
Corruption in the European Union

Prevalence of corruption, and
anti-corruption efforts in
selected EU Member States



STUDY

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This study deals with the prevalence of corruption in the EU and describes the action taken to address the problem. It focuses on initiatives and policies implemented by governments at the national, regional and local levels in eight selected Member States ranging from north to south and from west to east: Finland, the United Kingdom, France, Germany, Italy, Croatia, Romania and Bulgaria. The perception of corruption among citizens, the legal, institutional and policy framework, as well as some best practices at different levels of government have been presented, to improve understanding of the context and the nature of anti-corruption policies and to give some positive examples of what can be done.

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EXECUTIVE SUMMARY

Corruption has many negative consequences for societies, among them high economic and social costs. However, this phenomenon is difficult to define or measure. Despite their various limitations, indicators based on citizens' and experts' perception of corruption have become the most widely used measurement tool. Many such indicators are currently in use, ranking countries' performance based on the prevalence of corruption, or on broader characteristics, such as the quality of government. While most such tools examine the situation at national level, an innovative tool has recently been developed in the EU – the European Quality of Government Index (EQI) – which provides a regional-level picture of the quality and impartiality of public services and the extent to which corruption plays a part in obtaining them.

Corruption is far from being non-existent in the EU, even though it is less prevalent there than in the vast majority of countries and regions around the world. Some EU Member States are more affected by it than others, with Nordic ones scoring the best results in all the world rankings, and south-eastern European ones struggling with its systemic presence. Substantial regional differences also exist within some Member States, while within others there is no great divergence – a contrast for which there seems to be no simple explanation.

Since the 1990s, countries around the world have joined efforts to address corruption collectively. This has led to the adoption of widely recognised international laws and standards. The EU has contributed to these efforts, but is yet to develop a comprehensive anti-corruption policy, not least due to its lack of competences in the field. The problem has, however, been addressed in the context of EU enlargement, with membership being made conditional on candidates' commitment to anti-corruption reforms.

In line with international standards, Member States have adopted laws, drafted policies and created national institutions to address corruption. Tapping similar sources of inspiration, these anti-corruption frameworks share common features, typically combining repressive tools with a number of preventive instruments. Some anti-corruption reforms have also been undertaken at sub-national levels. The governments at these levels – the local and regional authorities, which are closest to citizens – dispose of powers of varying scope, and face specific challenges when addressing corruption.

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List of main acronyms used

CPI:	Corruption Perceptions Index
EQI:	European Quality of Government Index
GCB:	Global Corruption Barometer
QoG:	Quality of Government
TED:	Tenders Electronic Daily
WGI:	Worldwide Governance Indicators

1. Introduction

Today, there seems to exist a broad consensus on the multifaceted negative economic, social and political impact of corruption. The phenomenon is widely believed to undermine the stability of institutions and economic growth,¹ thus posing a direct threat to democracies. Corruption has been linked to higher levels of organised crime, weaker rule of law, reduced voter turnout in parliamentary elections and lower trust in public institutions.² It is also argued that it has a negative impact on social welfare, public spending, the fiscal deficit, tax collection, vulnerable employment, gender equality and the absorption of EU funds. Furthermore, it is believed to lead to an increased brain drain from countries that are struggling under its burden.³

Attempts have been made to quantify the cost of corruption in the EU. According to the European Commission, corruption costs the EU economy around €120 billion per year in terms of lost tax revenue and investments.⁴ The European Parliamentary Research Service's Cost of Non-Europe report,⁵ specifically focused on this subject, has found that if one includes indirect costs, EU GDP suffers annual losses ranging between €179 and €990 billion (depending on the assumed extent of reduction in corruption levels feasible for Member States). According to the report, corruption related to public procurement alone costs the EU over €5 billion annually. The European Commission says that there are no corruption-free zones in the EU, as all Member States are affected by the problem, albeit to varying degrees.

The present study analyses the prevalence of corruption across the EU and the laws and policies that address the widest possible range of corrupt practices. Drawing on research on corruption in Europe, the study makes the assumption that the varying levels of corruption among the Member States may be due to specific contexts that in turn give rise to specific policy responses. Using a variety of measurement tools, the study therefore identifies clusters of Member States characterised by similar corruption levels and generates a sample including at least one Member State from each cluster. Focusing on corruption in the public sector, the study then analyses its prevalence across the eight Member States covered, examines their legislative, institutional and policy framework and attempts to identify anti-corruption initiatives that could serve as best practices.

As shown below, supranational bodies have created a comprehensive international anti-corruption framework for the Member States to operate in; the Member States in turn shape their domestic laws and policies. However, given that the scale, and perhaps also the nature, of the problem varies across the EU, there is certainly a need and room for new and original initiatives at all levels of government. The study puts special emphasis on practices at the regional and local levels, which are the closest to the EU citizen and the most difficult for the EU legislator to reach. They are worth taking stock of in order

¹ Paolo Mauro, '[Corruption and Growth](#)', *The Quarterly Journal of Economics*, Vol. 110, No 3, 1995, pp. 681- 712. See also Paolo Mauro, '[Why Worry About Corruption?](#)', IMF, 1997.

² Wouter van Ballegoij and Thomas Zandstra, '[The Cost of Non-Europe in the area of Organised Crime and Corruption](#)', In-depth analysis, EPRS, 2016, p. 11.

³ Alina Mungiu-Pippidi and Roberto Martínez B. Kukutschka, '[European Union Member States](#)' in Alina Mungiu-Pippidi (ed.), *Controlling Corruption in Europe*, The Anticorruption Report, Vol. 1.

⁴ '[EU Anti-corruption Report](#)', COM(2014) 38 final, European Commission, 2014.

⁵ '[The Cost of Non-Europe in the area of Organised Crime and Corruption: Annex II: Corruption](#)', RAND Europe, 2016, p. 9.

to better understand the challenges and, perhaps, to serve as inspiration for policy-makers seeking innovative solutions to address what seems to be an enduring affliction.

2. Defining and measuring corruption

2.1. A broad concept

There is no universal agreement on the definition of corruption: practices considered as corrupt in one cultural context are not necessarily perceived as such in another. Even the oft-cited definition of corruption as abuse of (entrusted) power for private gain – seemingly fairly broad and general – may not cover all instances of collusion for gain.

The narrow criminal-law approach associates corruption with a limited number of offences, including active and passive bribery, that is, giving and taking bribes. This is understandable, given the precision required in defining offences to be sanctioned with criminal penalties. However, corruption may also be conceptualised as a broader socio-economic problem encompassing a variety of issues, such as:

- **conflict of interest** – a situation where an individual is in a position to derive personal benefit from actions or decisions made in their official capacity;⁶
- **clientelism** – a system of exchanging resources and favours based on an exploitative relationship between a 'patron' and a 'client';
- various forms of **favouritism**, such as **nepotism and cronyism** (whereby someone in an official position exploits their power and authority to provide a job or favour to a family member or friend, even though he or she may not be qualified or deserving) and **patronage** (whereby a person is selected for a job or government benefit because of affiliations or connections and regardless of qualifications or entitlement);⁷
- **trading in influence (influence peddling)** – using one's connections with persons in authority to obtain favours or preferential treatment for a third party (person, institution or government), usually in return for their loyalty or any undue advantage, and
- other similar forms of conduct.

While they are not necessarily illegal, such practices can be very harmful to states and societies, especially when prevalent. They can be encountered at all levels of society and their impact may vary depending on the decision-making power of the corrupt entity. Therefore a distinction is often made between everyday 'petty' corruption and political (often equated to 'grand', meaning big) corruption. Whereas the former takes place at the implementation end of politics, the latter occurs at high levels where policies and laws are made.

⁶ Strictly speaking, a conflict of interest is not a form of corruption, but a situation that may be conducive to it. It does not necessarily lead to corruption, as the official concerned may choose not to act in their personal interest. Nevertheless, conflicts of interest are analysed in close relation to corruption and addressed by anti-corruption laws and policies.

⁷ The definitions of this series of practices are based on Transparency International's [anti-corruption glossary](#).

2.2. Measuring corruption

2.2.1. Methodological issues

Corruption is as difficult to measure as it is to define. Whereas most experts question a popular belief that the informal and hidden nature of corruption makes it unmeasurable, they do recognise the challenges of quantifying diverse aspects of this problem.⁸

Objective data are useful only to a limited extent: for instance, the number of investigations or convictions may be indicative of the extent of corruption, but this number may just as well reflect how effectively law enforcement agencies or the judiciary are responding to corruption. Moreover, statistical and crime records on corruption cases are few, and those available have limited value given the high number of unreported cases.⁹

In view of the difficulties in measuring corruption directly, various (indirect) indicators have been developed on the basis of the perception or experience of this phenomenon. Relevant information is gathered either through public opinion surveys – sent to a random or a representative sample of households or companies – or through expert assessments. The number of such indicators has grown considerably to become the leading method of collecting data for measuring corruption. Whereas some of them are based on a single data source, others – known as 'composite' or 'aggregate' indicators – compile two or more individual indicators from various sources into a single index.

Composite indicators are the most widely used measurement tool on account of their near-global coverage. Whereas they may be better at capturing various (though not all) aspects of corruption compared to single-source indicators, they do have various limitations. One of them is the lack of precision, as they combine a number of indicators which may rely on different definitions of corruption. Moreover, in some cases a different set of sources is used for the countries concerned over different years. As a result, whilst such indicators may be used for drawing comparisons between countries, one should be cautious in relying on them to show progress over time. The effectiveness of anti-corruption policies cannot be assessed on the basis of such indicators.¹⁰

2.2.2. The main indicators and surveys used in this study

Transparency International's Corruption Perceptions Index (CPI) and the World Bank's Worldwide Governance Indicators (WGI) are currently the two leading composite indicators in the field. The **CPI** measures the levels of public-sector corruption worldwide, as perceived by business people and country experts. The most recent CPI of 2016 ranks 176 countries on a scale from 100 (very clean) to 0 (highly corrupt). It aggregates data from 13 datasets produced by a number of independent institutions specialised in

⁸ See, for instance, Alina Mungiu-Pippidi, '[For a New Generation of Objective Indicators in Governance and Corruption Studies](#)', *European Journal on Criminal Policy and Research*, Vol 22, Issue 3, September 2016; and Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi, '[Measuring Corruption: Myths and Realities](#)', World Bank Findings report, April 2007.

⁹ [Communication on a comprehensive EU policy against corruption](#), COM(2003) 317 final, European Commission, pp. 11-12.

¹⁰ Nicholas Charron, Victor Lapuente and Bo Rothstein, 'The quality of government and corruption from a European perspective: a comparative study of good government in EU Regions', 2013, pp 41-43; and Alina Mungiu-Pippidi & Ramin Dadašov, '[Measuring Control of Corruption by a New Index of Public Integrity](#)', *European Journal on Criminal Policy and Research*, July 2016, p. 1.

analysing governance and the business climate. At least three sources need to be available for a country, for it to be included in the CPI.¹¹

In contrast, the **WGI**¹² measures corruption in both the public and the private sector and combines expert assessments with public opinion polls. It covers six different dimensions of governance, control of corruption being one of them. These six aggregate indicators are reported in two ways: in the standard normal units of the governance indicator, ranging from approximately -2.5 to 2.5, and in percentile rank terms, ranging from 0 to 100, where higher values correspond to better scores. The percentile rank for a given country indicates the percentage of countries worldwide that scored lower than it.¹³

When analysing corruption, one can rely on many other indicators based on concepts that are broader than corruption itself. One such concept is the 'quality of government' (**QoG**), which covers issues such as the prevalence of corruption, bureaucratic effectiveness, rule of law and the strength of electoral institutions.¹⁴ So far, most QoG research concerning Europe has focused only on the national level. The Gothenburg Quality of Government Institute has addressed this by developing a European Quality of Government Index (**EQI**), based on perceptions and experiences of EU citizens and reaching to the sub-national (in this case regional) level.

The EQI is a composite indicator built on the World Bank's WGI combined with the results of a regional-level survey, the latter being used to explain to what extent regional variation exists around the WGI-based national-level scores. The 2010 round of the Gothenburg Institute's project, funded by the Commission's Directorate-General for Regional and Urban Policy (REGIO), covered 172 NUTS 1 and NUTS 2 regions in 18 Member States. It was based on a survey answered by 33 540 respondents. In 2013, the survey was conducted again as part of ANTICORRP, a large-scale research project funded by the Commission's Seventh framework programme for research.¹⁵ This time it was expanded to 206 regions and covered roughly 85 000 respondents in 24 European countries.¹⁶ The authors selected healthcare, education and law enforcement as some of the policy areas that are normally financed or administered by the regional government.¹⁷

It is important to note that the EQI can capture changes over time to a limited extent as it only provides two snapshots of the situation, dating from the time when the data for the 2010 and 2013 editions were being gathered. The results may have been affected by

¹¹ For a detailed description of the methodology, see the 'Short Methodology Note' and the 'Technical Methodology Note', which can be downloaded from Transparency International's CPI [website](#).

¹² For more information on WGI indicators and the methodology used, see the World Bank's [description](#).

¹³ For a comparison of the two indicators, see Anja Rohwer, '[Measuring corruption: a comparison between the Transparency International's Corruption Perceptions Index and the World Bank's Worldwide Governance Indicators](#)', Research Report 3, [www.cesifo-group.de](#), 2009.

¹⁴ Nicholas Charron, Victor Lapuente and Bo Rothstein, op. cit. p. 38.

¹⁵ The project, whose full name was 'Anticorruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption', started in March 2012 and ended in February 2017.

¹⁶ 21 EU Member States, as well as Turkey, Serbia (including Kosovo) and six Ukrainian regions.

¹⁷ The 2010 dataset: Nicholas Charron, Lewis Dijkstra and Victor Lapuente, '[Regional Governance Matters: Quality of Government within European Union Member States](#)', *Regional Studies*, Vol. 48, Issue 1, pp. 68-90, 2014; Nicholas Charron, Victor Lapuente and Bo Rothstein, op.cit. The 2013 dataset: Nicholas Charron, Lewis Dijkstra and Victor Lapuente, '[Mapping the Regional Divide in Europe: A Measure for Assessing Quality of Government in 206 European Regions](#)', *Social Indicators Research*, Vol. 122, Issue 2, pp. 315-346, 2015.

external factors, such as the consequences of the financial crisis that was in full swing in Europe at the time of the first round of data-gathering.

When it comes to public opinion, the main international survey is the Transparency International Global Corruption Barometer (**GCB**), which has been collecting data on people's experiences and perceptions of corruption all over the world since 2003. In 2016, a survey gathering the opinions of 60 000 people from 42 countries in Europe and Central Asia was conducted as part of a regional GCB series. One chapter of the report¹⁸ was dedicated to the EU Member States, comparing attitudes and experiences across the EU.

The perception of corruption in the EU is also measured through the EU's own surveys, known as Eurobarometers. A Special Eurobarometer (henceforth referred to as 'the 2013 Special Eurobarometer on corruption') explored the perception and the experience of corruption among EU citizens in 2013.¹⁹ Another type of survey – the Flash Eurobarometer – was conducted in 2013 and 2015, focusing on businesses' attitudes towards corruption in the EU.²⁰

¹⁸ Global Corruption Barometer, '[People and corruption: Europe and Central Asia](#)', November 2016.

¹⁹ Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014. The survey covered 27 Member States and Croatia, which had completed its accession negotiations at the time of the survey. However, the overall EU-level results are based on the analysis of the EU-27 excluding Croatia.

²⁰ Flash Eurobarometer 374, '[Businesses' attitudes towards corruption in the EU](#)', fieldwork: February-March 2013, published: February 2014; Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', fieldwork: September-October 2015, published: December 2015.

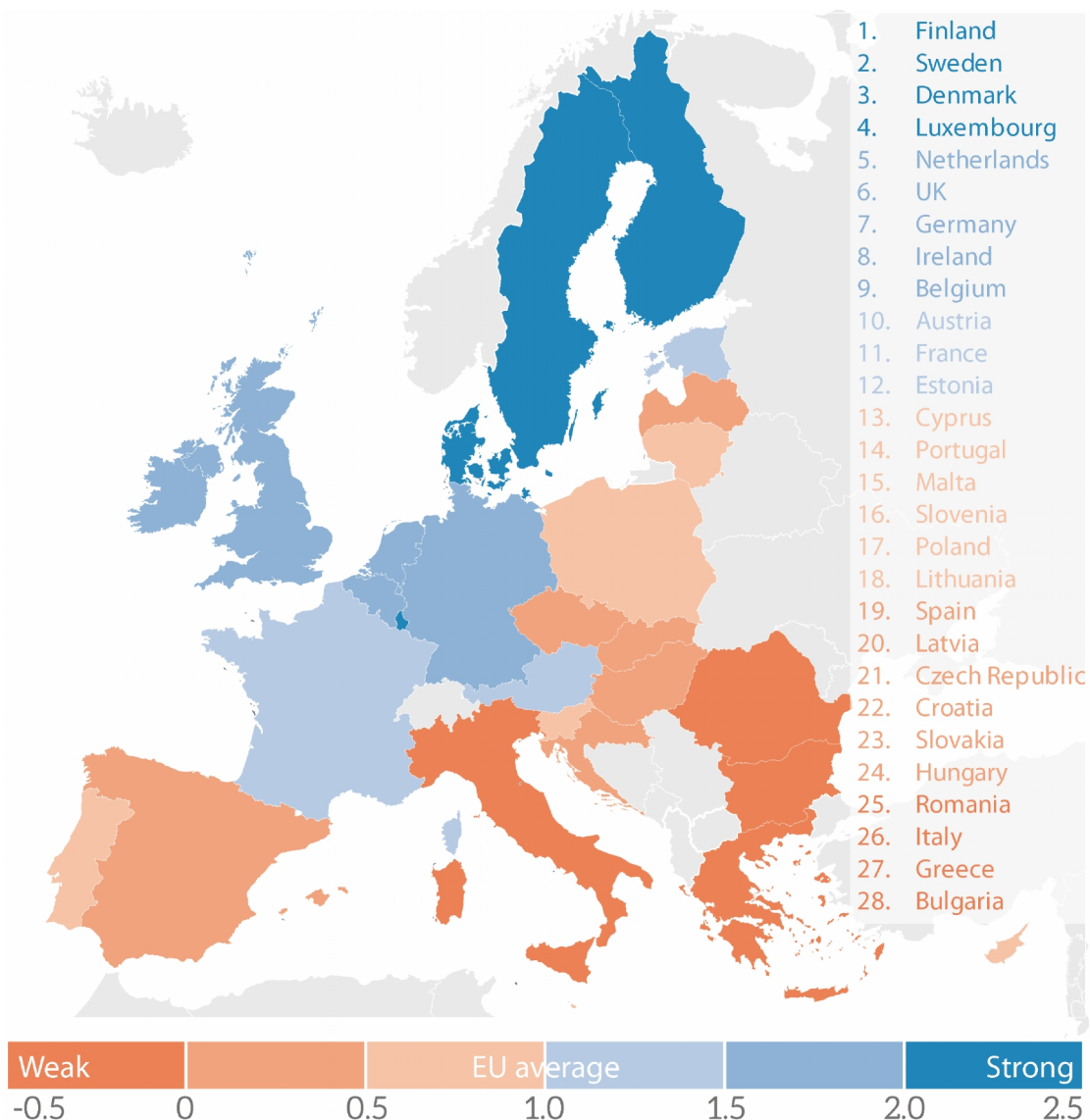
3. The perceived prevalence of corruption in the EU

3.1. Perception of corruption across the EU

Transparency International's most recent CPI (2016) ranks seven EU Member States among the 12 least corrupt countries in the world. This seems to corroborate a popular perception of the EU as one of the world's least corrupt regions. Such a general description may be true, yet it hides significant differences between EU Member States: whereas a few are among the best-ranked in the world, others struggle with pervasive, if not endemic corruption (for instance, six Member States scored less than 50 out of 100 points in the CPI). In the remaining ones corruption levels are at different points between these two extremes.

These differences are also highlighted by the results of another expert assessment, the World Bank's WGI Control of Corruption Indicator (CoC) for 2015: estimates vary from -0.31 for Bulgaria to +2.28 for Finland. As shown in Figure 1, there is a clear divide between the Nordic Member States, which are among the five top-performers in terms of control of corruption, and the eastern and southern ones, with Romania, Italy, Greece and Bulgaria registering scores below zero.

Figure 1 – Control of corruption across the EU (values and ranking), 2015



Data source: [WGI](#) Control of Corruption indicator, 2015. NB: Higher values signify less corruption.

This picture seems to be reflected in the public opinion surveys, as shown by various **Eurobarometers** that provide extensive information on citizens' perception of corruption not only in individual Member States but also at EU level, and in the **Transparency International 2016 Global Corruption Barometer (GCB)**. Even though some common patterns emerge, there is strong variation in citizens' and businesses' perception of different corrupt behaviours across the EU.

The results of the **2013 Special Eurobarometer on corruption** show that three out of four EU citizens perceive corruption as widespread in their country. Moreover, 56 % of respondents think the level of corruption in their country has increased over the past three years and only 5 % think that it has decreased. However, a much smaller percentage of Europeans (26 %) feel personally affected by corruption in their daily lives. Even fewer people – one in 12 (8 %) – have experienced or witnessed corruption over the last 12 months, and only one in 25 (4 %) report a personal experience of having paid a bribe for services received. It is argued that the gap between the widespread perception of corruption and the limited experience of de facto bribery suggests that Europeans consider types of behaviour other than bribery – such as trading in influence, favouritism or clientelism – as corrupt.²¹

While the experience of bribery is very low in most EU Member States, there is significant variation in this respect across the EU: personal experience varies from 0 % in the UK to 25 % in Romania and 29 % in Lithuania (healthcare appearing to be the most affected sector). This gap is also confirmed by the 2016 GCB results: bribery rates climb from 0 % in the UK to 29 % in Romania (Lithuania having the second-highest rate of 24 %).

Both public opinion surveys also show that attitudes to reporting corruption differ greatly among the Member States. While according to the 2013 Special Eurobarometer on corruption three-quarters of Europeans (74 %) having experienced or witnessed corruption did *not* report the case, this figure varies from nearly 100 % in Poland, Slovakia and Greece, to just above 50 % in Finland and the Netherlands. On the other hand, if we take the same Member States as an example, the proportion of those who *did* report corruption varies from 1 % to 36 %, with some people refraining from responding. The 2016 GCB survey shows that social acceptance for reporting corruption in the EU is generally low: only in eight (old) Member States, more than 60 % of citizens perceive this as socially acceptable, while in nine (new) Member States the social acceptance rate is below 30 % (in fact, it ranges from around three-quarters of positive attitudes in France and Portugal to nearly 15 % in Bulgaria and Croatia).

EU citizens' reluctance to report corruption, especially in new Member States, could partly be explained by their low level of trust in institutions and political leaders. Indeed, when asked whom they would trust most if they wanted to complain about a case of corruption, only 3 % of Europeans would report it to a political representative, such as a member of the parliament or the local council (the lowest-scoring among all suggested options²²). Some 59 % believe that bribery and the abuse of power for personal gain are widespread among political parties, and 56 % believe the same about politicians at the

²¹ Alina Mungiu-Pippidi, '[The Good, the Bad and the Ugly: Controlling Corruption in the European Union](#)', 2013.

²² Special Eurobarometer 397, '[Corruption](#)', Question Module 11: 'And if you wanted to complain about this case of corruption, whom would you trust most to deal with it?', other possible answers being: the police, the justice system, NGOs, the media, the national ombudsman, the specialised anti-corruption agency, the trade unions, EU institutions.

national, regional or local level. In a similar fashion, the majority of respondents share the opinion that corruption exists within national (80 %) as well as local or regional (77 %) public institutions.

The evaluation of the government's efforts to combat corruption appears rather negative: only around a quarter of Europeans consider them effective (23 %) or believe that prosecution of corruption cases in their country has a deterrent effect (26 %). The 2016 QCB shows a similar picture: in 14 of the 20 EU Member States surveyed, over half of citizens rate their government's actions to fight corruption in the public sector as 'very bad' or 'fairly bad' (the proportion of negative rating varies from less than 30 % in Sweden to 70 % in Italy and 80 % in Spain).

More generally, the **Standard Eurobarometer from November 2016**²³ shows that there is a lack of trust in national governments and political parties: respectively 64 % and 78 % of Europeans tend not to trust them. As concerns the public administration, opinions are divided, with 48 % of EU citizens trusting it and 46 % not trusting it. Trust and absence of trust in regional and local authorities both amount to 47 % of opinions. When it comes to justice, just over half of Europeans (51 %) tend to trust their legal system, while 44 % do not. However, there is great variation among Member States with regard to trust in the institutions covered by the survey. For instance, for those related to justice, the level of trust is as low as 17 % in Bulgaria and as high as 84 % in Denmark and Finland.

The results of the **2015 Flash Eurobarometer on businesses' attitudes towards corruption in the EU** reveal significant variation in the corruption perception by EU businesses, with a difference of 87 percentage points between the Member States with the highest and lowest levels of perceived corruption: while an average 71 % of European companies say corruption is widespread in the country where they are based, this perception ranges from 11 % in Denmark to 98 % in Italy. More than four in 10 European companies consider corruption, patronage and nepotism as obstacles for doing business. Such views are most common among construction companies, 40 % of which also claim that corruption has prevented them from winning a public tender or a procurement contract. Across all sectors, it appears that the smaller the company, the more affected it is. More generally, just over half of businesses (53 %) consider corruption to be present in public procurement managed by national authorities, and 58 % think it exists at the local or the regional level. On the reverse, when asked to what extent bribery and abuse of power are practised by politicians, party representatives or senior officials, businesses feel that those at the national level are more prone to applying such practices than those at the regional or local level (68 % compared to 65 %).

3.2. Perception of corruption across EU regions

It follows from the **2010 and 2013 Quality of Government (QoG) regional surveys** conducted in a number of EU Member States that substantial differences in the perceived quality of government in general and the prevalence of corruption in particular exist not only between Member States, but also between regions within one and the same Member State. As a consequence, for several Member States, the overall result at the national level may be misleading.

As regards the quality of government, regional performance in some Member States varies more considerably than in others, and there seems to be no simple explanation

²³ Standard Eurobarometer 86, '[Public opinion in the European Union](#)', fieldwork: November 2016, published: December 2016.

for this. There are no common characteristics in this respect either for old Member States or for those having joined the EU since 2004. The number of regions in a Member State is not an accurate predictor of the possible variation among them and neither is its form of government (federal or non-federal, centralised or decentralised), as counter-intuitive as this may sound. Quite interestingly, some Member States (such as Romania and Bulgaria) that allow regions relatively little autonomy, display wide regional variation, whilst others, whose regions enjoy broad autonomy (such as Germany and Austria), have minor variation. These results suggest that the varying levels of corruption and the overall quality of government may be the result of a mix of geographical, historical and cultural factors, rather than of the institutional setup in place.²⁴

One trend, however, seems to have emerged from both the 2010 and the 2013 QoG regional surveys in relation to the above-mentioned regional variation: none of the five top-performing Member States demonstrates any significant variation (with the exception of the Åland region in Finland), while in three of the five lowest-ranked Member States variation is relatively high, Italy displaying the widest regional disparity over the two survey rounds.²⁵

Similar variation within and across the EU Member States participating in both the 2010 and the 2013 QoG regional surveys is to be found when examining corruption perception data only (see Figure 2 below for data concerning the 2013 QoG regional survey). As is the case of other expert surveys and public opinion barometers described above, these two regional surveys show that corruption levels are largely perceived as very low in the northern European regions, but as critically high in the south-eastern European ones. Regional variation, similar to the results related to the general quality of governance, also seem to be much more present within the low-ranking southern Member States (Italy, Bulgaria and Romania), while there is almost no variation in better-performing Nordic, western and central European Member States, such as Finland, Sweden, Denmark, the Netherlands, the UK and Germany.

