



## STUDY TO ASSESS THE EFFECTIVENESS AND IMPLEMENTATION OF THE NATIONAL INTEGRITY STANDARDS

### 1 BASIC PROJECT INFORMATION

**1.1. Twinning Number:** JO 17 ENI JH 01 20

**1.2. Title:** Support the Jordanian Integrity and Anti-Corruption Commission in the Fields of Integrity and Corruption Prevention

**1.3. Beneficiary Country:** Jordan

**1.4. Member States:** Lithuania/Austria

### 2 THE OUTLINE

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## 1. INTRODUCTION

The Study to Assess the Effectiveness and Implementation of the National Integrity Standards in Jordan has been prepared by the Twinning Project Team responsible for implementing the EU funded project “Support the Jordanian Integrity and Anti-Corruption Commission in the Fields of Integrity and Corruption Prevention” (JO 17 ENI JH 01 20).

The overall objective of the Project, led by the Lithuanian-Austrian team of experts, is aimed at supporting national institutional efforts in Jordan to strengthen integrity and corruption prevention. The Project seeks to contribute to the implementation of the National Strategy for Integrity and Anti-Corruption 2017–2025 of Jordan, in particular, its strategic objectives – the activation of the Code of National Integrity and the consolidation of the integrity principles and standards in order to create an anti-corruption national environment, as well as developing the JIACC institutional capacities and improving its performance in a way that will enhance the JIACC achievements.

The Project is divided into two components:

1. Develop and revise National Integrity Standards in the public sector to guarantee the implementation, compliance with, and activation of these standards with related institutions;
2. Enhance the capacities of specialised departments in JIACC in assessing and managing corruption risks in selected sectors.

Component 1 of the Project seeks to reach these results:

1.1. Methodology for a baseline assessment study for National Integrity Standards is defined to assess and measure its effectiveness and implementation and revised the strategy accordingly;

1.2. Enhanced the capacities of specialised JIACC staff and redesigned institutional operations in related departments;

1.3. Implementation of the revised National Integrity Standards and the fight against corruption by ensuring better coordination internally and externally, training of selected MDAs;

1.4. Developed mechanisms (Codes of Conduct, Codes on Conflict of Interest, Regular Awareness Programs) to increase the awareness of public sector, the private sector and civil society organisations in the values of integrity, and ethics, and transparency principles and the risks of corrupt acts.

The expert team consisting of Mr. Darius Mickevičius (Leader of Component 1), Ms. Jolanta Bernotaitė (Expert), Mr. Detlef Kreutzer (Expert), Mr. Edvinas Chorostinas (Expert), Mr. Linas Zasimavičius (Expert) and Mr. Egidijus Radzevičius (Expert) has prepared this Study as the main output of the Result 1.1 of the Project.

The scope of this Study:

- Overview of the legislative framework, recommendations and tools by the international organisations: United Nations, OECD, European Union;
- Overview of the relevant experience and best practices of the EU Member States: Germany, Austria, Lithuania;
- Analysis of the structure, scope, adequacy and relevance of the National Integrity Standards together with analysis of available contextual information;
- Analysis of all five standards (Rule of Law, Accountability, Transparency, Justice, Equality and Equality of Opportunity, Good Governance) established in the National Integrity Standards, including sub-criteria and measurement indicators;
- Analysis of the implementation and monitoring mechanism of the National Integrity Standards, as well as the existing practices;
- Recommendations and possible solutions for further improving implementation and monitoring mechanism of the National Integrity Standards.

The expert team has analysed the current situation of implementation and monitoring of the National Integrity Standards through the use of direct and indirect methods. In particular, the team obtained answers to questions in oral and writing during and in between the meetings with the responsible JIACC divisions, selected MDAs and NGOs. In addition, the team analysed the legislation, statistics and other information provided in writing by the BC upon the request of the expert team. The team has also analysed available contextual information on the Jordanian national integrity system, as well as information on the applicable European Union acquis, recommendations and best practices from the EU, OECD and other international organisations, as well as applied practices from Lithuania, Austria, Germany and other EU Member States.

The representatives of the JIACC have been fully involved and consulted in the production of this study in order to ensure accuracy of the information and practicality of recommendations and solutions proposed by this Study.

The Study assesses effectiveness and implementation of the National Integrity Standards in the public sector and provides for recommendations for further developing and revising them and their monitoring mechanism to ensure the implementation, compliance with, and activation of these standards with related institutions.

