
4. ORGANISED CRIME, CORRUPTION AND PUBLIC BODIES

The present chapter aims to present an overview of how criminals use corruption as a tool to influence politicians and a country's government administration, police, judiciary and customs. Each section presents the typical objectives, corruption schemes, and intermediaries used. Related anti-corruption measures and policies that Member States have adopted to counter such influences are also outlined.

4.1 Data issues

One of the possible ways to analyse corruption in public bodies is by examining and comparing their internal or national statistical information on public sector corruption. In official letters, the research team requested for with such information to be provided and a number of Member State institutions responded to the request. Generally, the review of the data has indicated that it would be rather speculative to draw any conclusions based on such statistical data. The following issues with the data should be noted:

4.1.1 Judicial statistics

Comparing judicial statistics across the EU offers little value, as Penal Codes across the EU differ considerably. As previous studies have noted, some Member States have special anti-corruption laws (EC 2007a, p.427) and in the majority the legal definition of corruption is missing (ibid.). In addition, national corruption prosecution statistics shed little light either on the extent of corruption in a country, or on its nature: generally they do not provide details about the particular public institution to which the conviction is related. These factors make it impossible to estimate whether the problem lies in the administration, or the government, customs, police, or other institutions. Neither do prosecution statistics indicate which cases are in some way related to organised or white-collar crime.

The only value that such statistics might have is in assessing the trends in *general* (not-organised crime specific) law-enforcement and judicial anti-corruption activity within a given country over a specific period of time.

4.1.2 Institutional statistics

A subset of corruption investigations are considered an 'internal matter' (sanctioned through internal administrative measures) and therefore are not reflected in the general corruption prosecution statistics. For instance, in the Netherlands smaller corruption matters are dealt with at the local level, are not reported at the national level (NL). Institutional statistics suffer several deficiencies in terms of comparability. These are listed below:

- **Defining corruption:** the most challenging issue in comparisons of institutional statistics is that the range of offenses that are included under the umbrella of 'corruption' differs across countries. The sections in this chapter highlight some of these differences. As a result, unless a breakdown of the offense categories is included in the statistics, it is difficult to compare corruption data.
- What do statistics measure? The major problem with using any institutional and official statistics to measure corruption is that they also reflect the efficiency of institutions in uncovering corruption. Such data would not be able to capture trends because increases in corruption cases reported by one institution could mean more effective corruption detection rather than an actual increase in the instance of corrupt transactions.
- Internal investigations departments: Some institutions, like police forces, generally have such departments. Even there though, these are very recent. In Bulgaria a proper internal affairs department was only started in 2007 (BG). In Denmark there is none (DK). It is unclear what means and powers such departments have to allow adequate comparison. Other institutions (e.g. customs) often do not have internal investigations (e.g. BE). As a result the levels of detection of corruption within them, or the ability to provide information on the latter, could be limited.
- **Inability to distinguish organised crime as a cause of corruption** in statistical data provided – in the sections of this chapter that follow, various such occasions are mentioned. For instance, even if a straightforward bribery case is included in the statistics, it would generally not be noted whether the case relates to a petty thief bribing the officer, or to an organised criminal boss.
- **Different composition of internal security forces:** in some countries (HU, UK) data for customs corruption might be mingled with police (HU) or border guards corruption data (HU, UK). Similarly, in countries with large gendarmeries with police functions e.g. Italy, Spain, France) 'police corruption' data needs include 'gendarmerie corruption' data to compare it to 'police corruption' data from other MS. Moreover, other problems might arise: in Spain, for instance, the Guardia Civil combines police with border-protection and customs functions. It is therefore subject to different types of corruption pressures from criminals. For this reason, comparing Spanish police with Czech police data, for instance, would not be adequate.

Although statistical information was requested of the Member States, its comparability is at best problematic, and at worst highly misleading, for all of the reasons listed above. Similar concerns have already been noted in the *Study on corruption in the public sector* (EC 2007a, p.420). The data that was supplied as a result of the researchers' request is provided in an annex. Some additional data (at least general corruption related data) is available publicly, but it was not in languages covered by the research team.

4.1.3 Corruption surveys

The best alternatives to official statistics for measuring corruption are the various surveys that are being conducted across the EU. While there are various corruption related surveys and indexes, only a few of them capture corruption in particular public institutions. The table below summarises some of the most widely available data from sources such as Transparency International's Global Corruption Barometer (GCB), the World Economic Forum's (WEF) Executive Opinion Survey published annually in the Global Competitiveness Report (GCR), and the recent Eurobarometer surveys. While TI's CPI and Eurobarometer surveys target the general population, the WEF survey is an expert one: it surveys on average ninety-one executives per country.

TABLE 8. CORRUPTION SURVEYS AND CORRUPTION IN PUBLIC INSTITUTIONS

Public institution	Survey (number of EU MSs included)
Police corruption	<ul style="list-style-type: none"> • Eurobarometer 2005 & 2007 survey – perceptions & experience. • Reliability of police services (GCR survey 2002 – 2008) (question could equally well refer to effectiveness). • Transparency Int'l Global Corruption Barometer – TI-GCB. Contains experience and perception for 17 EU countries from 2004 – 2007, and two experience related questions for 2006 and 2007 (20 countries).
Customs corruption	<ul style="list-style-type: none"> • Eurobarometer 2005 & 2007 survey – perceptions & experience. • Corruption Perceptions (TI, 2004-2007), 20 countries. • Irregular payments in import/export permits (GCR survey 2001-2006) – expert opinions.
Tax authorities	<ul style="list-style-type: none"> • Irregular payments in tax collections (GCR survey 2001-2006) – expert opinions. • TI-GCB (same as police). • TI, 2004-2007, 20 countries – survey opinions.
Judiciary corruption	<ul style="list-style-type: none"> • Eurobarometer 2005 & 2007 survey – perceptions & experience. • Irregular payments judicial decisions (GCR survey 2002-2006) – expert opinions. • Judicial independence (GCR survey 2001 – 2008). • TI-GCB (same as police & customs).
Political corruption	<ul style="list-style-type: none"> • National institutions: Eurobarometer 2005 & 2007 survey – perceptions & experience. • Favouritism in decisions of government: GCR survey 2001-2008 – expert opinions. • Diversion of public funds: GCR survey 2002-2008 – expert opinions. • Political parties corruption: TI, 2004-2007, 20 countries – survey opinions. • Parliament Corruption: TI, 2004-2007, 20 countries – survey opinions. • Local politicians: Eurobarometer 2002 & 2005 survey – public perceptions & experience. • Regional politicians: Eurobarometer 2002 & 2005 survey – public perceptions & experience.

Although the above surveys may be of use in estimating corruption levels or trends, they generally are **not** adequate tools to capture corruption related to organised crime for the following reasons:

- TI GCB or Eurobarometer surveys measure perceptions and experiences of ordinary citizens. Organised-crime related corruption does not affect average person's experiences of corruption, and only to a very limited extent affects their perception. In countries where

institutions (police or customs) do not publish or announce publicly organised crime related corruption cases, the public perceptions are not adequate measure.

- Expert opinion surveys, such as the GCR, are a more adequate tool particularly in gathering opinions on white-collar crime, but generally are inadequate in assessing corruption related to other types of organised crime (e.g. drugs, prostitution, or car-theft).

While surveys have the advantage of measuring unreported and uncovered corruption, their use in terms of estimating organised crime related corruption is limited. Therefore, the analysis below draws primarily on qualitative data from in-depth interviews conducted for the purposes of the present report. Each of the four sections on political, police, customs, and judicial corruption presents:

- The main forms of corrupt behaviour;
- The main factors influencing corruption;
- The key anti-corruption policies adopted across the EU.

4.2 Political corruption and organised crime

The present section makes an attempt to conceptualise the types of relations that exist between organised criminals and politicians. Two key aspects of this relation – the ability of politicians to influence law-enforcement and the judiciary – are presented instead in the sections on police, customs, and judicial corruption, and are not examined in this part of the report.

The scope and the level of complexity of corruption schemes targeting politicians, as well as the damage inflicted on the state or society, are usually far greater than when targeting other public institutions. Political corruption is the most effective and powerful tool that criminals could use, as it also enables them to influence the bureaucracy, law-enforcement, and the judiciary.

Interviewees from all Member States discussed the existence of political corruption in their country. Their views correlated with public perceptions that political and administrative corruption usually is perceived as most common and most problematic (Eurobarometer 2008). In some countries (MT, DM, SE, IE) they felt that political corruption was not a particular problem, or that it was solely a white-collar crime phenomena (MT, EL). This position should be accepted with a certain degree of caution, as across the EU there is very little systematic research on the topic. In the countries where in-depth studies were carried out, with the exception of Bulgaria and Italy (e.g. CSD 2007, Paoli 1999, Della Porta and Vannucci, 1999), no comprehensive and empirically based research on OC-induced political corruption has been undertaken in the past decade. In most Member States, a similar knowledge gap exists.

Politicians much more rarely associate with low-level criminals involved in activities related to illegal markets, such as drugs or prostitution, than, for example, police or customs officers. The higher the sophistication and complexity of the crimes and their seeming ‘cleanliness’, the higher the likelihood of association between criminals and politicians is. The

range of corrupt relations starts from association with businessmen involved in excise tax fraud (smuggling of cigarettes, alcohol and oil), gambling and money laundering, and extends to connections with respected corporations involved in multi-million euro fraud schemes, rigged public procurement contracts, illegal party financing, etc.

The prevalent patterns of political/criminal links is determined both by the nature of organised crime and by the nature of political culture and the political system in a Member State.

If and when criminals manage to extend their criminal activities from illegal (e.g. drugs) into any legal markets, and acquire a respected public face, their ability to corrupt politicians increases. The “legitimate” face of a criminal provides him/her with the legitimacy to meet openly with public officials, to donate to their political campaigns, or use his/her economic clout to support political parties. Whenever one observes direct links of politicians and criminals involved in illegal markets, the latter also have acquired significant legitimate economic power, which allows them to also use corruption to commit more sophisticated ‘white-collar’ crimes.

Generally, such direct links in EU-17 are observed only at the local level (DE, FR, ES, IT), while in some countries where ‘white-collar’ criminals have no involvement in illegal markets, there is no evidence of connection of politicians (UK, FI, SE, DM, IE). On the other hand, in EU-10E, where many criminals started their careers during the chaotic period of privatisation fraud and cross-border smuggling of consumer or excisable goods in the 1990s, they managed to transform themselves into significant economic actors (locally or nationally) in a position to influence politics directly. In Italy and Southern France, local criminal elites have a long history of collusion with local politics, while being involved in extortion, drugs smuggling, waste management fraud, and bank robberies. Yet in recent decades their involvement in ‘white-collar’ crimes, such as EU funds fraud, public contract rigging, and real-estate fraud has allowed them to transform their relationship to politicians into a more socially acceptable form.

Furthermore, there is a well pronounced tendency in EU-10E for political instability and frequent change of governments. Unlike EU-17, the countries of the former Soviet bloc experienced a series of restructurings of their political parties and the electorates that support them. Due to the lack of a well-functioning system of financing of political parties, both old parties from the beginning of the transition and newly emerged parties have resorted to funds provided by “gray sector” and criminal businesses (CS-BG). Large and legitimate companies have no incentive to offer financial support unless they expect some special privileges in return. Our interviewees pointed out that much more motivated to make donations to political parties are companies from the gray zone, as they would be able later on to ask for some form of protection or assistance. The consequence is that ‘suspicious contacts’ are periodically elevated to political scandals, leading to a new cycle of disturbances and a new wave of searching for political financing (BG, HU, PL, RO).

In countries where the banking systems were under a special regime (or where such a regime existed before but has now been cancelled) like Austria, Cyprus and Luxembourg, the state policy allows entrepreneurs who have been linked to white-collar crime, or even outright criminal businessmen, to use the financial system and invest in these countries. Usually, politicians turn out to be the middlemen assisting foreign gray entrepreneurs (AU, PL, RO, BG).

4.2.1 Modes of association

Most interviewees in EU-17 described cases of political corruption as random and haphazard. In reality, however, while corruption networks could be ‘activated’ whenever they are needed (e.g. there is a public contract tender, or police starts an investigation), bonds of trust are developed over much longer periods of time. For white-collar criminals, this usually involves a long-term investment. They would make donations to support someone’s campaign, or do favours without the expectation for an immediate or short-term return, but for benefits in or over a number of years. This is particularly true for white-collar criminals, whose public image is usually untarnished. They might demonstrate ‘socially responsible’ behaviour and establish a positive image in the local community, and make their relationship with politicians seem perfectly legitimate. The common types of corrupt relations could be discerned from the interviews: sporadic and symbiotic.

4.2.1.1 Sporadic relations

Sporadic relationships could be used by businessmen or criminals so that they can operate undetected, or to win a public tender. Corrupt exchanges based on such relations take place via intermediaries, who provide the ‘trust’ needed for a corrupt deal.

- At the **local level**, businessmen might take advantage of public procurement contracts; local criminal figures might ‘activate’ a corrupt network to get political protection from prosecution (NL, CS-FR, CS-BG, RO, CS-EL);
- At the **national level** – white-collar criminal might use political connections to obtain protection from investigation/access to contracts. Such ad-hoc relations at the national level are less frequently to be observed with professional criminals, especially in big countries (CS-BG, CS-EL, PL).

4.2.1.2 Symbiotic relations

Symbiotic relations are long-term relations that can be observed when protection is provided to cover up continuous criminal activities, or when white-collar criminals ‘live off’ fraudulent public tenders.

- At the **national level** (central government), this almost exclusively refers to white-collar criminals. There are probably some notable differences and exceptions. In recent history there have been periods in

EU-10E or Italy when white-collar criminals with clear links to illegal markets (smuggling, extortion, etc) have had control over ruling elites to a significant degree (CS-IT, CS-BG). At present this does not seem to be the case in any of the Member States.