Significant differences can also be identified among the areas surveyed, that is, education, healthcare, law enforcement and elections, with perceptions varying not only across regions, but also areas (see Figure 3 below). Healthcare proves to be the most corruption-prone area across all regions surveyed, while education services are perceived as the least corrupt.²⁶ Interestingly enough, when it comes to the perception of elections – estimated as moderately free from corruption by most respondents – the picture changes quite drastically compared to other indicators, with some Member States and regions that perform quite badly in other areas registering very high scores, and others doing the opposite. For example, more than half of Italian regions rank in the top 10 % of those perceiving elections as clean, while all the French ones score below the sample average and almost a third of them rank in the lowest 10 % segment.

Perceptions and experiences of bribery also show wide differences both within and between EU Member States. In most cases, petty corruption is perceived to be higher than it is actually experienced by citizens in their everyday life, even though there are some examples of the opposite trend. For instance, in several Italian, Bulgarian and Romanian regions personal experience of bribery is amongst the highest in the sample,

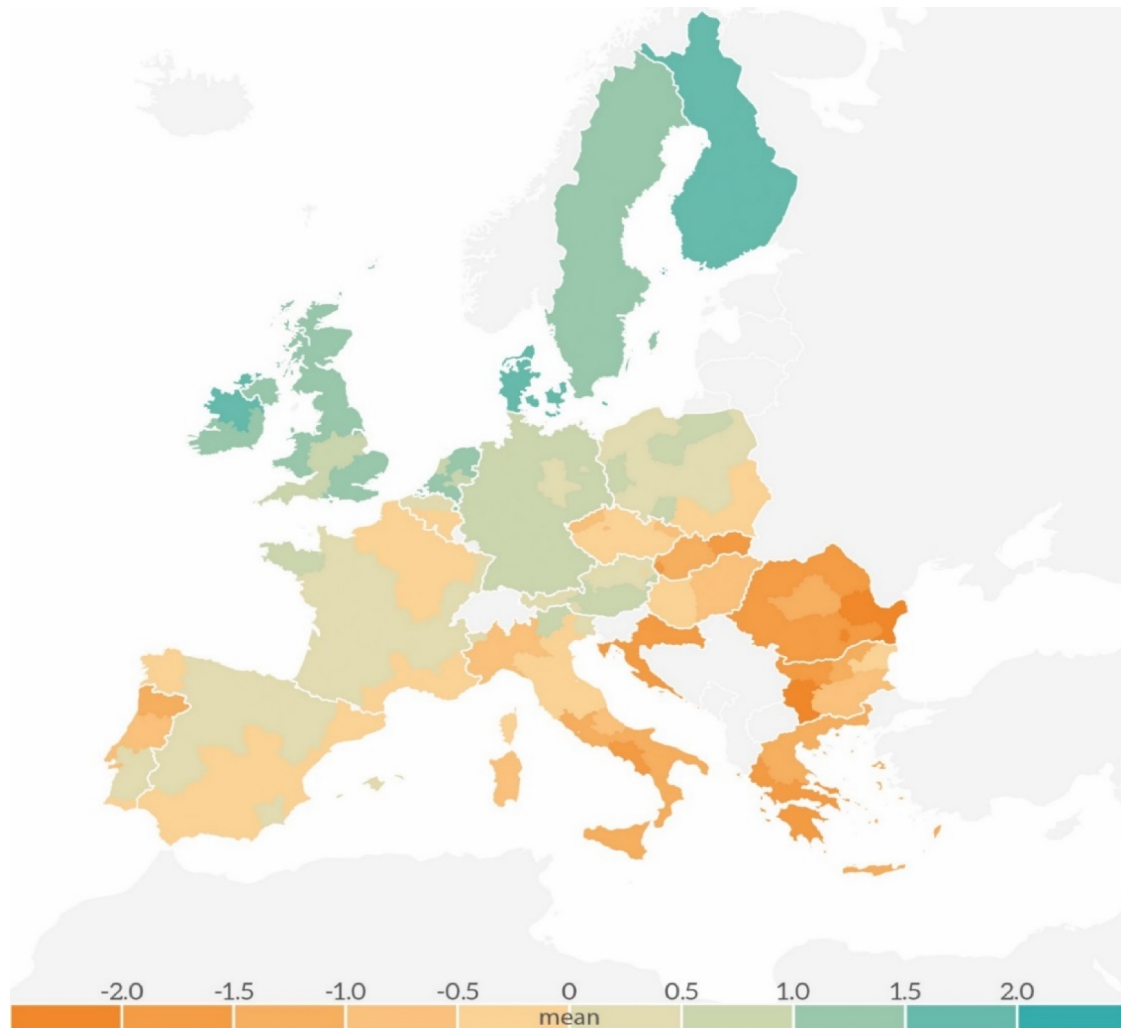
²⁴ Nicholas Charron, Victor Lapuente and Bo Rothstein, *op.cit.*, pp. 113-114.

²⁵ Nicholas Charron, '[WP5 Deliverable 1](#): Extensive descriptive report on the methodology, results and analysis of the survey data and EQI Index', Quality of Government Institute, ANTICORRP project, 2015.

²⁶ Nicholas Charron, *Ibid.*

while the perception of bribery used by others in those same regions does not reach such critical levels. Personal experience of bribery shows that healthcare is once again the area where corruption is most likely to occur (6 % of all respondents say they have paid a bribe for health services in the last 12 months). In general, the experience of bribery varies dramatically across regions and seems to be geographically focused in the south-east of Europe (amounting to over 30 % in some regions), while on average it occurs rather rarely in other parts of the EU and is virtually non-existent in the Nordic Member States (less than 1 %).²⁷

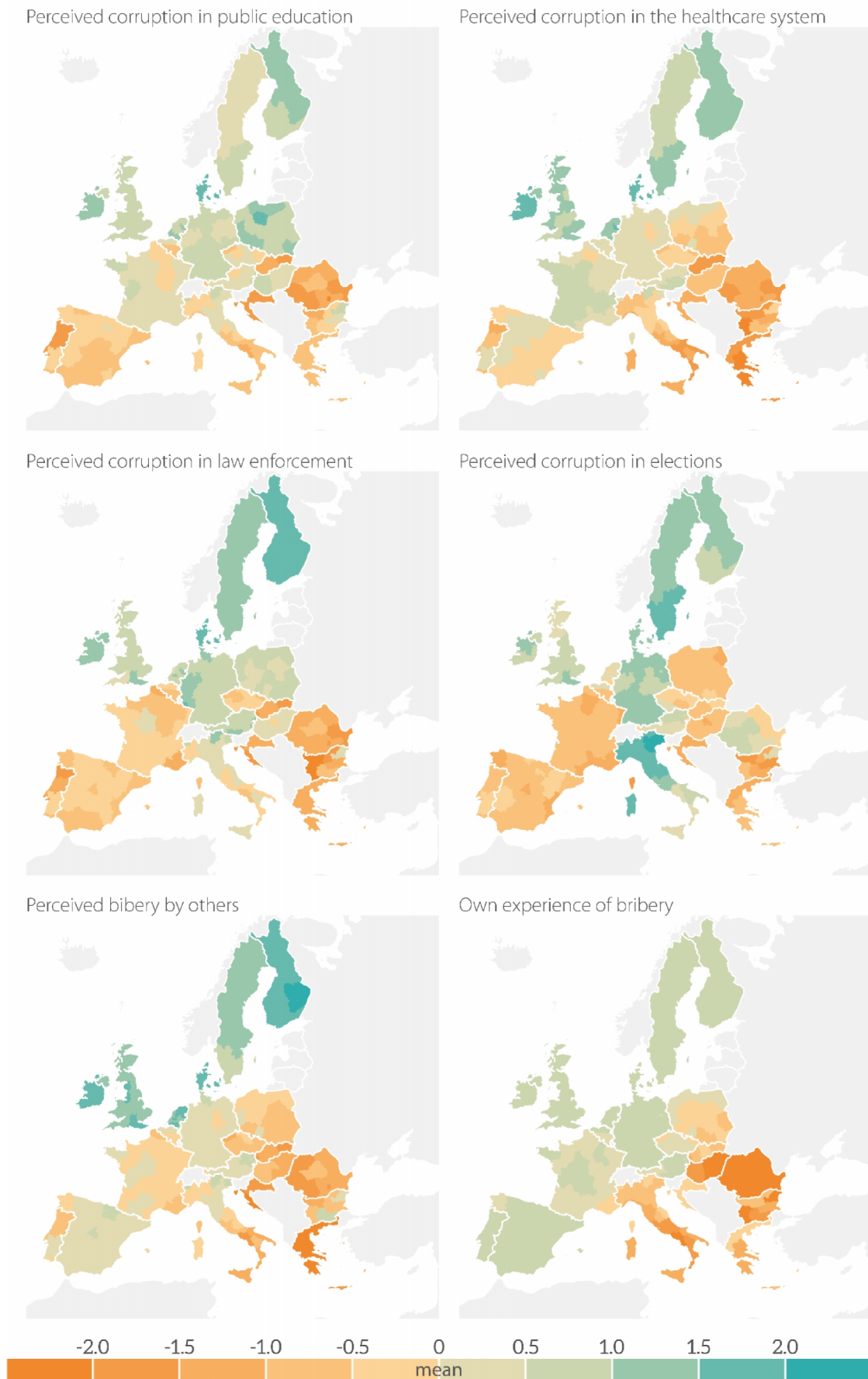
Figure 2 – Perception of corruption in the public sector across EU regions, 2013



Data source: [QoG EU regional dataset](#), 2013. The map shows only the 21 EU Member States participating in the regional survey. NB: Data are standardised so that the sample mean is 0 and the standard deviation is 1. Higher values signify less corruption.

Figure 2 shows the results of the **2013 QoG regional survey** with regard to the perception of corruption (the 'corruption pillar' of the survey). The corruption pillar is shaped by aggregated and standardised data resulting from answers to the five questions citizens were asked about their perception of corruption in the public sector of their region. Three questions concerned the prevalence of corruption in education, healthcare and law enforcement, while the remaining two referred to the perception of bribery used by others to obtain special advantages and to the personal experience of bribery. The six maps shown in Figure 3 present the results for each of the five questions (variables) and for the question on the perceived corruption in elections (which is a part of another ('quality') pillar in the QoG survey).

²⁷ Nicholas Charron, *ibid*; see also Charron et al., '[Mapping the Regional Divide in Europe](#)', *op.cit.*

Figure 3 – Perception of corruption across different sectors in the EU regions analysed, 2013

Data source: [QoG EQI dataset](#), 2013. The maps show only the 21 EU Member States participating in the regional survey.
 NB: Data are standardised so that the sample mean is 0 and the standard deviation is 1. Higher values signify less corruption.

4. Addressing corruption through collective action

4.1. International legal framework

International conventions, standards and guidelines adopted in particular by the Council of Europe, the OECD and the United Nations, have had a strong impact on the laws and policies of the EU Member States. These instruments are the result of what has become global cooperation based on the consensus regarding the detrimental effects of corruption. However, it was not until the 1990s that the first anti-corruption standards and conventions were adopted.

Championed by the United States, cooperation focused at first on bribery in the context of international trade. It led to the adoption of the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, so far ratified by 22 EU Member States. The OECD Working Group on Bribery was set up to monitor the parties' performance.

The 2003 UN Convention against Corruption (UNCAC) was the first international anti-corruption instrument whose provisions extended outside criminal law. The convention, having a quasi-global reach, covers five main areas, including criminalisation and prevention of corruption. As regards prevention, the convention provides for a broad catalogue of actions that Member States are required to take, such as promoting transparency, integrity and accountability of public officials; ensuring appropriate systems of public procurement; setting up a regulatory and supervisory regime to prevent and detect money laundering; and involving civil society in anti-corruption efforts. Moreover, the UNCAC lists elements to be considered by the Member States, which include ensuring transparency in the funding of political parties, preventing conflicts of interest, promoting codes of conduct for public officials, and facilitating the reporting of corruption by public officials.

The EU and all its Member States are parties to the UNCAC. The Implementation Review Mechanism (IRM) is a peer review process for the convention's effective implementation.

The Council of Europe has recognised the major deleterious impact of corruption on political systems and the direct threat to democracies it poses. It has therefore taken a broad approach to the problem by adopting a host of standards (including the Twenty guiding principles for the fight against corruption) as well the Civil Law Convention on Corruption and the Criminal Law Convention on Corruption. All EU Member States have adopted the Criminal Law Convention and all but one – the one on civil law. The implementation of the two conventions is monitored by the Group of States against Corruption (GRECO), which is the most comprehensive corruption monitoring system in Europe and has conducted four rounds of evaluation and compliance monitoring so far. The 28 EU Member States are individual participants in GRECO; EU-level participation is envisaged by the Commission and strongly recommended by the European Parliament.

4.2. EU anti-corruption efforts

4.2.1. EU rules

The EU does not have an explicit general competence to tackle corruption and the issue is primarily dealt with by the individual Member States. However, within the limits of the treaties, the EU has sought to develop a comprehensive anti-corruption policy.²⁸

The EU has addressed corruption in the context of the protection of its financial interests, an area where it has more legal options than elsewhere. Accordingly, in the mid-1990s, it adopted two 'hard law' instruments: the Convention on the Protection of the European Communities' Financial Interest (the PIF Convention) and the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union. Both instruments required criminalising active and passive bribery. Moreover, a dedicated EU body – the European Anti-Fraud Office (OLAF) – was established to detect fraud and corruption jeopardising the EU's financial interests. OLAF conducts administrative investigations and informs the competent national authorities if it considers that a criminal investigation should be initiated. Information exchange and operational cooperation between national authorities is facilitated by Europol, Eurojust and the European contact-point network against corruption (EACN).

At present, Article 325 of the Treaty on the Functioning of the European Union (TFEU) provides the legal basis for the protection of the EU's financial interests against fraud and other illegal activities (including corruption). Based on this provision, in 2012 the Commission presented a proposal for a directive that would use a criminal-law approach to tackle fraud jeopardising the EU's financial interests (the PIF Directive²⁹). The new directive, which will replace the PIF Convention, entered into force in August 2017. Member States have until 6 July 2019 to transpose its provisions, and must apply them from that date. It is the first-ever EU legal instrument to provide a definition for a public official. The definition covers not only all relevant officials holding a formal office in the EU, its Member States or third countries, but also persons not holding such an office, yet exercising a public service function in relation to EU funds (for instance, contractors involved in the management of such funds).

Successive treaty reforms have gradually enhanced the EU's competence in police and judicial cooperation in criminal matters. This has allowed the EU legislator to go beyond the narrow area of protecting EU financial interests when addressing corruption. The Council Framework Decision on combating corruption in the private sector³⁰ is an illustration of the EU's increased legislative prerogatives. Under this decision, Member States are required to introduce effective, proportional and dissuasive criminal penalties for active and passive bribery. However, the Commission considers its transposition

²⁸ Creating such policy is not an easy task not only due to the limits of the EU's competences. Criminology Professor Federico Varese notes that the substantial differences in corruption levels between EU Member States are a key challenge in addressing the problem at EU level. See Federico Varese, '[The Cost of Non Europe in the area of Organised Crime and Corruption: Annex III – Overall assessment of organised crime and corruption](#)', 2016, pp. 17-18.

²⁹ [Directive \(EU\) 2017/1371](#) of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, pp. 29-41. Neither Denmark nor the UK are bound by the new directive, therefore the Convention remains in force for them.

³⁰ [Council Framework Decision 2003/568/JHA](#) of 22 July 2003 on combating corruption in the private sector.

unsatisfactory.³¹ Since the adoption of the Lisbon Treaty, corruption has been listed as one of the serious crimes for which the Parliament and the Council may establish minimum rules and sanctions by means of directives (Article 83 TFEU).

At the EU level, there are also a number of instruments that address corruption indirectly. Among them are three directives that approximate national public procurement provisions.³² They contain detailed provisions on publicity and transparency at various stages of the procurement cycle and on abnormally low-priced tenders. They list corruption among the grounds for excluding economic operators from participation in a procurement procedure. Other such instruments are the EU anti-money-laundering directives, which have contributed to increasing the transparency of financial flows across the EU. Adopted in 2015, the most recent Fourth Anti-Money-Laundering Directive³³ introduced the requirement towards Member States to ensure that corporate and other legal entities incorporated within their territory obtain and hold information on their beneficial ownership. It also imposed due diligence obligations on entities dealing with politically exposed persons. Moreover, it criminalised money-laundering with respect to a now extensive catalogue of offences ('predicate offences'), among them corruption, tax crimes and fraud.

4.2.2. EU evaluation mechanisms

As the EU lacked a comprehensive evaluation mechanism to monitor and assess Member States' anti-corruption efforts, the Commission launched, in its 2011 Communication on Fighting Corruption in the EU,³⁴ a bi-annual **EU Anti-Corruption Report**. The first report, published in 2014,³⁵ consisted of a summary part including a thematic section and a description of trends at EU level, as well as 28 country chapters. The report built on a number of existing datasets and international evaluation mechanisms, including GRECO, the OECD Working Group on Bribery and the UNCAC review mechanism, as well as the EU's own mechanisms, such as the Cooperation and Verification Mechanism (CVM) and the Justice Scoreboard. It also relied on Eurobarometer surveys and various other sources of information emanating from experts and civil society. The report included country-specific recommendations, but did not provide for a formal procedure to evaluate their implementation. The Commission was supposed to come up with the second anti-corruption report in 2016, but in January 2017 it announced that it had abandoned this form of periodical assessment and would address corruption within the **European Semester** of economic governance.³⁶

The Commission's decision means that the evaluation of Member States' anti-corruption efforts at EU level remains limited in scope and coherence, with several mechanisms assessing selected aspects of the relevant actions or specific Member States.

³¹ [Report](#) based on Article 9 of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector, COM(2011) 309 final, European Commission.

³² [Directive 2014/23/EU](#), [Directive 2014/24/EU](#), and [Directive 2014/25/EU](#).

³³ [Directive 2015/849](#) of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

³⁴ [Fighting Corruption in the EU](#), COM(2011) 308 final, European Commission communication.

³⁵ [EU Anti-Corruption Report](#), op.cit.

³⁶ See a January 2017 [letter](#) of Commission Vice-President Frans Timmermans to Claude Moraes, chair of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE). The Commission's decision to discontinue the EU anti-corruption report was met with stark criticism from LIBE Committee members. See the [LIBE Committee meeting](#) of 4 May 2017.

The **Cooperation and Verification Mechanism (CVM)** is one such instrument in place, established for Bulgaria and Romania at the time of their accession to the EU. A permanent safeguard measure has remained in place for these two Member States, setting up specific benchmarks in the areas of judicial reform, the fight against corruption and, in Bulgaria's case, also the fight against organised crime. The impact of the CVM is, however, debatable. Whereas some commentators point to its role as a lever to push for reform in the two countries, there is no hard evidence that formal legislative compliance translates into a change in the actual practices.³⁷

The **Justice Scoreboard** is an annual information tool assessing Member States' justice systems in terms of their efficiency, quality and independence. The findings of the 2017 Justice Scoreboard³⁸ have been taken into account in the country-specific assessments carried out as part of the 2017 European Semester.

In its October 2016 resolution on the fight against corruption and follow-up of the CRIM committee resolution,³⁹ the Parliament called on the Commission to consider the possibility of combining the various EU-level monitoring mechanisms into a broader **rule-of-law monitoring framework**. Parliament's 2016 Cost of Non-Europe report estimated that doing so would ensure annual cost savings worth €70 billion.⁴⁰ In another resolution on the subject, the Parliament made specific recommendations to the Commission as regards setting up such a framework.⁴¹

Debates on the effectiveness of supranational regulations

When addressing corruption, the EU Member States abide by the whole range of laws and policies recommended by international institutions. The EU has promoted them successfully, not least by making EU membership dependent on compliance with them and using conditionality to stimulate legislative and institutional changes in the candidate countries.⁴² In particular, assuming the existence of endemic corruption in post-communist candidate countries, the EU made it a central issue in the debates on these countries' transition. As a result, the vast majority of the new Member States have brought their legislation in line with the international anti-corruption framework. So have the old ones (which are also members of the UN, OECD and the Council of Europe), despite not having been offered any similar incentives by the EU institutions.

The evaluation mechanisms attest to a general commitment of the Member States to anti-corruption reforms. This can be illustrated by the successive GRECO evaluation rounds, showing that most of them at least formally comply with the international laws. At the same time, however, the tools measuring the perception of corruption continue to present a rather disconcerting picture, with many EU citizens believing that corruption is widespread in their Member State. This is especially true for some eastern and southern European Member States,

³⁷ For an overview of the literature discussing the effectiveness of the CVM, see '[The Cost of Non-Europe in the area of Organised Crime and Corruption: Annex II: Corruption](#)', RAND Europe, 2016, pp. 81-83.

³⁸ [The 2017 EU Justice Scoreboard](#), European Commission, April 2017.

³⁹ CRIM was the European Parliament's Special committee on organised crime, corruption and money laundering. See European Parliament procedure file [2015/2110\(INI\)](#).

⁴⁰ RAND Europe, [op. cit.](#), p. 117.

⁴¹ European Parliament resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights ([2015/2254\(INL\)](#)).

⁴² However, conditionality loses some of its importance following a candidate country's accession, as the EU has fewer incentives to make a Member State implement the required actions than it does with respect to a candidate country. It may, nonetheless, still exert influence by freezing funds over concerns of corruption. See Tatiana Kostadinova, 'Political Corruption in Eastern Europe: Politics after Communism', Lynne Rienner, 2012.

despite the fact that most of them seem to have built relatively solid legal, institutional and policy frameworks.

The existence of such a discrepancy raises questions as to the actual value of the regulatory activities of supranational bodies in reinforcing national governments' fight against corruption. While some commentators believe that international rules have a positive impact in this respect, others claim they have a limited practical effect. Yet others go even further, arguing that these rules may even have created additional problems and costs.⁴³ This could arguably be the case with the CVM, which, according to a very critical study, helps legitimise measures that imitate reform, yet do not lead to the required result. Being too costly to implement and too technical, the CVM is possibly hampering the development of internal control mechanisms in Bulgaria, the authors of this study argue.⁴⁴

International institutions have drafted laws and policies assuming the objective nature of the definition of corruption and the existence of commendable standards of good governance, applicable in any context. However, the cultural specificity of the societies supposed to implement them was not considered in the process. Research on corruption in central and eastern European countries offers valuable insight into how this may have translated into problems when incorporating these standards into actual practices by governments and societies.⁴⁵

A 2012 article provides an interesting comparison between eastern and western European Member States, juxtaposing the perceived corruption levels and anti-corruption policies in place. Whereas in western Europe, robust regulatory frameworks tend to coincide with low corruption levels, no such relationship can be identified in eastern Europe.⁴⁶ This may suggest that the laws and policies of the eastern European Member States analysed here, even though heavily inspired by international and EU institutions, are either not enforced or are ineffective.⁴⁷

Enforcement seems particularly problematic with respect to political corruption, which requires setting up a solid system of checks and balances to ensure the accountability of public officials. Anti-corruption reforms have met a certain resistance in some Member States, which has been explained by the fact that they affect the personal interests of the law-makers and government officials in charge of enforcing them.⁴⁸ Interesting arguments in this respect have once again been formulated in the context of the CVM. It is held that the major problem with the mechanism

⁴³ Dia Anagnostou and Evangelia Psychogiopoulou (eds), '[Background report on international and European law against corruption](#)', ANTICORRP project, 2014, p. 5.

⁴⁴ Georgi Dimitrov, Kaloyan Haralampiev, Stoycho Stoychev, and Linka Toneva-Metodieva, 'The Cooperation and Verification Mechanism: Shared Political Irresponsibility between the European Commission and the Bulgarian Governments', 2014.

⁴⁵ It is important to note, however that public opinion surveys and expert assessments point to differences between eastern EU Member States, some of which have come close to or even surpassed their western counterparts. Dealing with a wider category of post-communist countries, Tatiana Kostadinova, op.cit., notes that despite the common legacy of communism, the abuse of public office has been a much more serious threat in some such countries than in others. The author explores the factors behind these differences, including the issue about the extent to which external forces, such as the EU integration process, have constrained corruption.

⁴⁶ Sebastian Wolf (2012), 'Assessing Eastern Europe's anti-corruption performance: views from the Council of Europe, OECD and Transparency International' in Diana Schmidt-Pfister and Holger Moroff eds., *Fighting Corruption in Eastern Europe: A Multi-Level Perspective*, Routledge, 2012, pp. 11-33.

⁴⁷ Based on the GRECO and OECD evaluations combined with the CPI 2008 scores, Wolf, op.cit., examines 11 eastern EU Member States: Bulgaria, the Czech Republic, Croatia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

⁴⁸ Michael Kubiciel, 'International Legal Development and National Legal Change in the Fight Against Corruption', 2012, p. 432 in D.K. Linnan (ed.), 'Legitimacy, Legal Development and Change – Law and Modernization Reconsidered', quoted after Dia Anagnostou and Evangelia Psychogiopoulou (eds.), '[Background report on international and European law against corruption](#)', ANTICORRP project, 2014, p. 7.

is that it 'initially ignores a systemic resistance to the introduction of the rule of law it promotes'. This resistance takes various forms, including intentionally implementing the CVM recommendations in such a way that the reform goals would be impossible to achieve, as well as a refusal to carry out a comprehensive judicial reform.⁴⁹

What could perhaps help in shaping anti-corruption reforms that are better-suited for specific national contexts is to take due account of a distinction – proposed by a leading anti-corruption expert – between socio-political systems that are either based on what she refers to as 'universalism' or on 'particularism'.⁵⁰ Universalism is characterised by equal treatment by the state of all citizens regardless of the group to which they belong, by fair and equal access to public goods, and by a clear-cut distinction between public and private. In such systems, corruption is a deviation from the norm and should be addressed as such. In the case of particularism, unequal treatment is the norm, power is concentrated in the hands of a small elite whose members use their position for private gain, and the distinction between public and private is therefore blurred. Many countries have reached a development stage characterised by the coexistence of the two systems. The evolution from a particularistic system to a universalistic one is a complex issue that cannot be addressed by simply repressing a deviation. Anti-corruption policies that ignore this fact risk being resisted and proving counter-productive.⁵¹

4.3. Action at national level

4.3.1. Laws, policies and institutions

The EU Member States have created – though to varying degrees – comprehensive legal, policy and institutional frameworks to address corruption. Inspired by the same international standards, these frameworks have many elements in common.

Typically, national anti-corruption strategies are the broadest **policy instruments** outlining the anti-corruption actions for a number of years ahead, which may be spelled out in action plans providing for specific steps to be taken. However, not all Member States have adopted such strategies and action plans.

Anti-corruption legislation usually includes criminal law provisions establishing the definitions and penalties for corruption offences. The latter include active and passive bribery and possibly certain specific forms of bribery, as well as trading in influence and abuse of office.⁵² Some Member States have chosen to adopt comprehensive anti-corruption laws that may include both administrative and criminal law provisions. However, as these laws cannot cover all areas relevant to corruption, some of them are often regulated by specific laws. Consequently, there is national-level legislation dealing specifically with, for instance, conflict of interest or whistle-blower protection.

To address corruption, EU Member States have set up various **institutional structures**. Whereas some of them have established central agencies coordinating national-level anti-corruption repressive and preventive actions, others have put in place specific anti-corruption agencies for prevention only (some of them also being empowered to deal with verification of wealth and conflict of interest and, in some cases, party funding). Yet others have set up specialised services in charge of law enforcement or prosecution of

⁴⁹ Georgi Dimitrov, Kaloyan Haralampiev, Stoycho Stoychev, and Linka Toneva-Metodieva, op. cit.