## **2. RECOMMENDATIONS AND TOOLS BY THE INTERNATIONAL ORGANISATIONS**

### **2.1. UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)<sup>1</sup>**

The UNCAC - evolved from the United Nations Office on Drugs and Crime (UNODC) - is one of the most important international instruments in the fight against corruption. The merit of the UNCAC is not so much the criminalisation of bribery and corruption, but rather the comprehensive regulation of a multitude of offences relevant in connection with corruption, as well as in particular the regulations on prevention and international cooperation.

The United Nations initiated initial efforts to fight corruption internationally as early as the mid-1970s in response to the increasing corruption by large transnational corporations, particularly in developing countries, since the 1960s. In the 1990s, the chosen path of combating corruption was pursued further, including through a series of United Nations resolutions. The starting point for the development of the **UNCAC** was the so-called Palermo Convention UN Convention against Transnational Organised Crime of 15 November 2000.

On 31 October 2003 the General Assembly of the United Nations adopted the resolution 58/4. The resolution contains the United Nations Convention against Corruption. It is now the global standard for combating corruption. All states that have signed up to this resolution have committed to comply with these minimum standards. Among other things, the Convention criminalised corruption in a legally binding form for the first time.

The UNCAC provides a multidisciplinary approach to comprehensively fight corruption. The State Parties have used and combined international rules and regulations already created on international frameworks on corruption with each other.

The UNCAC builds on the international conventions that already existed and expands their approach. This has driven the development of anti-corruption at the international level. Jordan signed the convention on 9 Dec 2003 and adopted it on 24 Feb 2005.

The aim of the Convention is to prevent and combat corruption. The fight against corruption is to be achieved primarily through preventive measures (Chapter II) and criminalisation and prosecution (Chapter III). In order to involve as many states with very different (legal) cultures as possible, the UNCAC has combined binding, semi-binding and

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<sup>1</sup> United Nations Convention against Corruption, General Assembly resolution 58/4, 31 October 2003

non-binding provisions. The provisions contained in Chapter III on the criminalisation of conduct falling under the concept of corruption are the core of the Convention.

First and foremost is the prohibition of bribery of domestic public officials. Art. 15 criminalises both active and passive bribery. In addition to domestic bribery, Article 16 also covers cross-border bribery, i.e., bribery of foreign public officials. In this context, Art. 16 essentially sets out the same requirements as Art. 15. In addition to bribery and corruption of public officials, Article 21 also covers corruption in the private sector.

In addition to the typical form of corruption, Art. 17 regulates criminal provisions that go beyond corruption. These include embezzlement, misappropriation and other unlawful use of assets by a public official. This provision is directly binding under international law.

The criminalisation of the above-mentioned forms of behaviour is complemented by a series of preventive measures. The preventive measures are characterized by a non-binding regulatory technique and very general wording. Preventive measures also include the protection of whistleblowers, i.e., the creation of a system to protect persons who provide information about possible criminal offences as defined by the UNCAC.

Art. 34 regulates the invalidity of contracts that have been concluded through bribery and claims for compensation for damages caused by bribery. The UNCAC thus pursues a multidisciplinary approach to combating corruption. Furthermore, the UNCAC is characterised by a comprehensive system of mutual legal assistance.

More in details the purposes of the Convention are stated as:

1. To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
2. To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
3. To promote integrity, accountability and proper management of public affairs and public property.

The Convention shall apply, in accordance with its terms, to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention.

The UNCAC is the milestone in the international fight against corruption.<sup>2</sup>

All states that have adopted the Convention are subject to a review of the implementation of the measures. The first Review cycle was based on Chapter III and IV of the Convention (Criminalisation and law enforcement and International cooperation).

The findings for Jordan of the review team disclosed a number of good practices which include, among others, the development of a comprehensive anti-corruption strategy and the separation of the office of the Attorney-General from the office of the Minister of Justice to ensure a high level of prosecutorial independence.