- In some EU-10E MS (CS-BG, SI, RO), interviewees referred to **the ‘oligarchs’**,³⁰ or white-collar criminals, who have had significant involvement in the past with illegal markets, or have accumulated their wealth through rigged privatisation deals or rigged public contract tenders during the 1990s. These individuals that form part of the business elite, exercise powerful influence over the political elite. Their business (usually includes public infrastructure construction or other public services).
- Unlike EU-10E, where the business and criminal elites were formed in the past twenty years, in EU-17, business traditions and networks go back decades. Influential families and corporations (**the ‘oligarchs’ of the West**) exist everywhere. Their power to corrupt or influence is not weaker than that of business elites in EU-10E. As the case studies demonstrate, public awareness of corruption in most EU-17 countries grew significantly only during the past few decades or as late as the 1990s (CS-IT, CS-EL, CS-BG, CS-FR).
- **At the local level**, symbiotic relations seem to be much more common in many countries of the EU. They are particularly common in border regions (with cross-border smuggling), tourist regions, or other areas where the local mafia has a stronghold. Similarly, criminals often invest their illegitimate proceeds in legitimate businesses that have disproportionate influence on local economies. Through their ability to manipulate and control a large part of the local electoral force, they practically control local politics. Concrete examples of such symbiotic relationships in specific towns were given from across the EU (towns in Corsica, Costa-del-Sol, Southern Italy, various towns across the external EU land borders with the former Soviet Union).

“Studies estimate that in Italy, between 40 and 75 percent of the Christian Democrat deputies and about 40 percent of all the deputies elected in Western Sicily between 1950 and 1992 were openly supported by Cosa Nostra (Paoli 2000). In 2007, 18 out of the 50 Regional councillors in Reggio Calabria (councillors belonging to both left and right wing parties) were under investigation for Mafia association” (CS-IT)

In such relationships, parallel power structures are developed. Local municipal services and contracts are strictly distributed to companies related to the local business and criminal elite that supports the mayor or the ruling party. The democratic principles of governance in the city (as much as this might sound like a cliché) are subverted. Local media, if it exists at all, is dependent on the local (criminal) businesses for advertising. Local politicians depend heavily on the votes that the (criminal) businessman controls. What is often observed in such towns is a situation of ‘state capture’ – where a certain political clique (from all parties) manages to hold on to power for a long time.

One manifestation of this symbiotic local relationship at the national level is the corruption of parliamentarians (depending on the electoral system, local support may be of key importance). In addition to serving as important intermediaries for them, legislators could initiate or support legislative changes in the interest of criminals (legalising their practices, leaving loopholes to be explored, or changing penal legislation to help

³⁰ In various countries different terms were used: ‘oligarchs’ in Bulgaria, ‘barons’ in Romania, ‘tycoons’ in Slovenia, all referring to the more commonly accepted term ‘oligarch’ used in Russia.

them avoid justice). Some examples of such practices are provided later on in the report.

4.2.1.3 *Direct participation*

When individuals with criminal past or presently involved in criminal activities enter into politics, then one can speak of corruption of the political process. Direct participation of criminals in politics is uncommon, and is rarely their preferred method of exerting influence. On the one hand, direct electoral participation inevitably would put them in the limelight. On the other hand, though, it could provide them with **legitimacy, ability to influence the criminal justice process and the redistribution of economic resources.**

At the **national level**, there are three more common examples:

- **Members of Parliament:** as the case-study of Italy shows (see box), such cases have been observed on a significant scale. In other countries (RO), businessmen under investigation have become members of parliament or have run for to be members of parliament, ensuring at least temporary immunity from investigation (BG).
- **Executive branch:** as the case-studies show, although this is rare (the case of Silvio Berlusconi is probably the only example at present) a businessman under investigation could manage to seize political power and steer a change in legislation ensuring some level of protection from effective investigation.
- **Local level:** direct participation in city councils or as town mayors is common. Depending on the set-up, such positions could give access to public tenders, or influence over local police. Such municipalities often could be described as ‘privately’ run, or at least in private interests rather than in the public one. The case studies on France (Corsica), Italy, and Bulgaria list a number of examples of such relations.

4.2.2 *Modes of corruption*

There are a number of ways to establish the above dependencies:

- **Direct – bribes and favours/‘pantouflage’** are probably the most obvious ways. At the highest level, direct bribes were mostly dismissed, especially by EU-17 respondents. Exchanges of favours or trading in influence were deemed as much more common. The practice of ‘pantouflage’ in France is common, whereby after their term expires, officials responsible for public tenders would receive a job at a company for which a contract has been secured. Culturally the exchange of favours could differ: ‘arranging’ jobs/promotions for relatives is probably more common for southern/EU-10E MS.
- **Elite networks.** They exist throughout the EU. They may be built on different principles: family ties (mostly in southern Europe), classmates, club members, etc. Various forms of mediated corruption take place through these networks. Entrepreneurs can win a public tender, or legislation favouring their business may be passed, just because they belong to the right social network. The ‘favour’ may be returned after a long time. Favours may be balanced: i.e. obvious preferences to a

single company, or respectively a single politician, are avoided. The most precious capital in this type of social networks is trust. In smaller countries, networks tend to have a smaller number of members and fewer power centres. Interviews revealed that in the former socialist countries agreements between businessmen and politicians are more direct, and their confidence in each other is significantly lower.

- **The political investor:** is probably the most common – long term support (financial or other) for political parties, and if needed through illegal political donations are most common (CS-IT, CS-BG).
- **The vote provider:** in areas where organised crime or white-collar criminals have influence over a significant number of voters, or could influence voters as employers, this type of ‘corrupt exchange’ is used (CS-BG, CS-IT, CS-FR).
- **“Insistent lobbyism”** (“eindringlicher Lobbyismus”) is another common form it takes. PR companies support the interests of certain politicians. These companies are paid by certain industries (DE).
- **Threatening/blackmailing** politicians has also been observed, particularly at the local level. (IT) Some cases were reported, where local politicians are offered a prostitute or a large bribe. Following this the criminals collect evidence of the misbehaviour of the politician, and use it for blackmail him/her (IT, DE). A similar tactic is used for other public officials.

4.2.3 Factors for political corruption

The factors that influence political corruption, and should be accounted for in any analysis of its scale and causes, are complex and not sufficiently researched across the EU. In individual countries there could be specific local circumstances that are conducive to corrupt practices, but generally the interviews and the case studies have outlined the following:

- **Cultural factors/public perceptions:** public perception that corruption (or at least certain forms) is “normal” plays a major role, especially on the local level. The re-election of leaders (e.g. Silvio Berlusconi) who are under investigation is probably the most notable example, although at the local level similar cases have been observed elsewhere as well (EL).
- **Patron-client systems:** in these, an exchange system of favours and patronage is considered common and acceptable. The lack of distance between politicians and businessmen is normal. Political parties are expected to have ‘circles’ of companies that fund their political campaigns, and receive reciprocal favours once the politicians are elected (CS-BG).
- **A history and prevalence of secret societies:** one factor that facilitates corruption that some interviewees mentioned, as well as shown in the case studies, is the existence of ‘secret’ societies, like Masonic lodges. These societies provide an opportunity for politicians to meet in private with businessmen or criminal entrepreneurs (CS-FR, MT). In some countries, elite private clubs with restricted memberships play a similar role (UK).
- **Class differentiation:** the formation of elites in EU-17 is a process that has gone on for hundreds of years, starting from elite schools,

universities, and neighbourhoods. These elites create networks of political, economic, and judicial that facilitate above all white-collar.³¹ In EU-10E, a similar informal network is formed by members of former communist elite (or their children). These include not only functionaries/civil servants, but also members of law-enforcement and security services. Cases of political corruption networks were provided in several countries (DE, RO, BG).

- **Public perceptions:** OC figures may be perceived as cultural heroes or “men of honour” (local level). Criminals (particularly white-collar ones) may manage to build a public image that manipulates public opinion (control over media facilitates this) (IT).
- **High-level corruption:** as corruption spreads from the elite downwards to other social groups, impunity seems to increase its multiplying effect. This process causes increasing familiarisation with and tolerance for unorthodox practices, even among those who benefit very little from their own corrupt practices (PT).
- **Local vs. national level:** local politicians and administrators, as explained above, are more vulnerable. These actors are geographically closer to organised criminal groups; they operate in the same social environment and therefore are subject to the pressures that such groups exert. At the local level, however, corrupt exchanges ‘offered’ by organised criminals to politicians are accompanied by an implicit degree of intimidation which determines the outcome of the proposal made (PT).
- **Political cycles and corruption:** one feature that is revealed when analysing corruption-related scandals in Member States for which case studies were carried out is that in recent decades many governments have won elections run on anti-corruption platforms. In France (1995), Greece (2004), and Bulgaria (2009) changes of government were accompanied by a number of revelations of past corrupt practices, followed by law-suits initiated by the newly elected governments exposing their predecessors’ offences. There were a few effects of this campaign-like approach:
 - on the one hand, public perceptions that ‘corruption is increasing’ are easily reinforced when there are law-suits or media publicity exposing corrupt deals;
 - corruption schemes are abandoned as public attention focuses on them;³²
 - corruption networks and schemes readjust to the new realities, and changes in the environment rarely disrupt them. Businesses usually hedge their bets and corrupt all major parties (PT). As providing outright support is usually possible only with respect to one party, the hedging process takes place by maintaining relations via intermediaries or other businesses.

³¹ Hartmann (2007) analyses the exclusive characteristics of elite schools and universities in France, Germany, UK, USA and Japan. The important conclusion he makes is that people enrolled in these education institutions tend to be members of the upper class (50-75%) and later tend to predominate in the business and the government elites in the respective countries. As a result educational backgrounds become an important factor for the formation of social networks that could be used for informal agreements and practices.

³² Recent examples from Bulgaria aptly illustrate this point: following a public outcry regarding land swaps (in which, typically, sea-side government properties were exchanged for unattractive land plots inside the country) in the summer of 2009, a law was passed to ban and discontinue the practice. Similarly, after public attention focused on trafficking and corruption via land-border duty-free shops, in 2008 a law was passed closing down all land-border duty free.

- **Linking administrative and political corruption:** in EU-10E, there is a fusion of bureaucratic and political corruption. For many interviewees administrative corruption is simply an aspect or outgrowth of political corruption. The politicization of the public administration could be considered as an indicator of political corruption. In most EU-10E countries, and in Greece, the government bureaucracy is politically dependent. With changes in the ruling political party, the higher echelons of the administration (e.g. heads of directorates, key agencies, or even police departments) are regularly replaced with more loyal individuals (CZ, BG, EL). Administrative corruption exists also as a separate phenomenon, as the section on customs corruption well illustrates.
- **The main focus on administrative corruption that was brought up by interviewees, related to the construction sector** (CZ, SE, NL, UK, IT, MT, EE, AU, PT), especially particularly in relation to public infrastructure projects (SI, LT, CZ, IT, EL). Other types of administrative corruption, related to certain criminal markets (the sex industry, or smuggling of consumer goods) are further discussed in the chapter on illegal markets and corruption.

4.2.4 Anti-corruption measures

Political anti-corruption measures are broader than specific institutional ones (such as in the police), because they must include all political parties, local and national government, or legislative branches. The following measures were particularly quoted as relevant to white-collar and organised-crime related corruption:

- **Local council dissolution:** this is a rather extreme measure to fight local level political corruption, but has proven the only effective tool to reverse 'state capture' at the local level where democratic principles and the fairness of electoral process have been subverted. In Italy, over the past ten years, about one hundred city councils have been disbanded on suspicion of being infiltrated by the mafia (IT).
- **Commission against 'pantouflage':** in France one of the solutions that have been promoted to counter the 'pantouflage' phenomenon was the establishment of a special commission that vets former public officials looking to enter the private sector.
- **Laws on the regulation of political parties and political party financing.** These laws function differently across the EU. EC (2007, pp. 479-496) research has shown that only two MS do not have public (co)-financing of political parties. Yet, there is a great variety of financing mechanisms amongst MSs, and the differences in the impact is not well understood.
- **Specialised bodies for political corruption investigations:** some Member States (PO, RO, BG, and IT) have established specialized bodies aimed at investigating political corruption. The most challenging task in establishing them has been to ensure independence from political pressures. It would be premature to judge these bodies' effectiveness, as they have been established in the past few years.³³

³³ As corruption investigation trials in other Member States (FR, IT) demonstrate, complex corruption investigation cases against high level politicians could take over ten years.

- **Reporting on the assets of public officials:** this is probably one measure common to all MS. However, it is largely inefficient as off-shore havens and various legal tricks make it irrelevant.
- **Laws on civil servants:** these prevent dismissals of bureaucrats for political purposes.

4.3 Police corruption

After the Knapp Commission investigation revealed mass corruption in the NYPD in 1971, the widespread notion amongst experts that police corruption is a phenomenon affecting only individuals was seriously shaken. It was gradually replaced by the idea that certain unique organisational characteristics and the culture of the police and other law-enforcement institutions make them particularly vulnerable to corruption (Malinowski 2004). The topic of corruption in police forces is rarely discussed in most EU Member States.

TABLE 9. POLICE CORRUPTION³⁴

Type	Grid	Group	Description	MS observed
Donkeys	Strong	Weak	work characterised by both isolations and subordination: individual deviance of lower level officer	All EU
Hawks (rotten apples)	Weak	Weak	a lot of freedom, distance from organisation, individual deviance (example: higher rank officers or officers working on highly confidential material)	FR, ES, UK, IT, SL, SE, NL, AU, BE, EI, DE
Wolves	Strong	Strong	strong group identity creates a subculture that facilitates organised deviance; group protection against external controls	FR, ES, IT, RO, CZ, BG, PT
Vultures	Weak	Strong	freedom to aggressively seek exploitable situations, using the cover offered by the group	BG, EL, RO, CZ, LT, LA, CY, PO

Source: Eurobarometer (2008)

The review of official reports on corruption and interviews with representatives of public institutions of EU Member States indicates that police corruption is considered an incidental phenomenon. Even in

³⁴ In (OUR COUNTRY), do you think that the giving and taking of bribes, and the abuse of positions of power for personal gain, are widespread among people working in the police service; Corruption Experience Police 2007: Corruption Perceptions in the Police: Over the last 12 months, has anyone in (OUR COUNTRY) asked you, or expected you, to pay a bribe for his or her services? – Yes, from people working in the police service.

