

<p>EU-UKRAINE CIVIL SOCIETY PLATFORM</p>		<p>ПЛАТФОРМА ГРОМАДЯНСЬКОГО СУСПІЛЬСТВА УКРАЇНА-ЄС</p>
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*2nd meeting, Brussels, 11 February 2016*

## **Anti-corruption measures in Europe: fields of action, experience, tools**

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*Nothing is so strongly fortified that it cannot be taken by money.*  
Marcus Tullius Cicero

### 1. Introduction

- 1.1 Combating corruption effectively is an important basis for **the realistic prospect of EU membership** for a whole and sovereign **Ukraine**. Ukrainian civil society is already very actively involved in a process of reform and transformation, which is taking place under the most difficult conditions. There is a strong desire among numerous important civil society stakeholders to stamp out the corruption affecting the daily lives of people in Ukraine. **Frustration over corruption** was a key reason behind the Euromaidan and thus one of the causes of the mass protest. Despite the annexation of Crimea by Russia and the war against the Russian-backed separatists in Donbas, the parliament and the government continue to work on developing rule of law structures and anti-corruption measures. However, much still remains to be done.
- 1.2 Ukraine has, however, taken important decisions that may prove fundamental to the success of the fight against corruption. On 25 January 2015, an **anti-corruption law** entered into force as part of a legislative package adopted in 2014. First and foremost, this law provides for **anti-corruption rules for the civil service**. The measures adopted in both the public and the private sector include the **establishment of an independent National Agency for Corruption Prevention** with up to 700 employees, as well as an **advisory body** that will report to the president. The key to the agency's success will be whether or not it is truly **independent**. A **litmus test** for this will surely be the manner in which the **new body's directors are appointed**. Between 2013 and 2015, the criminal code was also amended making corruption offences systematically punishable under criminal law. A positive development is that, following Maidan, **civil society** has become involved in developing an **anti-corruption strategy** and this involvement appears to be set to continue.
- 1.3 **Problems** persist, particularly regarding the **rules on immunity** for politicians and judges. Here, the protection against criminal prosecution is too broad. There is still a lack of adequate

legislation regarding **political party funding**. **Civil service law** and **public procurement law** urgently need to be further reformed and implemented effectively. See the **OECD monitoring report** of 24 March 2015 regarding additional areas of concern<sup>1</sup>.

- 1.4 It is still too early to make an **evaluation** of the Ukrainian anti-corruption policies as the implementation of major projects is expected in 2016 and others have not yet been implemented for a sufficient period of time. Furthermore, the Ukrainian president, Petro Poroshenko, has himself acknowledged that similar bodies and measures proved largely unsuccessful in the past.
- 1.5 This report puts the **focus on forms of systemic and endemic receiving of undue advantages**. It therefore covers instances of corruption for which there are identifiable, structural prerequisites, as these stand in the way of building and maintaining a constitutional democracy with equal opportunities for citizens and competitive companies and are relevant to the current situation in Ukraine. The report focuses therefore on **tackling the structures** which encourage the **abuse of power by public officials** or the **concentration of economic power**. These issues are by no means only relevant in the case of Ukraine. Corruption also exists in all EU Member States, although in the majority of these countries it is morally condemned and punishable by law. However, in some EU Member States, as in Ukraine, there are systemic forms of corruption that shape **people's everyday lives**. As such, **combating corruption is not relevant solely in the context of bringing Ukraine closer to the EU**. The EU itself must keep this issue on its agenda, in order to protect the rule of law in the common area of freedom, security and justice and, where necessary, enforce it in cooperation with governments.
- 1.6 In previous **opinions**, the **EESC** provided the European Union with specific recommendations for action. Particular attention should be given to the current **own-initiative opinion on anti-corruption proposals** adopted on 16 September 2015<sup>2</sup>, which states that “citizens have a right to rule-of-law, good governance and public services, clean of corruption”. Further advice on anti-corruption measures was also offered in an own-initiative opinion adopted on 19 September 2012<sup>3</sup>. This states amongst other things that the fight against corruption is “a measure of the transparency and quality of new governance in legislative and government institutions and in public services”. In this opinion the EESC calls on the EU “to commit in particular to requiring its partners to respect ideological and religious diversity, the freedom of the press, judicial independence, equal opportunities for men and women and freedom of association”. The EESC has regularly expressed its views on EU legislative dossiers relating to specific anti-corruption measures.