⁵⁰ Alina Mungiu-Pippidi, '[Corruption: Diagnosis and treatment](#)', *Journal of Democracy*, 17(3), 2006, pp. 86- 99 and several other papers by the same author;

⁵¹ Alina Mungiu-Pippidi, *ibid*, *Journal of Democracy*, 17(3), 2006, pp. 86- 99; A. Ledeneva, '[Corruption in Postcommunist Societies in Europe: A Re-examination](#)', 10(1) *Perspectives on European Politics and Society* 69, 2009, pp. 77-79.

⁵² [Collection of official data on corruption offences](#), DG Migration and Home Affairs, European Commission.

corruption offences.⁵³ However, as mentioned earlier, the existence of such structures is not correlated with lower corruption levels. For example, some of the best-performing Member States have no specific anti-corruption body, whereas some others have multiple (including independent) institutions, without achieving a noticeable reduction in corruption levels as perceived by experts and citizens.⁵⁴

4.3.2. Focus on prevention

The lack of reporting on corrupt practices, the high requirements towards the evidence produced in the courts and the statute of limitations are only a few of the numerous obstacles to the successful prosecution of corruption by national authorities. In any case, repression through criminalisation and law enforcement is not in itself sufficient to effectively curb corruption. The need to complement it with preventive tools is widely recognised, as illustrated by numerous cross-country initiatives (see box below).

Corruption prevention initiatives in the EU and beyond

The Integrity Pact is a tool for preventing corruption in public contracting, developed by Transparency International (TI). It is an agreement between the public-government contracting authority and the bidders who commit to comply with the transparency requirements and to abstain from any corrupt practices for the extent of the contract. Integrity pacts also include a monitoring system managed by a third party that is usually a civil society organisation (often a TI chapter).⁵⁵ The pacts are jointly designed by civil society entities and government officials responsible for the procurement process on the basis of international standards, while also taking into account the local legal and social context. In March 2015, TI and the Commission's Directorate-General for Regional and Urban Policy (DG REGIO) launched a pilot project entitled 'Integrity Pacts – Civil Control Mechanism for Safeguarding EU Funds'. Some 17 public procurement projects worth a total of almost €1 billion were selected across 11 EU Member States. More than €7 million, co-financed by the Structural Funds and the Cohesion Fund, was made available to support the implementation of the pacts for these projects over a four-year period.⁵⁶

The Open Government Partnership (OGP)⁵⁷ is a multilateral initiative aimed at promoting transparency, fighting corruption, enhancing citizens' participation and strengthening governance, including with the help of new technologies. Launched in 2011 by eight founding countries, including the UK, this voluntary partnership now includes 75 participating countries and 15 sub-national governments. Most EU Member States have joined the initiative and have therefore committed to its three core requirements: endorsing the Open Government Declaration, developing a national action plan in consultation with civil society and undergoing an independent progress review. The OGP has established six thematic working groups, one of which is dedicated to combating corruption. In 2016, under a pilot programme, it extended membership to sub-national governments as participants in their own right. There are three such participants from the EU: the Madrid and Paris local governments, and Scotland.⁵⁸

⁵³ [EU Anti-Corruption Report](#), op.cit.

⁵⁴ For more information, see individual country chapters.

⁵⁵ European Commission, '[What are Integrity Pacts?](#)'.

⁵⁶ European Commission, '[Integrity Pacts: better safeguarding and use of EU funds](#)', January 2017, and '[Integrity Pacts](#)'; See also Transparency International, '[Integrity Pacts – state of play](#)'.

⁵⁷ <https://www.opengovpartnership.org>.

⁵⁸ [Open Government Partnership](#), OGP brochure, August 2016.

Open data to fight corruption

The use of open data is one example of how the development of new technologies can contribute to tackling corruption. In 2014, the G20 countries' Anti-corruption Working Group prepared a set of six open data principles, based on the International Open Data Charter,⁵⁹ subsequently adopted by the G20. According to these principles, data should be open by default, timely and comprehensive, accessible and usable, comparable and interoperable. The charter examined the potential of open data as an anti-corruption tool and concluded that it could greatly contribute to dismantling corruption networks. This resulted in the drafting of an anti-corruption package and an open-up guide presenting a short list of 30 datasets that can be helpful in addressing corruption, as well as examples of best practices. However, a study⁶⁰ published by TI and the World Wide Web Foundation in 2017 and covering five G20 countries shows that open-data policies and anti-corruption efforts are being developed independently from one another. The study concludes that there is a need for a change in people's culture and attitudes towards open data and its use as an anti-corruption tool.

DIGIWHIST (The Digital Whistleblower: Fiscal Transparency, Risk Assessment and Impact of Good Governance Policies Assessed) is an EU Horizon 2020-funded project bringing together six European research institutes. It seeks to detect potential conflicts of interest in public procurement and to identify systemic vulnerabilities in national legislation and its implementation. It does so by combining information from individual public procurement transactions with winning firms' finance and ownership structures and checking it against asset and income declarations data. The opentender.eu platform, to be launched in 2018, is a part of this project that is aimed at improving transparency by building national procurement portals in 35 jurisdictions.⁶¹

EU Member States have developed numerous laws and practices of a preventive nature. Many of them address corruption indirectly by creating conditions in which it would be less likely to occur.

Some such initiatives focus on **transparency**, an essential element of good governance consisting in disclosure of information on public policies and spending, and ensuring citizens' access to such information. Transparency registers and asset declarations of elected representatives or high-level officials are among the many tools used by Member States to ensure that citizens are granted such access and potential conflicts of interest are detected.

The **accountability** of public officials is guaranteed through monitoring and oversight; **participatory approaches** have been developed to involve civil society in these processes, for instance, through initiatives allowing its members to take part in audits on public spending.⁶² Some European cities have also involved their communities in drawing up the local government budget.⁶³

The notion of **integrity** of the public administration implies the use of its powers for officially authorised and publicly justified purposes. It is thus the opposite of corruption and as such may be seen as the underlying principle or the ultimate goal of various anti-corruption initiatives. The term 'national integrity system' is often used to describe the

⁵⁹ The Open Data Charter: [Principles](#).

⁶⁰ '[Connecting the dots: Building the case for open data to fight corruption](#)', Transparency International and the World Wide Web Foundation, February 2017.

⁶¹ For more information, see <http://digiwhist.eu/>.

⁶² '[Good practice in strengthening transparency, participation, accountability and integrity](#)', U4 Expert Answer, Transparency International and CMI (Chr. Michelsen Institute), March 2011.

⁶³ Gianluca Sgueo, '[Participatory budgeting: An innovative approach](#)', EPRS briefing, January 2016.

sum of all of the anti-corruption laws, policies, institutions and initiatives in a country. Codes of ethics and integrity pacts (see box above) are among the practices promoting the culture of integrity across the public administration, be it in specific sectors or individual institutions.

5. Corruption at regional and local levels

5.1. Decentralisation and corruption

Regions across the EU are now responsible for a large portion of public expenditure, including the co-financing and management of EU funds. This is part of a general tendency for regional and local authorities in Europe to acquire new competences and to gain increasing political and economic importance. One would assume that such decentralisation processes are not without an impact on corruption at both the central and the sub-national level. Research on the relationship between decentralisation and corruption has, however, been inconclusive.

The discussion on the consequences of decentralisation revolves around the concepts of competition and accountability. According to some, decentralisation leads to increased **competition** between sub-national governments, which offer varying services and tax rates to attract citizens and companies. However, it is debatable whether such competition leads to a more efficient provision of public goods and to less corruption. After all, regional and local governments may seek to raise their attractiveness also by resorting to illegal practices.

As far as **accountability** is concerned, decentralisation is supposed to bring governments closer to the citizens, making it easier for the latter to stay informed about the governments' actions and to hold their officials accountable. Again, there is a counter-argument that more interaction means more opportunities for collusion. Accountability would thus depend on the quality of auditing and monitoring practices (for instance, by the media), which however tend to be more developed at the national level.⁶⁴ In this context, the role of civil society in monitoring both budget allocations and the delivery of services can hardly be overestimated.⁶⁵

Decentralisation may take various forms – political, fiscal and administrative – depending on the scope of responsibilities transferred from the central government to the sub-national ones. **Political decentralisation** refers to the presence of directly elected sub-national governments, which may be coupled with the allocation of decision-making powers to them. **Administrative decentralisation** means a transfer of powers to hire local staff or resources to implement central government policy, without passing on decision-making powers. **Fiscal decentralisation** leads to sub-national governments having the power to tax individuals and entities and to decide how to spend the revenue thus raised through their budgets.⁶⁶

Available research suggests that the kind of impact decentralisation will have on corruption depends on which of the above forms it takes. Fiscal decentralisation has been the most widely researched, with studies rating its impact on corruption as positive, negative or none. Research on administrative decentralisation has also been

⁶⁴ Benjamin Neudorfer, Natascha S. Neudorfer, '[Decentralization and Political Corruption: Disaggregating Regional Authority](#)', 2014, p. 14.

⁶⁵ In this vein, Kajsa Karlström argues that 'the potential for decentralization to curb corruption is dependent on the presence of institutions that give citizens information on government behaviour and the capacity to act upon the given information' and that, as a consequence, decentralisation promotes less corrupt activities in democratic countries, but not in authoritarian countries where there are no such institutions. See Kajsa Karlström, '[Decentralization, corruption, and the role of democracy](#)', 2015, p. 1.

⁶⁶ Kajsa Karlström, *Ibid*, 2015, p. 7.

inconclusive. In contrast, most studies on political decentralisation show that it increases corruption.⁶⁷

Dealing with grand political corruption, a recent study suggests that a rise or drop in corruption levels cannot be explained by decentralisation alone, as the scope of regional authority also needs to be taken into account. Self-rule and shared rule thus have opposite effects on corruption. By multiplying the number of potential bribe-takers and bringing decision-making closer to local and regional elites (potential bribe-payers), self-rule facilitates the creation of corruption networks and increases political corruption. Shared rule, whereby regional governments co-decide with the central government, does not have such an effect at the sub-national levels. Moreover, by allowing more players in decision-making, it improves monitoring and accountability and, as a consequence, increases the probability of corrupt practices being uncovered and punished. This may lead to reducing corruption.⁶⁸

5.2. Addressing corruption at the regional and local levels

Laws and policies developed by the central government have an impact on the activities of the local and regional governments, whose role consists above all in implementing them. The use of national strategies and action plans allows harmonising policies and facilitating their enforcement. However, some argue that it may also reduce the autonomy and independence of regional and local governments in terms of defining their policy response to match their specific regional or local contexts.⁶⁹

If there is scope for sub-national governments to co-define anti-corruption policies, it is mainly in terms of prevention, as the domain of repression is usually reserved for the national legislator. The extent to which these governments may be creative in addressing corruption depends above all on their competences resulting from their country's administrative and territorial setup. What matters as well is the sub-national governments' commitment to reform and public support for them, both of which can be achieved by way of raising awareness among the citizens and cooperation with civil society. Due to their proximity to the communities concerned, sub-national governments and civil society organisations are perfectly placed to recognise the issues requiring intervention, and partnerships between them can enhance accountability, transparency and citizen participation, thus preventing corrupt behaviour. This study identifies several examples of such partnerships across the EU.

⁶⁷ See Kajsa Karlström, *ibid*, 2015, p. 10, for an overview of cross-country studies on decentralisation and corruption. See also Ivar Kolstad and Odd-Helge Fjeldstad, '[Fiscal Decentralisation and Corruption: A brief overview of the issues](#)', *Chr. Michelsen Institute*, U4 Issue 3:2006. The authors of the latter paper inquire about the possible effect of corruption on decentralisation and conclude that further research is needed to establish whether such a relationship exists.

⁶⁸ Benjamin Neudorfer, Natascha S. Neudorfer, [op. cit.](#) pp. 38-39.

⁶⁹ Explanatory memorandum to the Resolution of the Congress of Local and Regional Authorities of the Council of Europe, '[Preventing corruption and promoting public ethics at local and regional levels](#)', p. 6.

6. Focus on selected Member States

6.1. Bulgaria

6.1.1. Corruption perception

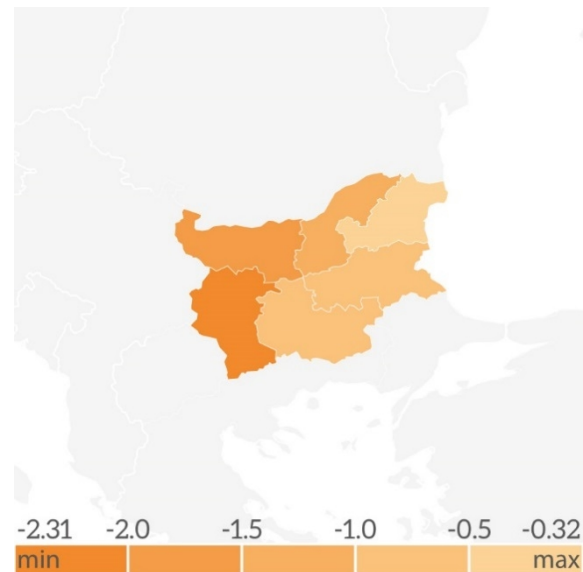
Various indices and expert studies consistently rank Bulgaria amongst the most corrupt EU Member States.⁷⁰ For instance, **Transparency International's (TI) 2016 Corruption Perceptions Index (CPI)** ranks it 75th out of 176 countries, assigning it a score of 41 of 100 – the lowest in the EU. The CPI confirms that there is a lack of progress and even a decline in the fight against corruption, calling it a 'systematic failure to oppose corruption'. The main reasons given relate to the perceived deficiencies of the judiciary, namely poor compliance with the rule of law, an ineffective criminal policy and a lack of timely and efficient prosecution of high-level corruption cases.

According to the **2013 EU Quality of Government (QoG)** survey,⁷¹ variation in the perception of corruption in Bulgaria (an administratively centralised country) is quite high, ranging from -0.32 (Varna, North-eastern region) to -2.31 (Sofia, South-western region) (see Figure 4 above). Depending on the particular area examined for the presence of corruption – education, healthcare, law enforcement and elections – regions vary significantly in their ranking (see Figure 3, page 14); further research is needed to explain what causes this variation.⁷² For example, while Varna respondents' perception of bribery as practised by others is among the country's lowest, their personal experience of bribery is among the highest. Despite the variation, all regions demonstrate some of the highest perceived levels of corruption in the study, with healthcare and personal experience of bribery identified as the most critical in this respect.

According to the **World Bank's 2015 Worldwide Governance Indicators** survey, control of corruption is the worst aspect of the quality of governance in Bulgaria. Moreover, it is deteriorating – the 48.56 percentile ranking in 2015 is almost the same as in the politically turbulent 1990s (47.32 in 1998). Control of corruption levels were optimal during the years of Bulgaria's EU accession negotiations (2003-2006), reaching a 58.02 percentile ranking in 2004; however, they were not sustained after the country's accession.

Bulgarians also perceive their country as being strongly affected by corruption, with no efforts on the part of the government to fight it. According to the **2013 Special**

Figure 4 – Perception of corruption across regions in Bulgaria, 2013



Data source: [QoG EU regional dataset](#), 2013.
NB: Higher values signify less corruption.

⁷⁰ Such as those produced by Transparency International, the World Bank, the World Economic Forum, the Center for the Study of Democracy and the Global Integrity Report team of experts.

⁷¹ For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

⁷² The regional variation registered by the TI report on '[Local Integrity System in Bulgaria: Catalogue of Good Practices](#)' differs from the perceptions quoted in the QoG survey, and there is no consistent trend across geographical regions or areas of social life. Differences in the methodologies and sampling methods used is an obvious, yet insufficient explanation.

Eurobarometer 397 on corruption,⁷³ all the Bulgarian respondents believe that there is corruption in their country, the only disagreement being about its level: 84 % think that corruption is widespread. However, only 21 % agree that corruption affects their daily life personally. This is even lower than the EU average and could suggest the existence of widespread adaptation to corruption amongst citizens.

Bulgarians hold the strong belief that the only way to succeed in business is through political connections (73 % compared to an EU-27 average of 56 %). Only 9 % of Bulgarians perceive political party funding as sufficiently transparent and supervised. At a referendum in late 2016, 72 % voted in favour of a considerable reduction in the government funding extended to political parties, but no changes have been implemented so far. According to the **2017 Flash Eurobarometer 445**,⁷⁴ Bulgarians are almost unanimous in recognising corruption as a serious problem in their country (97 %), and its judiciary – the system that is supposed to be carrying out the fight against corruption – as problematic itself (94%). Bulgarians see the situation as having deteriorated since their country's EU accession in 2007, and those with a pessimistic outlook regarding the prospects for fighting corruption are a majority.

According to the **2016 Standard Eurobarometer 86**,⁷⁵ trust in Bulgarian public institutions is rather low in general. Only 24 % trust the national public administration, 30 % trust the regional and the local authorities and only 17 % trust the judiciary (this is one of the least trusted institutions). According to the **2013 Special Eurobarometer 397 on corruption**,⁷⁶ only 9 % of Bulgarians think that there is a sufficient number of prosecutions to deter people from corrupt practices, 12 % believe that national measures against corruption are applied impartially and without ulterior motives, and 7 % trust the judiciary to resolve a complaint. Furthermore, some 82 % believe that high-level corruption cases are not sufficiently pursued. Consequently, Bulgarians are amongst the least likely to report corruption whenever they encounter it – according to the **TI 2016 Global Corruption Barometer**,⁷⁷ only 15 % consider reporting as socially acceptable. Bulgarian respondents explain that people do not report corruption due to the lack of protection for those who report it (41 %), or due to fear that those who report it would get into trouble with the police or other authorities (31 %). Only 16 % of respondents trust the efforts of their national institutions to fight corruption, and 29 % are likely to rely on the media to resolve a corruption complaint. Although trust in the EU institutions' work against corruption is diminishing (10 percentage points less in 2013 compared to 2011), it is still considerably higher than trust in the national institutions.⁷⁸ In 2017, only 26 % of Bulgarians viewed the courts as independent, while those who believed that there was interference in the work of the judiciary by the government and politicians, on the one hand, and by spheres of economic interest, on the other, were respectively 80 % and 79 %.⁷⁹ Some 70 % of Bulgarians agreed that the EU has a legitimate role to play in tackling corruption and 72 % said they would like the

⁷³ Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014.

⁷⁴ Flash Eurobarometer 445, '[The Cooperation and Verification Mechanism for Bulgaria and Romania – third wave](#)', fieldwork: October 2016, published: January 2017.

⁷⁵ Standard Eurobarometer 86, '[Public Opinion in the European Union](#)', 2016.

⁷⁶ Special Eurobarometer 397, op.cit.

⁷⁷ Global Corruption Barometer, '[People and corruption: Europe and Central Asia](#)', November 2016.

⁷⁸ Ibid.

⁷⁹ Flash Eurobarometer 447, '[Perceived independence of the national justice systems in the EU among the general public](#)', fieldwork: January 2017, published: April 2017.

Cooperation and Verification Mechanism (CVM) to be maintained. Although fewer people (50 %) credited the CVM with making an actual impact, it still enjoyed a considerably higher approval than did national institutions.⁸⁰

According to the **2015 Flash Eurobarometer 428 on business and corruption**, businesses perceive corruption as even more widespread than citizens do, with each group registering respectively 90 % and 84 %. However, only 61 % see corruption as a problem when they do business; seemingly, some businesses adapt to corruption. Even though the number of businesses that perceive corruption to be widespread in public procurement managed by local authorities is 8 % lower than in 2013, it is still high (70 %). The perception of how widespread bribery and abuse of power are amongst politicians is 85 % at the national and 75 % at the local level. Some 89 % of companies agree that bribery and the use of connections is the easiest way to obtain public services and 65 % think that the only way to succeed in business is by way of political connections.

6.1.2. Legal, institutional and policy framework

Levels of government in Bulgaria

Bulgaria is a unitary republican and a highly centralised state, as well as a parliamentary democracy, without legislative powers at the sub-national levels. It is currently composed of two NUTS 1 regions, six planning NUTS 2-level regions, 28 districts (oblast) and 264 municipalities (obshtina). It has three levels of government: central, district and municipal. Districts mainly handle statistical and administrative tasks. The principle of local self-government is enshrined in the Constitution and is applied at the municipal level, where mayors and municipal councils are directly elected by the people. Since 2002, municipalities have seen an increase in their competences and have gained some financial autonomy. The central government and its territorial sub-divisions – the districts – oversee the acts adopted by the municipalities to ensure their legality (Article 144, Constitution). Municipalities are obliged to apply the principles of publicity, transparency and accountability when implementing policies, making investments or resolving issues of local importance. The role of the districts, as the territorial sub-divisions of the central government, includes tasks relevant to fighting corruption, safeguarding the property of the state, ensuring observance of the law and exercising control over the lawfulness of the acts and actions of the local administration, government agencies, organisations and enterprises.

Bulgaria has adopted and ratified the major international anti-corruption instruments: the **Convention on the Protection of EU Financial Interests**, the **United Nations Convention against Corruption**, the **OECD Anti-Bribery Convention** and the **Council of Europe criminal and civil law conventions on corruption**. Furthermore, Bulgaria's national legislation has undergone a thorough pre-accession process of harmonisation with EU legislation. Therefore, the core principles with respect to the fight against corruption – good governance, openness and transparency; free and fair competition; and equal treatment – are enshrined in the country's legislation. Additionally, corruption is explicitly addressed in numerous national laws and legal codes. Examples include the **Criminal Code**, prohibiting various corrupt practices including extortion, trading in influence, facilitation payments, active and passive bribery, abuse of office and embezzlement; the **Civil Servants Act** and the **Law on Preventing and Detecting Conflicts of Interest**; the **Law on Protection of Competition** and the **Public Procurement Act**; the **Law on Political Parties** (which puts up guarantees for transparency and accountability of political-party funding); the **Law on Prevention and Disclosure of Conflicts of Interest**

⁸⁰ Flash Eurobarometer 445, '[The Cooperation and Verification Mechanism for Bulgaria and Romania – third wave](#)', 2017.

(offering very limited protection of whistleblowers in the public sector); and the **Criminal Procedure Code** (offering protection to civil servants assisting in criminal proceedings). The **Rules of Procedure of the Bulgarian Parliament** set requirements, among other things, towards the ethical conduct of the members of parliament, committing them to declare their assets and setting limitations on the gifts they can accept. There is no legal framework concerning lobbying.⁸¹

Penalties for corruption offences include imprisonment ranging from 1 to 30 years, fines and forfeiture of property. However, penalties are hardly ever enforced. The weakness of the institutional framework, the corruption and inefficiency of the judiciary and the complexity of the legal framework are all hampering law enforcement.⁸² Furthermore, the judiciary is characterised by nepotism, bribes, abuse of office, influence trading⁸³ and a fair degree of opacity in the way appointments are made.⁸⁴ Amongst the very few corruption cases that ever get opened, many serve as bargaining chips between political factions, rather than as genuine attempts at establishing justice,⁸⁵ as a result of which charges usually get dropped soon after they have been raised.⁸⁶ Despite the overhaul of the specialised anti-corruption police agency and the security services in 2013, they are still not sufficiently effective.⁸⁷ Post-1989 Bulgaria created a tradition of transforming political into economic power. Power is distributed among a few political party leaders and business conglomerates. Interlinked in a complex web of dependencies with former secret service and communist party elites, they dominate policy implementation.⁸⁸

The Bulgarian institutional setup for tackling corruption includes numerous bodies that have been reshuffled a number of times in an attempt to respond to public concerns and EU criticism regarding corruption. However, so far none of them has had a significant impact on limiting corrupt practices, which are widespread. Furthermore, the fact that there is a plethora of institutions tasked with fighting corruption creates problems of coordination and a jurisdictional overlap.⁸⁹

Following 2006, specialised anti-corruption inspectorates were set up in each part of the government administration, and an inspectorate-general directly accountable to the prime minister was created to coordinate their activity. However, these inspectorates have limited power and are politically biased.⁹⁰

Established in 2008, the State Agency for National Security (abbreviated to DANS in Bulgarian) is the main institution investigating corruption involving senior public officials. In May 2013, the rushed appointment of a well-known politician as the new DANS director brought tens of thousands to the streets in protests that went on for more than

⁸¹ Suzanne Mulcahy, '[Money, politics, power: corruption risks in Europe](#)', Transparency International, 2012.

⁸² [Bulgaria annex to the EU Anti-Corruption Report](#), European Commission, February 2014.

⁸³ Sylvana Habdank-Kończowska, '[Nations in Transit 2015](#)', Freedom House, 2015.

⁸⁴ [Assistance to Bulgaria and Romania under the CVM](#), European Commission website.

⁸⁵ Bureau of Democracy, Human Rights, and Labor, '[2013 Country Reports on Human Rights Practices](#)', U.S. Department of State, 27 February 2014.

⁸⁶ Alexander Stoyanov, Ruslan Stefanov and Boryana Velcheva, '[Bulgarian Anti-Corruption Reforms: A Lost Decade?](#)' Center for the Study of Democracy (CSD), 27 January 2014.

⁸⁷ Klaus Schwab, '[Global Competitiveness Report 2014–2015](#)', World Economic Forum, 21 August 2014.

⁸⁸ Alexander Stoyanov, Ruslan Stefanov and Boryana Velcheva, op.cit.

⁸⁹ '[National Integrity System Assessment Bulgaria](#)', Transparency International, 1 March 2012.

⁹⁰ [GRECO](#) website, Council of Europe, 2015.

a year until the government that had made the appointment resigned. Another controversy plaguing the DANS is its alleged abuse of its rather broad and vaguely defined powers to wiretap politicians' and individuals' phones without linking this to ongoing investigations and/or without observing the standard procedures.⁹¹

In 2012, a Commission for Illegal Assets' Forfeiture⁹² was created with the task of forfeiting assets whose value substantially exceeds the income of the owner and their family.⁹³ However, its activities have been marred by a number of scandals. For instance, its first chairman had to resign due to a conflict of interest and his successor resigned, claiming that most of the personnel of the Commission for Illegal Assets' Forfeiture were lacking in willingness to wage an effective fight against political corruption.⁹⁴

Other anti-corruption institutions include the Public Financial Inspection Agency; the National Audit Office; the Commission for Prevention and Ascertainment of Conflict of Interest and the Centre for Preventing and Countering Corruption and Organised Crime; the Commission on Preventing and Countering Corruption; and the inter-institutional National Council on Anti-Corruption Policies. The overall legal and institutional setup is characterised by a deficit of efficient deterrents and constraints with regard to corruption.⁹⁵

At EU level, the CVM is monitoring Bulgaria's progress with regard to a number of defined areas, among them the independence, professionalism and efficiency of the judiciary, the fight against corruption and action taken against organised crime.⁹⁶ Given the conclusion in the CVM reports that Bulgaria has not made sufficient progress in these areas, it has been considered that the mechanism should remain in place in this country, unlike in Romania, which has shown progress. Corruption, blatant conflicts of interest and a lack of adequate control systems have led to a freezing of EU funds for Bulgaria on several occasions. Such was the case with funds under the PHARE programme funds earmarked for road infrastructure development,⁹⁷ and funds under the EU's Operational Programme Science and Education for Smart Growth. The freezing of EU funds is an extremely sensitive issue in Bulgaria and therefore has the potential to exercise an impact on the fight against corruption.

Over the years, there have been several attempts to tackle the fight against corruption through the adoption of a number of policy instruments: the 2009 integrated anti-corruption strategy,⁹⁸ the 2015-2020 action plan for preventing corruption⁹⁹ and the

⁹¹ Atanas Atanasov, [The Interior Ministry and the SANS reportedly wiretapped Kasim Dal, acting on a fake tipoff that he was plotting to murder Mestan and Peevski](#) (in Bulgarian), Legal World Bulgaria, 29 August 2014.