EU-10 countries, where the share of citizens with personal experiences of police corruption is high (see Table 9), the official institutional stance is that corrupt transactions involving law-enforcement personnel are only sporadic. (RO, SK, LI) Some interviewees indicated that there was even a deliberate PR policy in place to avoid publicly linking the police with corruption (UK, RO). It is believed that such public debates might undermine citizens' trust in the police, which in turn would lead to further negative effects, such as low crime-reporting rates (UK, FR, AU).

The research undertaken has demonstrated that the understanding of 'police corruption' took on very different meanings across Member States. In certain countries even the term 'corruption' is avoided and replaced by expressions like 'lack of integrity' (CS-NL), or is understood in a very narrow legalistic sense that excludes a number of phenomena of a corrupt nature (CS-FR). For instance, engaging directly in criminal activity, such as drug distribution, is considered simply a criminal act in France (CS-FR). In the UK, however, engaging in criminal activity is also classified as an instance of corrupt behaviour, and is included in data on corruption. (UK). These differences could have direct implications not only on interpreting institutional statistics, but also on designing common EU approaches. Table 3 (in Chapter 2), provided a comprehensive list, compiled by the UK Home Office research that shows the list of illegal activities that fall within scope of 'police corruption'.

"...sometimes I wonder whether the perception of 'lack of corruption' is not elusive and that we are not looking hard enough to find evidence. ...it has been recognised that knowledge about corruption and organised has been limited, and for this reason, in the 2009-2012 strategy it has been decided that a special focus will be applied..." (NL)

Throughout the interviewing process serious discrepancies in opinions on the extent and nature of police corruption emerged between official (internal affairs departments) and alternative sources (journalists, researchers, former police officers, prosecutors, or lawyers). In many respects, the countries' scores for personal experience with police corruption (Table 9) coincide with the opinions expressed by alternative sources on the general level of police corruption (see Table 10).³⁵

Some internal affairs departments of law enforcement institutions that estimate corruption in their ranks as 'insignificant' and 'of sporadic nature', expressed doubts with respect to their own detection methods. They admitted that knowledge about corruption and organised crime has been limited, and they intended to focus more in depth on the issue (NL, AU).

Applying Van de Bunt's (2004) concept of 'workplace crime' to the available set of data, Member States are grouped into the four categories (see Table 11). This grouping defines the intensity of corruption. In countries with low levels of corruption but with large criminal markets and strong criminal networks, cases of police corruption of the "Wolves" or "Hawks" types are revealed from time to time. While the former type is subject to evaluation in terms of improvement or worsening of corruption practices, the latter type presents serious challenges.

³⁵ In cases where the official responses regarding the influence of organised crime on the police diverged from the opinions of alternative sources, the ranking listed in the table is that provided by alternative sources.

TABLE 10. IS POLICE/INVESTIGATION CORRUPTION BY ORGANISED CRIME IN YOUR COUNTRY CONSIDERED A PROBLEM?

Yes	No	Somewhat
Bulgaria	Austria	Estonia
Cyprus	Belgium	Hungary
Czech Republic	Denmark	
Greece	Finland	
Italy	France	
Latvia	Germany	
Lithuania	Ireland	
Poland	Luxembourg	
Portugal	Malta	
Romania	Netherlands	
Slovakia	Slovenia	
	Spain	
	Sweden	
	UK	

Source: Interviews; (n=52)

TABLE 11. TYPES OF POLICE/INVESTIGATION CORRUPTION IN THE EU MEMBER STATES.³⁶

Donkeys:	work characterised by both isolations and subordination: 'grabbers' , individual deviance	Occurs in all 27 Member States
Hawks:	a lot of freedom, distance from organisation, there's no indication that the institution is corrupted; 'rotten apples' : individual deviance (example: higher rank officers or officers working on highly confidential material)	France, Spain, UK, Italy, Slovenia, Sweden, Netherlands, Austria, Belgium, Ireland, Germany, Sweden
Wolves:	strong group identity creates a 'subculture [that] facilitates legitimate teamwork as well as organised deviance' because, thanks to the group , they have protection against external controls	France, Spain, Italy, Romania, Czech republic, Bulgaria, Portugal,
Vultures:	great freedom to aggressively seek exploitable situations, using the cover offered by the group	Bulgaria, Greece, Romania, Czech republic, Latvia, Slovakia, Lithuania, Cyprus, Poland

³⁶ This table is based on the classification proposed by Van de Bunt (2004).

As officers, “Hawks” have excellent knowledge of the system and the clear understanding that any wrongdoing would lead to severe consequences, and therefore they are extremely cautious – even paranoid³⁷. In countries with ineffective institutions and a lack of internal controls over the police and investigators, the “Vultures” model is the norm.

4.3.1 Corruption and the Internal Affairs units

Before 1990 the institutional position towards corruption was passive – corruption was investigated, only when there was a signal – no proactive policies existed (UK).

Corruption in the police is a minor problem in France. In 2008 we had only 10 registered cases. There is no collusion between corruption and organised crime. In France, there are no structures, no groups of criminals (FR).

In Germany we have lower rates of corruption; we have more extreme exceptional cases. In such cases the policeman is usually the „denunciator” (the one saying that someone has tried to corrupt him) (DE)

There is a variety of approaches and structures dealing with corruption in the police. At one end of the spectrum is the proactive approach adopted in the UK (very similar to the US approach). In most of the EU countries, however, the predominant approach is a reactive one, where signals are investigated and administrative control exercised (FR, ES, NL, DE). In some countries there are no specialised units dealing with corruption among law-enforcement officers, as the latter is believed to be insignificant and not requiring special counteractive efforts (Denmark, Ireland). In some countries of Eastern and Southern Europe specialised internal affairs units register a great number of cases, resulting in officers’ dismissals. However, anonymous insiders and alternative sources claim that only ‘safe’ low-level cases are investigated. For instance, corruption in the traffic police is highlighted (BG, RO, EL, and CY), while cases involving organised crime activities, such as prostitution, smuggling of excisable goods or economic crimes, are avoided.

In Spain and France, alternative sources and official data on court prosecution of law-enforcement officers cast doubt on the official position that there is no systematic corruption in these countries. Respectively, it is questionable whether cases such the ones in Coslada (a Madrid suburb), and in Ronda, where a number of police officers were arrested (CS-ES), or the case of the Deputy Head of the Drug Squad of the Strasbourg police (CS-FR), are all merely sporadic incidents. Such large scale scandals are indicative of systemic problems rather than ‘rotten apples’. Large police corruption networks need a favourable environment to be sustained. They are not to be found in the Scandinavian countries, for instance, or even in countries with large criminal markets like England and the Netherlands.

Guardia di Finanza (GdF): usually starts with an administrative financial investigation, but also has the powers of the ‘judicial police’ and turns this into criminal investigation. GdF is under the Ministry of the Economy, and naturally, the Ministry maintains close relationships with the local political elite. The GdF generals are considered part of the local establishment and the local elite. It is normal for them to be friends with the local business elite. For instance, the GdF general in Torino, would be normal to be present at all events of the Fiat, to be invited for breakfast with the heads of 5-6 of the big local families. Yet, starting an investigation against one of them the following day, would be considered part of the usual course of work. (IT)

At the same time, these cases demonstrate that the internal affairs units in Spain have superior capacity than similar units in the new Member States (BG, RO, LV, LT, SK). A major issue in the new Member States is the lack of resources to investigate complex high level corruption cases. Corrupt high ranking officers are intimately familiar with the surveillance and tapping capacities of the system, with the evidence collection process, etc. They know from experience with criminal networks that minor details may be fatal for them being caught, and are very cautious in their actions (CS-BG).

³⁷ According to an alternative source, corrupt officers operating in this type of environment have more advanced knowledge of investigations, agents and technologies than the experts in internal affairs units. Such officers operate without revealing their identity to criminal networks. In order to further reduce risks, they operate within limited time periods.

4.3.2 Effectiveness of public institutions

Police effectiveness is strongly influenced by the overall effectiveness of other public institutions working closely with the police, including the prosecution and courts, and indirectly the tax administration, customs, etc. In both small (DM, SE, FI) and large countries (UK and DE), strong and effective public institutions prevent corruption among police officers and investigators. On the other hand, weak and ineffective institutions have similarly uniform effects, regardless of the size of illicit in the respective country. Thus, law enforcement institutions in such countries dealing with small (LV, LT, SK) or large criminal markets (IT, BG, RO) are equally affected by corruption practices.

Structural weaknesses in the institutions working directly with police, e.g. the prosecution (PO, BG) or the courts (IT, RO, EL) invariably lead to systematic corruption favouring the criminal networks. Effective specialized units for internal affairs can eradicate mass and systematic corruption in the police (UK). Similar effects have been observed in the eastern part of Germany after unification in 1990.

4.3.3 Policies for decreasing of corruption pressure over police

Some countries adopt policies that reduce the corruption risks related to organised crime. A typical example is the legalisation of prostitution in the Netherlands and Germany, and the legalisation of cannabis in the Netherlands. Accordingly, the police avoids actions against organised crime on the street level.

In the Netherlands, for instance, street level cocaine dealers are generally not prosecuted. In other countries, where street dealers are targeted by police, their place is quickly taken by other recruits, and the police and prosecutors remain under potential corruption pressure (NL). In countries, like the Netherlands, the police targets mid-level drug distributors, therefore reducing the risks of corruption for patrol officers. Similar is the situation with drugs and the night clubs. Licenses to operate are very expensive and owners do not risk with drug sales inside their establishments (NL). Unlike other countries, the UK police is not involved in providing permits in licensing or in regulating private security firms. Therefore, there is no corruption pressure on law-enforcement related to private security firms involved in drugs distribution in night clubs.

4.3.4 Status of officers in police and investigating institutions

The social status of police and investigating officers varies significantly in the 27 Member States. The vulnerability of officers to corruption varies accordingly. For instance, in Denmark, Finland and Sweden, working for the police is considered a prestigious public sector job. The opposite is true in countries like Greece, Portugal and EU-10E (with the exception of Slovenia).

- *The low compensation* of police officers is most frequently cited as the reason for high levels of corruption in the new Member States like Bulgaria, Romania, Slovakia, Lithuania and Malta, and also in some old member states like Greece and even Italy. According to interviews in Guardia di Finanza (GdF), lower level police officers in Italy get 1200-1500 EUR per month (compared to a mid-level 1700 EUR compensation in Slovenia, where the average salary is only 900 EUR). Inadequate compensation of police officers serving in local police departments is indicated as a problem even in countries with low levels of police corruption like the UK.
- *Low education* and poor training is frequently identified as a major status issue in EU-10E countries and Greece.

4.3.5 Institutional factors explaining corruption

- *Lack of meritocracy.* A key factor in EU-10E (and EL, IT), is that the competence, efforts and effectiveness of police officers is of no importance in the evaluation of their work. Instead, superficial quantitative criteria are used to evaluate their performance. The number and nature of cases, and the results of their actions, do not determine the opportunities of police officers for career advancement, higher income or professional rewards. Frequently, it is impossible to determine whether a certain investigation has failed due to incompetence or as a result of corruption (EL, RO, HU, BG). The career advancement of officers is not dependent on their qualifications and experience but on the strength of the clientelistic networks supporting them, and on their loyalty to senior management. Under this system, systematic performance failures and even contacts with organised crime do not result in dismissal. In fact such officers often rely on the support of their supervisors (BG, EL, IT).
- *Low standards for the recruitment of officers:* In countries with high level of police corruption, entry in the law-enforcement forces is often a chaotic process. Although there are requirements and a process for the hiring of officers, in practice the criteria are often ignored. Due to the low social status of the profession, job seekers with good education and high motivation avoid it. As a result, often candidates with inadequate education and problematic behaviour get hired. Some corruption cases reveal that such officers come into police force with pre-existing close relations with members of criminal structures (BG, RO, EL).
- *Police subculture of isolation from other social and professional groups in countries with high levels of corruption:* Entering the police force is often part of family or neighbourhood traditions. As a consequence, loyalty to the group is very high. In less affected police departments, the practice is 'to look the other way', while in departments where the 'vultures' model prevails, non-participation in corruption practices and illegal income is considered risky behaviour by the 'vultures'. A non-participating officer either has to adapt to mass practices or quit. Rumours and false accusation reports are common in this subculture. The police subculture in countries with low corruption levels (UK, DE, NL, DM, FI, SE) has the opposite effect: corrupt officers face

peer pressures to quit. Interviewees indicated that police culture in England evolved from the practice of protecting corrupt officers to reporting them. At the same time, although police culture in Northern and Western Europe does not support corrupt behaviour, it resists certain institutional measures like whistle blowing (NL) or intensive integrity testing. In some of the old Member States, the police culture is reinforced by the fact that police officers come from specific social class. For instance in the UK they often originate from the same social strata or areas where many organised crime figures originate (UK, NL). In Italy, within the police force (e.g. Guardia di Finanza) itself the culture often differs, as usually only higher level officers have access to white-collar criminals, as they share much more their social background.

