA applies a tiered approach whereby disclosures may be made to one of the following:

- Internal disclosures to employers or ministers of the Crown
- Regulatory disclosures to prescribed bodies (e.g. the Financial Services Authority or Inland Revenue)
- Wider disclosures including for example the police, media, MPs and non-prescribed regulators.

Each tier incrementally requires a higher threshold of conditions to satisfy in order for the whistleblower to be protected. This is intended to encourage internal reporting, and the use of external reporting channels as a last resort. PIDA ensures that whistleblowers are entitled to a fair hearing before an impartial forum with a full right of appeal before the Employment Tribunal.

Best practice indicates that whistleblower protection laws should include remedies for whistleblowers that have suffered harm. Under UK law, the courts have ruled that compensation can be provided for suffering, based on the system developed under discrimination law.

While PIDA is a good example of comprehensive whistleblower legislation, critics point to a continued low level of public awareness. A 2011 YouGov survey commissioned by Public Concern at Work, found that despite 85 per cent of working adult respondents saying that they would raise a concern about possible corruption, danger or serious malpractice at work with their employer, 77 per cent did not know or thought that there was no law to protect whistleblowers.[74]

6.5 REPORTING CORRUPTION: WHISTLEBLOWER PROTECTION IN THE PUBLIC AND PRIVATE SECTORS

Whistleblower protection is crucial to ensure transparency and expose corruption, wrongdoing and mismanagement in both public and private sectors. Protecting those who have the courage to speak up and act according to their conscience contributes to a vibrant democratic culture. It is an instrument whose usefulness is being increasingly recognised across the globe. Indeed, Articles 32 and 33 of the UN Convention against Corruption require protection of witnesses, reporting persons and victims of corruption.

The vast majority of EU member states have not introduced dedicated whistleblower protection legislation (see Annex 6), including 19 of the 25 countries assessed: those that have are Hungary, the Netherlands, Norway, Romania, Switzerland and the UK.[75] In three of these cases (the Netherlands, Romania and Switzerland) the legislation is inadequate because it is limited to protecting public sector employees, leaving those in the private sector largely unprotected. In Hungary, the whistleblower law came into force in 2010, but parliament rejected the implementing legislation that would have put in place an office responsible for enforcing and overseeing whistleblower protection, rendering meaningful implementation impossible.

73 *See Transparency International (2009), Alternative to Silence: Whistleblower Protection in 10 European Countries, see: http://www.transparency.org/whatwedo/pub/alternative_to_silence_whistleblower_protection_in_10_european_countries; and FAIR (Federal Accountability Initiative for Reform) (2011), G20 Anti-Corruption Plan Action Point 7: Protection of Whistleblowers Best Practice Report, see: www.fairwhistleblower.ca/content/g20-progress-whistleblower-protection.*

74 *PCAW (2011) Results for PCAW- YouGov Survey, see: www.pcaw.org.uk/files//news_attachments/Results%20for%20PCAW-YouGov%20Survey.pdf.*

75 *In Ireland, a new whistleblowing bill, the Protected Disclosure in the Public Interest Bill, is currently under discussion and promises far-reaching protection across public and private sectors.*

THE EU DIMENSION: WHISTLEBLOWING IN THE EU INSTITUTIONS

In 2004, whistleblowing rules were adopted and included in the European Commission staff regulations (Articles 22a and 22b) that are applicable to all members of staff to detect fraud, corruption and comparable serious wrongdoings. The policy in place along with the fraud reporting online portal introduced in 2010[76] has already triggered a number of European Anti-Fraud Office (OLAF) investigations.

However, the European Commission staff regulations have been found 'to address only a fraction of what would typically be defined as whistleblowing activity and that they were of limited effect in promoting desirable behaviour amongst both management and staff'.[77] In addition, 'most interviewed whistleblowers stressed the negative experiences they had and sketched the different acts to discredit them'. A new Communication on whistleblowing focusing on how to enhance the effective application of the whistleblowing rules is expected to be launched in the first half of 2012.