⁹² Widely known as the 'Kushlev Commission', named after its chairman.

⁹³ ['Anti-corruption Reforms in Eastern Europe and Central Asia'](#), OECD, 16 August 2013.

⁹⁴ ['Illegal property worth over 6 million leva has been confiscated since the beginning of 2012'](#) (in Bulgarian), Capital Newspaper, 19 May 2012.

⁹⁵ Alina Mungiu-Pippidi, et.al. ['Contextual Choices in Fighting Corruption: Lessons Learnt'](#), Hertie School of Governance and NORAD, 2011.

⁹⁶ Georgi Gotev, ['Juncker: Romania could see its monitoring lifted before Bulgaria'](#), Euractiv, 16 February 2016

⁹⁷ Ruslan Stefanov, Stefan Karaboev, ['The Bulgarian public procurement market: Corruption risks and dynamics in the construction sector'](#), Center for the Study of Democracy, 30 March 2015.

⁹⁸ Commission on Preventing and Countering Corruption, ['Integrated Strategy for Preventing and Countering Corruption and Organised Crime'](#).

⁹⁹ ['Action plan to prevent corruption in 2015-2020'](#) (in Bulgarian), Bulgarian government website.

2013 programme prioritising measures against the underlying causes of corruption.¹⁰⁰ However, none of these post-accession strategies has delivered substantial results. In 2015, lack of political support led the Parliament to reject the constitutional amendments aimed at limiting political interference in the courts and at introducing the principle of checks and balances in the work of the chief prosecutor. This happened against the recommendations of the Council of Europe's advisory body on constitutional law, the Venice Commission, and is considered to be an obstruction to reforming the judiciary, one of the key prerequisites for curbing corruption.

6.1.3. Best practices

Most of the positive policy measures on tackling corruption aim at improving the overall level of transparency, and examples of such practices come from different fields. The principle of the overriding public interest is enshrined in the Access to Public Information Act, which opened the door to investigative journalism; some modest steps have already been made in this direction.¹⁰¹ Since even the electoral process itself raises legality and corruption concerns,¹⁰² measures have been taken to increase its transparency and limit some types of corruption related to it. A complete ban on undisclosed and corporate donations and a ceiling of approximately €5 000 worth of donations a year to political parties are prescribed by law.¹⁰³ Over 7 000 high-level officials holding different posts, including MPs, have to declare their assets in an electronic public register held at the National Audit Office.¹⁰⁴

The 2014-2020 e-Governance development strategy¹⁰⁵ aims, among other things, at increasing the overall level of transparency and efficiency of public institutions, enhancing citizen and civil-society participation in governance, and delivering accessible administrative services of sound quality to both citizens and businesses. With regard to public institutions, these measures include ensuring transparency in their decision-making and opportunities for public feedback; monitoring progress in the implementation of priority services and projects on a continuous basis; ensuring better interaction among institutions in the public administration; and ensuring that personal data are handled lawfully. The 2016-2020 Road map for implementing the strategy¹⁰⁶ includes more specific measures, among them building centralised automated information systems in sectors such as the customs, the judiciary and national security. These information systems would be capable of analysing the risk of corruption facing officials by providing references to numerous specific pieces of legislation and collating information from multiple sources and registers. Similar automated information systems would be introduced for the purposes of annual financial reporting, the cadastre, public procurement, and e-voting. Most of these projects are in their preliminary or early stage

¹⁰⁰ Plamen Oresharski, '[Openness, accountability and dialogue will be the key principles in the government's work](#)', 20 September 2013 (in Bulgarian).

¹⁰¹ However, the implementation of the Access to Public Information Act is somewhat problematic.

¹⁰² Suzanne Mulcahy, op.cit.

¹⁰³ Suzanne Mulcahy, op.cit.

¹⁰⁴ In practice, the lack of transparency of party spending prevents cross-checking to ascertain that all donations are registered and the reliability of the declared information is questionable, provided it gets declared at all.

¹⁰⁵ '[e-Governance Development Strategy in the Republic of Bulgaria for the 2016-2020 period](#)', 8 April 2016 (in Bulgarian).

¹⁰⁶ '[Roadmap for the implementation of the e-Governance Development Strategy in the Republic of Bulgaria for the 2016-2020 period](#)', 8 April 2016 (in Bulgarian).

and their full impact on the fight against corruption is to be seen in the future. For example, the e-procurement system still has limited functionalities – while the open-data Public Procurement Register¹⁰⁷ does bring transparency to public contracts, the tendering process is not yet sufficiently transparent.

Another initiative on fighting corruption involves introducing TI integrity pacts in public procurement. The 2012-2014 pilot phase was implemented for a number of tenders launched by the Road Infrastructure Agency, the Ministry of Health and the Ministry of Labour and Social Policy. TI also implements a national integrity system assessment,¹⁰⁸ which analyses holistically efforts to prevent and fight corruption in the legislative, executive and judicial branches of power, the institution of the ombudsman, civil society organisations, the media and the business sector.

Civil society pressure for transparency is an effort to offset the lack of media freedom, at least partially.¹⁰⁹ The latest such initiative is the setting up of the Anti-Corruption Fund, which investigates corruption and analyses it based on case, type and reason, and organises trainings on activities aimed at curbing corruption.¹¹⁰ The Center for the Study of Democracy (CSD), which has a long record of doing research on corruption in Bulgaria, has developed a comprehensive model for monitoring anti-corruption government policies.

Despite the underfunding of municipalities and the financial vulnerability of municipal councillors,¹¹¹ there are positive examples of anti-corruption measures at the local level. Such examples are: the transparent decision-making process in the Municipality of Veliko Tarnovo regarding requests for funding from the government budget; and the posting of councillors' questions and mayors' answers on the municipal websites in Burgas, Gabrovo and Silistra. Other examples include intensified interaction with civil society (for instance, in the municipalities of Blagoevgrad, Gabrovo, Rousse, Razgrad, Pleven, Smolyan, Shumen, Stara Zagora and Sofia), public participation in the sittings of the municipal councils and their committees (Pazardzhik), as well as real-time posting of the administration's document flow on the municipal website (Burgas).

¹⁰⁷ <https://opendata.government.bg/dataset/registar-na-obshtestvenite-porachki>, in Bulgarian only.

¹⁰⁸ 'National Integrity System Assessment Bulgaria', Transparency International, 1 March 2012.

¹⁰⁹ Overall, the Bulgarian media environment is characterised by a concentration of ownership, political interference and an arbitrary distribution of public resources to 'convenient' outlets. (Orlin Spassov, Nelly Ognyanova, Nikoleta Daskalova, [Media Pluralism Monitor](#), European University Institute, December 2016).

¹¹⁰ [Anti-corruption Fund](#).

¹¹¹ Katia Hristova-Valtcheva, Vanya Kashukeeva-Nusheva, '[Local Integrity System in Bulgaria: Catalogue of Good Practices](#)', Transparency International Bulgaria.

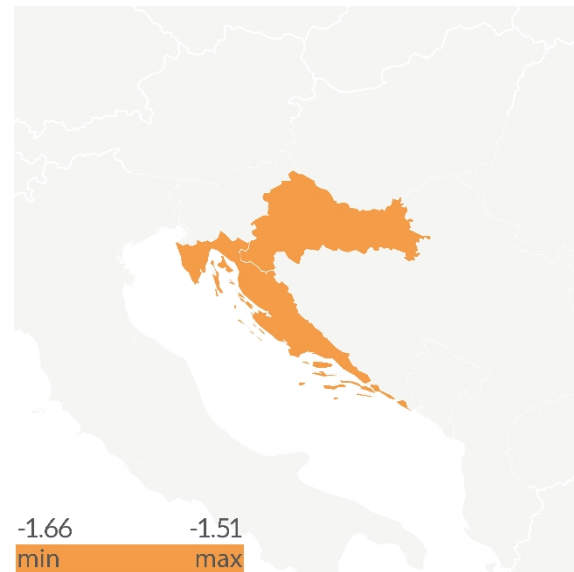
6.2. Croatia

6.2.1. Corruption perception

The Croatian general public and experts have been very critical about the corruption in their country and what is being done to fight it. According to the **2013 Special Eurobarometer on corruption**¹¹² survey, 94 % of respondents think that corruption in Croatia is widespread (EU-27 average: 76 %), and 55 % say that they are personally affected by corruption in their daily lives (EU-27 average: 26 %). As many as 91 % (EU-27 average: 77 %) think that there is corruption in the local or regional public institutions, and even more (93 %) think that there is corruption in the national public institutions. If they need to obtain a service from the public administration, 36 % think it is acceptable to do a favour and 43 % to give a gift, but only 9 % think it is acceptable to give money. When it comes to measures against corruption, 28 % think that government efforts to combat corruption are effective, and only 23 % think that there are enough successful prosecutions in Croatia to deter people from corrupt practices. This corresponds to the European Commission's evaluation of Croatia in its **2013 Monitoring Report on Croatia's accession preparations**,¹¹³ which warns that 'corruption-related crimes are frequently punished with mild or even conditional sanctions, creating a climate of impunity'.¹¹⁴ The judiciary is also perceived as lacking independence, with slightly more than 30 % of the general public perceiving the courts as independent.¹¹⁵ The main reason respondents give for this is interference or pressure from the government and politicians (more than 50 %, the highest percentage in the EU), followed by pressure from economic or other specific interests.¹¹⁶

Transparency International's 2016 Global Corruption Barometer¹¹⁷ also reveals the extent of the problem in Croatia: based on the fact that 51 % of respondents see corruption as one of the three biggest problems facing their country, Croatia ranks near the top among the European countries surveyed. The government's efforts to fight corruption are evaluated negatively by 57 % of respondents. According to the same survey, 10 % of households which had contact with at least one basic public service in the 12 months preceding the survey had paid a bribe to access it. On the other hand, reporting incidents of corruption is not perceived as socially acceptable as it is in some

Figure 5 – Perception of corruption across regions in Croatia, 2013



Data source: [QoG EU regional dataset](#), 2013.

NB: Higher values signify less corruption.

¹¹² Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014.

¹¹³ Communication from the Commission, [Monitoring Report on Croatia's accession preparations](#), 26 March 2013.

¹¹⁴ [Annex on Croatia to the EU Anti-Corruption Report](#), COM(2014) 38 final, European Commission, 2014, p. 2, sentence summarising the 2013 Monitoring Report evaluation of Croatia's judicial anti-corruption measures.

¹¹⁵ The only EU Member States that are ranked worse on this indicator are Spain, Bulgaria and Slovakia.

¹¹⁶ [The EU Justice Scoreboard 2017](#), European Commission.

¹¹⁷ Global Corruption Barometer, '[People and corruption: Europe and Central Asia](#)', November 2016.

other European countries: Croatia is among the countries where only a small percentage of people (around 15 %) agree that reporting corruption is socially acceptable.

Expert perceptions of corruption also place Croatia near the bottom of EU Member States, with the country obtaining a score of 49 out of 100¹¹⁸ in **Transparency International's 2016 Corruption Perceptions Index**. In the **World Bank's 2015 Worldwide Governance Indicators**, Croatia is in the 63.46 percentile of all the countries participating in the survey with regard to control of corruption. This is an improvement from 2005 and 2010, when Croatia ranked in the 58.54 and 57.62 percentile respectively.

The **2016 Corruption Assessment Report** for south-east Europe drawn up by the Centre for the Study of Democracy,¹¹⁹ revealed that the percentage of respondents who had been involved in corruption in the past year had decreased from 28 % in 2001 to 8.6 % in 2016. However, while corruption pressure (situations in which respondents are asked for bribes) had subsided from 36.6 % in 2001 to 9.2 % in 2014, it started rising thereafter, reaching 12 % in 2016. As many as 62 % of respondents expected that they would find themselves in a situation where they would be pressured into giving bribes. However, this percentage was even higher in the past, with 83 % believing this in 2001.

According to the same report, perceptions of local political leaders (colloquially called 'local sheriffs') are the most negative, with 72 % of respondents believing they are corrupt, which is higher than the southeast European average (66 %). Local political leaders are followed by members of parliament (70 %) and political parties (69 %). Municipal councillors are perceived to be corrupt by 59 % (the average for south-eastern Europe is 57 %). The NGO sector is perceived to be corrupt by 35 %, which is a drop from 37 % in 2014 but a significant increase from 14.2 % in 2001.

Businesses in Croatia have a similar negative perception of corruption in the country. According to the **2015 Flash Eurobarometer on businesses' attitudes towards corruption in the EU**,¹²⁰ 90 % of them think corruption is widespread in Croatia (EU-28 average: 71 %). They are among the most likely in the EU to say that favouritism towards friends and family members is widespread in public institutions (50 %).¹²¹ However, businesses in Croatia are also more critical towards corruption, with, for example, 27 % thinking that any gift is a bribe. Croatia is also among the EU Member States where at least half of all businesses think that corruption is widespread in public procurement managed by the central, regional or local government. When compared to the 2013 survey,¹²² fewer businesses think that bribes and kickbacks are widespread, but more think that the only way to succeed in business is to have political connections. Businesses in Croatia are more optimistic when evaluating Croatia's justice system, with 63 % of

¹¹⁸ A number of EU Member States have received a lower score than Croatia: Hungary, Romania, Italy, Greece and Bulgaria.

¹¹⁹ Center for the Study of Democracy (Bulgaria), '[Corruption Assessment Report 2016](#)' (SELDI).

¹²⁰ Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', fieldwork: September-October 2015, published: December 2015.

¹²¹ The only EU Member States where the percentage is higher are Spain and Poland.

¹²² Flash Barometer 374, '[Businesses' attitudes towards corruption in the EU 2013](#)', Fieldwork: February– March 2013, published: February 2014.

them thinking that people and businesses engaging in corruption would be caught, and 53 % thinking they would be fined or imprisoned.¹²³

The **2013 Quality of Government (QoG) regional survey**,¹²⁴ which analyses the quality of the regional and local administrations, ranks Croatia 26th among the EU-28 (before Bulgaria and Romania) with a score of -1.182. The regional survey does not show significant variation within the country, though this may be a consequence of the fact that the analysis focused on Croatia's two NUTS 2 regions and not on its primary administrative units (20 counties plus the City of Zagreb). As far as the perception of corruption is concerned, both regions score relatively low, with similar scores of -1.66 and -1.50. When comparing the perception of corruption in individual Croatian sectors, education is perceived as more problematic than in other countries and regions analysed. Also, the figures for the perceived use of bribery by others are higher than the personal experience of bribery.

6.2.2. Legislative and policy framework

Levels of government in Croatia

Croatia is a unitary state with three levels of government: central, regional (counties – *županija*) and local (towns and municipalities – *grad and općina*). According to the **2015-2020 Strategy for the development of the public administration**, Croatia has 20 counties (plus the City of Zagreb), 428 municipalities and 127 towns. Counties have jurisdiction over regional affairs, in particular education, health, urban planning, economic development, transport and transport infrastructure, public roads maintenance, and other similar domains. Towns and municipalities have jurisdiction over local affairs, such as urban planning, child and social care, primary education, consumer protection, civil protection and other similar domains.

In its **Monitoring report on Croatia's accession preparations**, the Commission assessed Croatia's legislative framework for the elimination of corruption as 'adequate'. Croatia has made concerted efforts to update its anti-corruption legislation, as can be seen from its pre-2015 actions, focused on establishing the relevant institutional and legislative framework and on preventing and tackling corruption. Croatia's actions were guided inter alia by its obligations under the UN Convention against Corruption and other relevant Council of Europe and EU instruments, to which it is a party. However, Croatia is not a party to the OECD Anti-Bribery Convention.

The priority areas on which Croatia has focused its efforts to combat corruption¹²⁵ have been: preventing conflicts of interest with regard to public officials, funding of political parties, right to accessing information, integrity of the civil service, public finances, public procurement and whistle-blower protection. Consequently, Croatia has a fairly developed legislative framework in these areas. For example, apart from the relevant codes of conduct, conflict of interest is covered by the **Act on preventing conflicts of interest** (Official Gazette 26/11, 12/12), whose implementation is monitored by a special committee. Political party funding is regulated by the **Act on financing political activities and electoral campaigning** (Official Gazette 24/11, 61/11, 27/13, 02/14), which sets a limit on the amount of donations and forbids anonymous donations. The **Act on the right to information access** (Official Gazette 25/13) ensures that citizens have a right to access

¹²³ Only three EU Member States have a higher percentage of businesses that think perpetrators of corruption will be caught (Romania, Estonia and Denmark) or fined or imprisoned (Romania, Denmark and Luxembourg).

¹²⁴ For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

¹²⁵ Website of the Croatian Ministry of Justice, section on [combatting corruption](#).

information produced by the government institutions. Another step in this direction is the government portal,¹²⁶ set up as a centralised source of information on the rights and duties of citizens and entrepreneurs, and on the available e-services regarding public procurement. The **Code of ethics of civil servants** (Official Gazette 40/11, 13/12) is the main instrument safeguarding the integrity of the civil services. Although there is no specific legislation to protect whistle-blowers, provisions on the protection of persons reporting corruption are built into the criminal code, the labour laws, the data protection laws and others.

In addition to having adopted the relevant legislation, Croatia has developed an anti-corruption institutional framework. There are several anti-corruption committees and departments, the most prominent one being the **Bureau for Combatting Corruption and Organised Crime (USKOK)** – the special office of the state attorney in charge of prosecuting corruption and cases related to organised crime. Over the years, its powers have grown; while some authors¹²⁷ have evaluated the Bureau's work positively, challenges remain,¹²⁸ especially regarding inter-institutional coordination and the effectiveness of the institutional framework as a whole.

The **2015-2020 National anti-corruption strategy**¹²⁹ – the country's latest – focuses on eliminating the remaining flaws in the institutional and legislative frameworks, as well as on preventive action involving detecting corruption risks. Therefore, the plans for the coming period are to set up a unified ethics infrastructure covering the entire public administration (it currently covers only certain groups of civil servants), especially where work duties are related to conflicts of interest. Stronger ethical standards for the members of parliament, the government, the president and other public officials have also been identified as necessary. While a lot has been done to improve the political funding system, difficulties in monitoring its implementation remain and need to be addressed. There is also a need to regulate the financing of referendum campaigns. This is a highly problematic issue, as decisions adopted in referendums have a direct and lasting influence on the country's social and political development. Lobbying is not regulated, either.

The strategy considers the local and regional governments as highly vulnerable to corruption, due to the fact that they own significant amounts of property and they can spend a considerable portion of their budgets on public procurement projects. What is more, they are in direct contact with the citizens. However, there is currently no code of ethics for their officials and other employees, nor are they bound by any basic standards of acceptable behaviour, which may easily lead to conflicts of interest. Their work is assessed as insufficiently transparent, in particular in making the documentation for competitions, public procurement contracts, sponsorships and donations publicly accessible.

¹²⁶ www.gov.hr

¹²⁷ Gabriel Kuris, '[Cleaning house: Croatia mops up high-level corruption, 2005-2012](#)', Innovations for Successful Societies, Princeton University, accessed at <http://www.princeton.edu/successfulsocieties> on 6 June 2017.

¹²⁸ [Annex on Croatia to the EU Anti-Corruption Report](#), op.cit.

¹²⁹ Hrvatski sabor, '[Strategija suzbijanja korupcije za razdoblje od 2015. do 2020. godine](#)', 27 February 2015.

According to **the European Semester 2017 Monitoring Report**,¹³⁰ however, the implementation of Croatia's National 2015-2020 anti-corruption strategy has been delayed. The monitoring report puts special emphasis on problems related to public procurement, because this area is considered vulnerable to corruption and because addressing risks in it would have a significant impact on public spending efficiency, given that public procurement accounts for around 13 % of GDP. A recent Commission study on public procurement¹³¹ recommended that Croatia allow ex officio investigation by the State Commission for Supervision of Public Procurement, increase whistle-blower protection, and implement sanctions for infringements of the procurement rules. A new Public Procurement Act, helping to address corruption through higher traceability and transparency of procurement procedures, entered into force on 1 January 2017. E-procurement has been mandatory since 2008, and e-submission of tenders for all contracting authorities since 2016.

6.2.3. Best practices

Examples of good practices in combatting corruption in Croatia are either scant or not given sufficient visibility. This is in line with the strong public perception that Croatia's fight against corruption is not so effective and with the Commission's remarks that the proposed measures to combat aspects of corruption are not sufficiently defined, and that the control mechanisms for their implementation are flawed.¹³²

Actions taken by the public administration – in particular the regional and the local one – are few and far apart, and it is mostly civil society organisations that have made concrete steps and designed projects aimed at eradicating corruption at all levels, especially at the regional and local ones. Public administration reform is a key issue that has been facing Croatia for years and that the Commission has identified¹³³ as a prerequisite for an efficient delivery of public services. The Commission evaluates Croatia's public administration as 'weak', 'inefficient' and 'fragmented', and points out that 'Croatia scores much lower than other EU members on the government's capacity to deliver sound policies ('executive capacity)'. It furthermore states that 'the lack of evidence-based policymaking and monitoring of policy impact affects most areas, and the perceived quality of public services in Croatia is also predominantly bad'. It also raises the issue of Croatia's high level of territorial fragmentation, which 'contributes to a complex state administration and weighs on efficiency', especially because 'many units do not have the adequate financial, administrative, and personnel resources'.

In some cases, civil society organisations report that their efforts to make the local administration's work more transparent are not always welcomed. Such an example is the project involving the introduction of participative budgeting in several Croatian towns, which had partial success.¹³⁴ Another project involving the town of Pazin enjoyed greater success. Pazin has been implementing participative budgeting since the launch of its project in 2014. The project, co-financed by the EU at 85 %, was implemented by the NGO Gong in partnership with the local government and several other organisations.

¹³⁰ [Country Report Croatia 2017](#), including an in-depth review on the prevention and correction of macroeconomic imbalances, 2017 European Semester, European Commission, February 2017.

¹³¹ Croatia country profile – '[Public procurement – a study on administrative capacity in the EU](#)', European Commission, January 2016.

¹³² [Annex on Croatia to the EU Anti-Corruption Report](#), op.cit.

¹³³ [Country Report Croatia 2017](#), op.cit.

¹³⁴ <http://pb.zelena-istra.hr/report>.

Its aim was to strengthen the capacity of all stakeholders, especially the citizens, in making local-level decisions, as a way to increase the quality of public policies and governance practices of the local administration. The citizens were involved in drawing up the local budget through public discussions, where they made suggestions, debated and voted on the communal actions that were to receive financing. They had also been informed on the local government's sectoral priorities through five focussed discussions. Minutes on the public discussions, suggestions and decisions were delivered to the town council and the mayor, so that when adopting the budget they would take into account the citizens' proposals. There is a web portal¹³⁵ where citizens can inform themselves about how they can contribute to the making of the local budget.

At the national level, there have been more prominent examples of actions, focused in particular on making public procurement procedures – a highly problematic area – as transparent as possible. One such example is the State Commission for Monitoring Public Procurement Procedures (DKOM), which was set up as an independent government body in charge of deciding on appeals on public procurement procedures, concessions and public-private partnerships. It publishes all of its decisions on its website.¹³⁶ Furthermore, all public bodies have to publish their procurement plans for the fiscal year as well as the contracts they have concluded, on their own websites or on the public procurement portal coordinated by the Ministry of the Economy. Yet another example is a civil society project run by the Partnership for Social Development NGO,¹³⁷ involving the launch of a web portal and an EU-funded public procurement database. The portal gives citizens free access to data on the implementation of public procurement procedures and on the companies involved in such procedures. It also provides information on the assets and interests of public officials.

¹³⁵ <http://proracun.pazin.hr/>.

¹³⁶ <http://dkom.hr/>.

¹³⁷ See [website in English](#).

6.3. Finland

6.3.1. Perception of corruption

Along with the other Nordic Member States, Finland typically appears near the top of global surveys and indices measuring good governance, and is thus perceived internationally as a country with very little corruption. It ranked third in **Transparency International's 2016 Corruption Perceptions Index**, with its score of 89 that year almost identical to that in the four preceding years. According to the **World Bank's 2015 Worldwide Governance Indicators**, Finland achieved a governance score of 2.28 (on a scale of -2.5 to +2.5) and a percentile rank of 99.52 for control of corruption, both figures placing it first among EU countries. Nevertheless, a number of corruption scandals and cases, some of which have attracted international attention, have damaged the country's international standing. There is evidence that corruption in Finland and its Nordic neighbours is more likely to take the form of institutionalised or 'structural' corruption, such as closed-door deals, 'old boys' networks, **conflicts of interest** and illicit financing, the most high-profile example of which was the 2008 political party-financing scandal centred on the 2007 general election. In addition, to the extent that corruption is perceived as an issue, it tends to be associated more with the private sector than with the public one, in particular with Finnish businesses operating abroad.¹³⁸

The particular shape that corruption in Finland takes may explain the mismatch between public perceptions and personal experience. According to the **2013 Special Eurobarometer on Corruption**,¹³⁹ only 6 % of people in Finland consider it acceptable to give a gift to the public administration in return for a service (EU-27 average: 23 %); only 9 % report personally knowing someone who has taken a bribe (EU-27 average: 12 %); 9 % say they are personally affected by corruption in their daily life (EU-27 average: 26 %); and 97 % report that they have not encountered anyone over the past 12 months who has requested or expected a bribe for a service (EU-27 average: 91 %). However, almost one in three of those surveyed (29 %) considers corruption to be widespread in their country (EU-27 average: 76 %). Again, despite the relatively limited personal experience of those surveyed, almost half (45 %) believe there is corruption in the local or regional institutions (EU average: 77 %) and just over half (51 %) believe there is corruption in Finland's national public institutions (EU average: 80 %). Furthermore, 28 % agree that the only way to succeed in business is to have political connections (EU-27 average: 56 %). On the other hand, Finns seem to be relatively satisfied with public efforts to curb and control corruption: 47 % agree that government efforts to combat corruption are effective (EU-27 average: 23 %). Perhaps surprisingly in the light of the 2008 political party donation scandal, as many as 37 % believe there is sufficient

Figure 6 – Perception of corruption across regions in Finland, 2013



Data source: [QoG EU regional dataset](#), 2013.
NB: Higher values signify less corruption.

¹³⁸ See, for example, '[Current activities in the Finnish anti-corruption field](#)', Norton Rose Fulbright, March 2016.

¹³⁹ Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014.

transparency and supervision of political party funding in their country (EU-27 average: 22 %). This is second only to Denmark (41 %) among the EU-27.

Businesses based in Finland also generally perceive corruption to be less of an issue compared to the EU-28 average, but still more of a problem than personal experience would suggest. Survey data from the **2015 Flash Eurobarometer 428 on businesses' attitudes towards corruption in the EU**¹⁴⁰ show that 31 % of the businesses surveyed consider corruption to be 'widespread' in the country (EU-28 average: 71 %), yet only 16 % consider corruption to be a problem for their company when doing business (EU-28 average: 40 %), and 21 % (compared with 13 % in 2013) believe the only way to succeed in business is to have political connections (EU-28 average: 44 %). Regarding public procurement, 20 % believe that corruption in public procurement managed by national authorities is 'widespread' (EU-28 average: 53 %) and 29 % (up from 15 % in 2013) believe it to be a widespread problem among local or regional authorities (EU-28 average: 58 %). It is noteworthy that 38 % think bribery or abuse of power for personal gain is widespread among politicians, party representatives or senior officials at national level (EU-28 average: 68 %) and 42 % (compared with 30 % in 2013) think the same for the same individuals at regional or local level (EU-28 average: 65 %).

More recent data in the European Commission's **2016 Standard Eurobarometer 86**¹⁴¹ show that 74 % of Finns tend to trust their public administration (EU-28 average: 48 %), while 69 % tend to trust their regional and local public authorities (EU-28 average: 47 %).