4.3.6 Outside pressures on law-enforcement institutions

- *Economic pressures.* In the EU-10E the police and special services are charged with the investigation of almost every kind of economic crime, from smuggling to fraud involving EU funds. As a result, law-enforcement officers are subjected to strong pressures from their superiors as well as from magistrates, local businessmen and politicians. Organised crime has developed its 'infrastructure' (channels for the distribution of oil products, illegal cigarettes, alcohol and smuggled consumer goods from Asia). Police forces working on such cases often become part of organised crime and are directly involved in regulating illegal markets and criminal activities. (BG, RO, PO, SK). At the same time, investigating officers do not distinguish the activity of organised criminal groups from 'white collar' crimes (PO, BG, LT).
- Similar pressure related to the specifics of national economies is observed in some old Member States. Organised crime exercised pressure on the units investigating economic crimes in Italy (i.e. on Guardia di Finanza) and Greece (namely, on the Coast Guard). In many of the old MSs with low levels of police corruption, the police does not have specialised units for economic crimes. Officers avoid 'looking in the direction of corporations', as this is considered a high risk for any public servant. The police assumes that investigating this type of crime is the responsibility of tax or financial oversight authorities. Similar logic is applied to the smuggling of excisable goods. Investigating such crimes is considered the prerogative of the customs, not the police (DE).
- *Risk areas.* In almost every EU country certain areas of high pressure on the police/investigative services have been outlined. Typical risk area relates to immigration channels (EL, CY, AU, ES), and the small towns and villages close to national borders (BG, PO, SK, RO). In some Member States, certain *regions and cities* have traditionally (see Table 12) been associated with high levels of corruption and systematic links to organised crime. In some cases, corruption income and support for organised crime have become the norm. The following table lists certain towns and regions across the EU where the corruption pressures over law enforcement are particularly strong and

TABLE 12. REGIONS AND TOWNS WITH HIGHER VULNERABILITY TO CORRUPTION

County	Regions of higher vulnerability to corruption
Bulgaria	Towns along the Turkish and Greek borders, Sofia and the town of Dupnitsa
Czech Republic	Prague and towns along the German and Austrian borders
France	Corsica
Greece	The island of Crete
Hungary	Budapest and towns along the Ukrainian border
Italy	Calabria and Sicily, and also parts of Campania
Latvia	Regions close to the Russian and Belorussian borders
Lithuania	The region close to the Belorussian border
Poland	Towns along the Ukrainian and Belarus border
Romania	Regions along the Moldovan/Ukrainian borders; the cities of Brasov and Cluj
Slovakia	Towns along the Ukrainian border
Spain	The region of Costa del Sol

Source: Interviews

of a systemic nature: This phenomenon is also observed in countries with low levels of corruption. For instance, in the Netherlands it is acknowledged that in Amsterdam corruption is much more frequent than in other parts of the country. Similar is the situation in Germany, where corruption is much more common in the eastern part of the country.

- *High risk crimes.* Representatives of internal control departments claimed that drug distribution and prostitution were the two categories of crimes in connection to which police corruption was most frequently revealed (NL, BE, DE, ES, SL, UK). The vulnerability of police to this type of crimes was shared among countries with high levels of police corruption (EL, PO, SK, RO, BG), and countries where police corruption is considered an extremely rare phenomenon (SI, DE, UK). While with drugs a certain degree of restraint is still in effect due to the harsh consequences of abuse, the vulnerability of police is much higher in dealing with the market for sex services (DE, ES, FR, HU, EL).
- *Special structures* – In some EU countries special structures have been formed to combat ‘severe and organised crime’. These structures are vested with extraordinary powers, such as surveillance, wire tapping, access to bank accounts and tax data for suspected persons and companies. In some countries there is no separation between the structures dealing with organised crime and those involved in counter-intelligence and anti-terrorism activities. At the same time, there is a complicated level of security, as these operations have to remain secret (ES, BG, AU, RO, UK, IT). Organised crime is particularly interested in penetrating this type of special structures. In some cases high-ranking officials have leaked information to organised crime and have blocked ongoing investigations. Some officials have

Corruption risk factors (UK):

Access to criminals: Usually it is the lower rank officers that have direct exposure to criminals and could become exposed to corruption pressures. Lower rank officers also have fairly broad powers in the investigation process, which also makes them vulnerable. The lack of legitimacy of organised crime figures prevents them from having access to higher level officers.

Gyms represent another risk factor that needs to be considered. Younger police officer culture in recent years has led many of them to frequent gyms on a regular basis where they have had more frequent contacts with criminals.

Informants: Officers who work with informants are also considered to be at high risk. The access to criminals in a non-public environment coupled with exchanges of fairly large sums of money are key risk factors.

Pressure from family and friends: 'When the brother of your wife or your cousin happens to be a drug-dealer' you might be pressured to protect him in some ways'.

Loyalty within the group or to former colleagues: even if not directly profiting from corruption, loyalties within small teams put pressure on others. (UK)

even taken sides in fights between criminal competitors by initiating police actions targeted at a certain group of the underground world rather than at its competitors.

- **Political influence** over the police at the local level is observed in most EU-10E countries, Greece, Cyprus, Italy, and France (Corsica). In parts of Italy (Calabria, Sicily, and Campania) the traditional organised criminal groups might exercise influence over the police and investigative services by influencing elections of mayors, city councils and the local administration (see box further down). A similar model of influence at the local level is observed in Bulgaria and Romania, where the Galev brothers in Bulgarian town of Doupnitsa, the 'brothers from Braila', and the 'Moldovan brothers' from Brasov – control local politics. In Bulgaria, criminal entrepreneurs 'invest' in the local authorities to gain access to public tenders, construction of infrastructure and EU funds. They finance mayors and city council members, who in return lobby for the appointment of high-ranking police officers who are friendly to local oligarchs and criminal bosses. A similar model is observed in Hungary, Slovakia and Latvia. Such influences could even reach the national level, where large criminal entrepreneurs could control appointments in the police and special services.
- **Judicial influence:** with their ability to control the whole prosecution process, magistrates and in particular prosecutors could exercise influence over the police and investigators. Police officers are thus aware that certain influential businessmen, who are part of the criminal networks protected by members of the judiciary, cannot be touched and avoid any actions against them (IT, EL, BG, PO, DE-E).

4.3.7 Intermediaries

The operation of intermediaries is dependent on the level of corruption in police and the investigative units in each country. In EU-10E, Greece, as well as Corsica, intermediaries work fairly openly. Some of them may even become public figures and hold political positions. Criminal bosses, when confronted by the police, do not hesitate to demonstrate their access to intermediaries (BG, RO, EL, IT). In EU-17, with its developed procedures and structures for the control of police behaviour, intermediaries operate in more subtle ways, taking special measure to remain unidentified (UK, FR, DE).

- **Clientelist networks** exist in countries with high levels of police corruption (IT, EL, PO, CY, BG, RO, PO, HU) and are not typical for the countries with lower levels. These clientelistic networks reach beyond institutional boundaries and hierarchical levels. A network may unite tens or even hundreds of participants, including active or former police officers, investigators, magistrates, businessmen and politicians. Access to clientelistic network by criminal organizations gives them opportunities to influence the overall process, instead of dealing with a couple of intermediaries. For instance, a network could secure a safe channel for the import of illegal goods, or prevent a potential investigation as well as block an ongoing one. The benefits for the

participants in the network are that they get a stable flow of criminal clients (instead of a one-time payment), without the risk of being associated with a single criminal group. If one section of the network fails, other participants take over its functions. These networks providing criminal services are sometimes called 'negative capital' in societies with low social capital like the Balkans, Sicily, Corsica and certain regions of EU-10E countries.

- *Former police officers or special services employees* are the most widespread type of intermediaries. Retired officers generally preserve their relationships with active workmates. Corrupt active officers, on the other hand, might see relations with former colleagues in the private sector as an opportunity for a good additional income when they retire. This model is observed even in countries with low levels of corruption (UK, SE, NL).
- *Private detective agencies and private investigators (PI)*: These are usually experts from economic intelligence companies (UK, FR). These individuals often have connections with the police, or with companies that the police uses to track suspects (e.g. phone companies). When large and well-known firms decide to use corruption, there are several levels of subcontractors between them and the person, most often a PI who would use illegal means to obtain information, e.g. phone records (UK, DE) or investigation information from former colleagues (FR).
- *Attorneys* have a significant competitive advantage over all other intermediaries – they can provide services through the whole institutional chain, starting with police and going all the way to prosecutors and even judges (BG, PO). Furthermore, in some of the old Member States, attorneys are middlemen for organised criminal structures consisting of immigrants (ES, UK, AU, DE). Unlike local criminal groups that have some kind of direct access to law-enforcement officers, immigrants typically lack any access and have to rely on intermediaries.
- *Criminal informants*: investigations of cases of police corruption have shown that police and informants often take advantage of each other. Even in countries with developed regulations governing collaboration with informers, police officers return favours to their informers, like leaking information about ongoing investigations, putting pressure on competitors, etc. (UK, NL, FR). In countries where the police is underfinanced (Bulgaria), informers often receive favours in lieu of payment.
- *Family – relatives*: These are the most widespread intermediaries in Southern and EU-10E countries, but are also used in countries where friends and relatives are not a primary resource (UK, NL, DE). These intermediaries are particularly useful in small towns.
- *Girl-friends and prostitutes*: – This type of intermediaries are sometimes used to discredit police officers or investigators. A prostitute is sent to an officer working on a certain case, and then the officer is black-mailed with pictures or video recordings (FR, UK).

The complexity of police corruption is difficult to be fully captured, and local and institutional specificities often impede such efforts. The case of Italy, based on several anonymous interviewees with former or present

police officers exemplifies these complexities. It also shows how absence of active corruption (in terms of exchange of bribes and personal profit) is substituted by a complex system of communal and institutional relations that have a similar effect.

Police corruption in Italy

In Italy, many smaller towns have significant economic power concentrated in big companies, which often have international operations. The economic significance of the companies in these regions or towns transforms company directors into local economic power players, who have significant relations with local politicians, judiciary, or police.

Police in Italy are generally strongly influenced by politicians. Professional advancement is not based on merit, but is largely dependent on informal relations. Officers who put special efforts into their work do so out of their own motivation. In addition, there are four general levels within the police, and each has strong cultural bonds, and movements between them are difficult. Lower level constables can progress little in their careers, and are unlikely to ever become high-level officers. 'Investigators' (marcialli) are at the next level, and they may, with lots of effort, reach the higher officer level. The high officer level is largely a 'higher caste' which is accessible only to individuals with connections. The hierarchical structure of the police and the lack of merit-based promotions lead to the toleration of and lack of scrutiny into higher level corruption. If one gets a call from a superior, orders are usually followed, even if there is suspicion of political influence. In addition, there is a very strong sense of group loyalty and cohesiveness particularly within the higher ranks of the police.

In addition, appointments particularly in 'carabinieri' and 'Guardia di Finanza' are usually for 2-3 years at a given location. While the application of this approach has been largely intended as an anti-corruption measure, it has proved to work conveniently in the opposite direction. The shifting of officers has become a control tool for stopping or influencing corruption investigations. When high level commanders are corrupt, their strategy of influencing a city or regional level commander is usually to move them to a different location.

In a well known case, the entire management of Guardia di Finanza in Milan was relocated when the Left was in power, as it did not agree with the way "certain investigations" were being conducted. This caused a public outcry and was reported in the press. The same thing, though, goes on at a lower level in small towns without even being noticed.

Such system malfunctions favour organised crime, particularly in certain regions of Italy with high levels of mafia infiltration. In such regions the low quality of law-enforcement discourages officers from other parts of Italy from taking a position there. Officers usually lack the motivation to engage in any type of investigations in such regions, because they would soon face corruption and obstruction by informal relations of local permanent staff. "You can't even trust your own secretary". (1) Calabria; (2) Sicily; and (3) parts of Campania were ranked as the most corrupt. Nevertheless, corruption by OC exists in Northern Italy as well. Parma, for instance, is heavily infiltrated by the Camorra – its economy and politics alike. Prosecutors often avoid working with the police for lack of trust, and instead use internal sources.

The 'Ndrangheta is particularly effective in maintaining its grip, as there are practically no 'whistle-blowers' that have dared to come forward. The attitude of many officers in regions such as Calabria is often summarised by the expression "The mafia is too strong, why fight it?" Only a small-group of self-motivated officers work for this cause, and they are the only ones achieving any results.

Another group of officers, those who come from regions with strong Mafia presence, usually return to police stations close to home and their families. At home their main goal is to maintain the status quo, without threatening the lives of their family, or their own careers. When prosecutors start an investigation, they usually like to work with young, newly arrived captains that are less likely to be corrupt. This is observed quite often, especially in Southern Italy. All of the above though, has resulted in major staffing problems in Southern Italy and other problematic regions, where as a result officers are unmotivated. (IT)

4.3.8 Mid and long-term risks

The economic crisis of 2008-2009 is seen as a risk factor for police officers and investigators. In some countries in EU-10E where successful and very sincere interviews were carried out, it became evident that criminal networks are targeting police officers whose households are heavily indebted (BG, SK, RO). Unlike countries with experience and traditions in dealing with corruption, where preventive measures are taken in the current critical situation (UK, NL), EU-10E countries recognize the risks but have not take any practical steps to mitigate it.

Interviewees pointed out that the “new minorities” are not adequately represented in police forces. To avoid “grey areas” and the isolation of these ethnic groups, efforts are being made to hire minority representatives as police officers and investigators. The police officers from immigrant minorities, though, present a certain risk, as they may bring their family dependencies, in the cases where organised crime networks are developed on an ethnic basis (UK, AU).

The risk related to immigrant communities reflects new features of organised crime in the EU: namely, increased mobility and the establishment of trans-border networks. Following the end of border and customs controls within the EU and the expansion of the Union in Eastern Europe, where law enforcement and judicial institutions have limited capacity, new opportunities were presented to criminal networks. A new type of criminal organization emerged, where criminal activities (drug distribution, prostitution, and car theft) are carried out in the rich Western Member States by low-ranking members, while criminal bosses live and manage their organizations from the new Member States (BG, RO). Oftentimes, criminal bosses also own large legal economic groups and enjoy political protection. As a result, even police forces with adequate capacity prefer to treat criminal cases of such powerful local as not related to organised crime. Thus they avoid extensive investigations, the spending of resources, and also political complications. Accordingly, large criminal networks plan and organise their activities to make them appear as if they were performed by small and disparate groups unrelated to each other.

Dealing with this new type of criminal structures requires serious international cooperation. However cooperation is hampered by the lack of developed mechanisms at the inter-state level. Interviewees mentioned that requests for police cooperation sent from EU-17 to New Member states often end up serving as ‘tips’ to the respective criminal network that it is being investigated. Consequently, police forces in Eastern and Southern Europe, known for their low reliability, are not trusted by their Western counterparts; therefore, information is not shared. Part of the problem is that requests for cross-border police assistance do not have specified deadlines (unlike requests within a given country), so it is not always clear whether delays (or the lack of response) are influenced by criminal structures or not.