In many countries there is a piecemeal approach to legislating for the protection of whistleblowers, which is often inadequate. Furthermore, in all but two of the countries (Norway and the UK), the national assessments find that whistleblowers do not have sufficient protection from reprisals in practice. The result of this legislative patchwork is that the practice of whistleblowing remains extremely rare in most European countries. Whistle-blowing suffers from stigma and negative connotations.

In Hungary a national survey found that only six per cent of Hungarians had reported corruption in the past,[78] largely due to 'fear and/or disliking the police', 'fear of the reprisal of the public institutions' and the perception that the case 'was not worth reporting'. The survey results revealed a lack of awareness in society and no public confidence in action being taken as a result of reports.

Problems with whistleblower protection in practice are also found in so-called 'low corruption' countries, namely Denmark and Sweden. The assessment of Denmark highlights a study conducted among 2500 Danish public employees that showed that 30 per cent of those who had publicly voiced concern about the workplace were faced with subsequent problems, such as being perceived as disloyal to their employers or being explicitly warned not to make future comments.[79]

These findings suggest that Europe is a long way from the required cultural shift in which whistleblowers come to be respected and seen as a vital resource in upholding integrity in both the public and private sectors.

76 *Fraud Notification System (FNS), see: www.ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm.*

77 *European Parliament's Committee on Budgetary Control (2011), Corruption and conflict of interest in the European Institutions: The effectiveness of whistleblowers, see: www.europarl.europa.eu/document/activities/cont/201105/20110520ATT19912/20110520ATT19912EN.pdf*

78 *Ministry of Justice and Law Enforcement (draft version 6.0 as of June 11th, 2008), Anti-corruption Strategy, cited in Transparency International Hungary (2012), National Integrity System Assessment Hungary, see: www.transparency.hu/National_Integrity_Study*

79 *See: http://www.ftf.dk/magasinet-resonans/nummer/artikel/hver-tredje-i-det-offentlige-faar-ballade-efter-at-have-ytret-sig/, cited in Transparency International Denmark (2012), National Integrity System Assessment Denmark, see: http://transparency.dk/?p=1072*

7. RECOMMENDATIONS

The recommendations presented here focus on the key areas of weakness identified in the integrity systems across Europe and discussed in detail in this report. These key areas are: political party financing, transparency in lobbying activities, parliamentary integrity mechanisms, access to information, transparency in public procurement and the protection of whistleblowers. The recommendations represent a call to action to national governments, EU institutions, political parties, businesses and civil society to take seriously the corruption risks identified in this report and move decisively to improve the governance and integrity standards in the region.

For further country-specific recommendations, readers are referred to the national integrity system assessments.[80] These reports outline priority areas for reform at national level, some of which are not covered in this regional report.

> Only 2 out of 25 countries assessed have sufficient protection for whistleblowers in practice.

TO NATIONAL GOVERNMENTS:

Transparency in political party financing[81]

- Institute mandatory regulations on party financing, including clear rules for disclosure of donations.

> **WHO** Sweden and Switzerland.

- Place appropriate ceilings on donations by corporations and legal entities in countries where these are permitted by law.

> **WHO** the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Norway, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the UK.

- Consider the introduction of reasonable limits for individual donations made to political parties. This is particularly pertinent for countries that have so far failed to adequately regulate this source of party financing.

> **WHO** the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, the Netherlands, Slovakia, Sweden, Switzerland and the UK.

- Put an end to anonymous donations by requiring that all donations are registered and publicly disclosed above a certain threshold.

> **WHO** Denmark, Germany, Italy, the Netherlands, Romania, Slovenia, Sweden and Switzerland.

- Equip regulatory agencies to perform oversight and impose suitable sanctions where rules are breached.

> **WHO** All countries.

- Implement the GRECO recommendations issued for each country under the third round of evaluations on political party financing.

> **WHO** All countries.

80 *See: www.transparency.org/enis*

81 *For further reading, see Transparency International (2009), Standards on Political Funding and Favours, see: http://www.transparency.org/what-wedo/pub/policy_position_no._01_2009_standards_on_political_funding_and_favours.*

Transparency in lobbying activities

- Introduce mandatory registers of lobbyists.