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1 Organisation for Economic Co-Operation and Development: Anti-Corruption Reforms in Ukraine. Round 3 Monitoring of the Istanbul Anti-Corruption Action Plan, adopted at the ACN meeting on 24 March 2015.

2 Opinion on "Fighting corruption in the EU: meeting business and civil society concerns" (CCMI/132).

3 Opinion on "Civil society's role in combating corruption in the southern Mediterranean countries" (REX/353).

- 1.7 The **Commission's EU Anti-Corruption Report** to the Council and the European Parliament of 3 February 2014<sup>4</sup>, based amongst other things on the work of the **Council of Europe and the OECD**<sup>5</sup>, produced important findings relating to corruption in the Member States and the “steps taken to prevent and fight it”. According to the Commission, the results are “**not satisfactory**” across the EU. The second EU corruption report is due to be published in 2016. The EU corruption reports emphasise that there is no “**one size fits all**” solution, but that the measures to be taken should always be individually assessed in the political, economic and cultural context of the respective Member States. Recent **Eurobarometer surveys** have shown a high degree of consistency with **Transparency International's corruption perceptions index**.
- 1.8 This internal report is a follow-up to the previous work of the Committee. It follows the Committee’s recommendations that the issue should also be raised within the field of external relations. It attempts to build on the findings and recommendations in the opinion on Fighting corruption in the EU: meeting business and civil society concerns, and in particular to point out the **areas of action** that are paramount for building a democratic, competitive order in Ukraine based on the rule of law. The report focuses on making an **analytical summary of European experiences** with anti-corruption measures, as well as **identifying specific** and useful **tools** for Ukraine. Specific recent developments in individual Member States are only referred to by way of example due to space limitations.
- 1.9 **With regard to Ukraine**, there are six particularly important aspects which are equally key to overcoming the endemic corruption in Ukraine. Corruption can be tackled effectively by: 1) organising the state in a way that provides for a **system of checks and balances** through the separation and interlocking of powers, 2) **public sector integrity**, 3) **independence of the judiciary**, 4) **freedom and pluralism of the press** as the fourth estate, 5) a **deconcentration of economic power** and its influence on politics, and 6) a **vibrant civil society**, the development of which, however, largely depends on the previous aspects.
- 1.10 It will only be possible to **develop democracy and the rule of law in Ukraine** and reduce systemic corruption if all six areas are rigorously tackled. This is particularly important for the economy as corruption hampers growth potential through **misallocation**. This is not to say that the EU does not also have considerable problems with corruption; quite the contrary, firstly as there will always be corruption where there is money and **money and power** go hand in hand. It is essential, however, that corruption-related offences can be detected by a **free press**, prosecuted by **independent prosecutors** and the offenders convicted by **independent judges**. Secondly, some individual EU Member States also have considerable problems with the rule of law, amongst other things. If these six elements are in place, systemic corruption, which governs everyday life and the lives of each and every citizen, can at the very least be largely contained.

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4 COM(2014) 38 final.

5 GRECO and OECD.

1.11 The present report thus identifies the **structural prerequisites for effective anti-corruption measures**. Here, building institutions that are immune to systemic corruption or that actively counteract it is paramount. Soft **anti-corruption measures** such as corporate governance rules or codes of ethics are largely ineffective if the aforementioned structural conditions, i.e. the six aspects, are lacking or if there are severe shortcomings in these areas.

1.12 The **relationship between a vibrant civil society and functioning governmental and non-governmental institutions** in terms of the above six aspects, which essentially relate to the separation of powers and the economic system, is reciprocal. Each one affects the other.