4.3.9 Anti-corruption measures in the police

Below is a list of anti-corruption measures mentioned by interviewees, that have been implemented in Member States.

- Introduction of clear criteria for career advancement based on effectiveness and merit (applies to countries where this approach is not adequately developed, i.e. most of the new Member States, and also Greece and Italy).
- Independence of the Internal Affairs Units from the administrative management of police structures (in some EU-10E countries these specialised units continue to be dependent on the senior police management).
- Transition from a passive to proactive strategy: currently, in most countries investigations are initiated only when tips are received. The experience of the UK and USA has demonstrated that Internal Affairs Units should proactively search for information about suspicious behaviour on the part of police/investigation officers.
- Application of provocation methods against law-enforcement officers, e.g. using drugs and marked bank notes in police stations as a lure.
- Use of undercover officers to secretly test others if they are suspected of corruption or unethical behaviour.
- Allowing Internal Affairs Units to use special intelligence methods: electronic surveillance, intelligence, or informants. The use of electronic surveillance in countries with high levels of police corruption has often proved ineffective, as information is leaked to the officers under investigation.
- Use of intensive integrity tests, including the introduction of random integrity testing or lie-detectors. The frequency of testing, the departments and the number of officers tested should vary with the level of risk in the respective police structures, estimated on the basis of a set of criteria.
- Risk management: monitoring and identifying officers at risk, as well as inspections of line-managers and ensuring proper supervision.
- Introduction of 'whistle-blower' programs, whereby officers offering information on their corrupt colleagues are offered guaranteed anonymity and witness protection.
- Facilitation of financial audits by Internal Affairs Units. They should have access to the financial records of officers suspected of taking bribes, selling drugs, or making money illegally.
- Creation of a vetting system in which the lifestyles and backgrounds of officers are examined.
- Introduction of rotation systems for employees, and mandates in particular for high-ranking officers (e.g. not more than five years in a given position). In regions with higher risk rotation could include lower level officers as well. The same applies to departments exposed to higher risks. Rotation systems should be supported with the necessary resources (for instance, in countries with lower living standards, even high-ranking officers find it difficult to find quality housing when relocating). The rotation system should be designed to prevent officers from serving in their own home area.

- Proactive information management: ensuring that officers do not have access to information that they do not need, and maintaining records of who is accessing what information. Introduction of secret alarm systems to detect officers who try to gain illegal access to confidential information stored on computers.
- Debt-management: welfare departments in police forces should have relations with debt managers, and police officers who experience financial difficulties should have access to their services. In some cases, where debts are extremely high, a system of financial support may be introduced to help officers who are at high risk of corruption.
- Policies promoting gender balance within the police workforce. The experience of UK has proved that the influx of women into the police force reduces corruption, as women tend to be less likely to engage in risky behaviour involving corruption.
- Introduction of drug testing at various levels, for instance drug testing of officers who enter the force. Random testing of officers at risk.
- Evaluation of the effectiveness of ongoing anti-corruption programs in police. Some measures, such as phone lines for corruption tips and education seminars rarely undergo evaluation for their effectiveness.

4.4 Customs corruption

Corruption within customs administrations across the EU is marked by stark differences between *perceived* customs corruption levels in EU-10E and Greece on the one hand, and in the rest of the EU MS. The opinions provided by interviewed representatives of customs administrations or independent analysts in EU-17 (DE, FR, UK, BE, IT, NL, IR, ES, FL, SE), as well as public opinion surveys, support this view. While in EU-15 25% of the adult population considers corruption amongst customs officers to be widespread, in NMS-12, 46% do so. In countries like Bulgaria, Greece, Romania, Cyprus, and Latvia, almost 60% or more of respondents consider the customs services to be corrupt (Eurobarometer 2007, p.11). Interviewees for the present study presented a similar picture, as customs corruption along EU's eastern external land borders was considered particularly high (see Table 13).

The statistical data from Member States supports these perceptions. In France since 1990, there have been on average only 2 registered cases of customs corruption per year. In Slovenia, the last two years there have been only 3 corruption cases related to OC. In Italy, there have been 50 corruption cases between 2006 and 2008 but none of them has been related to organised crime. In the UK, in 2008 around 130 corruption cases were registered (related to the theft of seized goods or the passing on of information to outsiders), yet none were related to organised crime. In the past 5 years there has been only one case in the UK that was related to a corrupt officer involved in small-scale drug-trafficking. In Belgium, between 2003 and 2008, there were only 3 disciplinary actions taken against customs officers, related to the trafficking of illicit goods. In Spain, annually there are on average less than 5 registered corruption cases in the tax or customs administrations. In

TABLE 13. IS CUSTOMS CORRUPTION BY ORGANISED CRIME IN YOUR COUNTRY CONSIDERED A PROBLEM?

Yes	No	Somewhat
Greece	Denmark	Hungary
Romania	Malta	Czech Republic
Estonia	France	
Latvia	Spain	
Slovakia	Finland	
Bulgaria	UK	
Lithuania	Italy	
Poland	Slovenia	
	Sweden	
	Netherlands	
	Austria	
	Belgium	
	Ireland	
	Cyprus	
	Luxembourg	
	Germany	

Source: Interviews; (n=42)

An officer at a major London airport was involved in covering up the smuggling of cocaine from the Caribbean. The officer would be provided with descriptions of the mules transporting the drugs, and would simulate a detailed check when the mules went through customs inspection. In this way the officer would ensure safe passage for the mules. The officer was eventually caught when he started showing up for work on his days off as some mules passed outside his work schedule (UK).

In 2009, corruption was uncovered in the customs administration in Riga – the head of the anti-smuggling department was arrested. The case involved fraudulent documents on goods of supposedly EU-origin which were then fictitiously exported and VAT was claimed (there were, in fact, no actual goods). The intermediaries involved were ex-customs officials. (LV)

Cyprus in 2008, there were 2 registered OC related corruption cases (both on cigarette smuggling), involving 3 customs officers. In some Member States, like Finland and Luxembourg, there have been no registered cases at all.³⁸ Consequently, most of the interviewees either had no knowledge at all about how organised crime uses corruption in customs, or were familiar only with a few registered cases, usually considered exceptional. The majority of cases quoted were related to single officers. At the same time, only in Greece in 2006, 49 customs officers were tried and imprisoned for corruption (CS-EL), while in Bulgaria on average between 20 and 30 customs officers are fired on corruption charges annually (Assenov 2008). In either case, the number of detected corrupt customs officers is higher than the total for EU-17.

This lack of information and empirical knowledge about customs related corruption in EU-17 and the contrast

with EU-10E and Greece calls for some analysis to explain these differences before presenting further analysis on the issues of customs corruption.

4.4.1 Explaining the lack of corruption

The explanations provided by interviewees for the lack of registered cases of customs corruption in EU-17 ranged from objective factors, to geographic or institutional circumstances:

- **No need:** EU-17 has few land border-crossings, and the non-EU cargo enters these countries through sea-ports, airports, or river ports (AU) where customs inspections are concentrated. Due to the large volume of container traffic passing through the large sea ports in EU-17 (e.g. in the Netherlands and Belgium), the statistical chances of passing through undetected are so high that OC considers corruption as an unnecessary expense. Some interviewees referred back to the early 1990s, when land-borders crossings between countries in Western Europe existed, recalling customs corruption to have been commonplace at the time (FR).

³⁸ All of the data quoted was provided either in the course of the interviews by customs officials, or was sent in written communication.

- **Geography:** long coastlines (France, Italy, Spain) make the use of speed boats³⁹ one of the preferred methods of smuggling of drugs or cigarettes, again reducing corruption pressures as chances of being caught are fairly low. The main corruption pressure related to excise tax goods falls on EU's eastern borders, although the smuggled products are destined for EU-17.
- **Institutional setup:** Corruption pressures by organised crime on customs are limited as other institutions are involved in border protection. For instance, in Spain the Guardia Civil holds most of the customs related functions that many other countries have (SP). In Italy significant customs functions are taken over by the Guardia di Finanza, while port and coastal security is provided by Capitaneria di Porto-Guarda Costiera. In terms of drugs trafficking interception, navy forces of Member States (UK, FR) patrol along with Spanish customs ships.

There are important differences in powers between customs and tax administrations, in particular as regards responsibilities related to the collection and administration of VAT and excise taxes. The specific arrangement to share these responsibilities between these administrations could determine whether corruption pressures are stronger in one or the other.

- **Private sector corruption:** corruption pressures on customs are further reduced as security and shared responsibilities with private companies managing security in airports and seaports, making private companies the immediate targets of corruption (further discussion on this issue is provided in the section on private sector corruption) (DE, NL).
- **Higher salaries and civil servant status** make customs officers in EU-17 less vulnerable (IE, FR, UK) than their colleagues in EU-10E countries.⁴⁰
- **Taboo issue/denial:** Some interviewees explained that customs corruption is an institutional taboo (BE, DE, FR). The presumption is that it is not there, it is exceptional, and it does not constitute a significant threat. The Belgian Customs for instance, started a corruption awareness educational campaign only in December 2008.⁴¹ In addition, customs administrations across the EU, and particularly in EU-17 (FR, DE, BE), do not have 'internal investigation' departments. Corruption is detected usually by the police and only in the course of other investigations. That fact further explains the reduced potential to detect corruption cases.

Some interviewees expressed concern that the exposure of Western European companies to corruption along EU's new external borders has

³⁹ Used to transport drugs from passing ships or yachts onto numerous speedboats that unload the cargo along the coast.

⁴⁰ Some differences exist also in Eastern Europe as well, as salaries in Greece and the Czech Republic are significantly higher than those in Bulgaria and Romania.

⁴¹ The case of Cyprus is another example of suspected denial of the problem. For all Member States public perceptions on customs corruption levels coincide (Eurobarometer, p. 11) with expert or official positions expressed in interviews conducted as part of the present project. In Cyprus, where customs officials stated that hardly any corruption existed, perceived levels of customs corruption amongst the general population were among the highest in the EU (61%).

increased their readiness to try to use corruption on domestic customs offices as well. An internal survey conducted amongst Swedish customs officers showed that 14% of customs officers have been offered bribes in the past (SE).

Customs Corruption, on the other hand, is actively used by criminals and companies in EU-10E and Greece. The process is **two-directional**: not only do criminals try to pay bribes but also customs officers (respectively politicians or the police) often act as racketeers targeting individuals, companies, or criminal networks committing customs violations. The rest of this section provides some of most common objectives and schemes of customs corruption, as well as an analysis of the driving forces behind the phenomenon.

4.4.2 Corruption objectives

In 2008, the Corruption Prevention and Combating Bureau of Latvia (KNAB) investigated and uncovered an organised crime group operating at the Russian border. The group involved customs and border police officers; the mayor of a small nearby town was also involved, and even suspected of being the head of the group. The group was engaged in outright (no customs documents or other traces were left) smuggling of tobacco and alcohol from Russia and was using some illegal warehousing inland. Most members of the group were arrested. (LV)

In the late 1990s there were several cases of 'noble cause' corruption. In one of these cases, a heroin trafficker from Pakistan had established a relationship with three officers (Brand Field – West Midlands case). He was involved in selling big quantities of heroin to customers in the UK. After completing the sale he would pass information to the customs officers, who would then conduct the raid and seize the goods. In that way, he was doing a 'double hit'. On the one hand he was pocketing profits from the drug sales as well as from the awards (running in the tens of thousands of pounds) given by customs for passing information. This happened at least on 13 occasions. (UK)

The most frequent instance of (usually petty) corruption in customs involves legitimate companies trying to facilitate the faster crossing of borders (EL, CZ, FR, AU, SK) or the speedier release of goods due for customs inspection. While the elimination of border crossings and modern border management have significantly reduced the need for such corruption across the EU, external land border crossings are still vulnerable to such pressures. If for legitimate companies, customs corruption is about better and faster service, for criminals it is a risk-reduction and crime facilitation tool. The most common objectives are:

- **Avoiding detection** when smuggling goods. The mechanisms here range from paying frontline officers to bribing shift managers who ensure the complicity of officers on duty, or allow cargo to pass while shifts change. Corrupt officers with knowledge about the movement of mobile units (or members of mobile units themselves) could also help smugglers avoid detection. Obtaining information about risk profiles used by customs is another technique used to avoid attention;
- **Avoiding investigations:** in countries where customs have investigative or intelligence powers (SE, RO, SK, SP, CZ, BG) corrupt officials within these departments could provide warnings on ongoing investigations. A bribe could also stop or prevent the start of an investigation;
- **Facilitating fraud:** there are a number of ways in which corrupt customs officers could facilitate customs fraud: from entering a code for the imported goods reserved for a slightly different commodity (and carrying lower import taxes), to not verifying the country of origin for goods (and the related import taxes), or registering a different quantity/weight/or value of goods than the one actually imported (BG, EL, LV);
- **Facilitating smuggling into third countries:** providing customs documents that could facilitate the smuggling of goods into another country.

4.4.3 Criminal activities and customs corruption

Not all trans-border criminal schemes require corrupt customs officers. VAT fraud schemes (RO, BG, RO, MT, SK, ES, SI, SU, LV) typically do not rely on corrupt customs officers although there have been cases when they have been facilitated by corrupt customs officials (BG, EL, DE). In VAT fraud schemes, tax officers are more often targeted. Similarly, corruption is relatively rare when it involves the collusion of customs officers and border police in concealing the trafficking of goods controlled mainly by the border police, such as stolen goods (e.g. vehicles),⁴² or trafficking in human beings⁴³ (LV, BG, EL).

A corrupt customs officer at the port of Antwerp issued false documentation in collusion with British alcohol smugglers. The fraud scheme certified that goods had been exported to Belgium, when in fact they had never left Britain and were sold illegally in the UK. (BE)

In July of 2008, Munich's Public Prosecutor brought up charges against four customs officers at the Munich Customs and five employees of a customs agency were arrested. The prosecution claimed that since 1998, the officers had certified fictitious exports in order to facilitate VAT fraud and consumer goods smuggling schemes. In exchange, the officers received payments in cash or in kind in the order of at least € 30,000 per year. The Customs agents 'facilitated' the work of at least fifty trucking companies (Ulrich 2008).