The review also disclosed a number of challenges, which need to be addressed, including better coordination of national institutions in the implementation of UNCAC. There is also the need to systematically implement the UNCAC provisions using administrative and legislative means, as appropriate.<sup>3</sup>

The second Review cycle will focus on Chapter II and V of the Convention (Prevention and Asset recovery). For this second meeting Jordan has provided the information that the most prominent features of the experience of the Anti-Corruption Commission in Jordan are as follows:<sup>4</sup>

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<sup>2</sup> The entire convention can be viewed at

[https://www.unodc.org/unodc/corruption/tools\\_and\\_publications/UN-convention-against-corruption.html](https://www.unodc.org/unodc/corruption/tools_and_publications/UN-convention-against-corruption.html)

<sup>3</sup> UNCAC, Implementation Review Group, 2011

<sup>4</sup> Thematic Compilation of Relevant Information submitted by Jordan, Art. 5 UNCAC Evaluation of Anti-Corruption Measures

1. Preparation of a study of the extent to which Jordanian legislation is in harmony with the United Nations Convention.

2. Partnership of the main participants in anti-corruption efforts, and in order to develop the institutional relationship with those partners. The defined aims of the Commission include developing a communications strategy in order to draw up plans and work mechanisms aimed at encouraging cooperation among these agencies and increasing the exchange of information and documents.

3. Cooperation and coordination with anti-corruption institutions in the flow of information and exchange of experiences. A number of memorandums of understanding have been signed with several such institutions.

4. Coordination and cooperation with civil society institutions, including businessmen and media organisations.

5. Reviewing work procedures in public institutions in order to facilitate and simplify those procedures for officers, as the simpler procedures are, the fewer possibilities there will be for corruption.

6. Making officers aware of the dangers corruption presents to economic, social and political development efforts by organising conferences, seminars and workshops that include researchers, public sector officers, university and school students, men of religion, imams and preachers.

7. Strengthening the concepts and principles of integrity in society by introducing a culture of integrity and rejection of corruption in Jordanian school and university curricula. This is done by amending national educational curricula with the aim of firmly instilling these principles in school and university students.

8. Developing integrity, good governance and transparency indicators and internal inspection.

9. Preparation of a survey of the business environment in Jordan in order to identify the obstacles businessmen face, determine the forms and location of corruption and the areas in which it occurs, and identify the public spheres and institutions most exposed to it.

In preparation for the second round of review in cooperation with the UNDP, a training course for the national team has been conducted, in which the team was trained on filling the self-assessment report and requirement. It was based on 4 topics: items on providing effective, coordinated anti-corruption policies and bodies (articles 5 and 6 of the UNCAC), items on public office (articles 7, 8, 2 (e) of chapter II of the UNCAC), items on public procurement and the role of public and private sectors (articles 9 (1), 3, 12 (1) and 2, except article 2 (e) and 3 of chapter II of the UNCAC) and items on public access to information and promoting the participation of the society (articles 10, 13, 9 (2) of chapter II of the UNCAC).<sup>5</sup>

## **2.2. COUNCIL OF EUROPE RECOMMENDATIONS**

The Council of Europe adopted the Twenty Guiding Principles for The Fight Against Corruption on 6<sup>th</sup> November 1997 which was elaborated by the Multidisciplinary Group on Corruption (GMC). The guiding principles provide standards on, among others, improving investigation, confiscation and asset recovery as well as increasing international cooperation. The Resolution also aims to promote a dynamic process for effectively preventing and combating corruption.

The Guiding principles include raising public awareness, improving investigation and prosecution procedures, promoting specialization of persons or bodies in charge of fighting corruption as well as increasing international cooperation. In detail the Guiding principles are:

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<sup>5</sup> Implementation Review Group of the United Nations Convention against Corruption, Fifth session, Vienna, 2-6 June 2014

1. to take effective measures for the prevention of corruption and, in this connection, to raise public awareness and promoting ethical behaviour;
2. to ensure coordinated criminalisation of national and international corruption;
3. to ensure that those in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the independence and autonomy appropriate to their functions, are free from improper influence and have effective means for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations;
4. to provide appropriate measures for the seizure and deprivation of the proceeds of corruption offences;
5. to provide appropriate measures to prevent legal persons being used to shield corruption offences;
6. to limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society;
7. to promote the specialisation of persons or bodies in charge of fighting corruption and to provide them with appropriate means and training to perform their tasks;
8. to ensure that the fiscal legislation and the authorities in charge of implementing it contribute to combating corruption in an effective and coordinated manner, in particular by denying tax deductibility, under the law or in practice, for bribes or other expenses linked to corruption offences;
9. to ensure that the organisation, functioning and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness;
10. to ensure that the rules relating to the rights and duties of public officials take into account the requirements of the fight against corruption and provide for appropriate and effective disciplinary measures; promote further specification of the behaviour expected from public officials by appropriate means, such as codes of conduct;
11. to ensure that appropriate auditing procedures apply to the activities of public administration and the public sector;
12. to endorse the role that audit procedures can play in preventing and detecting corruption outside public administrations;
13. to ensure that the system of public liability or accountability takes account of the consequences of corrupt behaviour of public officials;
14. to adopt appropriately transparent procedures for public procurement that promote fair competition and deter corruptors;
15. to encourage the adoption, by elected representatives, of codes of conduct and promote rules for the financing of political parties and election campaigns which deter corruption;
16. to ensure that the media have freedom to receive and impart information on corruption matters, subject only to limitations or restrictions which are necessary in a democratic society;
17. to ensure that civil law takes into account the need to fight corruption and in particular provides for effective remedies for those whose rights and interests are affected by corruption;
18. to encourage research on corruption;
19. to ensure that in every aspect of the fight against corruption, the possible connections with organised crime and money laundering are taken into account;
20. to develop to the widest extent possible international co-operation in all areas of the fight against corruption.