> **WHO** Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Latvia, the Netherlands, Norway, Portugal, Romania, Slovakia, Spain, Sweden and Switzerland.

- Replace all voluntary registers with mandatory registers.

> **WHO** France, Germany and the UK.

- Adopt a broad definition of lobbyists for lobbying regulations that extends coverage to public affairs consultancies, corporate lobbyists, law firms, NGOs and think-tanks and guarantees the listing of individual lobbyists.

> **WHO** All countries.

- Make all lobbyist registers accessible online to the public.

> **WHO** All countries.

- Adopt codes of conduct for lobbyists and lobbied persons.

> **WHO** All countries.

- Include clear sanctions for failure to adhere to the established lobbying regulations.

> **WHO** All countries.

- Institute 'legislative footprints' which document the time, person and subject of a legislator's contact with a lobbyist or stakeholder in order to provide citizens with greater access to information on who gave input into draft legislation.

> **WHO** All countries.

Parliamentary integrity mechanisms

- Adopt a code of conduct for parliamentarians to provide specific guidance for members on how to deal with ethical dilemmas and spell out mechanisms to address the management of conflicts of interest. Rather than replace legislation, it should complement it.

> **WHO** Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Italy, the Netherlands, Norway, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and Switzerland.

- Establish rules for the declaration of assets, income and interests of MPs and their relatives to an independent agency in order to verify the contents and sanction intentional non-compliance with the norms.

> **WHO** All countries.

- Reform or amend existing legislation to ensure full public access, in an electronic and comparable format, to the asset and income declarations of MPs and public officials:

> **WHO** France and Slovenia (no public disclosure).

> **WHO** Belgium, the Czech Republic, Germany, Greece, Hungary, Italy, the Netherlands and Switzerland (limited disclosure).

- Make the declaration of interests, assets and income mandatory, occur within 30 days of taking office and renewable annually.

> **WHO** All countries.

- Provide for the allocation of adequate resources and capacity to the asset declaration management process.

> **WHO** All countries.

Access to information

- Pass comprehensive access to information legislation in line with best practice and international standards without further delay.

> **WHO** Spain.

- Ensure all access to information laws adhere to Article 19's fundamental principles[82] and best practice and international standards namely:
  - Adopt a proactive disclosure approach, making information 'public by default' in an easily accessible and understandable electronic format.
  - Information should be free of charge or with reasonable fees.
  - Stipulate clear and reasonable time limits for how long public bodies can review appeals against refusals for access to information.

> **WHO** All countries.

- Conduct a thorough review of policies and practices on the implementation of access to information rules in countries where practical problems with access to information were found to be acute.

> **WHO** Belgium, Bulgaria, the Czech Republic, Denmark, France, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Norway, Poland, Romania, Slovenia, Spain, Sweden, Switzerland and the UK.

- Resolve acute implementation problems with access to information rules, such as excessive fees and long delays, lack of public awareness of right to information, lack of independent oversight body, extensive exceptions regarding business and company secretes and poor implementation by local authorities.

> **WHO** Ireland (excessive fees), the Czech Republic, Portugal, Slovenia, Sweden (long delays), Germany, Portugal, Switzerland (low levels of public awareness of the freedom of information law), Hungary, Latvia (lack of an independent oversight body), Germany (extensive exceptions regarding business and company secrets) and the Czech Republic and Romania (poor implementation of law by municipal authorities).

82 *See: www.article19.org/data/files/pdfs/standards/righttoknow.pdf*

Transparency in public procurement

- Review procurement rules and practices to close loopholes and ensure proper implementation of the forthcoming EU procurement Directive (2012).

> **WHO** All countries.

- Address corruption risks in low contract-value procurements by either lowering thresholds or utilising alternative mechanisms for the tracking, reporting and disclosure of procurements that fall below the threshold.

> **WHO** All countries.

- Equip procurement oversight bodies in all countries with the capacity to carry out effective monitoring.

> **WHO** All countries and particularly Estonia, Greece, Hungary and Romania.