Corruption related to **drugs smuggling** exists (FR, ES, CS-EL, NL, UK, CS-BG, LT), but even in EU-10E it is on a far smaller scale than with excise tax or consumer goods. Customs officers consider facilitating drugs smuggling a high-risk crime and generally avoid it. Some interviewees were of the opinion that when 'everyone, including the police', is aware that large international ports like Antwerp are gateways for drugs smuggling, the lack of recorded corruption cases cannot be explained by the fact that criminals rely solely on low statistical chances of being caught. Instead, they suggested, authorities are not looking hard enough to detect corruption (BE).

Smuggling of excise tax goods: Customs corruption related to the smuggling of excise tax goods is probably most widespread across the EU: particularly as relates to cigarettes (EL, BG, AU, CZ, RO, MT, IE, HU, LV, LT), alcohol (BE, CZ, BG, RO, MT, IE) oil and oil products (EL, BG, MT, IE, PL, CZ). Part of the reason is that this is an area where customs exercise the strictest controls, as revenues from excise taxes are key to evaluating the performance of customs agencies.

The smuggling of excise-tax products involves a range of actors: from shuttle traders to small companies, to larger, even international companies. The corruption in this type of activity ranges from bootleggers paying small bribes to inspection officers, to arrangements with head of customs post or regional customs directorate (either direct from trading companies involved in the smuggling schemes), to corrupting officers responsible for customs warehouses, to political-level pressure over institutions. The majority of investigations of big cases of smuggling of cigarettes in the EU have revealed some indications of corruption in customs, although few have presented hard evidence. In the words of one interviewee "one would probably risk smuggling one container without paying a bribe, but no one would risk with two or three containers" (EU).

⁴² *Customs corruption related to the smuggling of stolen vehicles is largely a thing of the recent past. Until the enlargement of the EU smuggling channels for stolen vehicles involved customs corruption, as the importation of vehicles (stolen or not) from EU-17 (the usual source for stolen cars) into Eastern Europe (the usual destination) required the payment of significant import duties. As with any other goods, extensive customs corruption networks in Eastern Europe facilitated the avoidance of such duties.*

⁴³ *A case in Satu-Mare (on the Romania – Ukraine border) involved the illegal transportation of people across the border. In this case both customs officers and policemen colluded into not inspecting the documents of people crossing the border (RO).*

The smuggling of alcohol or oil products could involve shuttle smugglers driving small quantities across borders (BG, PO, SE, FI, UK) on a regular basis. The more serious damage to state revenues usually involves companies, including such that have otherwise legitimate operations. The legitimate face of such businesses allows them to easily use political or judicial protection, or to have direct access to high-level customs officials (CS-EL, CS-BG, PL). As the Bulgarian case study indicates, one of the largest oil-refineries in the Balkans, owned and operated by Russian company Lukoil, has successfully used political protection in several consecutive governments to resist the installation of measuring devices that control the loading and unloading of oil tankers. An inspection initiated by the Russian side in 2006 indicated that reportedly ‘a significant’ part of the oil refined at the refinery was smuggled without being registered at the customs. In 2008 similar protection for well known alcohol producers in Bulgaria led to the resignation and prosecution of the deputy head of the anti-organised crime law-enforcement agency (CS-BG).

Smuggling of consumer goods: The smuggling of consumer goods (including counterfeit clothing or consumer appliances), particularly ones from China or the Middle East (EL, BG, FR, RO, IT, ES) is a major business of organised criminals, with significant impact on the state revenues. The key factor for this type of smuggling activity is usually immigrant populations respectively from China or the Middle East. Import companies owned by such individuals have contacts in their countries of origin that allow them to develop an import business (ranging from clothing or consume appliances to electronics) (FR, RO, EL, BG). Shuttle traders and small-medium enterprises are usually involved. In EU-10E and Greece, corruption is actively used to avoid import duties (see below).

TABLE 14. TAX AND CUSTOMS CORRUPTION SUMMARY CARD

Tax and customs corruption card				
VAT Fraud	Drug smuggling	Smuggling of excise taxed goods	Smuggling of consumer goods	EU aid/privatisation fraud
Fictitious re-claim of VAT	Avoid detection/prosecution	Avoid registry (excise tax)	Avoid import duties	Inflate value of goods
All	External borders	External eastern EU borders/major ports	All	All
Low	Low	High	High	Medium/Low?

- **Aid/privatisation fraud:** the customs are also instrumental in certifying the value of goods, particularly of imported industrial machinery. In one type of scheme, companies that import industrial means of production could inflate the value of the goods they purchase with EU aid money (e.g. they might purchase old instead of new equipment, or even certify that equipment has been imported, when that has not taken place at all). Another corruption scheme has facilitated fraud related to the privatisation processes in EU-10E. Usually, when privatising state owned enterprises, the buyers would make commit-

ments to invest certain amounts in the development of the privatised company. Corrupt customs officer then become complicit in inflating the values of imported machinery that is used to fulfil these commitments (BG, LV).

4.4.4 Explaining corruption in customs

Corruption in the military

Corruption cases involving the military relate to the border-guarding functions that militaries have in many Member States. The incentives of organised criminals to corrupt the military have increased in recent years, as Member States have sent military forces to Afghanistan, or Member States' navies patrol, as part of multinational forces, international waters for the purpose of preventing drugs smuggling. Cases across the EU have indicated that the main reason for corrupting the army was to facilitate cross-border smuggling activities.

Armed forces have a special exempt status in moving across international borders or territorial waters. They are not subject (at all or to the same level) to border and customs control procedures. There are also special areas, such as military/naval bases, that enjoy exclusive control by the military. In some Member States (BG and EL), in the recent past there have been instances when these powers have been abused, primarily in order to facilitate the smuggling of cigarettes.

A case quoted by an interviewee in Greece, described a cigarette smuggling operation which involved members of the police, the coast guards and a prestigious body of the Greek Army, the Underwater Demolition Team (UDT). The UDT and the coast guard, and in cooperation with corrupt police officers, were involved in transporting contraband cigarettes from open waters to the shore.

In Spain, some cases involving military personnel in the Spanish enclaves of Ceuta and Melilla located on the Northern coast of Africa have also been related to the smuggling of drugs. (ES)

Historical factors: a couple of historical factors have had marked influence on the development of a culture of corruption that continues to mar customs agencies along the external Eastern border of the European Union: the embargo on the Former Yugoslavia and cross-border shuttle trade smuggling during the 1990s;

- **The economic sanctions on the countries of former Yugoslavia** created immense corruption pressures and an environment where everyone from the individual living in border areas, to politicians and security services, profited from organised smuggling. Customs agencies of countries along the borders of former Yugoslavia played along and without exceptions were involved in embargo busting activities (either for their own profit or under pressure from security services and politicians).
- **Shuttle trade:** the shuttle trade of consumer goods reached several million⁴⁴ small traders who crossed borders on a regular basis to import goods in the mid to late 1990s.

The shuttle trading phenomenon today is largely limited to excise tax goods (cigarettes, alcohol and oil) or agricultural products (PL, RO, CS-BG, SK, CS-EL). Shuttle traders do not engage only in petty corruption of inspection officers. At some border posts, part of the petty bribes are accumulated and passed along the chain of command, reaching even the very top of the customs administration (CS-BG). In addition, organised corruption mechanisms exist: groups of shuttle traders come together and use intermediaries to arrange corrupt exchanges with customs officers.⁴⁵ Organised crime becomes an intermediary between customs officers and shuttle traders, as criminals collect protection rackets from the shuttle traders and bribe the customs officer to ensure the smuggling channel. Protection rackets by organised crime go beyond shuttle traders and could be a means of controlling any company willing to become involved in smuggling.

Such schemes, as the Bulgaria case study shows, are still thriving. In fact, the previous Head and Deputy Heads of National Customs Agency in Bulgaria (2008-2009) also headed the agency in the Yugoslav embargo period. Following their replacement in mid-2009, the new government exposed massive smuggling schemes that took place until the middle of 2009 (BG). Many customs officers, particularly those in senior positions, in present-day customs administrations in EU-10E (and EL) developed their professional careers during these periods of mass customs fraud.

⁴⁴ The estimate only for Bulgaria stood at 300,000 shuttle traders in the late 1990s.

⁴⁵ In practice this occurs as follows: a group of shuttle traders travels by mini-bus every week across the border (e.g. with Turkey). The intermediary travels with them, and s/he has the connections and pays the bribes on their behalf to Turkish and Bulgarian customs officers. (CS-BG)

In December 2008, 14 customs officers and one police officer were arrested on the Slovak – Ukrainian border in relation to trafficking of cigarettes, alcohol, and textiles. While some of the customs officers arrested were prosecuted for having taken bribes, others were prosecuted for being inactive. The officers were aware that numerous private citizens were crossing the border daily bringing more than quantities allowed for personal use. This arrest followed a 2005 operation during which 17 border-guards were arrested at the eastern border on similar charges (Cernak.sk 2008).

“You can bring whatever you like through the borders and have it cleared if you give them a little something. Do you know how many times I went to Istanbul and got back with a lot of merchandise, clothes? I didn’t even have to clear them. I tell them “here, have this to have a coffee’ and they would let me go. As long as you didn’t have drugs or weapons, no problem.” (EL)

In 2006, the attempt of the Secretary of Finance’s of Greece to move to different positions the heads of certain customs offices, where alleged corruption existed, provoked a political reaction from opposition party (who had appointed them while in power). The scandal revealed that these customs officers concerned were children of leading politicians, and were in practice political appointees. (CS-EL)

- **The Grey economy:** in the 1990s the sudden liberalisation of CEE economies created a huge demand for consumer goods, which was filled by the large informal economy, where ‘legal’ and ‘illegal’ production and trade were often closely intertwined. This grey economic sector provided the demand and the distribution channels needed for smuggled goods.⁴⁶
- **Border communities:** In analysing customs corruption along land border-crossing points, the cultural and socio-economic situation of the communities in border areas explains much of the ongoing corruption. Customs officers and border guards along the external land borders of the EU are often recruited from local towns (EE, PO, BG, RO, HU, SK). Typically, these are small towns, with very limited economic opportunities. Involvement in small scale smuggling is considered a viable source of income to local populations, and is tolerated by customs officers who usually need ‘their share’ of this trade. In countries where ethnic communities (e.g. Russians) are spread out across the EU border corruption networks exist on both sides (LV). In such small communities corruption does not need to take the form of bribes. Informal relations (‘everyone knows everyone’) mean that the exchange of favours, or trading in kind, could serve as substitutes to monetary bribes.

These local communities are just as vital to the small-scale smuggling, as they are to bigger smuggling schemes involving organised crime. They often provide the infrastructure (warehouses) or the manpower (shuttle traders delivering goods to particular wholesalers) needed for excise tax goods to reach final consumers. Local government and administration, or law-enforcement tolerate local companies that are involved in such activities as they are considered important to the local economy (BG, RO, LT).

Political pressure: another feature of customs corruption in EU-10E and Greece relates to political pressure. The corruption income from trans-border smuggling has been seen as an important source of funding for political parties (at local or national level), or for the personal benefit of corrupt politicians. Political pressures in smuggling operations carried out by larger companies usually involves a much broader range of corrupt economic relations between big business and politicians (discussed in more detail in the section on political corruption). The Head of Customs administration and key positions within customs such as heads of intelligence departments, inland control, or heads of key border posts along the revenue earning ‘eastern borders’ (or in the case of Greece, ‘northern borders’), and heads of certain regional posts, are often considered political appointments. Political corruption also transforms these in such positions into appointees of powerful local or national companies that have an interest in facilitating criminal activity in a particular region. The dependence of border region

⁴⁶ *If for instance clothing (counterfeit or not) from China is smuggled inside the country, hundreds of small stores or market stalls operating in cash were willing to distribute these goods. Furthermore, organised crime often racketeered these grey economic areas as well. (BG, RO)*

economies on trafficking often leads to the involvement of border town mayors in trafficking or protecting smuggling channels by using their connections with higher level customs, police, or judicial authorities (CS-BG, LT, PO). Political influence can also be indirect, as police might be stopped from investigating intermediaries, such as customs brokers (BG).

Police pressure: corruption within border police or police anti-trafficking units can also be transformed into pressure on customs officials. One such model involves police racketeering of customs officers: i.e. once the police discover that customs are protecting a smuggling channel, they demand a share of the bribes (BG). The second model is based on police-customs 'cooperation': some of the cases demonstrate how customs and border guard officials jointly participate in smuggling schemes (LV, LT, BG, EL). The third possible way is for anti-trafficking units to use their powers to create their own smuggling channels. One tactic used in Bulgaria has been to carry out excessive checks on vehicles or merchants who do not want to pay a bribe or who use a different intermediary (i.e. they might be paying the bribes to someone else who does not share their bribes with the police). In this way merchants are forced to either pay bribes to the officers in question or to switch to a different smuggling channel (BG).

4.4.5 Intermediaries

Petty corruption in customs is usually the result of direct interaction between smugglers and customs officers (FR, SL, EL, SE, CS-BG, and LV). Certain specific positions, such as post-delivery or pre-shipment control, where customs officers visit the premises of companies, provide conditions for direct contacts between officers and company representatives away from the public eye. Some interviewees identified these as increasing vulnerability to corruption (BG, LV).

In EU-17, where corruption is not as wide-spread, organised criminals would even undertake some targeting and profiling. They would gather intelligence about the sea port customs personnel, for instance. They might try to find out if an officer gambles a lot or is in debt. Then someone would approach him in person directly (IR).

In these tactics of locating the 'rotten apples', OC figures might use blackmail. The first time a corrupt officer may agree to cooperate because he is paid a substantial sum of money. The second time if a smaller bribe is offered and he refuses, he may be threatened that previous corrupt deals would be exposed. The corrupt officer could then become an intermediary himself as he convinces co-workers to cooperate (SI).

Internal brokerage networks: probably the most powerful intermediaries are customs officers. The direct access to businesses and informal contacts with customs officers has transformed certain customs officers into 'corruption brokers'. They 'arrange' deals and facilitate

the corrupt deals needed by organised crime figures or companies (CS-BG).