## 2. Definitions

2.1 **Corruption**, in line with the Committee's previous definition and the UN Convention against Corruption (UNCAC), is broadly understood as “**any abuse of power for private gain**”<sup>6</sup>. Here a distinction must be made between individual, situational instances of granting or receiving an undue advantage as violations of standards that are characterised as criminal and in principle are also punishable, and the **systemic, endemic granting or receiving of undue advantages** as the de facto unpunished normal practice brought about by government failures. This can also be described as **everyday corruption**.

2.2 The first form of corruption, that is, instances of individual, situational receiving of undue advantages, exists all over the world, including in the European Union. **Everyday corruption** usually occurs in states where either **partial or complete state failure** can be observed, or where undemocratic power relations employ or permit corruption as a way of **cementing power**. Unfortunately, this still applies to some individual EU countries, in some cases increasingly so.

2.3 In its **own-initiative opinion REX/353**, the EESC described various forms of systemic corruption, including “mass”, “institutionalised” and “negotiated” corruption and corruption by “*fait accompli*”.

2.4 Regarding the **fight against corruption**, a distinction must be drawn between **preventive measures** which limit corruption and **reactive measures** which penalise it. The focus of this report is on preventive measures, namely those concerning the structural prerequisites for ensuring that **everyday corruption** does not arise.

## 3. Fields of action for combating corruption

3.1 The following are recognised as key to combating corruption: a) **constitution and organisation of the state**, b) the **civil service**, c) the **judiciary**, d) the **media landscape**, e) the **economic order** and f) **civil society**.

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<sup>6</sup> UNCAC: [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf).

- a) Corruption becomes systemic first and foremost when the organisation of the state allows power to be abused. **Democracy and the rule of law** offer the best protection against abuse of power, that is to say, restrictions on the power of the state and its representatives through time-limited mandates, the rule of law as well as an executive controlled by a freely elected legislature, i.e. a functioning **separation of powers**, however this is constituted.

A **legally enforceable framework of fundamental rights** ensuring the effective protection of fundamental rights is essential. Limiting political power through law includes, amongst other things, **laws on political parties** that ensure transparency in party funding. This includes the legally binding transparency of party donations and other material/non-material assistance given to political parties and state institutions.

- b) The **civil service**, i.e. the public administration as part of the executive, requires legal rules that prevent the abuse of power by officials. This includes effective **sanctions**, namely civil service law measures, disciplinary and criminal law measures, as well as **rules on ethical conduct**. However, effective sanctions should apply not only to officials who abuse their office but also to politicians.

As well as a system of civil service law and criminal sanctions, it is essential that the **payment of civil servants** be designed in such a way that they do not depend on additional earnings or “gifts” to cover the normal cost of living in the country. There must therefore be an appropriate level of pay and benefits for public officials. The payment of public officials must be transparent. However, it is questionable whether requiring civil servants to **disclose their assets**, which may stem from inheritances or their spouses' own incomes, or monitoring public officials' lifestyles is compatible with the rule of law.

- c) An **independent judiciary** is a prerequisite for combating corruption. Where judges themselves are open to bribes, corruption is endemic. Public prosecutors' offices must operate in a way that is politically independent and lawyers must be able to represent their clients free from improper influence and in accordance with the law. In short, the **state must operate within the framework of the law** and the **rule of law** must be fully respected.
- d) The guarantee of **freedom of the press** is essential for democracy and the rule of law. **Pluralism of the press** is not protected as a fundamental right. However, it is very important for various reasons and is unfortunately, under threat in parts of the EU, whilst in Ukraine it is only just being established. Pluralism of the press ensures investigative journalism at all levels of government. Without it, the **freedom of the press** also quickly becomes **endangered**, not necessarily through state measures but rather due to unfair economic pressure and influence. This may also stem from public officials who, in addition to their duties, also hold economic power.

The “**fourth estate**” can look where tax investigators or other law enforcement authorities, for various reasons – in some cases good reasons – are unable or not empowered to look. An investigative journalism that does not need to fear open suppression or covert retaliation by state bodies or economically powerful figures is essential for the detection of abuse of office and power, and therefore offers highly effective protection against systemic corruption. In this regard, it is shocking that the very thing which is supposed to be developed with EU assistance in Ukraine is at serious risk in EU Member States such as **Poland and Hungary**.