In the **2013 QoG regional survey**, which examines the perception of quality, impartiality and corruption in public services at regional level, Finland as a whole ranks second among the EU Member States as far as the overall **EQI index** is concerned¹⁴². Looking at corruption perception data only (see Figure 6 above), there are no meaningful regional variations within mainland Finland, all mainland regions registering high scores (meaning a low level of corruption), ranging from 1.5 to 1.65. However, the Åland Islands constitute an outlier, scoring largely higher not only compared to the other Finnish regions, but also to the whole sample, at the rate of 2.35. Åland keeps its top position also in connection with individual variables related to corruption in education, healthcare and law enforcement (see Figure 3, page 14). It loses its first place when it comes to perception of corruption by others and has an equivalent score to other Finnish regions as far the personal experience of corruption is concerned (above 0.8). It has to be noted that personal experience of bribery is virtually inexistent throughout the country, amounting to less than 1 %. The only component to show some variations between regions is the perception of elections as being clean from corruption (or not): while Finland as a whole is among the top five countries (at fourth place), regional performance varies from 0.77 to 2.33, presenting a more heterogeneous picture (57 places separate the top-performing Åland from the lower-performing South Finland, ranked 58th out of 206 regions).

¹⁴⁰ Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', fieldwork: September-October 2015, published: December 2015.

¹⁴¹ Standard Eurobarometer 86, '[Public opinion in the European Union](#)', 2016.

¹⁴² For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

6.3.2. Legal, institutional and policy framework

Levels of government in Finland

Finland is a unitary state with a decentralised structure of governance. There are three levels of government: central, regional and local. Finland has 19 regions (*maakunnan liitto*) – 18 on mainland Finland governed by regional councils, and one in the semi-autonomous province of the Åland Islands, an archipelago territory off Finland's south-western coast with its own parliament and government. At the local level, Finland has 311 municipalities (*kunta*) (2017).

The two main statutory functions of regional councils are (1) regional development and (2) regional land-use planning. They are also responsible for planning and administering EU structural funds programmes. Finnish municipalities have 500 statutory functions, including services in the social, health, educational, cultural, planning and civil engineering sectors.

Although anti-corruption efforts in Finland are led by the central government's Ministry of the Interior, Ministry of Justice and National Bureau of Investigation, Commission data suggest that 52 % of public procurement contracts are tendered at regional or local level.¹⁴³ Consequently, the recently introduced Act on Public Procurement and Concession Contracts (see section on legal framework) is an important step in protecting public finances from corruption at the local level.

Legal framework

Active and passive bribery, embezzlement, fraud, abuse of office, breach of trust and abuse of insider information are all prohibited under the Finnish Criminal Code,¹⁴⁴ and both the Constitution¹⁴⁵ and the Openness of Government Activities Act¹⁴⁶ establish the principle of free access to public records. The State Civil Servants Act,¹⁴⁷ the Municipal Officeholders Act¹⁴⁸ and the Local Government Act¹⁴⁹ all contain provisions on conflicts of interest. The Act on a Candidate's Election Funding¹⁵⁰ sets out election funding and disclosure rules for local, regional, parliamentary, presidential and European Parliament elections, while the Political Parties Act¹⁵¹ and the Criminal Code were amended in 2010 and 2011 respectively, to increase **transparency** in the wake of the 2008 campaign finance scandal (see section on perceptions of corruption). Finland is a signatory to the **United Nations Convention on Corruption**, the **OECD Anti-Bribery Convention** and the **Council of Europe's Criminal Law Convention on Corruption** and **Civil Law Convention on Corruption**.

A March 2017 monitoring report on Finland's compliance with the **OECD Anti-Bribery Convention** concluded that the country was actively enforcing its foreign bribery laws, but recommended steps to improve a 'discouragingly high acquittal rate'.¹⁵² A national

¹⁴³ Data based on procurement tenders registered in the EU public procurement database (TED); see Finland country profile in '[Public procurement – a study on administrative capacity in the EU](#)', European Commission, January 2016.

¹⁴⁴ [Rikoslaki 19.12.1889/39](#), published in the Finlex legislative database.

¹⁴⁵ [Peruslaki 11.6.1999/731](#), published in Finlex.

¹⁴⁶ [Laki viranomaisten toiminnan julkisuudesta 621/1999](#), published in Finlex.

¹⁴⁷ [Valtion virkamieslaki 19.8.1994/750](#), published in Finlex.

¹⁴⁸ [Laki kunnallisesta viranhaltijasta 11.4.2003/304](#), published in Finlex.

¹⁴⁹ [Kuntalaki 365/1995](#), published in Finlex.

¹⁵⁰ [Laki ehdokkaan vaalirahoituksesta 24.4.2009/273](#), published in Finlex.

¹⁵¹ [Puoluelaki 10.1.1969/10](#), published in Finlex.

¹⁵² '[Finland's Phase 4 Monitoring Report – OECD Anti-Bribery Convention](#)', OECD, 23 March 2017.

anti-corruption strategy currently being drafted by the Ministry of Justice's anti-corruption working group (see below) recognises that legislation on bribery should be improved. In 2016, Finland introduced new legislation on procurement procedures aimed at tackling corruption in public procurement.¹⁵³ There is no specific legal **protection for whistle-blowers** in Finland, but the draft national anti-corruption strategy recognises that whistle-blowers' protection should be improved.

Institutional and policy framework

Finnish anti-corruption legislation and policy have been amended in recent years to reflect international conventions and EU obligations. A 2015 compliance report by GRECO¹⁵⁴ concluded that Finland had satisfactorily implemented four out of eight recommendations for preventing corruption in respect of members of parliament, judges and prosecutors, while the other four recommendations had been 'partly' implemented.

Until now, Finland had never had a dedicated national anti-corruption strategy,¹⁵⁵ although it had drawn up strategies for the shadow economy and for internal security (against corruption in **public procurement**, for example). However, in accordance with Finland's obligations under Article 5 of the 2004 UN Convention against Corruption,¹⁵⁶ a national strategy has been drafted by an anti-corruption working group in the Ministry of Justice and, following stakeholder consultation, is now being finalised.¹⁵⁷ The strategy's objective is a 'society where corruption has no chance of succeeding and no place to hide'.

Although a national strategy is now being finalised, corruption in Finland is not seen as a pervasive general phenomenon so much as a criminal and governance matter arising in such policy areas as **election campaign finance** or embezzlement. To the extent that a unified approach already exists, it is to avoid corruption by promoting ethical norms and ensuring transparency and supervision. To this end, the civil servants' handbook 'Values in the Daily Job – Civil Servant's Ethics' provides guidelines on values and ethics for people working in the public administration. In terms of corruption in the form of conflicts of interest, there is no specific legislation on lobbying, nor is there a register for lobbyists. However, Finnish lobbyists are self-regulated by a code of conduct, and the government's advisory committee on ethical conduct for public officials has recommended that officials working with information that could be valuable to the private sector be subject to a cooling off period explicitly written into their public sector contract.¹⁵⁸

¹⁵³ [Act on Public Procurement and Concession Contracts](#) (Laki julkisista hankinnoista ja käyttöoikeussopimuksista 1397/2016).

¹⁵⁴ [Fourth Evaluation Round – Compliance Report on Finland](#), Greco RC-IV (2015) 4E, 1 April 2015.

¹⁵⁵ See the country chapter on Finland in the European Commission's 2014 [Anti-Corruption Report](#).

¹⁵⁶ 'Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies...', Article 5, [UN Convention against Corruption](#).

¹⁵⁷ See the 'Draft Anti-Corruption Strategy' ([Luonnos korruption vastaiseksi strategiaksi](#)), Ministry of Justice, 2017.

¹⁵⁸ This recommendation serves only as guidance for civil servants. See '[Valtion virkamieseettisen neuvottelukunnan suositus toimenpiteiksi ministerien sekä valtiosihteerien ja ministerien erityisavustajien siirtyessä toisiin tehtäviin](#)', Advisory Committee on Civil Servants' Ethics (Valtion virkamieseettinen neuvottelukunta) Finnish Ministry of Finance, 22.9.2014.

There is no specific authority charged with tackling corruption, but the issue is monitored by a unit in the National Bureau of Investigation, and the Ministry of Justice and the Ministry of the Interior are responsible for coordinating horizontal and international cooperation on anti-corruption measures. Public finances are audited by the National Audit Office, which also oversees political party and campaign funding.

6.3.3. Best practices

Precisely because corruption is not perceived as a pervasive problem in Finland, Finnish authorities have not produced many innovative or noteworthy initiatives in the field. Finland's reputable public administration, characterised by a strong public-service ethic and belief in the rule of law, is seen as an international example of best practice in and of itself.¹⁵⁹ Although a national strategy is being finalised for the first time, it focuses on legal, institutional and policy changes – including those recommended by international observers – that the country has yet to implement, rather than on pilot projects or experimental initiatives. The draft strategy identifies stronger administrative cooperation to prevent corruption; awareness raising; greater transparency; stronger protection for whistle-blowers; enhanced anti-bribery legislation; and more research into corruption as areas requiring work. The draft strategy does not go into specifics on how these are to be achieved, however.

In addition to the national anti-corruption strategy now being finalised, Finland has an Internal security programme agreed in 2012,¹⁶⁰ which partly deals with the problem of Finnish businesses engaging in corrupt activities when operating in foreign markets. In addition, in 2002 the Finnish Ministry of Justice set up an anti-corruption network to discuss necessary policy changes and share information. Both the Finnish Tax Administration ('Vero') and the Ministry of Finance have produced guidelines for officials on how to report criminal offences and on their obligations concerning hospitality, benefits and gifts. The National Bureau of Investigation's economic crime and corruption unit consists of only one officer.

On 12 April 2016, the Finnish government's Ministerial Committee on Economic Policy adopted a national strategy for tackling the grey economy and economic crime for the 2016–2020 period.¹⁶¹ In line with this strategy, the Ministry of the Interior's Steering Group for the Prevention of Economic Crime has drawn up an action plan setting out objectives and measures to put the strategy into effect. The strategy's broader aim is 'to ensure corruption-free business and a level playing field for all companies'. The **strategic objectives** are:

- to promote healthy competition between companies;
- to remove the conditions enabling the shadow economy and economic crime;
- to increase the effectiveness of action taken by the authorities to tackle the shadow economy and economic crime by improving cooperation among them; and
- to strengthen the fight against crimes related to the shadow economy.

¹⁵⁹ See section on 'Good practice: reputable public administration' in the Finland country chapter of the European Commission's [2014 Anti-Corruption Report](#).

¹⁶⁰ '[A Safer Tomorrow – Internal Security Programme](#)', Finnish Ministry of the Interior, 14 June 2012.

¹⁶¹ See the European Commission's '[Good practice fiche – Finland: action programme to tackle the grey economy and economic crime](#)', European platform tackling undeclared work, 28 April 2016.

Further, the action plan consists of four **key projects** to be undertaken by the authorities:

1. Ensuring well-functioning markets and healthy competition by improving opportunities for companies and citizens to act honestly, reducing the administrative burden and enhancing anti-corruption action;
2. Intervening proactively in phenomena associated with the shadow economy and economic crime, and taking action to influence people's attitudes;
3. Improving the information-exchange between the authorities;
4. Enhancing the effectiveness of the fight against crime related to the shadow economy and further developing administrative sanctions.

The action plan will be assessed by the Ministry of the Interior Steering Group at six-monthly intervals, with the relevant ministries and authorities responsible for each measure reporting on progress in implementing the plan and on the project results.

6.4. France

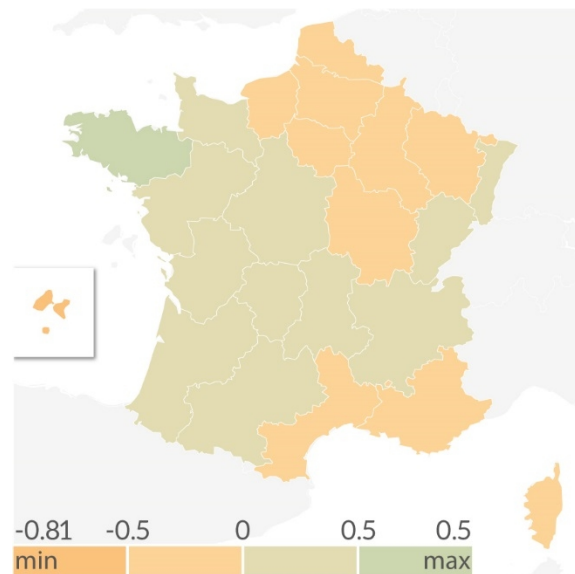
6.4.1. Perception of corruption

Experts tend to consider France as a moderately corrupt country. Indeed, it ranks 23rd worldwide according to **Transparency International's 2016 CPI**, with a score of 69 out of 100 (12th place among the EU-28); furthermore, it has quite a high percentile rank (88) when it comes to the **WGI 2015 Control of Corruption Indicator** (11th place among the EU-28).

However, public opinion polls paint a more varied picture. According to the **2013 Special Eurobarometer on corruption**,¹⁶² 68 % of respondents consider corruption to be widespread in their country (EU-27 average: 76 %). Three-quarters of them believe corruption to be present in the national institutions; respectively 76 % and 75 % believe the same about local and regional ones. Nevertheless, only 6 % mention to have been personally affected by corruption in their daily life (far below the EU-27 average of 20 % and at the same level as Germany). Similarly, when asked about their personal experience of bribery, only 2 % (less than the EU-27 average of 4 %) say they have been asked or expected to pay a bribe in the last 12 month, and 6 % (EU-27: 8 %) to have experienced or witnessed a case of corruption. Interestingly, 16 % report to personally know someone giving or taking bribes (EU-27 average: 12 %).

A similar picture emerges from the **2015 Flash Eurobarometer on businesses' attitudes towards corruption**.¹⁶³ More than a half of businesses surveyed (58 %) consider corruption as widespread in France (EU-28 average: 71 %), identifying 'favouring friends and family members in business' as the most common practice (51 % of replies), followed by 'offering a free gift or trip in exchange for a service' (41 %) and by 'funding political parties in exchange for public contracts or influence' (37 %). Companies surveyed consider corruption (56 % of replies) as well as patronage and nepotism (61 %) to be a problem when doing business in France, which is significantly higher than the EU-28 average (40 % and 42 % respectively), but still much lower than in relation to other obstacles, such as high tax rates, a fast-changing legislation and complex administrative procedures (89 % each). Moreover, over half of companies in France (52 %) say that corruption is widespread in public procurement managed by national authorities; this figure is significantly higher when it comes to public procurement managed by regional or local authorities (63 %). On the other hand, bribery or abuse of power for personal gain is seen as widespread at national level by 70 % of businesses surveyed, while 62 % say it is widespread at regional or local level.

Figure 7 – Perception of corruption across regions in France, 2013



Data source: [QoG EU regional dataset](#), 2013.
NB: Higher values signify less corruption.

¹⁶² Special Eurobarometer 397, '[Corruption](#)', fieldwork: February–March 2013, published: February 2014.

¹⁶³ Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', 2015.

Several surveys show that French citizens are not satisfied with how their authorities address corruption. According to the **2016 Global Corruption Barometer**,¹⁶⁴ 64 % of respondents rate the government's actions to fight corruption as 'very bad' or 'fairly bad'. This figure is in line with the results of the **2013 Special Eurobarometer on corruption**, revealing that 67 % of respondents assess the government's efforts to combat corruption as non-effective.

While reporting corruption is seen as socially acceptable by 74 % of respondents – one of the highest percentages in the EU¹⁶⁵ – 79 % of those who had witnessed or experienced corruption say they did not report the case. The most frequently given reasons were that corruption is difficult to prove (59 %) and that reporters have no protection (32 %).¹⁶⁶

More generally, French citizens tend to show limited trust in their public administration: according to the **November 2016 Standard Eurobarometer 86**,¹⁶⁷ only 49 % of them trust their local and regional authorities, and just over half (54 %) the national ones. This lack of trust is even more visible at the political level – 90 % of French respondents do not trust their political parties. In the same vein, 71 % of them consider political party funding as far from being transparent and 62 % believe that the only way to succeed in business is to have political connections.¹⁶⁸

This lack of trust in political institutions is confirmed by national surveys. A recent opinion poll¹⁶⁹ showed that more than one in three French citizens (36 %) consider all categories of politicians to be corrupt, with national MPs topping the list (77 %), followed by members of parliament and executive-power holders (president, prime ministers, other ministers and state secretaries) at 76 % and 72 % respectively. Among all elected representatives, mayors are the most trusted category, with only 48 % of people surveyed considering them corrupt (this figure is much higher for regional and departmental council presidents, at 67 %).

Looking at the **2013 QoG regional survey**, most French regions score moderately well both in the overall **EQI index** (between 0 and 1) and in corruption-related indicators (between 0 and 0.5)¹⁷⁰. However, considering corruption perception data (see Figure 7 above), several north-eastern and southern regions score below the average (between 0 and -0.5, with scores being as low as -0.81 in Guadeloupe). This variation is not that significant among regions in mainland France (that is, excluding the overseas ones). Interestingly, a look at individual variables (Figure 3, page 14) reveals a more contrasting picture: while there seems to be little corruption in public services (with the exception of law enforcement) and virtually no personal experience of bribery, respondents in most regions perceive the level of corruption linked to elections as high. The results of this and other surveys tend to show that while there is a very low prevalence of petty corruption

¹⁶⁴ Global Corruption Barometer, '[People and corruption : Europe and Central Asia](#)', November 2016

¹⁶⁵ Ibid.

¹⁶⁶ Special Eurobarometer 397, op.cit.

¹⁶⁷ Standard Eurobarometer 86, '[Public opinion in the European Union](#)', 2016

¹⁶⁸ Special Eurobarometer 397, op.cit.

¹⁶⁹ '[La représentation de la corruption en France](#)', survey by Harris Interactive for Transparency International France and Tilder, August 2016.

¹⁷⁰ For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7. The 2013 survey took place before the territorial reform, which reduced the number of regions from 22 to 13.

in French society, political corruption is perceived as widespread, and this perception undermines citizens' confidence in public institutions.

6.4.2. Legal, institutional and policy framework

Levels of government in France

Today, France¹⁷¹ is a unitary decentralised state, where the sub-national levels of government do not hold any legislative power. In the past, it used to be highly centralised, having two tiers of local government: the departments (départements) and the municipalities (communes). Regions (régions) came into existence in 1972. The decentralisation process started in 1980s with the so-called 'Defferre Acts',¹⁷² which abolished the central government's supervisory power over the local authorities and turned regions into territorial authorities run by directly elected assemblies. Executive power at the level of the departments and regions was also transferred to the presidents of their respective councils.

The French Constitution recognises the principles of freedom of administration and financial autonomy of the local and regional authorities (LRAs). There is no hierarchy between subnational authorities, which have shared competences in areas such as transport, urban planning, education, culture and healthcare. The central government has exclusive responsibility in all matters relating to national sovereignty (defence, foreign affairs, justice and security).

In 2015, France carried out a territorial reform aimed at strengthening the capabilities of regional authorities, extending their competences in the domain of economic development, tourism, business development and professional training. As a result of the reform, the number of regions was reduced from 22 to 13 and they were resized to more closely match the proportions of an EU regional territorial unit.¹⁷³ Furthermore, there are now 101 departments (including five overseas departments with broader competences than the mainland ones) and 36 699 municipalities.

As both the powers of the LRAs and the amount of public funds they handle have increased over time (more than a third of public procurement contracts are tendered at subnational level,¹⁷⁴ and the management of EU funds for the 2014-2020 period has been transferred to the regions), so have the related corruption risks.¹⁷⁵

Over time, France has developed an extensive anti-corruption framework, in line with the major international conventions to which it is a party since their adoption.¹⁷⁶ International pressure, along with domestic corruption scandals affecting high-level officials and elected representatives, have triggered important legislative and institutional anti-corruption reforms, especially in the past decade.¹⁷⁷ Even though

¹⁷¹ Source: [Division of powers](#), European Committee of the Regions portal.

¹⁷² Law No 82-213 of 2 March 1982 on the rights and freedoms of municipalities, departments and regions ([Loi No 82-2013](#)) and Laws No 83-8 of 7 January 1983 and 83-663 of 22 July 1983 on the distribution of the competences between them and the central government ([Loi No 83-8](#) et [Loi No 83-663](#)).

¹⁷³ The reform came into effect on 1 January 2016.

¹⁷⁴ 37 %, according to the France country profile in '[Public procurement – a study on administrative capacity in the EU](#)', European Commission, January 2016.

¹⁷⁵ In its 2013 [report](#), the national anti-corruption body (SCPC) considered that decentralisation in France contributed to amplifying the risk of corruption at subnational level, by transferring important powers and related financial flows to the local and regional authorities, without putting in place either appropriate mechanisms to prevent conflicts of interests, or sufficient controls and sanctions.

¹⁷⁶ For instance, France is a founding member of GRECO and is the first G8 state to have ratified the UN Convention against corruption in 2005.

¹⁷⁷ For a historical and social background of corruption in France, see H. Rayner, 'Corruption in France: Structural and Contextual Conditions' in *The Social Construction of Corruption in Europe*, 2012.

France has not adopted a specific anti-corruption strategy, its legislation covers a wide range of issues related to fighting and preventing corruption.

The French **Criminal Code** defines corruption-related offences, such as active and passive **bribery** of domestic and foreign public officials, **trading in influence**, extortion by a public official and embezzlement, as well as bribery in the private sector.¹⁷⁸ As far as **conflicts of interest** are concerned, it is a criminal offence for public officials to take any illegal interest in activities they are managing or supervising, and they have to respect a cooling-off period of three years before joining a private company they have worked with while in public office (a measure against 'revolving door' practices).¹⁷⁹ Moreover, Article 432-14 of the Criminal Code criminalises breaches of public procurement rules (**délit de favoritisme**), thereby making it possible to prosecute a breach itself, even if there is no proof of corruption. The 2007 anti-corruption reform broadened the number and scope of these offences.¹⁸⁰ It also made a first attempt at protecting whistle-blowers by introducing a specific provision into the Labour Code, though limited to the private sector. A 2013 law¹⁸¹ increased the sanctions and fines for corruption offences and gave anti-corruption organisations the right to file civil party claims. Last but not least, the statute of limitation for corruption offences has recently been extended from three to six years.¹⁸²

Besides reinforcing the prosecution side, recent reforms have also focused on prevention. After the first specific laws on corruption prevention and **transparency** were passed in the late 1980s/early 1990s,¹⁸³ efforts in these domains received a major boost through the adoption of key legislation in 2013 and then in 2016.

The 2013 laws on transparency in public life¹⁸⁴ introduced a mandatory **disclosure of assets and interests** for a broad category of high-ranking public officials and elected representatives (including at local level), and in most cases made their declarations publicly available.¹⁸⁵ The 2013 reform was complemented in 2014 by laws¹⁸⁶ limiting the

¹⁷⁸ See Articles 432-11, 433-1 and following, 435-1 and following, 432-10, 432-15 and 432-16, as well as 445-1 and following, of the Criminal Code.

¹⁷⁹ Article 432-12 and 432-13 of the Criminal Code.

¹⁸⁰ Law No 2007-1598 on the fight against corruption ([Loi No°2007-1598](#) du 13 novembre 2007 relative à la lutte contre la corruption).

¹⁸¹ Law No 2013-1117 on the fight against tax fraud and serious economic and financial crime ([Loi No°2013-1117](#) du 6 décembre 2013 relative à la lutte contre la fraude fiscale et la grande délinquance économique et financière). The maximum fine for natural and legal persons was raised to €1 million.

¹⁸² Law No 2017-242 reforming statutes of limitations for criminal matters ([Loi No°2017-242](#) du 27 février 2017 portant réforme de la prescription en matière pénale).

¹⁸³ For instance, the 1988 laws on the financial transparency of political life ([Loi organique No°88-226](#) et [Loi No°88-227](#)) and the 1993 Law on the prevention of corruption and transparency of economic life and public procedures, known as the Sapin I Law ([Loi No°93-122](#)).

¹⁸⁴ Laws No 2013-906 and 2013-907 ([Loi organique No°2013-906](#) et [Loi ordinaire No°2013-907](#) du 11 octobre 2013 relatives à la transparence de la vie publique).

¹⁸⁵ While the obligation for asset disclosure had been in place since 1988, there was no such obligation for the disclosure of interests, nor were officials' declarations publicly available. Following the reform, most declarations of interests and certain declarations of assets became freely available on the HATVP website (see below).

¹⁸⁶ Laws No 2014-125 and No 2014-126 banning the possibility to exercise local executive functions, while holding the mandate of a member of parliament or senator, or a Member of the European Parliament, respectively ([Loi organique No°2014-125](#) et [Loi No°2014-126](#)).

possibility for elected representatives to hold multiple offices, a practice considered one of main sources of a **conflict of interests**.¹⁸⁷

The 2016 Law on transparency, fight against corruption and modernisation of the economy (known as Sapin II Law)¹⁸⁸ brought several major changes to life. Most importantly, it created a comprehensive framework for the **protection of whistle-blowers**: it provided a definition of whistle-blowing (not limited to employees only, but covering all individuals), rules on how to raise an alert, a ban on any discrimination against whistle-blowers and criminal sanctions for preventing the right to making an alert. Moreover, it introduced a requirement for big companies (with more than 500 employees) to put in place internal channels for reporting misconduct as part of broader mandatory corruption detection and prevention measures, including corruption risk-mapping and internal prevention mechanisms, such as codes of conduct.

This new obligation for big companies reflects the government's determination to fight corruption in the private sector and particularly in international transactions. Repeatedly criticised by the OECD and GRECO, France finally criminalised, through the Sapin II Law, the offence of **trading in influence in connection with foreign public officials**, and abolished the procedural obstacles to the prosecution of foreign bribery.

The Sapin II Law further mandated the creation of a common **register of lobbyists** that would be publicly available online and mandatory for all lobbyists wishing to enter into contact with members of government or parliament, local elected representatives or high-level public officials at national and subnational levels.

The latest legislative development are two laws on 'trust in political life', adopted in August 2017 by the newly elected National Assembly¹⁸⁹, aimed at establishing more stringent rules on **political party funding** and on the **transparency and probity of elected representatives**. The new laws contain several important measures, such as prohibiting members of parliament from employing their family members,¹⁹⁰ repealing the parliamentary reserve members of parliament could use for distributing subsidies in their constituency, and making persons condemned for certain criminal offences ineligible for the post of an elected representative.

In parallel to legislative developments over recent decades, France has consolidated its institutional landscape in fighting corruption.

The first dedicated anti-corruption body in France – the Central Service for the Prevention of Corruption (**SCPC**) – was established in 1993 under the Sapin I Law. It was in charge of detecting and preventing corruption as well as providing guidance to administrative and judicial authorities. However, it had no investigative powers. With the adoption of the Sapin II Law in 2016, the SCPC was replaced by the French Anti-Corruption Agency (**AFA**) in March 2017. AFA was allocated broad advisory, inspection and investigation powers, as well as 70 staff (the SCPC had only 16). Its remit includes contributing to the prevention and detection of cases of: corruption, trading in influence, conflicts of interest, abuse of public funds or favouritism. It is also in charge of controlling

¹⁸⁷ See the 2011 [report](#) of the national anti-corruption body (SCPC).

¹⁸⁸ Law No 2016-1691 ([Loi No°2016-1691](#) du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique).

¹⁸⁹ The second chamber of the French Parliament, the first being the Senate.

¹⁹⁰ There had been no such prohibition in the French law until 2017, and the controversy about this practice culminated in the 'Fillon scandal', which broke during the 2017 presidential election campaign.

the efficiency of the anti-corruption mechanisms in the public administration at national and subnational level, and in private companies, on which it can impose administrative sanctions. AFA is subordinated to the Ministry of Justice and the Ministry for the Budget.