Former customs officers (or former police officers) usually establish customs brokerage firms that assist companies with customs formalities. These brokerage firms are very loosely regulated in the EU, and customs brokers do not need a license and are not materially responsible. With easy access to former colleagues and little accountability, former customs officers assist in arranging corrupt exchanges (BG, LV).

Transport and shipping companies (all levels within these companies from drivers, to accountants and managers) have relations and direct contact with customs officers (EL, AU, MT, SK).

Businessmen: Practically any international trade company has some exposure to customs. Such businesses, even if not using corruption directly themselves, could serve as intermediaries for other companies or criminals willing to use corruption (ES).

Family – relatives: As in all other cases of corruption, family, friends, and relatives could all serve as intermediaries (UK, NL). In border regions and small communities, family-based networks are the prevalent type used.

Lawyers: Lawyers could be instrumental in manipulating the criminal justice process (more on the lawyers' role is provided in the sections on judicial and police corruption.)

4.4.6 Anti-corruption tactics

The range of anti-corruption measures and the capacity to detect corruption varies widely across the EU. Some interviewees stated they there were no specific anti-corruption measures adopted in their countries (FI, DN) or were not familiar with any effective ones (EL). The list of anti-corruption tactics below is meant to present the breadth of possible approaches, rather than to map which customs service uses exactly what type of tactic. None of the interviewees were familiar with any impact assessment of the particular tactics used, although most had an opinion about their effectiveness.

- **Rotations: there are three approaches:**
 - **Officer rotations:** customs officers do not stay in the same position for more than two to three years in a row; this aims to prevent the development of similarly long-lasting corrupt relations whereby the same officers are in contact with the same individuals (e.g. from transport companies) who regularly cross the same border check point (MT).
 - **Shift rotations:** this approach, which targets inspection officers (at large customs offices), allows one's post to be shifted daily (SI, SW, MT).
 - **Randomized-computer generated check schedules:** a software programme determines who should inspect which truck (UK).

- **Team based activities** (“four eyes principle”) – work is organised, so that procedures require two or more officers to be involved. This inherently increases the cost of corruption and makes the schemes much more difficult (UK, BE, LV).
- **Random checks:**
 - **mobile units** are considered to be the most effective tool to perform random checks (SI, BG, FR). An additional measure is that mobile groups themselves do not know in advance what they would be checking and their travel routes are randomly generated and not predictably scheduled.
 - random checks and inspections could be carried out (IR, SK) by international investigation departments.
- **Whistle-blowing programmes** could be instrumental in encouraging the reporting of corruption (UK, SE). These could be supported by phone hotline and anonymous email reporting systems. They could also be used by ordinary citizens.
- **Trainings/awareness raising programmes:** the training materials provided by some Member States indicated a rather theoretical approach: one explanation is the lack of significant experience with corruption in EU-17 (CZ, BE, AU, LV). For instance, the corruption awareness materials provided by the Belgian customs did not contain any actual cases of corruption that have taken place at the Belgium customs, and the trainings were provided by outside academics. Another method of raising awareness could be a proactive media involvement for public exposure of detected corruption cases. Officers could see this as a deterrent to becoming corrupt.
- **Internal control departments** range widely in their powers and capacity. No systematic questions were asked to clearly understand the differences in approaches and tactics taken by such departments. In countries with significant corruption these departments are also politicised and seen as way to ‘regulate’ rather than tackle corruption (BG). Whether these departments are proactive or reactive makes a big difference (LT).

Successful corruption investigations require significant capacity. For instance, almost all seizures of illegal cigarettes are made via electronic surveillance wiretapping. Consequently, uncovering corruption involved within cigarette smuggling requires even more additional resources. Many countries, especially those that do not have a tradition of strong organised crime influence (e.g. Denmark or Finland), rarely have spare capacities to mount such additional investigations. Therefore, on many occasions, although corruption may be suspected there is a lack of capacity to detect it.

Some ‘internal investigation’ departments might have significant monitoring powers. In Spain, the Department for Corruption Investigations carries out covert investigations. It has detailed information about the bank accounts of public servants and their spouses, other personal income

that they may have, and relevant financial operations in which they could be involved. It follows carefully any significant change in personal wealth and payments from companies or others (ES).

- **IT access and data protection rules:** with the increased level of sophistication and the introduction of IT systems in the work of customs, the management of these systems has become of key importance to anti-corruption work. In addition to traceability of who accesses the system and differentiation in access levels, some customs offices have introduced further IT anti-corruption measures that analyse and detect risk behaviour in data access (for instance an officer frequently accessing data not related to his/her immediate work).
- **Financial incentives:**
 - **High salaries** – Some interviewees made a point that relatively high salaries serve as a guarantee against corruption (IE, UK). In the UK, for instance, the average salary of a customs investigator is 50,000 pounds per year. Frontline officers have lower but still above average salaries (UK).
 - **Rewards:** there are different pay schemes that could reward officers' work (BG, FR). Some interviewees (particularly in Member States where salaries were seen as high) considered rewards controversial as they saw no reason to stimulate what should be just regular work (UK).
- **High penalties:** including imposing lengthy prison sentences and making customs officers aware of the possible consequences of corrupt behaviour are amongst the anti-corruption tactics used (UK, AU).

Some of the additional tactics discussed included the compulsory disclosure of the assets of customs officers (SK, RO), the use of integrity tests (CZ), or the institution of work processes and procedures that are designed to prevent corruption.

4.5 Judicial corruption

This section discusses corruption related to the courts, prosecution, and investigative magistrates. Although the prosecution in some Member States is more integrated with the police than with the judiciary, the corruption characteristics identified were much closer to the ones identified within the judiciary than within police forces.

Overall, the interviews and the data from the case studies indicated that in the majority of Member States the judiciary, particularly the courts, is much less targeted by organised crime than the police or politicians. There are a number of objective circumstances and factors that contribute to this. The Eurobarometer (2008, p.9) public perceptions survey present a similar picture, as the judiciary is rated as least corrupt, in comparison to police, customs, politicians, or bureaucrats. The general perception of interviewees and research from case studies is that white-collar criminals (EL, BE, PO, SL, SW, CZ) more often resort to corruption of the judiciary, as they have power and sophistication (BE) to use

'Quite often my clients start criminal proceedings for fraud against another company that has not delivered a service but using fake invoices has colluded with someone inside their firm; We send the complaint to the prosecutor's office but the prosecutor decides not to open a case – to me it is usually a clear indication that he has been corrupt' (PL)

'A Dutch prosecutor, who frequently travelled to Turkey in relation to an investigation, established contacts with a Turkish criminal group operating in the Netherlands and dealing in drugs. For a large sum of money he provided the criminal group with advice on how to avoid prosecution in the Netherlands' (NL)

In a police corruption case in France, a corrupt court clerk played a key role. The clerk, an intimate friend of the corrupt Deputy Head of Strasbourg's drugs squad, used her access to investigation information to monitor on his behalf whether there were any investigations against the members of his drug-dealing network. For years the officer stole seized drugs, and sold them through a network of dealers who were also police informants (CS-FR)

Since 2002, a number of trials connected to the bribery case of judge Patrick Vella (Court of Appeals, convicted) and Chief Justice Noel Arrigo (still on trial) have captured Malta's public attention. The judges accepted a € 23,000 bribe to reduce the sentence of Mario Camilleri, a well-known drug-trafficker and local businessman, from 16 to 12 years. The trafficker's son approached two intermediaries (both convicted) who passed on the offer and paid the bribes. One of them, businessman and football club owner Mr. Grech Sant was a Masonic lodge member along with Chief Justice Noel Arrigo (MT)

higher-level corruption. They often have common social background and status with legal professionals who facilitate corrupt exchanges with the judiciary.

Evidence suggests that the following levels are most often involved in corruption in degrees that vary among Member States:

- Judges (all levels up to Supreme Courts);
- Prosecutors (all levels up to Attorney General);
- Courts and prosecution administration;
- Jurors;
- Bailiffs.

The overall objectives of corrupting the judiciary observed across the EU are quite similar (SL, EL, BE, RO, FR, SP, IT). Criminals mainly target the different levels and stages of the criminal justice process:⁴⁷

- **Avoid pre-trial detention:** judges could be bribed into refusing detention and allowing the suspect to remain free on bail.
- **Prevent or discontinue investigations:** there are two main possibilities:
 - Judges might not authorize electronic surveillance to subvert an investigation;
 - Prosecutors might ignore a police or victim report, or interpret police evidence in a light favourable to the defendant (CZ). Investigations into corrupt prosecutors in different Member States (BG, CZ, PO) have found them to have held onto dozens of cases without taking the required steps.
- **Prevent a trial** from starting, or if it has started, try to delay or stop it: e.g. judges could dismiss a case for lack of evidence.
- **Receive lower sentence** (e.g. probation instead of prison term); shorter prison term; or, change the prison terms from high-security to a lower security prisons.
- **Obtain an acquittal:** Judges could be bribed into ignoring evidence from the prosecution, or interpreting it in way that leads to an acquittal.
- **Avoid the implementation of a sentence:** Bailiffs can be corrupted too because they often come into direct contact with the defendants (particularly in cases of confiscation).
- **Leaking information:** in addition to a straightforward abuse of power, judges and prosecutors, or their administrative staff are privy to information regarding ongoing investigations:
 - Corrupt court or prosecution staff with access to files on ongoing investigations could provide information to suspects or defendants (CS-FR, CS-BG). In particular, the need to authorize electronic surveillance provides (some) courts with up-to-date data on ongoing investigations.
 - Judges or prosecutors could also serve as 'advisors' to criminal groups. In the cases quoted they were not directly involved with the prosecution or trial of criminal groups. Nevertheless, being familiar with the operations of police or prosecutorial staff, they

⁴⁷ They could be aiming to do this for themselves, or for their accomplices or subordinates in order to prevent that the investigation reaches them.

Court trials and healthcare corruption

Interviews (BG, RO, PL, EL) revealed that corruption of healthcare personnel is a serious problem in many EU-10E. The corruption of doctors is seen as an auxiliary tactic, in cases when corruption of magistrates is not possible or not successful. There are two main objectives of such corruption:

- **Delay of trials:** bribing or pressuring doctors to provide evidence or falsify examination results that medical conditions for defendants or certain key witnesses do not allow them to present themselves in court. In Bulgaria, for instance, the trials of almost all high-level organised criminal or politicians have been bogged down for years, due to the 'inability' of defendants to stand trial 'for health reasons'. (RO, EL, PO)
- **Avoidance of pre-trial detention:** using similar corruption tactics, defendants can also avoid pre-trial detention. (RO, BG)
- **Acquittal:** the possibility to avoid a prison sentence if a psychiatric condition is proven to exist, has provided a strong incentive for criminals to corrupt medical personnel in psychiatric wards to obtain the needed medical certificates. (BG)

could provide advice as to how to avoid being detected by the police, or to undermine an ongoing investigation. In either case, large sums of money were paid, showing the value that some criminals see in this type of service (SP/NL).

- **Rigging the public contracts bidding process:** In addition to subverting the criminal justice process, in many countries organised crime or criminal companies have been involved in abuses of public funds. Administrative courts that oversee the handling of public tenders could become corruption targets. In some countries (BG, RO, BE, PL) the lack of clear rules as to the role of administrative courts has led courts not only to decide on the legality of administrative procedures of public tenders, but also to interpret whether a contract is 'in the public benefit'. Without the need for an underlying financial or other expert analysis, judges in some Member States (BG) have abused their powers, clearly as a result of being influenced either directly by one of the parties involved or by corrupt politicians.

In countries where corrupting judges and prosecutors is difficult if not possible, criminals seek alternatives. Cases of corruption within the court or prosecution **administrations** have been observed across the EU (FR, BE, EL), and were mentioned even in countries (UK) where corruption in the judiciary is generally not considered a problem. Compared to judges or prosecutors, administrative staff members are less highly paid and less scrutinised. For instance, in the UK Crown Prosecution Service (CPS) caseworkers provide administrative support to crown prosecutors. They are fairly low-paid (15-25,000 pounds per year) and could provide criminals with information on the prosecution's case, evidence, etc. They liaise with the police on behalf of the prosecutor, so they might have up-to-date information on ongoing investigations (UK).

In *common law* jurisdictions (UK and Ireland), the 'weak link' that criminals try to exploit is the **jury**. Jurors are most often quite disinterested with respect to trials, and have very little at stake. In the UK, although there have been suspicions, there have been no successfully prosecuted cases in which corruption on the part of jurors has been proven. The possibility of being able to corrupt jurors, in the opinion of one of the respondents, discourages criminals from considering corrupting judges (UK).

4.5.1 Corruption networks and their operation

Social scientists have often described the judiciary as a social class in its own, a 'caste' with a special status: based on the requirement for special education, using a special language and rituals often going back centuries. Lower level organised crime figures typically have no direct access to informal networks within the judiciary. As a result, corruption is fairly difficult and it requires intermediaries or specific circumstances that allow them to carry out a corrupt exchange. Higher level and white-collar criminals might have more direct access, though.

There are various corruption-facilitating informal networks in which a magistrate might participate. These informal networks might intertwine.

The most common networks used by criminals to corrupt members of the judiciary are described below:

- **Direct access networks:**

- **Small communities:** whether it concerns a town or a small island (e.g. Cyprus, Malta, or Corsica) local elites establish networks, where representatives of the judiciary, businesses, law-enforcement, and politicians know each other. Insofar as white-collar criminals or traditional organised criminals are able to accumulate sufficient economic power to become part of these local elites, they inevitably gain access to local members of the judiciary.
- **Social networks:** formed around Masonic lodges (CS-FR, CS-IT, MT) or local political networks (CS-ES), members of the judiciary could have the opportunity to come in direct contact with crime figures, in secretive settings away from public view. In countries where religion plays a significant role, even a church could serve as a network (EL, NL).
- **Personal and family networks:** personal and family networks play a certain role in all Member States. In countries where extended families or nepotism are more common place, these networks feature much more prominently in corruption scandals (CS-EL, PL, BG). Schools (particularly elite ones) also provide an immediate network, especially in cases involving white-collar criminals. Spouses, particularly working as lawyers (or within other branches of the judiciary), could serve as intermediaries in accepting bribes (CS-FR) or in taking advantage of the network of corrupt judges to which the other spouse is a member (CS-BG).