- e) The **abuse of economic power** is not only an important cause of individual cases of corruption; it may also be responsible for networks of corruption which systematically undermine the rule of law. Therefore, particular importance should be attached to the **anti-trust** area of competition law. The relevant authorities must be able to operate independently. **Ethical standards** can provide a firewall against the granting and receiving of undue advantages in businesses and thereby protect them from harm. However, **corporate governance rules** such as these are ineffective if the **market** is not properly **organised** or if the structure of the economy displays weaknesses.

In particular, **small and medium-sized enterprises (SMEs)**, which are key to a diversified, adaptable and innovative economy, can only thrive if there is no **market abuse and abuse of power** by monopolistic or oligopolistic structures or – a fundamental problem in the case of Ukraine<sup>7</sup> – sectoral **oligarchic structures**. Efforts to strengthen SMEs must therefore start with **competition law** and **market organisation**. Not only financing conditions and sources of financing but also the political and economic environment in which SMEs must exist after being set up are crucial for their development.

Where the economy is shaped by several **dominant market players** with extremely close links to politics, **corruption** quickly becomes a common **form of abuse of power**. This leaves little room for competition and innovative SMEs.

Even **social dialogue**, which generally speaking only has positive connotations, is not immune to being abused through the granting and receiving of undue advantages. Social dialogue is an important part of democratic order and an **automatic stabiliser** of society. However, it requires **ethical and legal standards** that effectively prevent employers from “buying off” employee representatives. Social partners should agree on common standards that are binding and verifiable but in doing so should not call into question their **autonomy**.

- f) A **vibrant civil society** has an immunising effect against corruption. It is organised around countless volunteers, engaged in numerous ways at a civic level across a broad

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In recent years, oligarchs have been able to strengthen their position in Ukraine. Both current and past holders of the highest positions of state power are and were oligarchs. In 2006, the 30 richest people in Ukraine accounted for 44 per cent of the gross domestic product (GDP); in 2011, it was more than 50 per cent. See *Neue Zürcher Zeitung*, 28.12.2011

variety of associations. It keeps an eye on what the state is doing and is also critical of economic power. This contributes to providing checks and balances and to active participation, and helps prevent the spread of a network of corrupt connections.

A vibrant civil society is **not without its own prerequisites**. It can only thrive where the aspects mentioned are implemented at an institutional level and guaranteed, and where state power provides room for it to develop. The fundamental right to form associations is reflected not only in the **freedom of association** itself but also in the **law on association**.

3.2 The fight against corruption can also be exploited. **Anti-corruption** measures can be **abused** in order to eliminate political opponents. In authoritarian states the allegation of bribery is one of the most effective means of combating opposition forces or competitors within the existing power structure. This aspect may be worthy of note with respect to the stability of young democracies.

#### 4. **Problems in the European Union**

4.1 Recent Eurobarometer surveys on the **perception of corruption** among the population<sup>8</sup> have shown that three quarters of respondents regard corruption as a widespread phenomenon in their country. Bribery and connections are often the easiest way of obtaining certain public services. The surveys were not carried out in Ukraine but rather in the EU. Some EU countries **do very badly** in the relevant **rankings**<sup>9</sup>.

4.2 It is necessary to combat corruption in all **EU Member States**. In some southern and south-eastern Member States, corruption is a significant problem that endangers democracy, the rule of law and economic prosperity. This applies not only to the new EU Member States but also the founding members of the European Economic Community, as is regularly demonstrated by Transparency International's corruption perceptions index in particular.

4.3 The **immunity of politicians** should not protect them from criminal prosecution. If criminal charges arise, it must be possible to lift immunity through democratically legitimate procedures. In some EU Member States the rules regarding immunity are too broad.

4.4 Some EU countries, particularly those that are undergoing financial assistance programmes, have introduced **anti-corruption programmes**. However, these are not subject to common standards. In the European Union there is a lack of **binding common standards on the prevention and combating of corruption**, even though recommendations have since been issued under the European Semester.