- Adopt mechanisms to promote the maximum integrity and transparency of the procurement process, such as through use of 'Integrity Pacts'.[83]

> **WHO** All countries.

83 *Integrity Pacts provide a model and process to ensure maximum transparency in the procurement process. They are used to create a contract between the contractor and contracting authority to agree to a list of rights and obligations that neither side will pay, offer, demand or accept bribes and act in other illicit ways. For more information, see: www.transparency.org.*

Whistleblower protection

- Where piecemeal, incomplete, vague or no legal protections are in place for whistleblowers, governments must act urgently to implement and enforce comprehensive, standalone whistleblower protection legislation based on best practice.

> **WHO** Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden.

- Where whistleblower legislation is in place but is limited to the public sector, governments must expand legislation to include whistleblower mechanisms and adequate protections based on best practice for those working in the private sector, including consultants, temporary workers, trainees and others outside the traditional employer-employee relationship.

> **WHO** Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, the Netherlands, Portugal, Slovakia, Spain, Sweden and Switzerland.

- Enhance the appreciation of whistleblowing and whistleblowers throughout society, in order to promote whistleblowing as an effective tool for stopping corruption, improving accountability and serving the public interest.

> **WHO** All countries.

TO EU INSTITUTIONS:

Transparency in political party financing

- Champion the transparent financing of political parties at the EU-level, particularly with a view to the upcoming European Parliament elections in 2014.

> **WHO** European Parliament.

- Ensure all EU political parties submit reports that list donors and the amount of their donations, including in-kind contributions and loans.

> **WHO** European Parliament.

- Select political party financing in the 27 EU member states as the thematic issue to focus on in the next iteration of the region's anti-corruption report to set the tone from the top on the issue.

> **WHO** European Commission.

Transparency in lobbying activities

- Make the 'Transparency Register' mandatory for all interest representatives and extend the register to cover all three institutions, including the Council.

> **WHO** European Commission, European Parliament and Council.

- Institute 'legislative footprints' to help track the influence of external advice on new EU policies, legislation and amendments by providing a declaration of all meetings connected with all interest representatives/lobbyists.

> **WHO** European Commission and European Parliament.

Parliamentary integrity mechanisms

- Amend the European Parliament's code of conduct to include a 'cooling off' provision to prevent MEPs from moving straight into lobbying jobs after the end of their term.

> **WHO** European Parliament.

- Provide for a code of conduct that outlaws all secondary employment that creates a conflict of interest, and include an obligation for MEPs to keep a record of all significant meetings with interest representatives in connection with their work – a 'legislative footprint'.

> **WHO** European Parliament.

- Ensure more robust sanctions that are applied in the case of breaches of the code.

> **WHO** European Parliament.

Access to information

- Ensure access for citizens to documents held by EU institutions.

> **WHO** European Commission, European Parliament, Council.

- Proceed with the revision of the current Regulation 1049 on Access to EU documents with the aim of achieving the widest possible access and transparency.

> **WHO** Council.

Transparency in public procurement

- Promote citizen inclusion in the monitoring of public procurement activities at the national level to ensure greater protection of European taxpayers' money.

> **WHO** European Commission, European Parliament, Council.

- Make more contracts public (using e-procurement as a tool) to ensure greater transparency in public procurement both above and below EU thresholds.

> **WHO** European Commission.

- Ensure greater scrutiny and monitoring mechanisms to guarantee concerns over public procurement are investigated fully and monitored in a way that allows for pan-EU comparison.

> **WHO** European Commission.

Whistleblower protection

- Leverage the revision of the European Commission's whistleblowing regulations for EU public servants to set the standard and a best practice example for EU member states.

> **WHO** European Commission.

- Ensure a broad definition of whistleblowers is brought into regulations and grant protection to an expanded list of actors, including consultants, temporary workers, trainees and others outside the traditional employer-employee relationship.

> **WHO** European Commission.

- Introduce new legislation on whistleblowing specifically in the field of public procurement.

> **WHO** European Commission.

TO POLITICAL PARTIES:

Transparency in political party financing

- Disclose annual audited accounts.
- Submit reports that list donors and the amount of their donations, including in-kind contributions and loans.