As part of its tasks, the Council of Europe conducted a review of different organizational approaches to fighting corruption in its member states. Guiding principles No. 3 and 7 were

of particular importance in this context. In addition to the Guiding principles, the implementation of the Criminal Law Convention on Corruption<sup>6</sup> was considered. For this purpose, the following three approaches were considered in more detail:

- Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against corruption.
- They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure.
- The Party shall ensure that the staff of such entities has adequate training and financial resources for their tasks.

The Convention aims principally at developing common standards concerning certain corruption offences, though it does not provide a uniform definition of corruption. In addition, it deals with substantive and procedural law matters, which closely relate to these corruption offences and seeks to improve international cooperation. Recent practice shows that international cooperation meets two kinds of difficulties in the prosecution of transnational corruption cases, particularly that of bribery of foreign public officials: one relates to the definition of corruption offences, often diverging because of the meaning of "public official" in domestic laws; the other relates to means and channels of international cooperation, where procedural and sometimes political obstacles delay or prevent the prosecution of the offenders. By harmonising the definition of corruption offences, the requirement of dual criminality will be met by the Parties to the Convention, while the provisions on international co-operation are designed to facilitate direct and swift communication between the relevant national authorities.

As a result, for the CoE Standards, this means that the national Anti-Corruption-Strategy shall include the following three elements: Repression, Prevention, Training.

These elements are equivalent and shall complement each other and the anti-corruption-strategy shall focus on all sectors of the society. The inclusion of the society into the combat against corruption is of essential importance.

These specialised bodies shall be linked to law enforcement agencies close to the Head of the Ministry and they shall have the possibility to investigate all allegations in connection with corruption. It shall be an obligation to report allegations about corruption for administrative bodies and all anti-corruption bodies shall be special trained.

In the context of the CoE Member states the purpose of Anti-Corruptions-Units are on:

- Investigation / prosecution,
- Internal control,
- Prevention in public administration / training,
- Ensuring internal cooperation / multidisciplinary approach,
- Gathering of information,
- Evaluation and identification of corruptive situations (Intelligence),
- Acceptance and analysing of hints and complaints,
- Strengthening of cooperation between public and private entities,
- Raising of public awareness / raising of sensibility and
- Develop anti-corruption strategies and monitoring of their implementation

This leads to different types units of Combating Corruption which have its individual strengths and problems:

(a) Law enforcement units

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<sup>6</sup> <https://rm.coe.int/168007f3f5>.



<b>Strength:</b> <ul style="list-style-type: none"> <li>Focus on core area</li> <li>Specialization</li> <li>Competences and resources</li> <li>Fast, powerful</li> <li>Independent</li> <li>Reliability</li> </ul>	<b>Problems:</b> <ul style="list-style-type: none"> <li>Corruption is not the only working field</li> <li>Other responsible persons back out</li> <li>Isolation</li> <li>Pressure and immoderate influence</li> </ul>
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(b) Prevention Units

<b>Strength:</b> <ul style="list-style-type: none"> <li>Focus on core area</li> <li>Wide spread measures</li> <li>Focus on risk areas</li> <li>Integration of anti-corruption measures into reform-processes</li> </ul>	<b>Problems:</b> <ul style="list-style-type: none"> <li>Measureability</li> <li>Limited possibility to steer</li> <li>Dependent to the collaboration of others</li> <li>Cover-absorption of the lack of other measures</li> </ul>
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(c) Units for Public Awareness

<b>Examples:</b> <ul style="list-style-type: none"> <li>No information available for specialized units of this kind</li> <li>NGOs</li> <li>Proceedings by other anti-corruption units</li> </ul>
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(d) Units for Politic, for Advising Activities and Coordination of Anti-Corruption Strategies