4.5 In most EU Member States there are no effective **codes of conduct for politicians and parties**. In some EU Member States large sections of the civil service are replaced following

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<sup>8</sup> Special Eurobarometer 397, February 2014.

<sup>9</sup> See Transparency International's Corruption Perceptions Index:  
<http://www.transparency.org/cpi2015?gclid=CKrpuvTnzsoCFSEIwwod-UABIQ>.

a change of government. The dependence on political decision-makers this generates among civil servants is a potential gateway to corrupt behaviour.

- 4.6 The EU Anti-Corruption Report of 3 February 2014<sup>10</sup> found that in some EU Member States there is a lack of **rules for public officials** who transfer from the public sector to the world of business. This is the case for most EU Member States<sup>11</sup>.
- 4.7 The disclosure of **politicians' secondary incomes** should be mandatory. Strict boundaries and clear rules on secondary income should also apply to **civil servants** and other administrative staff. Similarly, there must be clear rules prohibiting the acceptance of gifts or other valuable benefits over and above *de minimis* thresholds.
- 4.8 In several EU Member States **civil servants** are relatively poorly paid by national standards, which makes officials more susceptible to **corruption**. Adequate remuneration and benefits, together with professional and criminal sanctions are an important factor in preventing bribery among public servants.
- 4.9 **Public procurement** is a field that is particularly prone to corruption in some individual EU Member States. According to the European Commission, the rate of successful prosecutions is negligible, with few convictions and insufficient dissuasive sanctions. It may be useful to identify **areas** in both politics and administration that are **particularly prone to corruption** and to introduce specific safeguards such as **transparency and monitoring measures**. This applies, for example, to **construction law** and **procurement law**.
- 4.10 In many EU Member States there is a lack of sufficient legal rules on the **protection of whistleblowers**. If employees, in the civil service or private business, draw attention to abuses and pass on evidence of specific instances of misconduct, they must be sure that this will have no negative repercussions for them. The UN Convention against Corruption (UNCAC) requires protection for whistleblowers.
- 4.11 In principle, **courts and public prosecutors** in all EU countries should be free from political influence. Unfortunately, this is not the case everywhere. In places where the judiciary is not independent, special **anti-corruption agencies** are no help against bribery and the receiving of undue advantages. An independent judiciary is a fundamental prerequisite.
- 4.12 In some individual EU Member States, areas of politics and/or business are linked to **organised crime**. This makes combating corruption particularly difficult.

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<sup>10</sup> COM(2014) 38 final.

<sup>11</sup> It is true, for example, in the case of Germany, which has recently seen numerous politicians move into the world of business. Chairman of the German Association of Civil Servants (dbb), Klaus Dauderstädt supported the Commission in its assessment and called for clearer rules for officials in order to eliminate conflicts of interest from the outset. See dbb europathemen January/February 2014, p. 8. (in German).

- 4.13 In some EU Member States there is a lack of **tax barriers** against bribery. It was not until 1999, for example, that German companies were banned from using bribes to win contracts abroad. Previously, these “useful expenses” could be offset against tax as business expenses.
- 4.14 **Social dialogue** is a cornerstone of democracy. However, here too there must be rules applicable under the framework of free collective bargaining that protect against the abuse of power or position. **Trade union representatives switching to become employers** can be problematic in individual cases. The independence of trade unions is therefore vital for corruption-free industrial relations and the genuine representation of employees' interests.
- 4.15 The European level must not be powerless to act. It must be possible for the European Commission to impose sanctions on Member States that do not do enough against corruption, for example by **withdrawing funding**.