Other bodies have also been set up in different ministries. One such example is **Tracfin**, which was set up in 1990 as part of the Ministry of Finance to combat illegal financial operations, money laundering and terrorism financing. It investigates declarations made by professionals, such as banks or casinos, of their suspicions about the presence of corrupt activities. Another body, created the same year within the Ministry of the Interior to deal with economic and financial offences by professional criminals or organised criminal groups, is the Central office for the fight against serious financial crime (**OCRGDF**). The 2013 laws brought two new institutions into existence: the **national financial prosecutor** (in charge of complex cases of corruption and tax fraud) and the Central office for the fight against corruption and financial and tax offences (**OCLCIFF**), a judicial police department in charge of investigating cases of corruption, tax fraud, breaches of probity and related money-laundering (namely on the request by the financial prosecutor).¹⁹¹

Another important development initiated by the 2013 laws was the creation of the High authority for transparency in public life (**HATVP**), an independent institution aimed at promoting the integrity of public officials. The HATVP controls the content of public officials' declarations of assets and interests and makes most of them available to the public. The authority also gives advice to the administration at various levels on setting up internal deontology mechanisms.¹⁹² Moreover, since 1 July 2017, the HATVP has been managing the newly created central lobbyist register. Both the above-mentioned declarations and the data contained in the lobbyist register are now published in open data format.

6.4.3. Best practices

In recent years, France has undertaken numerous initiatives seeking innovative solutions to corruption prevention. France participates actively in a number of international initiatives, such as the Open Government Partnership and the Open Data Charter (see the box on page 21).

Opening public data and making it freely available for reuse by civil society is widely considered as a promising move for increasing the transparency and integrity of public officials. France has an ambitious **open data** strategy and makes thousands of datasets available on a national platform, data.gouv.fr, in reusable format. Under the heading 'transparency of public life', citizens can find data on political parties' annual accounts, on declarations of assets of ministers and declarations of interests of elected representatives, and on the work of the Senate and the National Assembly. The portal also publishes data on public procurement contracts extracted from the Official bulletin of public contract declarations (BOAMP) and on public expenses of local and regional authorities made available by the General Directorate for public finances (DGFIP).

¹⁹¹ The national financial prosecutor and the OCLCIFF deal with high-profile cases, such as the recent investigation into the presumably fictitious job of the wife of the 2017 presidential candidate, François Fillon.

¹⁹² For example, in 2014, it gave legal advice to the City Council of Paris regarding its code of ethics and the creation of an ethics committee.

An interesting example of how civil society reuses open data made available by the public administration is the interactive online platform,¹⁹³ created by Transparency International (TI) France. This platform gives access to two databases: the first one allows to see the interests and income of members of parliament, based on their declarations of interest published by the HATVP. The second database contains information on lobbyists registered on the voluntary National Assembly register: their number, sector and lobbying expenses. Another TI France initiative is the interactive map of corruption cases in France¹⁹⁴, created with the help of volunteers and open for contribution to all citizens. As there is no central public database of court rulings, the map is based on local press articles. The underlying dataset is now made available on the data.gouv.fr platform.

Public procurement data are increasingly made available at regional and local levels.¹⁹⁵ In 2015, the Breizh Small Business Act – a public-private partnership association from the region of Bretagne– launched a regional observatory of public procurement and has since 2014 been proposing to all public and private entities to sign a 'public procurement charter'. The first principle of this charter is to increase transparency, by encouraging procurement authorities to publish all public procurement contracts, regardless of their value, as well as the annual budgetary provisions.¹⁹⁶ Another such example is the Paris Municipality, which introduced in 2014 an open data clause to local public procurement contracts: an obligation to publish the data produced while executing the awarded contract. All public procurement contracts above €20 000 are published on the Paris Data portal,¹⁹⁷ along with information on subsidies, the budget voted and its execution.

Another way the Paris Municipality embraces transparency is through **participative budgeting**. Since 2001, Parisians can propose investment projects for their city and vote on the ones that will get funded by the municipal budget. For the 2014-2020 period, Paris is allocating 5 % of its investment budget to projects proposed and selected by citizens.

Prevention at regional level also takes on the form of creating internal mechanisms for awareness-raising and for counselling of the relevant stakeholders. Examples include the regions of Ile-de-France, Bretagne and Provence-Alpes-Côte-d'Azur, but also the Strasbourg Municipality, which have all set up specific structures in charge of drafting **rules of ethics or codes of conduct**, or of collecting declarations of interests and assets before transmitting them to the HATVP.¹⁹⁸

¹⁹³ <http://integritywatch.fr>.

¹⁹⁴ www.visualiserlacorruption.fr.

¹⁹⁵ The publication of data at the subnational level has been boosted by the recent law on France's administrative geography (*Loi No 2015-991 portant nouvelle organisation territoriale*), which requires LRAs of more than 3 500 inhabitants to provide public information online in open-data format.

¹⁹⁶ <http://breizhsmallbusinessact.fr/my-breizh-open-data-marches-publics/>.

¹⁹⁷ <https://opendata.paris.fr/page/home/>.

¹⁹⁸ [Bilan du Quinquennat de François Hollande en matière de transparence, d'intégrité et de lutte contre la corruption 2012-2017](#), Transparency International France.

6.5. Germany

6.5.1. Perception of corruption

Overall, Germany's system for preventing and combating corruption is good to very good.¹⁹⁹ Critical appraisals of the situation in the country generally reflect a relatively high level of aspiration.

In **Transparency International's 2016 Corruption Perceptions Index**, which compares 176 countries worldwide, Germany ranked 10th, alongside the UK and Luxembourg, with a score of 81 points. In general, this is an improvement from 2012, when Germany ranked 13th in the same index.

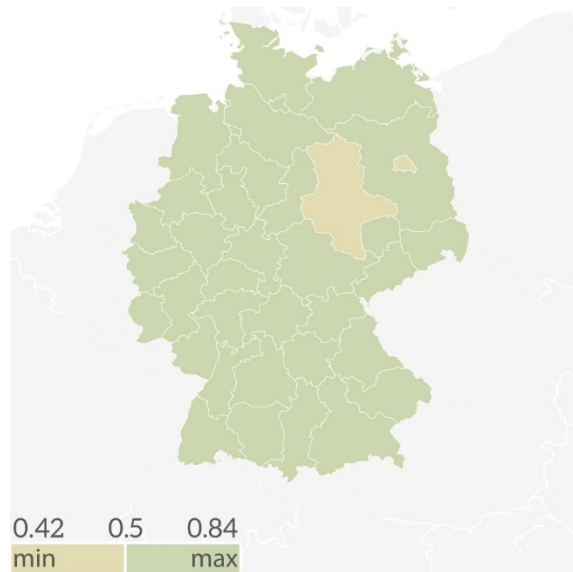
In the **World Bank's 2015 Worldwide Governance Indicators**, which also include experts' opinions, Germany was placed 15th (with a percentile rank of 93 with regard to control of corruption).

According to the **2013 Special Eurobarometer on Corruption**²⁰⁰, only 6 % of German respondents admit that they are personally affected by corruption in their daily lives. This percentage is higher in certain areas: for instance, 16 % of respondents think that corruption is widespread within the police or customs. To the question 'how widespread do you think the problem of corruption is in your country?', 59 % of respondents said it was widespread, 33 % said it was rare and 1 % claimed that it was non-existent. Germany is one of nine countries where the proportion of respondents (9 %) saying that they know someone who takes or has taken bribes is lower than the EU-27 average (12 %). According to this survey, Germans (similar to Swedes and Austrians) are most likely to perceive corruption as present in the EU institutions and least likely to perceive it as present in their domestic public institutions. Nevertheless, only 12 % totally or partially agree that the government's efforts to combat corruption are effective (EU-27 average: 23 %).

According to **Transparency International's 2016 Global Corruption Barometer (GCB)**²⁰¹, the majority of German citizens agree that 'it is socially acceptable to report corruption'.

The **2015 Flash Eurobarometer on businesses' attitudes towards corruption in the EU** revealed that 28 % of respondents consider corruption to be a problem for their company when doing business in Germany. This number is below the EU-28 average (40 %). Some 51 % of respondents said that corruption was widespread in Germany (EU-28 average: 71 %). However, only 4 % gave a positive answer to the question 'has anyone in Germany asked or expected someone from your company to pay a bribe for any permits or services'. In principle, feedback on corruption by businesses corresponds to that given by citizens. Some 50 % of German citizens²⁰² consider corruption to be

Figure 8 – Perception of corruption across regions in Germany, 2013



Data source: [QoG EU regional dataset](#), 2013.
NB: Higher values signify less corruption.

¹⁹⁹ 'The National Integrity System (NIS) Report –Germany', 2012.

²⁰⁰ Special Eurobarometer 397, 'Corruption', fieldwork: February–March 2013, published: February 2014.

²⁰¹ Global Corruption Barometer, 'People and corruption: Europe and Central Asia', November 2016.

²⁰² Special Eurobarometer 397, op.cit.

widespread in private businesses and 39 % agree that the only way for a business to succeed in their country is through political connections. Companies in Germany say that corruption is more widespread (45 %) where **public procurement** is managed by the regional or local governments, compared to where it is managed by the central government (30 %). When comparing **bribery or abuse of power** at regional/local versus national level, perceptions are nearly identical, with respectively 52 % and 51 % claiming that this is a 'widespread' phenomenon.

Some 69 % of Germans believe that corruption is present in **local or regional** public institutions (EU-27 average: 77 %), while 21 % disagree with the statement and 10 % say they do not know.²⁰³ The **2013 EU Quality of Government (QoG)** survey places Germany in the second-best group after the Nordic Member States, with an EQI score of 0.852 points.²⁰⁴ The survey results paint a rather homogenous picture of the quality of government in general and even more so of the perception of corruption in the country: while overall EQI scores across regions vary between 0.375 and 1.092, the variation appears more limited when it comes to corruption-related data, the scores for aggregated corruption indicators ranging from 0.42 to 0.84 (as shown in Figure 6). Looking at the overall EQI, the poorest German performers, such as Saxony-Anhalt (0.375) and Berlin (0.470), score double as low as the national average, while some other regions, such as Schleswig–Holstein (1.092), Lower Saxony (1.062), Bavaria (1.045), Rhineland-Palatinate (1.026) and Saarland (1.019), are among the best, performing beyond the national average. As far as the perception of corruption is concerned, even though there is less variation, the results are quite similar: Saxony-Anhalt and Berlin stay in the low-performing group with the scores of 0.419 and 0.431, respectively, and Schleswig–Holstein is once again the best performer with a score of 0.844, followed by Saarland (0.806), Baden-Württemberg (0.801), Bremen (0.792) and Rhineland-Palatinate (0.778).

Certain structural differences among Germany's regions could explain the different statistical outcomes registered in them. In principle, all regions are covered by the national anti-corruption policy and legal framework. However, in the field of policing, legislative and administrative competencies lie primarily with the 16 federal entities (the Bundesländer), which leads to certain regional differences (see the box). For instance, according to statistical data of the German Federal Criminal Agency²⁰⁵ regarding the number of investigations related to corruption offences, there are about 6.7 corruption procedures per 100 000 inhabitants in Brandenburg, placing it highest among the federal states. North Rhine-Westphalia has the second-highest number of corruption procedures (2.6-2.9 per 100 000 inhabitants). On the contrary, Rhineland-Palatinate has only around 0.4 corruption procedures per 100 000 inhabitants, ranking it at the bottom of all federal states. There is no reason to assume that civil servants and employees in Brandenburg are more prone to corruption than those in Rhineland-Palatinate. It could rather be explained by the fact that the federal state of Brandenburg has been paying a lot of attention to the problem of corruption. For instance, special offices have been set up in the judiciary and the police (such as the Joint Criminal Investigation Group on Corruption of prosecutors and investigators, the GEG).²⁰⁶ Furthermore, anti-corruption offices have been established at various regional levels (such as the Office for the

²⁰³ Special Eurobarometer 397, op.cit.

²⁰⁴ For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

²⁰⁵ [BKA, 2013](#) (the latest statistics available for the regions).

²⁰⁶ Official [website](#) of the Brandenburg Federal State Police.

Prevention of Corruption in the State Administration of Brandenburg).²⁰⁷ Yet again, North Rhine-Westphalia has not only opened four public prosecutors' offices but also two additional police services dedicated to the fight against corruption.²⁰⁸ In Rhineland-Palatinate, in contrast, there are no specialised anti-corruption bodies.²⁰⁹ This illustrates the unequal use of the same competencies provided to the federal states.

6.5.2. Legal, institutional and policy framework

Levels of government in Germany

As stated in Article 20(1) of the German Constitution, Germany is a **federal state**. Federal law-making is a shared competence of the Bundestag and the Bundesrat.

The Bundesländer are guaranteed their own constitutions and the municipalities enjoy self-governance within the limits of the law. There are **16 Bundesländer (federal states)**, 295 Kreise (counties at intermediary level) and 11 313 Gemeinden (municipalities at local level).

As far as legislative powers are concerned, the Bundesländer have the right to legislate **insofar as the Constitution does not confer legislative power** on the federation (Article 70 of the German Constitution). They are thus responsible for implementing federal legislation. Federal and regional powers sometimes **overlap** in areas such as justice, social welfare, civil law, criminal law, labour law and economic law. Most legislation is enacted at the federal level, but in the entire field of **administrative functions**, the Bundesländer are clearly the predominant bodies (Articles 87-90 of the German Constitution). The Bundesländer have **exclusive** legislative powers with regard to culture, education, universities, local authority matters and the police.¹ Thus, each of the 16 federal states has its **own police**. At federal level, there are only police authorities with specific tasks, such as the Federal Police (Bundespolizei), which consists of the Federal Border and Railway Police,¹ the Federal Criminal Agency (Bundeskriminalamt),¹ or the federal customs police (Bundeszollpolizei). This explains the differences between the police structures of the Bundesländer, including with regard to regional anti-corruption initiatives and bodies (see section on perception of corruption above).

In terms of their **institutional build-up**, German Bundesländer have quite significant autonomy. Due to Germany's federal structure, there is no central federal anti-corruption body with genuine executive functions. The idea of setting up such a structure would face large obstacles and its presence would lead to numerous overlapping competencies with the Bundesländer or would require far-reaching legislative amendments.²¹⁰

Statutory provisions serve to safeguard the independence, transparency and integrity of the political system at the national and regional levels. The following (non-exhaustive list of) laws comprise the core anti-corruption **legal framework**: the Law on the Fight against Corruption (hereinafter referred to as the Anti-Corruption Law),²¹¹ the Criminal Code (hereinafter referred to as the CC),²¹² the EU Bribery Act,²¹³ the Tax Code,²¹⁴ the Act

²⁰⁷ Official [website](#) of the Brandenburg Federal State.

²⁰⁸ Official [website](#) of the North Rhine-Westphalia Federal State.

²⁰⁹ See also the article '[Das sind die Hochburgen der korrupten Beamten](#)'.

²¹⁰ '[National Integrity System \(NIS\) Report – Germany](#)', 2012.

²¹¹ 1997 Law on the Fight Against Corruption, amended in 2015 (Gesetz zur Bekämpfung der Korruption, 23 January 2015, [BGBl. Nr. 58](#)).

²¹² Criminal Code (Strafgesetzbuch, 13 November 1998, [BGBl. I S. 3322](#)); The [English version](#) of the Criminal Code includes the amendment(s) thereto by the Law from 10.10.2013.

²¹³ EU Bribery Act (EU-Bestechungsgesetz, 10 September 1998, [BGBl. Teil II Nr. 37](#)).

²¹⁴ Tax Code (Abgabenordnung, 1 October 2002, [BGBl. I S. 3866](#)).

against Unfair Competition,²¹⁵ the Act on Combating International Bribery,²¹⁶ and the Money Laundering Act,²¹⁷ The **anti-corruption policy** is framed by a number of strategy-determining documents produced by the Federal Ministry of Justice and Consumer Protection, among them the one on 'Promoting constructive government-society relations – legitimacy, transparency, accountability',²¹⁸ on 'Good governance laid out in clear terms'²¹⁹ and on 'Anti-corruption and integrity in German development policy'.²²⁰

Anti-corruption principles²²¹ such as **transparency; fair procedures for recruitment of staff and for public procurement; and prevention of clientelism/abuse of administrative resources**, both in general and in election campaigns in particular, are enshrined in specific legislative instruments, but also in new laws and legislative initiatives. They derive from the maxim of good governance²²² that primarily depends on the constructive dialogue between government and society, including the regional and local levels.

The **Criminal Code** provides for tools to punish corruption offences. Criminalised acts include active and passive bribery and embezzlement (Sections 108e, 266 and 331-335a CC), among others. The act of buying or selling electoral votes is punishable under Section 108b CC.

In light of the ratification of the UN Convention against Corruption,²²³ which took place in 2014 as a result of a relatively strong pressure from social and media critics,²²⁴ some essential changes to the corruption crimes concerning elected representatives (delegates²²⁵) were made. This included criminalising active and passive bribery targeting these delegates, including members of the domestic (federal, regional or local) public assemblies (Section 108e CC). Before 2014, this had not been the case, as Section 108e CC criminalised delegates' behaviour only where electoral votes were being bought or sold.

However, the key anti-bribery regulation for elected representatives has not been fully adapted to the international standards. A couple of problematic and controversial issues remain. The first one is that Section 108e CC has quite a narrow scope of application: the

²¹⁵ Act against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, 3 July 2004, [BGBl. I S. 1414](#)).

²¹⁶ Act on Combating International Bribery (Gesetz zur Bekämpfung internationaler Bestechung, 10 September 1998, [BGBl. II S. 2327](#)).

²¹⁷ Money-Laundering Act (Geldwäschegesetz, 13 August 2008, [BGBl. I S. 1690](#)).

²¹⁸ '[Die Förderung konstruktiver Staat-Gesellschaft-Beziehungen – Legitimität, Transparenz, Rechenschaft](#)', (strategy paper of the Federal Ministry of Justice and Consumer Protection), April 2010.

²¹⁹ '[Gute Regierungsführung konkret](#)', October 2012 (Federal Ministry of Justice and Consumer Protection).

²²⁰ '[Antikorruption und Integrität in der deutschen Entwicklungspolitik](#)', (strategy paper of the Federal Ministry of Justice and Consumer Protection), June 2012.

²²¹ Report of the Council of Europe, '[Preventing corruption and promoting public ethics at local and regional levels](#)', 2016.

²²² '[Gute Regierungsführung konkret](#)', October 2012.

²²³ UN Convention against Corruption, 31 October 2003 (Germany signed it on 9 December 2003 and ratified it on 12 November 2014).

²²⁴ '[Report of the Research Service of the Bundestag on the Corruption of the Deputies](#)', 2008; *Heinrich B.*, '[An den Rechtsausschuss des deutschen Bundestages](#)' (To the Legal Committee of the German Bundestag).

²²⁵ The term 'delegates' has been used in official German legal translations.

provision requires to prove that a representative acted by following somebody's 'orders or instructions', whereas according to the UN's and the Council of Europe's anti-corruption conventions, bribery is considered to have taken place if the criterion of 'reciprocity or mutual interest' between the parties has been fulfilled. The second problematic issue is that other corruption-related offences (for instance, Sections 331- 335a CC) that criminalise the behaviour of civil servants are not applicable to elected representatives. Things may change, after Germany ratified in 2017 – a long-expected move – the Council of Europe's 1999 Criminal Law Convention on Corruption,²²⁶ which it had signed in 1999.

It is important to mention the key changes resulting from the amendments introduced to the **Anti-Corruption Law** in 2015. Thanks to these amendments, the law now complies with the requirements of the OECD Anti-Bribery Convention²²⁷ and the UN Convention against Corruption. Furthermore, it extends the scope of the existing anti-corruption and money laundering provisions of the Criminal Code by criminalising self-money laundering, and extends the scope of the anti-corruption laws concerning European public officials and foreign public officials. Regarding the private sector, the amendments have allowed to extend the application of corruption-related laws to include cases in which corrupt practices lead to a violation of employees' duties. Previously, only violations involving competitive distortions were punishable. Another novelty among the anti-corruption regulations is the 2016 **Law on Combating Corruption in the Health Care System**,²²⁸ which inter alia explicitly criminalised bribery in health care (Section 299a CC).

On 8 March 2017, the Bundestag adopted the **Law for the Reinforcement of Non-Financial Reporting of Companies on their Position and Group Management**.²²⁹ This law introduces the obligation for capital-market-oriented companies with a revenue of more than €40 million to report their financial situation not only concerning their activities related to environmental, labour, social and human rights issues, but also concerning those related to their fight against corruption and bribery. The new law contributes to transparency.

Adopted in 2016, the German law transposing the EU's Fourth Anti-Money Laundering Directive of 2015²³⁰ brought significant changes in terms of introducing more tools for fighting corruption in the financial sphere, among them the **central electronic transparency register** containing information about the beneficial owners. This change, together with the extension of the principle of a '**risk-based approach**', will contribute to preventing conflicts of interest and clientelism. With the changes, it will be within the scope of the general duties of the obligated party (for instance, in the area of public procurement) to examine whether the contractual partner or the beneficial owner is a politically exposed person, a family member or a close associate. These novelties clearly contribute to the development of the open management methods (principle of

²²⁶ Criminal Law Convention on Corruption, Council of Europe, 1999 (Germany signed it in January 1999 and ratified it in May 2017).

²²⁷ OECD Anti-Bribery Convention, 15 February 1999 (Germany signed and ratified on 15 February 1999).

²²⁸ Gesetz zur Bekämpfung von Korruption im Gesundheitswesen, 30 May 2016, [BGBl. I S. 1254](#)).

²²⁹ Gesetz zur Stärkung der nichtfinanziellen Berichterstattung der Unternehmen in ihren Lage- und Konzernlageberichten, 11 April 2017, [BGBl. I 2017 Nr. 20](#) (transposition of the EU Corporate Social Responsibility Directive 2014/95/EU into German law).

²³⁰ Law on the Implementation of the Fourth Anti-money-Laundering Directive No 2015/849, 15 December 2016.

transparency²³¹) in the private sector as well as in the area of public procurement by systematising relevant documents and data and making data in the central electronic register available for public scrutiny.

The Ministry for Economic Affairs' **new draft law on a black list of corrupt companies** is an attempt to introduce a practice that already exists in some German states, such as Berlin, North-Rhine Westphalia, Hamburg and Schleswig-Holstein, at the federal level. The proposal advocates that companies or employees thereof, which have been convicted of crimes and/or administrative offences, should be excluded from public contracts nationwide. Once adopted, the law would contribute to the establishment of fair public procurement procedures.

In practice, however, problems and loopholes still exist and can lead to abuse. For instance, Germany has no specific legislation dealing with **whistle-blowing procedures and protection**. Some domestic laws, such as the General Equal Treatment Act, the Data Protection Act and the Labour Protection Act stipulate the rights and duties related to disclosure in specific situations. However, there are no general principles on whistle-blowing except those sourced from case law. Germany signed the Council of Europe's **Civil Law Convention** in 1999, but has not yet ratified it.

6.5.3. Best practices

As mentioned above, German Bundesländer have a fairly large capacity of self-rule. Below are some of the best practices and recent policy measures at the local and regional levels.

The German Association of Towns and Municipalities, together with the Federal Association of Small and Medium-Sized Building Contractors, have agreed on the **guidelines for the prevention of corruption in public procurement at the local level**. As a result, a brochure has been drafted, providing an overview of the preventive measures against corruption in public procurement at the level of towns and municipalities. These preventive measures include: implementing awareness-raising steps and adopting codes of conduct; practising staff rotation; strictly observing the 'four eyes' rules; drafting clear regulations on sponsoring and on the prohibition regarding the acceptance of gifts; establishing centralised authorities for organising/awarding tenders; providing a precise description of tenders and ensuring control of the estimates; organising tender procedures, including secrecy of bids and prevention of a subsequent manipulation of the bids; making increased use of e-procurement; drafting documentation on adjudication and careful control by supervisory bodies; excluding enterprises found guilty of corruption offences from tenders; and drawing up black lists/corruption registers.²³²

In the sphere of **public procurement**, there are other best practices worth mentioning. Germany has specialised courts (at the federal and Bundesländer levels) that only deal with public procurement disputes. Decisions as well as review procedures are carried out efficiently.

Another practice includes the **pre-qualification of economic operators**, which enables companies to submit their documents for participation in a tender procedure to the Procurement Advisory Office. These are screened and, if approved, the companies get a

²³¹ ['Preventing corruption and promoting public ethics at local and regional levels'](#), Resolution, Congress of Local and Regional Authorities of the Council of Europe, 20 October 2016.

²³² ['EU Anti-Corruption Report'](#), op.cit.

certificate (with a unique registration number in a Germany-wide database) to confirm that they meet all of the necessary criteria and that they now have pre-qualified status. To submit a bid, a pre-qualified company only needs to present a copy of its certificate and the certification number.²³³

The Business Keeper Monitoring System (BKMS)²³⁴ aims at ensuring **better protection of whistle-blowers** by making insider knowledge available in the fight against corruption. It is a web-based software for structured processing of anonymous tip-offs. Whistle-blowers are always faced with a risk when reporting a corruption incident, involving, for example, possible pressure by their employer or physical threat. The main advantage of the BKMS is that it allows communication to take place anonymously. Through this internet-based system, an employee/member of an organisation can report a corruption incident 24/7. Every report is individually encrypted content- and channel-wise; it can only be decrypted by the receiver of the message. No one else, including other members of the BKMS, has access to the decrypted messages. The external BKMS server is located in a high-security centre, which banks, such as the European Central Bank, use for protecting their data and servers. The BKMS was originally developed for the private sector. Recently, it has been extensively employed by the state authorities, such as the police in North Rhine-Westphalia and Baden-Württemberg. The BKMS is becoming increasingly valuable by helping whistle-blowers to avoid negative personal consequences, given also that the legislation offers them little protection.

Certain initiatives of the Bundesländer that help to ensure transparency as a way to reinforce public control over the regional/local administration also need to be given due credit. For example, according to Transparency International Deutschland, all Bundesländer, except for Hessen, Lower Saxony and Saxony have adopted their own **information or transparency acts**. These acts, in principle, make it easier for the public to obtain (bureaucracy-related) information. In Bavaria, for example, the Act on Electronic Administration in Bavaria (e-government act) among others enshrines the 'right to obtaining information'.

²³³ Germany country profile, '[Public procurement – a study on administrative capacity in the EU](#)', European Commission, January 2016.

²³⁴ [Business-Keeper Monitoring System \(BKMS\)](#).

6.6. Italy

6.6.1. Perception of corruption

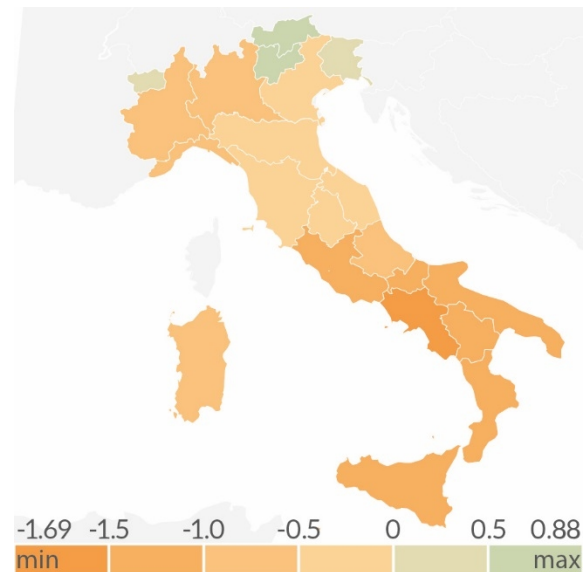
Public perception of corruption in Italy is very high: according to the **2013 Special Eurobarometer on corruption**,²³⁵ 97 % of respondents (EU-27 average: 76 %), believe that corruption is widespread in their country. A relatively high number of respondents (42 %), compared to an EU-27 average of 26 %, attest to having been personally affected by corruption in their daily life. However, only 2 % of respondents had a direct experience involving bribery, compared to an EU-27 average of 4 %. In addition, only 6 % of respondents declared to have experienced or witnessed a case of corruption in the previous 12 months, against an EU-27 average of 8 %. The personal knowledge of someone who takes or has taken bribes (9 %) is slightly below the EU-27 average (12 %). When it comes to the perception of corruption in local or regional public institutions (92 %), it is almost equal to that for national institutions (93 %). Furthermore, the perception of the government's efforts to combat corruption is far from positive, given that 75 % of respondents disagree overall with the statement that such efforts are effective.