TO BUSINESSES:

Transparency in political party financing

- Stop the use of donations to political parties, candidates and elected officials as a means to gain personal or policy favours or buy access to politicians or civil servants. Place decisions on public policy engagement and political spending with a company's board and in consultation with shareholders.
- Disclose all political contributions (both domestic and international).

Transparency in lobbying activities

- Disclose publicly and regularly lobbyists' clients, issue areas, targets, techniques and financial information.
- Ensure corporate reporting by companies includes lobbying efforts, political activities and spending. Company engagement in the political arena should be mainstreamed into corporate sustainability reports, as are environmental and social standards.
- Disclose any forms of political engagement, such as funding or support for civil society organisations, scientific research or public relations activities.

Transparency in public procurement

- Implement internal procurement guidelines to ensure compliance with the law and maximum transparency in bidding processes for public contracts.
- Avoid dealing with contractors and suppliers known or reasonably suspected to be paying bribes.
- Undertake due diligence, as appropriate, in evaluating prospective contractors and suppliers to ensure that they have effective anti-bribery programmes.
- Make known anti-bribery policies to contractors and suppliers.
- Monitor significant contractors and suppliers as part of its regular review of relationships with them and have a right to termination in the event that they pay bribes or act in a manner inconsistent with the enterprise's programme.

Whistleblower protection

- Implement clear and distinct whistleblowing policies as part of well-designed ethics and anti-corruption codes in private companies.
- Provide complete, loophole-free protections for corporate whistleblowers, and sanctions for those who retaliate against them.
- Provide a variety of easy and accessible channels that can be used to disclose information, including protections for external disclosures when internal channels fail.
- Guarantee internal reporting channels that offer people the opportunity to report concerns confidentially and anonymously.
- Publicly disclose the existence and terms of whistleblower policies and encourage their use.

TO CIVIL SOCIETY:

Transparency in political party financing

- Demand adequate legislation in the field of political finance and in monitoring political finance and highlight its impact on political representation.

Transparency in lobbying activities

- Mobilise groups and media working on governance and democracy issues to track and disclose lobbying activity in order to arm citizens with the information to participate in informed public debates.
- Ensure civil society organisations disclose their own lobbying efforts and funding streams to guarantee maximum transparency of their links with various stakeholders.

Transparency in public procurement

- Assume the role of independent monitors of both the tender and execution of projects.

Whistleblower protection

- Work to change cultural attitudes and enhance the appreciation of whistleblowing and whistleblowers throughout society, in order to promote whistleblowing as an effective tool for stopping corruption, improving accountability and serving the public interest.

8. ANNEXES

ANNEX 1

OPEN BUDGET INDEX 2010 RESULTS FOR STRENGTH OF SUPREME AUDIT INSTITUTIONS[84]

Norway	97	Strong
Slovenia	97	Strong
Sweden	96	Strong
Germany	87	Strong
Poland	80	Strong
United Kingdom	80	Strong
France	77	Strong
Italy	73	Strong
Czech Republic	67	Strong
Slovakia	67	Strong
Romania	63	Moderate
Portugal	53	Moderate
Spain	50	Moderate
Bulgaria	33	Weak

ANNEX 2

TRANSPARENCY INTERNATIONAL GLOBAL CORRUPTION BAROMETER 2010/11 (EUROPE) – PERCENTAGE OF RESPONDENTS WHO VIEW POLITICAL PARTIES AS CORRUPT OR EXTREMELY CORRUPT

Greece	87,9%
Romania	81,7%
Spain	80,8%
Italy	80,8%
Ireland	80,0%
Lithuania	78,1%
Slovenia	76,9%
Portugal	70,9%
Bulgaria	68,8%
UK	66,1%
Latvia	61,9%
Hungary	61,9%
Czech Republic	58,3%
Germany	57,3%
France	53,8%
Finland	51,8%
Poland	47,8%
Switzerland	29,0%
Norway	26,3%
Netherlands	23,4%
Denmark	18,4%

84 *Open Budget Index (2010), see: www.internationalbudget.org/wp-content/uploads/2010_Data_Tables.pdf.*