## 5. **Developments and progress in individual EU Member States**

- 5.1 In **Germany** in early 2015, a federal law to **combat corruption in the health sector** began its legislative process. The new **criminal offences of giving and receiving bribes in the healthcare sector** will be introduced. In the multi-billion euro healthcare sector and in the complex interplay between medical professionals, healthcare insurers and the pharmaceutical industry, there is a lot of room for misconduct, even in a country such as Germany which performs relatively well in the international corruption perceptions index. The German government wishes to reduce this scope. The problem remains of **cooling-off periods** for public officials and politicians who wish to transfer to the private sector. In Germany in recent years there has been a series of cases that have raised questions about the **impartiality of political decisions**. Germany has had positive experience with **anti-corruption agencies at federal state level**.
- 5.2 In **France**, **corruption scandals** involving leading politicians have led to calls for effective anti-corruption measures. As early as 2013, President Hollande announced **new anti-corruption laws**. The European Commission criticised France in its first corruption report of February 2014, in particular for a low number of convictions relative to the number of corruption cases registered. France ranks only 26th in the corruption perceptions index. In autumn 2015, the government put forward a new anti-corruption law, which is due to be adopted in 2016. This includes the replacement of the national Central Service for the Prevention of Corruption (SCPC) by a new **competent authority** which is also empowered to **carry out investigations**.
- 5.3 One of the EU countries with the highest rates of corruption is in **Italy**. Following the years of Berlusconi government – a frustrating period for the fight against corruption – the Italian government adopted a number of important **anti-corruption laws**. In **2012**, under Mario Monti's transitional government, a **law** was passed which sensibly tightened the criminal law, in particular as concerns widespread **nepotism** and corruption amongst private individuals, as well as giving special protection to **whistleblowers**, particularly civil servants who expose

corruption-related offences. In Italy, corruption remains a problem particularly requiring action. However, post-Berlusconi governments are tackling the problem. Since the spring of 2014, a **new anti-corruption authority** is in operation. This authority is headed by an investigating judge with considerable experience in **combating the Italian Mafia**.

5.4 In **Spain** in autumn 2014, the **anti-corruption prosecuting authorities**, together with the Guardia Civil, broke up a **major corruption network involving local politicians, officials and business figures**. The country-wide scandal extended as far as the ruling People's Party and the royal family. Though the offences brought to light were shocking and had a major impact on the general elections held at the end of 2015, the establishment of an independent, specialised prosecutor's office has proved its worth and has strengthened the rule of law in Spain. The **Spanish justice system** is taking action against corruption with strong **backing from public opinion**.

5.5 **Greece** has also taken up the fight against corruption. The government is aware that there can be only be an end to the crisis if the widespread nepotism is tackled. At the beginning of 2015, the government introduced the post of **anti-corruption minister**, although it remains to be seen whether the higher political profile assigned to this role will be translated into effective action. **Judicial reforms** are still urgently needed to strengthen the independence of the courts and ensure the efficiency and effectiveness of proceedings, as is a **modern, corruption-resistant civil service law** that specifically keeps selection procedures free from unfair influence. Whether the reforms introduced so far will suffice remains unclear for the time being.

5.6 A very positive example of effective anti-corruption measures is **Sweden**. Here an **anti-corruption law** was finally adopted in 2012. Corruption prevention in the Scandinavian country is not limited solely to criminal law measures. **Corporate responsibility** is not only important in public discourse, it is also a reality in most Swedish businesses. Another reason why Sweden has been so successful in this respect is that it fulfils the systemic **prerequisites for preventing corruption** almost perfectly. The Swedish legislature works on anti-corruption legislation in close cooperation with the **EU, UN and OECD**, and ensures the accurate implementation of inter- and supranational agreements and guidelines.

## 6. **Conclusions and recommendations**

6.1 Systemic, endemic corruption is highly dependent on the political system and organisation of the state. There is a **high correlation between the structure of the state and the level of corruption**. The **civil service, as a manifestation of the state** vis-à-vis the public and businesses, is of paramount importance in this respect. The weaker democracy, the rule of law and civil society are, the greater the risk of corrupt politicians and civil servants.

6.2 **Establishing specialised public prosecution offices**, i.e. public law enforcement authorities specialised in anti-corruption, is a useful tool for combating corruption.