It is necessary to highlight, however, that social acceptance of corrupt behaviour in Italy seems to be rather low. In fact, the perception of the extent to which it is unacceptable to either do a favour, give a gift or money is in line with, if not above, the EU average. According to the **2013 Special Eurobarometer on corruption**, 71 % of respondents find it unacceptable to do a favour, 78 % to make a gift and 87 % to give money for obtaining a service, while the EU-27 average is respectively 72 %, 76% and 82 %.

According to the **2016 Global Corruption Barometer (GCB 2016)**,²³⁶ it is socially acceptable to report corruption in Italy. Italians' experience of bribery in the previous 12 months was at 7 %, in line with the results of the **2013 Special Eurobarometer on corruption**. Moreover, similar to the same Eurobarometer, the perception regarding the government's anti-corruption efforts was rather negative, with 70 % of respondents considering such efforts overall insufficient.

The **2015 Flash Eurobarometer on businesses' attitudes towards corruption in the EU**²³⁷ reflects the perception of corruption registered in the 2013 Special Eurobarometer described above. Some 98 % of the Italy-based businesses that were polled considered corruption a widespread phenomenon (EU-28: 71 %). As regards respondents' perception of corruption in public procurement, around three-quarters considered it a widespread phenomenon both in the national administration (76 %) and in the local or regional ones (77 %). Around one-third (33 %) of respondents declared that in the last

Figure 9 – Perception of corruption across regions in Italy, 2013



Data source: [QoG EU regional dataset](#), 2013.
NB: Higher values signify less corruption.

²³⁵ Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014.

²³⁶ Global Corruption Barometer, '[People and corruption: Europe and Central Asia](#)', November 2016.

²³⁷ Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', 2015.

three years corruption had prevented them from winning a public tender or a public procurement contract. Business in Italy perceives favouring friends and family members in public institutions as the most widespread practice (49 %). The perception of the occurrence of bribery or abuse of power for personal gain scored quite high too, with 88 % of respondents claiming this to be the case with regard to politicians, party representatives or senior officials at national level. While this perception was somewhat lower (81 %) with regard to their counterparts at local or regional level, it was still relatively high.

According to the **Standard Eurobarometer 86 from November 2016**,²³⁸ Italians' trust in the national public administration (17 %) and in the regional and local public authorities (19 %) is rather low. Interestingly, trust in the judiciary was higher (31 %) than in the public authorities at national or regional/local level, even though it remained rather low compared to the EU-28 as a whole (51 %).

When it comes to expert-type surveys, **Transparency International (TI)** ranked Italy 60th in the **2016 Corruption Perception Index**, with a relatively low score of 47 out of 100.²³⁹ According to the **World Bank's 2015 Worldwide Governance Indicators (WGI)**, Italy's percentile ranking was 57th out of 100 in the Control of Corruption Indicator, with a reported worsening with respect to 2010 (58) and 2005 (67).

As regards the quality, impartiality and corruption of the regional or local administration, the **2013 European Quality of Government Index (EQI)**²⁴⁰ ranked Italy (as a country) 24th among the EU-28. However, the results of this regional-level survey show that this national score may be quite misleading, as there are extreme divergences in performance among the Italian regions. The great divide between Italy's northern and southern regions has often been highlighted in the literature. Indeed, research shows that the best-performing Italian regions, such as Bolzano, Trento and Valle d'Aosta, achieve EQI scores similar to those of respectively London, Bavaria and France-Comté, while lower-performing regions, such as Campania, Calabria and Sicily, score as badly as some low-performing Romanian and Bulgarian regions. Looking at the corruption perception data only, a similar picture emerges (see Figure 9): regional performance ranges from 0.88 (Bolzano) to -1.69 (Campania). The examination of the individual variables (see Figure 3, page 14) confirms the north-south divide, with personal experience of bribery showing critically high levels in Campania (more than 20 %) and less than 10 % in Bolzano, the country average being 15 %. Some great differences can also be observed across public services: while Italian citizens tend to perceive corruption in healthcare and bribery as highly problematic, especially in the southern regions, they seem to consider elections as very free from corruption, especially in the northern half of the country. On this variable, Italy is performing better than Finland, ranking second among the countries surveyed, and 12 Italian regions feature among the 15 top performers.²⁴¹

²³⁸ Standard Eurobarometer 86, '[Public opinion in the European Union](#)', 2016.

²³⁹ According to TI's National Integrity System Assessment for Italy, the worse-performing entities in Italian civil and political society seem to be the political parties, the public sector, the media and the Anti-Corruption Agency, while a higher score is attributed to the Supreme Audit Institution, the judiciary and the Electoral Management Body.

²⁴⁰ For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

²⁴¹ Nicholas Charron, [WP5 Deliverable 1](#), op.cit.

6.6.2. Legal, institutional and policy framework

Levels of government in Italy

Italy is a unitary state, which recognises the role of local authorities and applies decentralisation. This makes it possible to consider Italy a 'regionalised' country. The original Italian Constitution granted a special autonomous status to five regions, while the constitutional recognition of 15 regions with an ordinary status dates back to the 1970s. Regionalisation has progressively increased over the years. At present, there are exclusive competences of the central government, exclusive competences of the regions and shared competences between the regions and the central government. These latter allow the central government to adopt legislation setting out the general principles for any given policy area, and the region to adopt more detailed legislation. However, criminal, civil and administrative justice remains the exclusive competence of the central government. In addition to regions (*regioni*), Italy is further subdivided into metropolitan cities (*città metropolitane*), municipalities (*comuni*) and provinces (*province*). However, provinces are progressively being abolished, while the competences of municipalities, regions and metropolitan cities are being reinforced.

Anti-corruption legislation has undergone major reform in recent years. With the adoption of the Anti-Corruption Law²⁴² in 2012, Italy made a decisive step in aligning its legal system to the requirements stemming from various international instruments to which it is a party. Again as part of the reform, Italy introduced a comprehensive set of preventive and repressive measures for fighting corruption in the public administration as well as others intended to help cultivate a culture of evaluation, quality and transparency. One of the main pillars of the reform was the creation of a **National Anti-Corruption Authority (ANAC)** and a regulatory system based on transparency, adequate training, codes of conduct and risk-analysis. The preventive measures undertaken as part of the reform are designed with a 'cascade' structure, whereby ANAC elaborates the annual National anti-corruption plan and, based on it, the individual parts of the public administration elaborate their own three-year plans adapted to their specific needs. Subsequently, ANAC controls the implementation of these plans. Its institutional role is to ensure the prevention of corruption as well as the transparency and supervision of public contracts. However, its impact seems to remain limited due to insufficient human and financial resources.²⁴³

After the Anti-Corruption Law stressed the importance of **transparency** as a tool to prevent corruption, several instruments were adopted in 2012 to reinforce this tool. The first one, Legislative Decree 33/2012, introduced new requirements, further compliance obligations and a system of checks and sanctions applicable when the obligation to publish certain types of information required by law has not been met. The second one, Legislative Decree 39/2012, reorganised the provisions on **incompatibility and ineligibility** of candidates for public administration posts, to avoid politics and administration from interfering with each other and to prevent corruption.

The Anti-Corruption Law has helped reinforce the legislation on **conflicts of interest** by broadening the scope of what constitutes an actual, apparent and potential conflict of interest. Accordingly, measures have been taken to curb 'revolving-door' practices and

²⁴² Law No 190 of 6 November 2012, 'Disposizioni per la prevenzione e la repressione della corruzione e dell'illegalità nella pubblica amministrazione' ('Provisions for the prevention and eradication of corruption and illegality in the public administration'), Official Journal No 265 of 13.11.2012.

²⁴³ See [Country Report Italy 2017](#) 'Including an In-Depth Review on the prevention and correction of macroeconomic imbalances', (SWD(2017) 77), 2017 European Semester, European Commission, February 2017, p. 60.

to make persons convicted by a court of law for certain offences, including corruption, ineligible to hold public office. In 2013, **asset disclosure** measures were introduced for elected and appointed officials at central, regional and local level, including those carrying out temporary tasks for the public authorities. However, no specific verification mechanisms are in place and no specific codes of ethics for elected officials at central or sub-national level exist.

Yet again, the Anti-Corruption Law has helped boost **whistle-blower protection**, extending it to include measures against acts such as the demotion, mobbing, transfer and discrimination of whistle-blowers. However, whistle-blower protection remains rather generic and does not cover the private sector.

Public funding of political parties has long been a source of abuse and irregularities with a number of shortcomings identified both in the legal framework and practice,²⁴⁴ such as a lack of transparency of accounts and a lack of control over them by independent auditors. A legislative reform undertaken at the end of 2013 phased out public funding of political parties by the end of 2016 and replaced it with deductible contributions and the possibility to devolve a percentage of one's personal income tax to a chosen political party, provided it is listed in a special register.

Public procurement is an area where admittedly²⁴⁵ the risk of corruption and infiltration of organised crime remains very high,²⁴⁶ notwithstanding improvements in terms of legislative and monitoring initiatives undertaken in recent years (see box). The statute of limitations has been a serious hindrance in prosecuting corruption cases due to the length of investigations and court procedures. In this respect, Italy has not yet implemented awaited reforms that could either suspend or revise the length of the statute of limitations.

Addressing corruption in public procurement

Public procurement²⁴⁷ in Italy accounts for around 10 % of GDP. It is carried out by around 30 000 contracting agencies at all levels of the public administration. At the national level, centralisation occurs through Consip, the main purchasing body. Public procurement accounts for 60 % of public works performed at the local level. The Italian public procurement system displays weaknesses in its legislative framework and lacks adequate administrative capacity. It is also a field prone to fraud and to links with organised crime. According to the 2013 ANAC Report,²⁴⁸ around 22 % of the total number of convictions for corruption were linked to public procurement. It is also estimated²⁴⁹ that the average cost of building high-speed railway tracks in Italy costs €61 million/km compared to €10 million/km in France, Spain or Japan. Recent reforms, such as the adoption of the Anti-Corruption Law, have helped advance the fight against corruption in this field, with the introduction of the National anti-corruption plan having a coordinating function with regard to the anti-corruption plans prepared by the individual parts of the public administration.

²⁴⁴ See GRECO, '[Evaluation Report on Italy: Transparency of Party Funding](#)', March 2012.

²⁴⁵ According to the [Commission's Country Report for Italy 2017](#) (SWD(2017) 77), page 59, public procurement is a sector at risk, with 29 % of all projects having only one bidder and 9 % having no call for tenders at all in 2015.

²⁴⁶ The Italian Court of Auditors has highlighted that it is not the pre-award but the post-award phase that is most frequently open to corruption.

²⁴⁷ Data based on public procurement tenders registered in the TED database; see Italy country profile in '[Public procurement – a study on administrative capacity in the EU](#)', European Commission, January 2016.

²⁴⁸ ANAC (2013), [Report on the first year of implementation of Law No 190/2012](#).

²⁴⁹ Annex on Italy to the [EU Anti-Corruption Report](#), op.cit.

The National anti-corruption plan fosters the use of 'integrity pacts' in the contractual relations with contracting authorities; non-compliance with these pacts serves as grounds for exclusion from a contract. Italy has also adopted legislation on the traceability of funds in public procurement procedures, affording stricter control of financial flows through the creation of a dedicated account for all payments related to public procurement. Furthermore, ANAC has been entrusted with considerable supervisory and inspection powers with respect to public procurement.²⁵⁰ In particular, upon request by a contracting authority, it may exercise 'collaborative supervision' over the implementation of procurement procedures, especially where high-value and strategic projects are concerned.

The Coordination Committee for the High Supervision of Infrastructure and Priority Works²⁵¹ (CCASIIP) is another public body for the prevention of and fight against infiltrations of organised crime in publicly-financed works. The guidelines established by the CCASIIP have been adopted by the Inter-Ministerial Committee for Economic Planning (CIPE) and constitute the current reference for the prevention of organised crime. Once adopted, the guidelines are binding on the contracting authorities and enterprises involved in procurement procedures. The guidelines provide for strengthened anti-mafia control on contracts and public procurement procedures for certain works, services or supplies. In particular, they introduce greater obligations with regard to information as well as the obligation for the adoption of clauses providing the winding up of a contract if, during its execution, the winner of the tender has been issued anti-mafia pre-emptive orders or has failed to report extortion attempts.

6.6.3. Best practices

Italy has carried out a number of projects to raise corruption-related awareness or to boost the fight against corruption. Some of them have addressed the problematic area of public procurement. **Project CAPACI**²⁵² was one such initiative aimed at improving the protection of public contracts and transparency. It provided means for monitoring financial flows occurring among the chain of players participating in the creation of public infrastructure and thus being beneficiaries of payments sourced from public funds. Project CAPACI received financial support from the European Commission and sought to create a database featuring information on individual transactions and payment status reports by using SEPA standards. Furthermore, its goal was to introduce a system of alerts/warning signals that would report unusual behaviour, as well as to facilitate the dissemination in other countries of the best practices and technologies promoted under the project. Today, following the test phase and the publication of Decree-Law 90/2014,²⁵³ monitoring is compulsory for works related to strategic infrastructure.

Project Itaca, a federative association of regional and autonomous provinces, is a valuable network aiming at developing and promoting transparency in the various phases of public procurement and public concessions. The project also seeks to disseminate best practices in services, supplies and public works with the aim of achieving sustainability of the urban environment.

²⁵⁰ Through [Legislative Decree 18 April 2016, No 50](#), which transposed three EU directives (directives 2014/23/EU; 2014/24/EU and 2015/25/EU) into Italy's national legislation. Examples of how such powers are used were provided during the EXPO in 2015 and the Catholic Jubilee Year (2015-2016).

²⁵¹ Comitato di Coordinamento per l'Alta Sorveglianza delle Infrastrutture e degli Insediamenti Prioritari.

²⁵² The project is named after the town of Capaci in Sicily, where Judge Giovanni Falcone, a pillar of the fight against organised crime, was killed in 1992 together with his wife and bodyguards.

²⁵³ [Decree-Law of 24 June 2014, No 90](#), Urgent measures aimed at achieving simplification and administrative transparency as well as efficiency of the courts.

There are also projects of a more general scope that deal with the prevention of corruption. For instance, **the Anti-corruption project**²⁵⁴ is an initiative aimed at providing technical and scientific assistance to the Department of Public Administration for designing corporate models to help prevent corruption, enhance the awareness of corruption among the public administration and promote a culture of legality. The **Public administration reforms project** focused on the eight southern Italian regions, is aimed at enhancing the strategic competencies of managers in the public administration in terms of preventing and tackling corruption.

The role played by ANAC is also worth mentioning, as it maintains contacts with Italian universities to deliver trainings and promote a culture of legality. In this regard, it collaborates with the Italian School of Public Administration for the purpose of putting together staff trainings on topics focused on prevention of corruption, transparency and public contracts.

²⁵⁴ Italy country profile, '[Public procurement – a study on administrative capacity in the EU](#)', European Commission, January 2016.

6.7. Romania

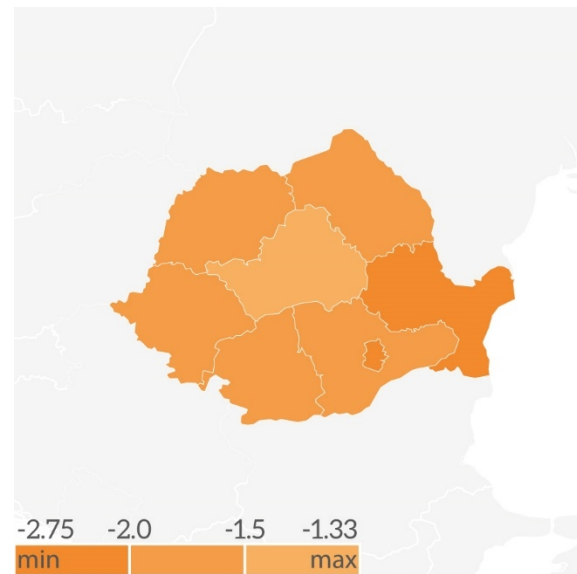
6.7.1. Perception of corruption

In Romania, corruption is perceived as a serious problem despite longstanding efforts to tackle the phenomenon through the establishment of a comprehensive anti-corruption policy and legislative framework. The **2013 Special Eurobarometer on corruption**²⁵⁵ found that 93 % of Romanians believed corruption was widespread, and therefore ranked them 6th in the EU. Also, 57 % of Romanians considered themselves personally affected by corruption in their daily lives (second-highest in the EU-27 alongside Cyprus), and 25 % reported having been asked or expected to pay a bribe (second-highest among the EU-27). Only 27 % considered the government's efforts against corruption as being effective. Finally, almost as many believed corruption was present in local and regional public institutions (83%) as in national public institutions (82 %). According to the **2015 Flash Eurobarometer on businesses' attitudes towards corruption in the EU**,²⁵⁶ respondents in Romania were the most likely in the EU to consider corruption a problem when doing business in the country (74 %) and to identify patronage and nepotism as problems (70 %). Romania was also the fourth EU Member State that was most likely to consider corruption as being widespread in public procurement managed by national public authorities (74 %) and by local/regional ones (73 %).

Most recently, the **Flash Barometer on the Cooperation and Verification Mechanism (CVM) for Bulgaria and Romania**²⁵⁷ found that 93 % of Romanians viewed corruption as a serious problem in 2016 and 45 % considered the situation worse compared to a decade earlier. Most viewed the EU's role in helping tackle corruption as positive (64 %).

The **2016 Global Corruption Barometer**²⁵⁸ found that 49 % of Romanian respondents saw corruption as one of the country's three biggest problems (seventh-highest among the EU-28), with 42 % rating the government's anti-corruption efforts as 'bad'. Furthermore, 54 % of Romanians (highest percentage among the EU-28) believed that members of parliament were the most corrupt group. Significantly, Romania had the highest rates among the EU Member States as concerns bribery for gaining access to public services, with 29 % of households reporting to have paid a bribe (a 7 % increase from 2013). The only aspect on which Romania scored better – in the medium-risk range (40-60 %) – is social acceptance of the act of reporting corruption. The **2016 Corruption Perceptions Index (CPI)** gives Romania the score of 48 out of 100 (0 highly corrupt; 100

Figure 10 – Perception of corruption across regions in Romania, 2013



Data source: [QoG EU regional dataset](#), 2013.

NB: Higher values signify less corruption.

²⁵⁵ Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014.

²⁵⁶ Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', 2015.

²⁵⁷ Flash Eurobarometer 445, '[The Cooperation and Verification Mechanism for Bulgaria and Romania – third wave](#)', 2017.

²⁵⁸ Global Corruption Barometer, '[People and corruption: Europe and Central Asia](#)', November 2016.

very clean), ranking it 57th out of 176 countries. However, Romania fares better when compared to previous years.²⁵⁹ In 2015, the Control of Corruption indicator of the **Worldwide Governance Indicators** ranked Romania at the 57.69 percentile rank.

The 2013 **Quality of Government (QoG)** survey ranks Romania last among the EU Member States, with an **EQI** score of -1.649²⁶⁰. As concerns the corruption pillar (see Figure 10 above), all of Romania's eight regions (NUTS-2) are in the bottom 50 %, with Bucharest-Ilfov registering the worst score among the European regions examined, namely -2.75, and the Sud-Est the third-worst score (-2.2). The Centre region has the best score among Romanian regions (-1.33) for the overall corruption pillar, but six Romanian regions are among the eight lowest-scoring European regions. Therefore, regarding the perception of corruption, Romania is among the Member States registering a meaningful variation among its regions, similar to the variation observed when the overall EQI data are considered. Interestingly, the survey points out that if aspects of corruption or the entire pillar of corruption is removed, then most Romanian regions climb quite significantly in the rankings, as they score much higher on questions of quality or impartiality of services.

With respect to the individual variables of the corruption pillar (see Figure 3 on page 14), Romania registers the highest level of corruption compared to all EU Member States analysed, when it comes to the personal experience of bribery. In the capital region (Bucharest-Ilfov, with a record score of -4.62) and in the Sud-Est region (-3.35) more than 30 % of respondents claimed to have had direct experience with paying bribes; also more than 20 % of respondents, all Romanian regions considered, reported having paid a bribe for health services. Overall, Romania has the fourth-highest perceived corruption level in health services, third-highest as concerns education services, and fifth-highest as concerns law enforcement services and the perceived use of corruption by others. Regarding all these individual aspects, the Centre region is the top performer, while Bucharest-Ilfov is the worst. On the other hand, some Romanian regions fare much better as regards the level of corruption in elections (six regions scoring above 0), and overall, the country ranks eighth among those considering their elections quite clean.²⁶¹

A 2012 study on corruption in the local public administration found that three out of five respondents (61 %) believed that its level was high or very high. When asked to evaluate comparatively, 42 % of respondents believed the level of corruption was similar at all levels (local, regional and central); however, a similar proportion of respondents (41 %) thought there was more corruption at the national level compared to the local one, and only 10.3 % believed otherwise.²⁶² Finally, a recent public opinion survey on **conflicts of interest** showed that almost two-thirds of respondents believed most cases involving a conflict of interest are to be found at central level (government, parliament, ministries, agencies), while a third thought they happen more at the local level (city halls, local and county councils).²⁶³

²⁵⁹ In 2015 it scored 46/100, and ranked 58th out of 168 countries; in 2014 and 2013 it scored 43/100.

²⁶⁰ For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

²⁶¹ Nicholas Charron, [WP5 Deliverable 1](#), op.cit. and Charron et al, 'Mapping the regional divide in Europe', op.cit.

²⁶² '[Study concerning corruption in the local public administration](#)' (in Romanian), Ministry of Administration and Internal Affairs, 2012.

²⁶³ '[Percepțiile și atitudinile populației privind conflictul de interese la nivel central și local în România](#)', Institutul pentru Politici Publice, 22 May 2017.

6.7.2. Legal, institutional and policy framework

Levels of government in Romania

Romania has a high level of centralisation, with regions having no political/administrative autonomy. The 41 counties (*județe*) plus the capital, Bucharest, have the same organisational structure: the institution of the 'prefect' is entrusted by the central government with the power to implement national policies in the country's territory. County councils, municipal councils and mayors (elected representatives) oversee the work of the local public administration.²⁶⁴ In October 2014, the Romanian government adopted the 2014–2020 National strategy for the consolidation of the local public administration.²⁶⁵ Some decentralisation measures have been taken with respect to hospitals and education (in 2010 and 2011). Policies related to integrity and the fight against corruption are coordinated between the Ministry of Justice and the Ministry for Regional Development, Public Administration and European Funds (MDRAP). The local public administration was the focus of the 2008–2010 National anti-corruption strategy (NAS).²⁶⁶ Six months into the adoption of the 2016–2020 NAS, it was assessed that the number of administrative-territorial units adhering to the strategy had increased from 16.17 % to 41.79 % compared to the previous 2012–2015 cycle (that is, 1 349 out of the total 3 228 such units).²⁶⁷

Romania has a comprehensive legal, policy and institutional framework in place to fight corruption. Law 115/1996 on the declaration and control of the wealth of dignitaries and public officials²⁶⁸ and Law 78/2000 on preventing, discovering and sanctioning of corruption acts could be considered as the foundation of Romania's public policy on corruption. Since then, more than 150 legal acts have been adopted with the aim, among other things, to attain the four benchmarks established in the CVM.²⁶⁹ Five national anti-corruption strategies have been approved (in 2001, 2005, 2008, 2012²⁷⁰ and in August 2016²⁷¹) to guide the government's policy. Finally, Romania is party to international instruments dedicated to combatting corruption, including the UN and Council of Europe conventions, and it has set itself the objective of acceding to the OECD Anti-Bribery Convention.²⁷² Romania also participates in some international and regional initiatives (such as the Open Government Partnership,²⁷³ the Regional Anti-Corruption Initiative).

The **2016–2020 National anti-corruption strategy (NAS)** is characterised by a three-pillar approach (prevention, education and fight against corruption) and is addressed to the executive, legislative and judicial branches of government, as well as to the local public

²⁶⁴ See '[Romania – division of powers](#)', on the website of the European Committee of the Regions.

²⁶⁵ Government [Decision No 909/2014](#) (in Romanian), 15 October 2014.

²⁶⁶ [National anticorruption strategy for the period 2008-2010 regarding the vulnerable sectors and the local public administration](#).

²⁶⁷ Press release, MDRAP, 18 July 2017.

²⁶⁸ [Law 115/1996](#) on declaring and control of the wealth of dignitaries, magistrates, civil servants and of certain persons with management positions.

²⁶⁹ For Romania, these benchmarks are: 1) establishing an independent, impartial and efficient judicial system; 2) establishing an integrity agency responsible for verifying assets, incompatibilities and potential conflicts of interest; 3) tackling high-level corruption; and 4) tackling corruption at all levels, in particular within the local government.

²⁷⁰ For instance, the [National anti-corruption strategy 2008–2010](#) and the [National anti-corruption strategy for the period 2012–2015](#).

²⁷¹ [Decision No 583 of 10 August 2016](#) (in Romanian), published in the Monitorul Oficial (Official Journal) No 644 of 23 August 2016.

²⁷² '[JusMin Pruna: Romania capable of substantial contribution to OECD anti-bribery efforts](#)', 16 March 2016.

²⁷³ [Open Government Partnership](#) website. See also Romania's [profile](#).

authorities, the business sector and civil society. The strategy mentions that work is still needed, among other things, on: education about the principles of anti-corruption and the legal standards on integrity, with which public institutions are relatively unfamiliar; preventing corruption and consolidating integrity in the political sphere and in business, especially in state-owned enterprises; and tackling the formalist approach to the prevention of corruption observed at local level. The Justice Ministry reports to Parliament annually on the implementation of the NAS, while the five platforms identified by the previous NAS (the independent anti-corruption authorities and institutions; the central public administration; the local public administration; business; and civil society) support the monitoring process.

Legislative provisions related to the fight against corruption are found in the Constitution, the new Criminal Code, the Code of Criminal Procedure²⁷⁴ and specific laws. For example, the Constitution contains provisions on incompatibilities concerning the members of parliament, the president and the members of the government, as well as provisions on their immunity. Title V of the new Criminal Code refers to a specific category of crime, **corruption and offences in public position** (Articles 289–309), which includes the offences of taking and giving a bribe, influence-peddling, buying influence, conflicts of interests, abuse of office, abuse of position; and the relevant sanctions. **Law 78/2000** is the **specific law on corruption**, defining rules for preventing corruption, providing a list of corruption offences, and laying out provisions on investigating and penalising acts of corruption.²⁷⁵ Specific laws also define the administrative sanctions and rules concerning the **conduct, conflicts of interest, immunities and incompatibilities** of dignitaries, elected persons and public officials.²⁷⁶

Moreover, Romania is assessed as having established an 'exemplary' **system for the declaration of wealth, income and interests** by public officials.²⁷⁷ The system assesses variations in the patrimonial situation of the declaring officials and is aimed at detecting situations of incompatibility.²⁷⁸ Other legal provisions in this area impose the requirement to **declare gifts** received during protocol actions in the exercise of the mandate or function (quite a lot of dignitaries and officials were unfamiliar with this law),²⁷⁹ or impose **post-employment restrictions**, as defined in Article 94 of Law 161/2003 (above), applying only to public officials (not dignitaries) and to positions taken

²⁷⁴ [Law 286 of 17 July 2009](#) on the Criminal Code, amended, and [Law 135 of 1 July 2010](#) on the Code of Criminal Procedure, as amended.