ANNEX 3
WORLD ECONOMIC FORUM (WEF) EXECUTIVE OPINION SURVEY: EXECUTIVES' ASSESSMENT OF ETHICAL BEHAVIOUR OF FIRMS IN THEIR OWN COUNTRY[85]

Global Rank (142 countries ranked)	Regional Rank	Country	Score (average mean) where 1 = among the worst in the world; and 7 = among the best in the world
1	1	Denmark	6.7
3	2	Sweden	6.6
5	3	Finland	6.6
6	4	Switzerland	6.5
8	5	Netherlands	6.4
9	6	Norway	6.3
12	7	UK	5.9
14	8	Germany	5.9
17	9	France	5.7
18	10	Belgium	5.6
24	11	Ireland	5.4
30	12	Estonia	5.1
39	13	Spain	4.7
50	14	Portugal	4.4
53	15	Poland	4.1
54	16	Slovenia	4.1
66	17	Lithuania	3.8
74	18	Latvia	3.7
79	19	Italy	3.7
101	20	Bulgaria	3.4
103	21	Romania	3.4
104	22	Slovak Republic	3.4
105	23	Hungary	3.4
109	24	Czech Republic	3.3
125	25	Greece	3.1

85 *WEF Executive Opinion Survey 2011-2012, page 406, see: www3.weforum.org/docs/WEF_GCR_Report_2011-12.pdf.*
Q: How would you compare the corporate ethics (ethical behaviour in interactions with public officials, politicians, and other enterprises) of firms in your country with those of other countries in the world? Global average: 4.2; Regional average: 4.8

ANNEX 4
POLITICAL PARTY FINANCING RULES IN EUROPEAN COUNTRIES [86]

Country	Party financing regulated in law?	Undisclosed contributions banned?	Corporate donations banned?	Ceilings for individual donations in place?
Belgium	Yes	Above threshold (€125 per annum)	Yes	€500 per annum
Bulgaria	Yes	Yes	Yes	10,000 BGN per annum (approx. €5,000)
Czech Republic	Yes	Yes	No	No
Denmark	Yes	Above threshold (€2,700 per annum)	No	No
Estonia	Yes	Yes	Yes	No
Finland	Yes	Above threshold (€1,500 per annum)	No	€30,000 per annum
France	Yes	Yes	Yes	€7,500 per annum
Germany	Yes	Above threshold (€10,000 per annum)	No	No
Greece	Yes	No	Yes	€15,000
Hungary	Yes	Above threshold (500,000 HUF, approx. €2,000)	No	No
Ireland	Yes	Above threshold (€5,049 per donation)	No	€6,349
Italy	Yes	Above threshold (€50,000 per annum)	No	No
Latvia	Yes	Yes	Yes	100 x minimum monthly gross salary per annum
Lithuania	Yes	Yes	Yes	300 x minimum living standards per month
Netherlands	Yes	No for individuals. For legal entities: above threshold (€4,538 per annum)[87]	No	No
Norway	Yes	Above threshold (30,000 NOK, approx. €3,300)	No	No
Poland	Yes	Yes	Yes	15 x minimum monthly salary per annum
Portugal	Yes	Yes	Yes	25 x monthly minimum wage per annum
Romania	Yes	Above threshold (10 x minimum monthly salary per annum)	No	200 x minimum monthly gross salary per annum
Slovakia	Yes	Yes	No	No
Slovenia	Yes	Above threshold (3x average monthly salary per annum, approx. €3,654)	No	10 x average monthly salary per annum
Spain	Yes	Yes	No	€100,000 per annum
Sweden	No	No	No	No
Switzerland	No	No	No	No
UK	Yes	Above threshold £500 per donation (approx. €607)	No	No

86 *Data refers to political party funding regulations outside of electoral campaigns. Data compiled with reference to NIS assessments of 25 European countries as well as GRECO third round evaluation reports on the relevant countries. See also CESifo Group DICE Portal: www.cesifo-group.de/portal/page/portal/DICE_Content/OTHER_TOPICS/Miscellaneous/M050_FINANCING_OF_POLITICAL_PARTIES/FPP-cei-ban.pdf*