All other networks described below involve some type of intermediary (politicians, lawyers, law-enforcement officers).

- **Political networks:** although judiciaries in the EU are generally politically independent, in reality specific circumstances in some Member States undermine this independence. Such circumstances could relate to whether judges can move between a judicial and political career, or whether judicial oversight bodies are partially elected by parliaments, or the prosecution is responsible to the Minister of Justice. Depending on which of these apply in particular cases, situations could arise whereby judges establish and often become dependent on their relationships with politicians. These networks could then be activated when a corrupt politician needs to influence or simply to act as an intermediary between a prosecutor or a judge, and criminals. In some Member States, there is a clear ideological divide between judges that are considered to be close to the right or left of centre parties (ES, IT).
- **Professional networks:** lawyers across the EU are considered to be the most direct intermediaries in judicial corruption (CS-EL, CS-BG, CS-FR, SL). This is understandable as they usually have the same educational and social background, and in many cases the same professional background (e.g. they may have been former prosecutors or judges). Litigation departments of top law firms in many countries try to attract people with such backgrounds. In

A public prosecutor of a small town was approached by a well known local businessman who had heavily borrowed from other businesses and filed for bankruptcy. The prosecutor arranged via a local lawyer that only the debtors that were close or bribed the prosecutor got paid, while the others did not. The head of the bankrupt company was also allowed to leave the country. (PL)

The local Masonic lodge in Nice had become a covert social network allowing politicians, businessmen, and criminals to access and use the 'services' of a leading investigative judge who was also a member of the lodge. In 2004, the judge was dismissed, while two other investigative judges from the same court were found to be engaged in activities. (CS-FR)

Bulgaria is a small country where almost all members of the judiciary have gone to the same law-school. Between 1992 and 2006, two consecutive Prosecutors General had close relations with leading crime figures. They gradually built an informal network of 'trusted prosecutors' who would obey orders from above to stop or delay, or start investigations that served the interests of, related crime figures. This corrupt prosecutor network then intertwined into a wider judicial network of corruption that was (and is) regulated by corrupt members of the Supreme Judicial Council, and includes judges and investigators. (CS-BG)

Since 2004, corruption trials against judges, lawyers, and other intermediaries have taken place in Greece. Lawyers were key intermediaries of the 'para-judicial networks' used to obtain favourable treatment to criminals. Convicted judge Kalousis' explanation of why 7 lawyers deposited money in his account illustrates the corruption networks used: "Mr. A is my family lawyer for over 20 years, Mr. B is my university fellow from 30 years ago, Mr. C is my friend with whom we play chess, Mr. D and Mr. E are my compatriots [from Eratini], our wives are also friends. As for Mr. F, he is my relative by marriage". (CS-EL)

In 1992, the Italian Magistrate Giovanni Falcone was murdered with a bomb. Although in the past few years there had not been any assassinations or beatings of judges, the threat is still credible, as the memory of murdered judges in the 1990s is still alive (IT).

A Spanish judge interviewed for the present report worked in the Basque Country and in Marbella (respectively regions with concentrated terrorist and mafia presence). In both regions he needed police protection after receiving death threats against him and his family. (ES)

Two investigative judges in Nice were allegedly involved in swinger parties with cocaine use, in the presence of police officers, lawyers, and local crime figures. A drug-dealer involved in this network used his knowledge [in other similar cases video recordings are used] to blackmail the magistrates and pressure another judge into treating him favourably, threatening to expose his colleagues. (CS-FR)

In the German state of Saxony, in 2007 evidence from secret investigations going as far back as 1992 about organised crime related corruption of local politicians, the police, the judiciary surfaced. One of the allegations was that local politicians were covering an international prostitution ring that ran a brothel in Leipzig that politicians, police, and prosecutors used. The brothel owner was protected and charges against him were never brought, even when it surfaced in 2000 that some of the women had been children and had been abused. The head of Germany's Secret Service resigned in 2007 amidst allegations that he withheld information from the prosecution. (DE)

some of the cases described (CS-BG), this is purposely done with the intention of being able to influence judicial decisions. In other countries (UK, SP, NL, BG) interviewees described a number of well-known criminal defence lawyers or law-firms as having the access or means to influence investigations.

- **Law-enforcement** (police/customs/prosecutors): case studies from Bulgaria and Greece describe in detail how such corrupt networks operate.
- **Intra-judicial networks:** While the above networks are used to secure access to the judiciary 'from the outside', some of the corruption networks involving judges, prosecutors, and lawyers function within the judiciary itself (RO, CS-EL, CS-BG). In hierarchical systems, such as the prosecution, top-down influences, particularly in countries with widespread judicial corruption, are quite common.

4.5.2 Vulnerability factors and corruption mechanisms

The factors that render the judiciary more or less vulnerable to outside influence and corruption vary widely across the EU. They include complex cultural, institutional, historical and socio-economic factors that explain why and how corruption exists.

- **Salary levels:** interviewees have pointed to salary levels as an explanation as to why corruption is more (PL, SP) or less likely (UK). Often, members of the judiciary compare salaries with neighbouring countries (ES) or civil servants.
- **Plata o plomo:⁴⁸ the threat of violence** is also a factor that makes judges vulnerable to corruption, particularly in smaller towns, or in areas with significant mafia or terrorist presence where the threat of violence is very credible (CS-ES, CS-FR, CS-IT).
- **Blackmail:** judges and prosecutors might also be offered a very substantial initial bribe, or lured into using prostitutes or drugs (CS-FR, BG, DE, NL). They would then be blackmailed into committing further corrupt acts, on the threat that their previous corrupt acts or corrupt behaviour would be exposed.
- **Political influence** is closely connected to the problem of political corruption: i.e. political influence is more prominent in countries where political corruption (at the national rather than at the local level) exists (ES, BE, EL, CS-BG, CS-FR). Typically such influence occurs at a higher level involving higher-level politicians, higher level magistrates, and the criminal elite (especially white-collar criminals).
- Whether a politician acts as an intermediary to facilitate a bribe, or tries to pressure a magistrate and lobby for a favourable decision on behalf of a criminal, the politician is in a position that could potentially influence the magistrate's long-term career:

⁴⁸ Spanish for "silver (bribe) or lead (bullet)".

- **For judges** the potential threat stems from the fact that in many countries High Court judges or Supreme Judicial bodies are appointed or nominated by parliaments, or by the executive.
- **For prosecutors** the threat is even more imminent: the political dependence of the prosecution (DE, ES), particularly in countries where the Minister of Justice is also Prosecutor General (e.g. FR, PL) was highlighted by many interviewees. Members of the judiciary in some Member States (CS-FR, IT) have accused governments of trying to limit the independence of the prosecution by implementing legislative reforms that bring it under direct political control. The Chief Prosecutor could be very clearly favourable to the party that is currently in power and influence the decisions taken at lower levels. Lower level prosecutors not related to the ruling party might, under such circumstances, try to keep a low profile (ES).
- **Political influence** does not need to be direct, but could trickle down from the top of the judiciary towards the magistrates who need to be corrupted. The hierarchical nature of prosecutorial systems allows politicians to pressure lower-level prosecutors by using their influence on the prosecutor general or on judges at various levels (CS-BG, PL).
- **Self-censorship:** in countries where the political dependence of a judiciary official's career is clear, magistrates or prosecutors simply try to avoid politically sensitive cases by not starting or delaying them. High-profile cases where criminals are known donors of political parties, are immediately considered as high-risk cases by magistrates (BE).
- **Weak control systems** (RO & CZ) and lack of transparency (CZ) to the public or to other actors in the criminal justice system were pointed out as factors conducive to higher levels of judicial corruption (BE, RO). Further to this, lack of media scrutiny – due to the fact the media, including local media, is often controlled by individuals or companies involved in criminal activities (PL, FR, IT).
- **Legislative loopholes:** Corrupt judges and prosecutors often take advantage of and apply 'extreme' interpretations of penal procedural codes. For instance, in Romania the concept of 'social danger' is quite vague, leaving to judges a lot of discretion which they often abuse (RO). In Bulgaria, corrupt judges often purposely ignore discretion powers, which allows defence lawyers to protract trials abusing procedural details: frequently changing of defence lawyers, and non-appearance of witnesses, defendants, or lawyers for supposedly 'health' reasons.
- **Cultural setting:** the cultural and social factors that make members of the judiciary vulnerable to corruption or make society sensitive to judicial corruption are the most complex.

In areas with significant **mafia influence** the social setting and informal networks allow for pressures to be exerted on judges (IT, CS-FR). Tourist

coastal areas (CS-ES, BG) and border areas (PL, BG) with significant concentration of criminal activities (e.g. Costa del Sol, external Eastern EU borders), as well as local communities dependent on illegal economic activity, create similar pressures.

- **Favours:** The cultural concept of 'favour' takes on a different meaning in some Member States where it is an accepted and even expected way of working. As one interviewee stated, "You ask them a favour basically. This works with anything and anybody, it doesn't necessarily have to relate to organised crime" (EL).
- **Nepotistic relations** and family pressures are stronger in some Member States than others. Small towns could serve as catalyser to corruption, as informal relations and favours are considered socially acceptable (ES, PL, BG, EL). In many Northern European countries, where such values are not tolerated, small towns could even have a reverse effect.
- **Public tolerance:** In some Member States alleged corruption does not upset public opinion too much, and the judges are kept in their posts until a sentence is issued (SP, FR).
- **Judges vs. Prosecutors:** Overall, the perception of interviewees was that prosecutors were more vulnerable to corruption than judges (DE, NL, ES, BG, SE, BE, CZ, EE). Nevertheless, in some countries, interviewees stated either that both were either is equally targeted, or that judges were more often targeted (SL, DE, SP, EL, RO, PL, IT, EE). A number of factors could explain these differences:
 - **Proximity and frequency:** Criminals' first contact is with the police and prosecutors. Judges come last. Therefore, there are a lot more attempts to influence prosecutors on their part. The need for corrupting the judiciary, particularly judges, is much more haphazard in nature.
 - **Intermediaries:** In some countries, intermediaries to corrupt prosecutors are easier to find: a traditional career path for many investigators or prosecutors is to become defence lawyers (BG, PL, EL, IT). As a result they have a more direct access to corrupting prosecutors than judges.
 - **Transparency:** The outcome of the work of a judge is generally more public and scrutinised by oversight bodies and the media than those of a prosecutor. It is difficult for the judge to dismiss clear evidence presented in court; a misinterpretation or discontinuation of a trial would be too visible.
 - **Independence:** across the EU, prosecutors and judges enjoy varying degrees of independence from politicians: from the prosecution being directly under the Minister of Justice, to having Supreme Judicial oversight bodies being elected by Parliament, or appointed by the President.
 - **Role:** In some countries, the role of 'investigative judges' (e.g. France, Spain) makes them are much more exposed to corruption pressures than prosecutors are, so the latter are a less frequent target.
 - In some countries, judges specialise in criminal cases (e.g. EL). Particularly in smaller courts, this makes it very predictable which judge needs to be targeted.

- **Level:** Where respondents considered judicial corruption a serious issue (EL, BG, PL, IT, RO) instances of corruption were observed at all levels. Lower levels are generally more often corrupt (SE, BE, EL, ES, NL, EE) for several reasons:
 - **Judicial racket:** Judicial corruption is two-directional: it is not always initiated by criminals: sometimes prosecutors or judges themselves seek or offer corrupt deals. They may racketeer defendants for payments in exchange for favourable treatment (PL, CS-BG, EE).
 - **Lower salaries.**
 - **Less scrutiny** (see section on anti-corruption measures below).
 - **Small-towns: lower court/prosecutions** are placed in smaller towns.
 - High-level judiciary are mostly targeted by high-level (especially white-collar) criminals.
 - Low-level corruption takes the pressure off from the higher levels (cases are solved at first instance courts) (ES).

4.5.3 Anti-corruption measures

The range of anti-corruption measures and the efficiency of anti-corruption institutions differ widely across the EU. The present study was not in a position to systematically analyse the anti-corruption efforts of each Member State, as such measures significantly across Member States.

- **Corruption-investigation bodies:** Some countries do not have dedicated judicial anti-corruption bodies (DK); others have multiple bodies with differing powers (CS-FR), or established national-level bodies (PL, BG, RO). In some Member States, individual courts have an appointed officer who monitors corruption (PL).
- **Rotation:** In courts, judges are rotated between civil and penal courts. So the same judge can try a civil case in one month and a penal case in a different month (EL).
- **Referring big cases to larger regional courts:** As explained above, small courts are much more vulnerable to corruption than larger ones. Establishing regulations in which organised crime related cases are automatically sent to larger regional courts where cases are distributed randomly amongst numerous judges and local family and political pressures are less likely, could be an effective anti-corruption measure. An example was provided that a southwest regional court in Poland sees all significant cases on organised crime, and judges there are relatively much less corrupt than local small town courts (PL).
- There are some internal control mechanisms: chiefs of jurisdiction, chiefs of courts who scrutinise what magistrates/judges do. Police investigators also scrutinise the work of investigative magistrates (prosecutors/judges). Therefore, it is necessary to corrupt the whole chain – corrupting just one magistrate may not be enough to achieve criminal goals (FR).
- Judges could be obliged to make their personal assets and wealth publicly known (ES, RO).
- **Random assignment of cases:** preventing predictability in the assignment of judges to criminal cases has pros and cons. On the one

hand it reduces the level of professionalism, as judges cannot become specialised in certain types of criminal cases. On the other hand it prevents corrupt judges from being able to be used effectively by criminals. This measure has significantly reduced corruption amongst judges in Bulgaria (CS-BG). Nevertheless, some corrupt heads of courts and corrupt judges have colluded to circumvent random assignments, and manipulate it in distributing cases to corrupt judges (CS-EL, BG).