- 6.3 The Council should abandon its blockade mentality and facilitate the **setting of a harmonised definition of the term “public official”** so that public officials' criminal liability for corruption offences may be regulated across Europe through binding provisions, as called for by the European Commission<sup>12</sup>.
- 6.4 At European level, clear **rules on cooling-off periods** should be laid down for **public officials**, politicians and senior civil servants who wish to give up their office to pursue private-sector activities. These minimum standards must be underpinned by civil service law or criminal law in the Member States and the Commission must be responsible for overseeing compliance. A **cooling-off period of three years**, as suggested by Transparency International, appears to be appropriate. It would also be useful for countries such as Ukraine that are undergoing a process of convergence with the European Union to adopt such rules.
- 6.5 For example, the public sectors in Germany and France have for many decades proved to be relatively unsusceptible to corruption. In both Germany and France **civil service law** is designed so that **everyday corruption** by public officials scarcely occurs because it is not worth the risk of losing a job for life and a very good pension. However, positive incentives are also possible. The Netherlands has actively promoted a **culture of integrity within its civil service**. A national integrity office was set up by the Dutch Ministry of the Interior<sup>13</sup>.
- 6.6 The fight against corruption must take effect at all levels of government. The **administration of construction and procurement** is particularly prone to corruption as these entail large investments. The local level is therefore particularly important. In accordance with laws on local self-government, clear rules must apply for **public procurement**, in order to ensure transparency of procedures and equal treatment of tenderers. European **procurement and competition law**, as well as the **OECD principles for integrity in public procurement**, adequately implemented in national law, can provide effective protection against the misuse of taxpayers' money. However, EU legislation should not pursue any additional economic policy objectives in this connection. **E-procurement** promotes transparency.
- 6.7 In a functioning state based on the rule of law, it seems expedient to **set up independent regional and inter-regional anti-corruption bodies**. Members of the public and companies can turn to anti-corruption officials in full confidence if they wish to draw attention to instances of corruption. The anti-corruption officials provide protection to whistleblowers, examine the case carefully and, if a suspicion is confirmed, refer the matter to the competent judicial authorities. Establishing online **anti-corruption platforms**<sup>14</sup> can also be expedient. However, it must be ensured that protecting anonymity does not leave room for denunciation and defamation.

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12 See COM(2014) 38 final, p. 10.

13 <http://www.integriteitoverheid.nl/international/international.html>.

14 Such a platform has existed in the German state of Lower Saxony since 2003 and is deemed to be very successful.

- 6.8 Efficient **security authorities** and a **finance administration** with sufficient personnel and technical resources to investigate suspected tax evasion are essential for detecting not only cases of tax fraud and tax avoidance but also **money laundering**, which often is closely linked to bribery.
- 6.9 The **healthcare sector** is particularly prone to corruption. Effective competition in the private sector and independent control mechanisms, which should not be based exclusively on voluntary self-regulation, constitute important safeguards.
- 6.10 **Competition and antitrust law** must be regulated and institutionally underpinned in a way that counteracts **monopolies and oligopolies**. Government and politicians must not be dependent on economic operators, whether legal or natural persons.
- 6.11 As pointed out in the European Commission's corruption report in 2011 and again in 2014, the **Council Framework Decision on combating corruption in the private sector**<sup>15</sup> must be implemented effectively. According to Commission estimates, each year bribes worth around EUR 120 billion circulate in the EU.
- 6.12 **Lobby and transparency registers** should be established at national level following the example of the European Union.
- 6.13 **Codes of ethics** that prevent corruption must also apply to national **social dialogues** and **employee participation**. **Cooling-off periods** should apply to employees' representatives, as is the case for politicians, in order to prevent employees from being "bought off". The funding of trade unions by employers (yellow unions) should be prohibited.
- 6.14 **International non-governmental organisations** such as the British NGO Global Witness, the Tax Justice Network, or Global Financial Integrity, as well as Transparency International<sup>16</sup>, together **with a critical public** and a **free and pluralistic media landscape**, contribute to the detection of bribery scandals and business structures that encourage corruption such as letterbox companies. In particular, political and civil society actors seeking to ensure that their state combats corruption effectively may find important allies in these and other **civil society NGOs**.

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15 COM(2011) 309 final, second "Report based on Article 9 of Council Framework Decision 2003/568/JHA", 6 June 2011.

16 See Andreas Zielcke "Die neue Unterwelt" (*The New Underworld*), Süddeutsche Zeitung of 8.4.2014 (in German).