87 *These rules only apply to political parties at central level who have chosen to receive a state subsidy, for all other political parties (without subsidy or at regional or local levels) no rules exist. A revised bill is currently being considered by parliament.*

88 *This data is drawn from NIS assessments and triangulated with data from Djankov, S., La Porta, R., Lopez-de-Silanes, F. and Schleifer, A. (2010), Disclosure by politicians, American Economic Journal: Applied Economics, 2, 2010, pp. 179–209.*

89 *Note that the declarations of MPs online are not the complete form that the MPs must submit; rather they are a list of the items that the MP declared. However the full forms are available on request.*

ANNEX 5
RULES ON MPS' DISCLOSURE OF INTERESTS, ASSETS AND INCOME IN EUROPE[88]

Country	Since	Publicly available?
Bulgaria	2000	Yes
Estonia	1999	Yes
Finland	1999 (Voluntary disclosure - parliamentary rules)	Yes
Ireland	1995	Yes[89]
Latvia	1995	Yes
Lithuania	1996	Yes
Norway	2009[90]	Yes
Poland	1996	Yes
Portugal	1983	Yes
Romania	1996	Yes
Slovakia	2004	Yes
Spain	1982 (amended 2011)	Yes[91]
Sweden	2008[92]	Yes
UK	1974	Yes
Belgium	1995	Partial: Only business interest disclosure forms are public; not financial disclosure forms
Czech Republic	2006	Partial: Only declarations made since 2008
Germany	2007	Partial: Only income ranges disclosed, no assets disclosed
Greece	2003	Partial: Only available through the press
Hungary	1990	Partial: Only property statements
Italy	1982	Partial: Only some information made public[94]
Denmark	1994 (Voluntary disclosure - parliamentary rules; does not include amounts)[93]	Yes
Netherlands	2004 (Limited disclosure – only business activities)	Yes[95]
Switzerland	2002 (Limited disclosure – only business activities)	Yes
France	1988 (disclosure of assets)	No
Slovenia	2004	No

90 *Norway had a voluntary disclosure system between 1990 and 2009, with a compliance rate of 97.6 per cent. See: Djankov, La Porta, Lopez-de-Silanes and Schleifer (2010). In 2009, they moved to a mandatory disclosure system for MPs.*

91 *An amendment was made in July 2011 to the last but one paragraph of Article 160.2 of Organic Law 5/1985, of 19 June, on the General Electoral Regime, by Law 7/2011, of 15 July (BOE, 16 July 2011) which shall henceforth read: 'The content of the Register of Interests will be public. The Bureaus of the Chambers, in accordance with the first paragraph of this section shall agree on a procedure to ensure publicity'. In other words the information was made publicly available, see: www.congreso.es/portal/page/portal/Congreso/Congreso/Diputados/registro_intereses.*

92 *Since 1996, the Riksdag has maintained a Register of Member of Parliament's Engagements and Economic Interests. MPs enter into this register their outside positions and assets from which they draw income, and this information is made available to the public. The register was voluntary until 2008 and compliance with the requirement to disclose was about 69 per cent according to the registrar of the parliament. The low-compliance concentrated in the Conservative and the Christian Democrats parties. A new 2008 law makes the requirement to disclose compulsory. The law passed by unanimity 19 December 2007, and entered into force 1 March 2008. By 29 March 2008, all MPs had submitted the disclosures. See: Djankov, La Porta, Lopez-de-Silanes and Schleifer (2010).*

93 *The registration of such interests is voluntary in Denmark. However, over 82 per cent of MPs submitted the forms in 2008 (most recent data available). See: Djankov, La Porta, Lopez-de-Silanes and Schleifer (2010).*

94 *The disclosures themselves are not available to the public. The decisions of the Electoral Commission regarding the incompatibility of the MPs' activities are published on the parliament's website, even though the Regulations of the Elections Commission do not require publication of decisions. See: Djankov, La Porta, Lopez-de-Silanes and Schleifer (2010).*