²⁷⁵ [Law 78/2000 on Preventing, discovering and sanctioning of corruption acts](#), as amended.

²⁷⁶ Law [96/2006](#) (in Romanian) on the statute of deputies and senators; Law [161/2003](#) (in Romanian) defining administrative conflicts of interest in the exercise of public office; Law [188/1999](#) (in Romanian) on the statute of public officials; [Law 7/2004 on the code of conduct for civil servants](#), modified by Law [50/2007](#) (in Romanian); and laws for the magistrates and the police.

²⁷⁷ '[Corruption prevention in respect of members of parliament, judges and prosecutors – Evaluation report Romania](#)', GRECO, Fourth Evaluation Round, Greco Eval IV Rep (2015) 4E, January 2016. The main laws are Law [176/2010](#) (in Romanian) on integrity in the exercise of public offices and dignities, amending and supplementing Law [144/2007](#) (in Romanian) and Law 115/1996 on the declaration and control of wealth of officials.

²⁷⁸ The National Integrity Agency (ANI) publishes these annual declarations and may conduct investigations into integrity incidents and issue complaints to criminal investigation bodies. According to ANI, since 2008, over 10 000 finalised files have led to administrative sanctions or removals from office in many cases.

²⁷⁹ [Law 251/2004](#) and [Rules](#) for its implementation, also adopted in 2004 (both acts in Romanian).

up in the private sector after the person has left a public office. However, in practice there are no monitoring mechanisms.²⁸⁰

In addition, Romania was the first continental European country to pass legislation on the **protection of whistle-blowers** (2004).²⁸¹ However, the Whistle-blower protection act only applies to the public sector and is still relatively unknown among officials.²⁸²

Specific laws have also been adopted on:

- the financing of the activities of political parties and of electoral campaigns, aimed at preventing **abuse of administrative resources in such campaigns**;²⁸³
- **transparency in decision-making and access to information held by public authorities**.²⁸⁴ The government issues an annual report for progress on implementing each of the two laws based on reports from the individual public institutions. Romania also participates actively in the Open Government initiative and has achieved significant progress regarding its commitments on open data and government transparency it has assumed in this context;²⁸⁵
- **public procurement**: to implement new EU legislation in the field,²⁸⁶ a number of laws were adopted in 2016, including Law 184/2016 (in force since 20 June 2017), which institutes a mechanism for preventing conflicts of interest in the awarding of public procurement contracts.²⁸⁷ The year 2015 saw the adoption of a national strategy for public procurement and the establishment of the National Agency for Public Procurement.

The **institutional framework** put in place to fight corruption in Romania comprises the Ministry of Justice, which develops, monitors and coordinates the NAS, and other specialised institutions and law enforcement bodies, which deal with medium- and high-level corruption.²⁸⁸ The **National Anti-Corruption Directorate (DNA)**, a specialised anti-corruption prosecution structure within the Prosecutor's Office, attached to the High Court of Cassation and Justice, deals only with high and medium-level corruption crimes, while petty corruption is dealt with by ordinary prosecution offices. The activity of the DNA has led to an increasing number of prosecutions and convictions in high-level corruption cases.²⁸⁹ The **General Anti-Corruption Directorate (DGA)** within the Ministry

²⁸⁰ ['Comparative study regarding the anti-corruption measures in EU Member States \(Denmark, Estonia, Latvia and Romania\)'](#), AID Romania, Romanian government and the General Anti-Corruption Directorate, 2014.

²⁸¹ [Law 571/2004 regarding the protection of personnel within public authorities, public institutions and other establishments, who report infringements.](#)

²⁸² R. Dimitriu, ['The Whistleblowing Policies in Romania's Labour Law'](#), Accounting and Management Information Systems, Vol. 13, No 3, 2014 pp. 584-598.

²⁸³ Law [78/2016](#) amending Law [334/2006](#) on the financing of the activities of political parties and of electoral campaigns (both acts in Romanian).

²⁸⁴ [Law 52/2003 on decisional transparency in public administration](#) and [Law 544/2001 regarding the free access to information of public interest.](#)

²⁸⁵ See the Open Government Partnership [website](#) and the [Romania End-of-Term Report](#) 2014-2016.

²⁸⁶ See the list of [primary legislation](#) (in Romanian) in the area of public procurement, ANAP website.

²⁸⁷ Law [184/2016](#) instituting a mechanism for the prevention of conflicts of interest in the procedure of awarding public procurement contracts.

²⁸⁸ [Romania Anti-Corruption Institutional Framework](#), Regional Anti-Corruption Initiative.

²⁸⁹ See the National Anti-Corruption Directorate's [annual activity reports](#), in particular [Report 2016](#) (both documents in Romanian).

of Internal Affairs is a specialised judicial police structure responsible for preventing, investigating and combating corruption among the Ministry's personnel. The **National Integrity Agency (ANI)**, created in 2007, is an autonomous (central-level) institution that organises the verification of assets that officials have acquired while exercising a mandate or holding public office. ANI also deals with the verification of conflicts of interest and incompatibilities.

Despite this extensive anti-corruption legal framework, Romania continues to have a serious corruption problem. Many experts explain this by a lack of implementation of the existing legislation or by its inadequate implementation. A number of particularly problematic areas have been highlighted, among them access to public information, financing of political parties, public control of state-owned companies and the implementation of legislation on conflicts of interest.²⁹⁰ Furthermore, a 2016 report concluded that Romania has a tendency to 'pile up numerous rules and pieces of legislation dealing with integrity and the prevention of corruption, which are often inconsistent or redundant, but do not necessarily address the various desirable policy elements.'²⁹¹ It also viewed some proposed amendments to criminal law provisions (on bribery, conflict of interests and influence-peddling) as attempts to undermine the legal framework and the activity of anti-corruption institutions, recommending that priority be attached to implementing the existing framework effectively.²⁹² In 2017, the European Commission highlighted the progress achieved in the past ten years, but also the areas where reform has been difficult or has been resisted by authorities.²⁹³

6.7.3. Best practices

Romania has been given international credit for some of its best practices and innovative approaches to fighting corruption. The OECD report on Prevention of Corruption (2015) emphasises the **thematic monitoring missions in public institutions**, established by the 2012-2015 NAS, and consisting of evaluation visits by teams of experts from the five above-mentioned cooperation platforms. During the four years while this NAS was in force, 17 central public institutions and 66 local administration entities were assessed. Moreover, emphasis was laid on assessing the level of '**institutional responsiveness**', that is, assessing the improvements made by the institutions where violations of the integrity rules had been detected.²⁹⁴

Another best practice concerns **corruption risk assessment**, with public institutions being responsible for assessing their own corruption risks and vulnerabilities and developing internal integrity plans. In particular, the Ministry of Internal Affairs has developed a methodology for managing corruption risks within its structures, which has been replicated by several other ministries.

In **public procurement**, the new system for ex-ante checks (the **PREVENT electronic system** established by Law 184/2016) was welcomed by the European Commission,

²⁹⁰ '[National Integrity System Romania](#)', Transparency International, January 2012.

²⁹¹ GRECO Eval IV Rep (2015) 4E, op. cit.

²⁹² After protests at the beginning of 2017, the government withdrew the [emergency ordinances](#) amending provisions on the 'abuse of office', perceived by civil society as undermining anti-corruption efforts.

²⁹³ [Progress report Romania 2017](#), COM(2017) 44, and [Technical report Romania 2017](#), SWD(2017)25, European Commission, 25 January 2017.

²⁹⁴ Within three months of the integrity incident, the institution has to present the adopted measures to deal with the factors of corruption.

among others. It automatically detects potential situations of conflicts of interest before the selection and award procedures have been launched and is based on the compulsory completion of an integrity form by the contract authorities. Failure to complete the form leads to suspension of the procedure. Also, if the system detects any potential conflict of interests, it notifies the contracting authority before the awarding of the contract.

Specifically regarding the **local and regional levels**, the 2016-2020 NAS mentions a number of best practices that have been identified: adoption of codes of ethics and conduct specialised in public procurement and EU funds; implementation of online e-governance procedures; delivery of trainings on best anti-corruption practices; and creation of registers describing integrity incidents and abstentions from decisions in situations of conflicts of interest. However, it also highlights some outstanding problems: a formal approach to the prevention of corruption at the local level; a limited number of territorial units and institutions having a code of ethics; a formal role exercised by the ethics advisors within those institutions; lack of knowledge about the legislation on receiving gifts, on post-employment restrictions and on whistle-blowing; lack of procedures for preventing conflicts of interest and incompatibilities, and so forth. In this context, the MDRAP launched the creation of a **map of best anti-corruption practices at local and regional level**²⁹⁵ and will develop, together with the Justice Ministry, a methodology for the implementation of the 2016-2020 NAS at the local level. Civil society groups have also set up projects to monitor corruption (statistics on convictions and sentences in corruption cases), transparency in decision-making,²⁹⁶ political clientelism,²⁹⁷ and compliance with the law on access to public information.²⁹⁸

²⁹⁵ See the map at <http://greencity.mdrap.ro/> (in Romanian).

²⁹⁶ [Map on corruption](#) and [Map on transparency in the decision-making process](#) (both maps in Romanian), Romania Curata.

²⁹⁷ [Map on political clientelism, 2012–2015](#) (in Romanian), Expert Forum.

²⁹⁸ Map on [access to public information](#) (in Romanian), project 'Podul Bunei Guvernari', Romania Curata.

6.8. United Kingdom

6.8.1. Perception of corruption

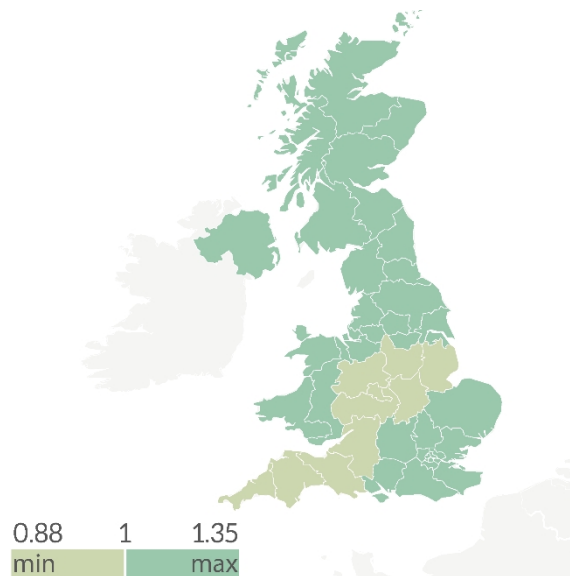
The United Kingdom is generally perceived to have comparatively low levels of corruption. For instance, it ranks 10th equal in the world according to **Transparency International's 2016 Corruption Perceptions Index**. Another broad-based measure including experts' views, the **World Bank's Worldwide Governance Indicators**, rates the UK's control of corruption in 2015 at a percentile rank of 94, again one of the best ratings in the world and sixth-highest of the EU Member States. Specific EU surveys of businesses and citizens broadly back this perception.

In the **2015 Flash Eurobarometer on businesses' attitudes to corruption in the**

EU,²⁹⁹ only 8 % of respondents considered corruption to be a problem for their company when doing business in the UK, the second-lowest in the EU (EU-28 average: 40 %). However, 41 % of respondents felt corruption was fairly widespread or very widespread in the UK, nearly as many as the 44 % who felt it was fairly widespread or very rare. Nonetheless, this result was still much better than the EU-28 average, where 71 % felt corruption was fairly widespread or very widespread. When asked which corrupt practices they considered to be the most widespread in the UK, respondents mentioned 'tax fraud or non-payment of VAT' (41 %) most frequently, closely followed by 'favouring friends and family members in business' (38 %), with 'funding political parties in exchange for public contracts or influence over policy-making' in third place (24 %).³⁰⁰ Businesses' perception of how widespread corruption was in public procurement was low compared to the EU-28 average. For procurement managed nationally, 29 % thought corruption widespread, much lower than the 53 % EU-28 average. A similar percentage – 32 % – thought corruption was widespread in regionally or locally managed procurement, again much lower than the 58 % EU-28 average. Bribery or abuse of power for personal gain was thought to be widespread amongst national politicians, party representatives or senior officials by 52 % (EU-28 average: 68 %), whereas those at regional or local level were slightly more trusted, with 48 % considering bribery or abuse of power widespread amongst them (EU-28 average: 65 %). However, only 17 % agreed with the statement 'the only way to succeed in business is to have political connections', which is much lower than the 44 % EU-28 average. This was backed by only 13 % agreeing that in the last three years corruption had prevented them or their company from winning a public tender or procurement contract (EU-28 average: 34 %).

Looking at UK citizens' survey responses in the **2013 Special Eurobarometer on corruption**,³⁰¹ a similar story emerges. UK citizens' personal experiences of corruption

Figure 11 – Perception of corruption across regions in the UK, 2013



Data source: [QoG EU regional dataset](#), 2013.

NB: Higher values signify less corruption.

²⁹⁹ Flash Eurobarometer 428, '[Businesses' attitudes towards corruption in the EU](#)', 2015.

³⁰⁰ Flash Eurobarometer 428, data volume A, Question 11, a maximum of three responses allowed.

³⁰¹ Special Eurobarometer 397, '[Corruption](#)', fieldwork: February-March 2013, published: February 2014.

were low, with just five out of the 1 115 respondents reporting that they had been requested or expected to pay a bribe, the lowest in the EU. Furthermore, the UK had the lowest proportion of respondents who said they knew someone who had taken bribes (7 %), and just 4 % of respondents said they had experienced or witnessed a case of corruption in the last 12 months (one of the lowest levels, the EU-27 average being 8 %). Nevertheless, 16 % of respondents said they were personally affected by corruption in their daily lives (EU-27 average: 26 %). Despite these relatively limited personal experiences of corruption, 64 % of respondents thought corruption was widespread in the UK (albeit lower than the EU-27 average of 76 %).

On perceptions of whether the UK government's efforts to tackle corruption were effective, only 29 % totally agreed (EU-27 average: 23 %), or tended to agree that they were. In contrast, 57 % tended to or totally disagreed (EU-27 average: 66 %). On acceptable practices when seeking to get something from the public administration or a public service, respondents were generally close to the EU-27 average. Interestingly, however, UK results were almost identical, regardless of whether it was a question of doing a favour (22 % felt this was acceptable, EU-27 average: 26 %), giving a gift (23 %, EU-27: 23 %) or giving money (22 %, EU-27: 16 %) in return. In contrast, when it came to the statement 'In the UK the only way to succeed in business is to have political connections', respondents were almost a mirror image of the EU-27 average, with 38 % agreeing (EU-27 average: 56 %) and 53 % disagreeing (EU-27 average: 36 %). When it comes to complaining about corruption, respondents would look to the police (63 %), judicial system (15 %) and NGOs (8 %), these results being broadly in line with the EU-27 average (57 %, 27 % and 7 % respectively). Regarding the political system, 30 % (EU-27 average: 22 %) agreed there was sufficient transparency and supervision of the financing of political parties in the UK, whilst 54 % disagreed (EU-27 average: 67 %).

Looking at perceptions of corruption at the local level, 66 % of respondents (EU-27 average: 77 %) considered there was corruption in local or regional public institutions (22 % disagreed, 12 % didn't know), slightly lower than the 72 % who felt there was corruption in the national public institutions.

In the **2013 QoG survey** examining the perception of quality, impartiality and corruption in public services at regional level, the **EQI** score for the UK as a whole was 0.803³⁰². This ranks the UK ninth among the EU Member States as far as the overall EQI is concerned. Looking at corruption perception data only (see Figure 11), there is only limited regional variation within the UK, ranging from 0.88 in South West England (just below the East Midlands with 0.89) to 1.35 in South East England. Other regions score very similarly to each other, clustered around 1.0.

6.8.2. Legal, institutional and policy framework

Levels of government in the United Kingdom

The UK is an asymmetrically decentralised unitary state comprised of England and three countries with devolved governments: Scotland, Northern Ireland and Wales. Although the UK Parliament retains absolute sovereignty, the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales have acquired differing degrees of legislative powers since devolution in 1999. Areas that the Scottish government, Welsh government, and the Northern Ireland executive are responsible for, include: health; education; culture; the environment; and transport. Beneath this level of government sits the local government, which also varies. Many parts of England have two tiers (county councils and district, borough or city councils) whilst

³⁰² For explanations on the QoG regional survey and the EQI index, see chapter 2.2, page 7.

others have just single unitary authorities. There are 353 councils in England: 27 county councils (upper tier); 201 district councils (lower tier); 32 London boroughs (unitary); 36 metropolitan boroughs (unitary); 55 unitary authorities; and 2 *sui generis* authorities – the City of London Corporation and Isles of Scilly (unitary). They make and carry out decisions on local services such as education, social care and waste management. The councils in the other three countries in the UK are all unitary. The Scottish local government consists of 32 local authorities which provide services such as education, social care, waste management, cultural services and planning. In Wales there are 22 local authorities covering similar areas. Northern Ireland has 11 district councils though they do not have the same responsibilities as councils in other parts of the UK (for instance, they do not cover education).

Local government plays a role in tackling corruption, for instance, through three year strategies (see later).

The UK has adopted and ratified the relevant UN, Council of Europe and OECD conventions, apart from the Council of Europe's Civil Law Convention on Corruption, which it signed in 2000, but has not ratified yet.

A centrepiece of anti-corruption legislation in the UK is the **2010 Bribery Act**, which replaced all existing bribery-related provisions with four new core offences: bribing another person (active bribery), being bribed (passive bribery), bribing a foreign public official and failure of commercial organisations to prevent bribery. It provides for sanctions of up to 10 years imprisonment and unlimited fines.

Another important piece of legislation is the **2006 Fraud Act**, which provides for a general offence of fraud with three ways of committing it (by false representation, by failing to disclose information and by abuse of position). These offences, which carry a maximum sentence of 10 years in jail, can all be useful in tackling corruption.

Common law provisions, such as those relating to **misconduct in public office** and **perverting the course of justice**, are also used to help tackle corruption.³⁰³ There is no statute of limitations in UK criminal law, and no general immunity from criminal prosecution for Members of Parliament, judges or prosecutors.

According to a 2013 report, the UK is considered to have an advanced legal framework in the field of **whistle-blower protection**.³⁰⁴ The key law is the **Public Interest Disclosure Act (PIDA) of 1998**, which relates to employment law and covers all workers across the public, private and voluntary sector.

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 established a statutory register of consultant lobbyists who are required to disclose their clients on a publicly available register and to declare whether or not they subscribe to a code of conduct.

³⁰³ Misconduct in public office is a common law offence, triable only on indictment, i.e. before a jury. It carries a maximum sentence of life imprisonment. It is an offence confined to public-office holders and is committed when the office holder acts (or fails to act) in a way that constitutes a breach of the duties of that office. Perverting the course of justice is an offence committed when a person prevents justice from being served on him/herself or on another party. It carries a maximum sentence of life imprisonment.

³⁰⁴ ['Whistleblowing in Europe: legal protections for whistleblowers in the EU'](#), Mark Worth, Transparency International, 2013. To be rated advanced means 'A country's existing laws include comprehensive or near comprehensive provisions and procedures for whistleblowers in the public and/or private sectors.' At the time of the report, the UK was considered one of only four EU Member States in this position (Luxembourg, Romania and Slovenia were the other three).

The Recall of MPs Act 2015 provides for a recall petition to be triggered if a Member of Parliament is sentenced to a prison term or is suspended from Parliament for at least 21 sitting days. If at least 10 % of eligible electors sign the petition, the MP's seat would be declared vacant and a by-election would follow. The MP who was recalled could stand in the by-election. This law provides the opportunity to remove MPs from their position (without waiting for the next general election), where there are concerns about their conduct, including in any case of involvement in corruption.

A very recent addition to the UK's arsenal of anti-corruption laws is the **Criminal Finances Act 2017**. This new law enhances the fight against money-laundering and corruption and helps to recover the proceeds of crime, including through the use of '**unexplained wealth orders**'.³⁰⁵

In terms of institutions involved in tackling corruption, the UK's Serious Fraud Office (SFO)³⁰⁶ is responsible for enforcing anti-fraud and anti-corruption laws including the 2010 Bribery Act. It is thus the UK lead agency for investigating and prosecuting cases of domestic and overseas corruption to which UK citizens should report allegations of corrupt practices. It operates as an independent government department under the superintendence of the Attorney General.

Some important elements have been added to the UK's anti-corruption institutional system following the December 2014 Anti-Corruption Plan (see below for more on the plan). These elements are:

- The appointment by the UK's Prime Minister of the **Government Anti-Corruption Champion**. The Champion has a strengthened role in overseeing the government's response to both domestic and international corruption;
- The establishment by the UK's Cabinet Office of a new cross-departmental unit on international corruption to support the Government Anti-Corruption Champion; and
- The establishment by the National Crime Agency (NCA) of a national multi-agency intelligence team focusing on serious domestic and international bribery and corruption.³⁰⁷

The EU Anti-Corruption Report of February 2014 noted that 'Government efforts to control corruption have not produced a centralised strategy'.³⁰⁸ In December 2014, the UK published the first **UK Anti-Corruption Plan** to 'bring more coherence to our [the UK's] efforts and ensure that future activity to tackle corruption is joined up and collaborative'.³⁰⁹ The plan included 66 specific actions under six headings: (i) Understanding and raising awareness of the risks from corruption; (ii) Tackling corruption risks in the UK; (iii) The UK law-enforcement response to corruption; (iv) Recovering stolen assets and tackling illicit financial flows linked to corruption; (v) Leading the fight against international corruption; and (vi) Implementing the anti-corruption plan. The

³⁰⁵ Unexplained wealth orders will force those suspected of serious crime to explain where their wealth has come from, or risk having it seized.

³⁰⁶ The [Serious Fraud Office](#).

³⁰⁷ ['The UK fight against corruption: The UK's Anti-Corruption Plan, SFO convictions under the UK Bribery Act and new disclosure obligations in the extractive and logging industries'](#), International law firm HFW briefing, December 2014.

³⁰⁸ Annex on the United Kingdom to the [EU Anti-Corruption Report](#), op.cit.

³⁰⁹ Ministerial foreword to the UK Anti-Corruption Plan, December 2014.

individual actions included several ones specifically aimed at local and regional level, including supporting and centrally funding the development of a new counter-fraud strategy for local government, delivered by the local authority network of counter-fraud experts.

A **progress update on the UK Anti-Corruption Plan** was published in May 2016 and noted 62 of the 66 actions as 'having been delivered or on track to be delivered', including the publication of the promised **Local Government Counter-Fraud and Corruption Strategy**. This set out the suggested approach local authorities should take and the main areas of focus over the following three years in order to tackle fraud and corruption. It is 'primarily aimed at elected members, chief executives, finance directors and those charged with governance in local authorities'. The strategy set out recommendations for local authorities and other stakeholders and highlighted six themes that came out of the research underpinning the strategy.³¹⁰ The six themes are:

- culture – creating a culture in which beating fraud and corruption is part of daily business;
- capability – ensuring that the range of counter-fraud measures deployed is appropriate to the range of fraud risks;
- capacity – deploying the right level of resources to deal with the level of fraud risk;
- competence – having the right skills and standards;
- communication – raising awareness, deterring fraudsters, sharing information, celebrating successes; and
- collaboration – working together across internal and external boundaries with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice and innovation, and information.

6.8.3. Best practices

In October 2014, the Home Office (UK Ministry of the Interior) started a **series of pilots** in seven areas bringing together the information and powers of local authorities and their police counterparts to **understand the organised crime threat to public-sector procurement**. The pilots compared local-authority procurement data against law-enforcement organised crime (OC) information in order to identify whether there were organised crime links to local authority suppliers. A small number of links were found that highlighted supplier sectors more likely to be vulnerable to OC. Where links were found, the local authority and police worked jointly to ensure the links are disrupted. Areas responded positively to the pilots, introducing broader measures to reduce their vulnerability in the future, for example by: reviewing and strengthening procurement procedures; working more closely with police; making better use of data to check procurement contracts where there is greater vulnerability; and bolstering the disruption focus of local serious and organised crime multi-agency partnerships. Central government agreed it would produce and circulate to local authorities and police forces a summary of the pilot work including lessons learned and good practice to reduce vulnerability for local authorities and encourage police force areas to use nationally.

Another data-driven example is listed in the Local Government Counter-Fraud and Corruption Strategy (discussed earlier) on the use of **data matching**. UK local authorities

³¹⁰ More information and case studies are also provided in a companion document available [here](#).

have funded periodic data-matching exercises (the National Fraud Initiative) for some years. Councils are now building on this by utilising improved data analytics and richer data sources from the shift to online contact with customers. A case study on Birmingham City Council highlights the use of its data store (expanded to include data from neighbouring councils and other partners) to catch and prevent fraud through data-matching and data-mining. It also uses the data to enable validation of information on application forms, for instance to help ensure that housing tenancies are being awarded only to those in genuine need. Such approaches can help to make corrupt practices more difficult to carry out and help expose ongoing corrupt practices when suspicious patterns are highlighted.

Working with central government, the Chartered Institute of Public Finance and Accountancy (CIPFA) developed a **new counter-fraud Centre of Excellence** (the CIPFA Counter Fraud Centre (CCFC)). This was set up in July 2014 and provides tools and services to the public sector and in particular to local authorities to tackle fraud and corruption.

An alert was issued in September 2015 by the UK's National Crime Agency (NCA) on **bribery risks faced by local government**. In collaboration with CIPFA, this alert was disseminated to UK authorities via the National Anti-Fraud Network. It was published to encourage the reporting of corrupt activities and to reinforce awareness among local-authority managers of potential council vulnerabilities under Section 7 of the Bribery Act 2010 (which created an offence of failing to prevent bribery).

To incentivise and support **whistle-blowers** in cases of bribery and corruption, UK central government departments are working together to develop a **serious and organised crime audit framework**. This will include a whistle-blowing section, to help local authorities review existing arrangements and identify where improvements can be made. This builds on various sorts of guidance on appropriate whistle-blowing arrangements, including a 2008 code of practice from the British Standards Institute, updated in 2013 by the Whistle-blowing Commission set up by Public Concern at Work.³¹¹ This was further augmented by a 2015 UK central government-produced guide and code of practice aimed at helping employers understand the law and how to ensure appropriate whistleblowing arrangements are in place.

The UK's Home Office has written to a range of industry bodies, including local authorities and professionals such as solicitors, accountants and banking organisations, encouraging the use of the extensive **practical guidance produced by the Centre for the Protection of the National Infrastructure** (CPNI) on managing the threat from corrupt 'insiders'.

³¹¹ [Public Concern at Work](#) is a UK whistle-blowing charity established in 1993. They operate a free confidential advice line, provide support and services to organisations, and engage in policy work and public education activities. They were closely involved in setting the scope and detail of the Public Interest Disclosure Act 1998 (PIDA).

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This study deals with the prevalence of corruption in the EU and describes the action taken to address the problem. It focuses on initiatives and policies implemented by governments at national, regional and local levels in eight selected Member States ranging from north to south and from west to east: Finland, the United Kingdom, France, Germany, Italy, Croatia, Romania and Bulgaria. The perception of corruption among citizens, the legal, institutional and policy framework, as well as some best practices at different levels of government are presented to improve understanding of the context and nature of anti-corruption policies, and to give some positive examples of what can be done.

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