95 *The information on general compensation (salary, pensions etc.) which MPs receive is disclosed. There are also basic rules for MPs which prescribe that they have to register their other activities and the income which can be expected from it. This can be a maximum of 14 percent of their total general compensation. Otherwise half of it will be deducted from their general compensation.*

ANNEX 6
WHISTLEBLOWER PROTECTION IN LAW AND PRACTICE IN EUROPE

Country	Status of law	Dedicated whistleblower legislation?	Covers public sector?	Covers private sector?	Whistleblower protection found to be working in practice?
Norway	Working Environment Act: regulates workers' rights to whistleblowing.	Yes	Yes	Yes	Yes
UK	Public Interest Disclosure Act.	Yes	Yes	Yes	Yes
Switzerland	Whistleblower Protection Act 2011.	Yes	Yes	No	Partially
Hungary	Act on the Protection of Fair Procedures 2010, but failure to adopt accompanying act to ensure its implementation.	Yes	Yes	Partially	No
Netherlands	Decree on Reporting Suspicions of Abuses to the Government and the Police 2009.	Yes	Yes	No	No
Romania	Law on the Protection of Public Officials Complaining about Violations of the Law 2004. Excludes judiciary.	Yes	Partially	No	No
Ireland	Prevention of Corruption (Amendment) Act 2010: includes protection and Criminal Justice Act 2011 provides some protection for whistleblowers. Piecemeal protection under other sectoral legislation.	Partially	Yes	Yes	No
Slovenia	The Slovenian Integrity and Prevention of Corruption Act.	Partially	Yes	Yes	No
Poland	Civil Code and Labour Code: offer some protection but not comprehensive.	Partially	Yes	Yes	No
France	Loi n°2007-1598 relative à la lutte contre la corruption.	Partially	No	Yes	No
Czech Republic	The National Labour Code: outlines worker protection mechanisms.	Partially	Yes	No	No
Germany	Law on the Status of Civil Servants (amended 2009).	Partially	Yes	No	No
Denmark	Freedom of Expression laws protect public sector workers to a certain extent.	Partially	Yes	No	No
Belgium	No legislation at federal level. Flemish civil servants protected by Whistleblowers Decree 2005.	Partially	Yes	No	No
Sweden	Labour Law, Fundamental Law on Freedom of Expression and Freedom of the Press Act.	Partially	Yes	No	No

Latvia	Piecemeal. In April 2011, the parliament amended the Conflict of Interest Law to prohibit, for example, heads of agencies from disclosing the identity of a public official or employee who has reported on conflicts of interest. Limited protection is provided under the law in certain cases. However, it does not apply to those who report, for example, on bribery or abuse of office.	Partially	Partially	Partially	No
Greece	Penal Code: requires reporting of corruption and favourable treatment of civil servants who disclose corruption of their superiors is guaranteed by law. There is no specific whistleblower protection.	Partially	Yes	No	No
Portugal	Disciplinary regulations of officials and other employees of central, regional and local government provide obligation to report and the Witness Protection Law provides some protection.	Partially	Yes	No	No
Estonia	Anti-Corruption Act and Penal Code: provide limited protection.	Partially	Yes	No	No
Bulgaria	Generic provisions are made in the Administrative Procedure Code, but there is no dedicated whistleblower law.	No	No	No	No
Finland	Labour law and witness protection laws provide limited protection.	No	No	No	No
Italy	Draft law that contains a clause on 'safeguarding of the Civil Servant who reports illegal practices' would protect the privacy of whistleblowers.	No	No	No	No
Lithuania	Parliament failed to adopt far-reaching draft law on the matter in 2005; a limited draft of the Law on Whistleblowers Protection is currently included in parliament's working programme for the upcoming session.	No	No	No	No
Slovakia	Act on Civil Service: allows and in some cases obliges civil servants to notify their supervisor or the law-enforcement agency of misconduct, but offers no protection against recourse.	No	No	No	No
Spain	A 2010 modification of the Penal Code introduced protection for those reporting acts of bribery, but has limited scope and there are no procedures in place.	No	No	No	No

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