<b>Strength:</b> <ul style="list-style-type: none"> <li>Ensuring of the implementation of the strategy</li> <li>Mobilization of a large number of institutions</li> <li>Integration of investigation, prevention and public awareness</li> </ul>	<b>Problems:</b> <ul style="list-style-type: none"> <li>Authority to coordination vs. independence</li> <li>Dependency from the political will</li> </ul>
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(e) Multifunctional Units

<b>Strength:</b> <ul style="list-style-type: none"> <li>Planning and Implementation</li> <li>Integrated access</li> <li>Concentration of skills and resources</li> <li>Visibility</li> <li>Independence</li> </ul>	<b>Problems:</b> <ul style="list-style-type: none"> <li>Dependency from one unit</li> <li>High expectations</li> </ul>
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The conclusion of this overview is that in most of the European countries specialized anti-corruption units exist and that many units combine different functions. There exists no universal modus and the purpose defines the type of the unit. In some countries exists a combination of several approaches as well as in some countries exist a lack of public awareness. The performance of the unit depends on the resources and the quality of the staff as well as of the leading level. Last but not least the independence of the units are of utmost importance. Overall, the Multifunctional Units (e) meet the most requirements and have the best performance.

## **2.3. OECD STANDARDS AND TOOLS**

The OECD has been a driving force in the global anti-corruption movement for more than four decades. The overarching objectives of the organisation's anti-corruption and integrity (ACI) work is to support trustworthy institutions and open, efficient and inclusive markets. These objectives are aligned with the OECD's commitment to promoting policies that will improve the economic and social well-being of people around the world.

The OECD works toward these objectives by setting global standards and providing the tools for their implementation. In addition to providing data and analysis, the OECD convenes and works with the international ACI community to share practices and experiences. Over 20 legal instruments have been adopted in the framework of the OECD to fight corruption, bribery and promote integrity in the public and private sectors. They include Decisions, Recommendations, Declarations, and international agreements available in the OECD Legal Instruments Compendium.<sup>7</sup>

### **2.3.1. OECD Anti-Bribery Convention and related framework**

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions<sup>89</sup> (hereinafter – the OECD Anti-Bribery Convention) establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. It is the first and only international anti-corruption instrument focused on the ‘supply side’ of the bribery transaction. The Convention was developed under inspiration of the hugely successful U.S. Foreign Corrupt Practices Act (FCPA) and was signed in 1997. The Convention entered into force in 1999 and is currently signatory by all 38 OECD countries and 6 non-OECD countries - Argentina, Brazil, Bulgaria, Peru, Russia and South Africa.

The Convention itself establishes an open-ended, peer-driven monitoring mechanism to ensure the thorough implementation of the international obligations that countries have taken on under the Convention. This monitoring is carried out by the OECD Working Group on Bribery. The country monitoring reports contain recommendations formed from examinations of each country. This monitoring mechanism has been labelled by the Transparency International as a ‘golden standard’ of monitoring mechanism.

In addition to the Convention, the Parties also adherent to the 2009 OECD Council Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions<sup>10</sup>. The Recommendation was adopted by the OECD in order to enhance the ability of the States Parties to the Anti-Bribery Convention to prevent, detect and

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<sup>7</sup> The list of relevant OECD legal acts and other standards in the area of anti-corruption and integrity is provided here: <https://www.oecd.org/corruption-integrity/explore/oecd-standards/>

<sup>8</sup> [https://www.oecd.org/daf/anti-bribery/ConvCombatBribery\\_ENG.pdf](https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf)

<sup>9</sup>Text in Arabic: [https://www.oecd.org/daf/anti-bribery/ConvCombatBribery\\_with2009RecNewLogo\\_ARA\\_MC\\_MEM.pdf](https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_with2009RecNewLogo_ARA_MC_MEM.pdf)

<sup>10</sup> <https://www.oecd.org/corruption/anti-bribery/OECD-Anti-Bribery-Recommendation-ENG.pdf>

investigate allegations of foreign bribery and its annexes include the Good Practice Guidance on Internal Controls, Ethics and Compliance<sup>11</sup>.

This Good Practice Guidance is addressed to companies for establishing and ensuring the effectiveness of internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery, and to business organisations and professional associations, which play an essential role in assisting companies in these efforts.

The Good Practice Guidance calls upon companies to develop effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery. These programmes and measures should be developed on the basis of a risk assessment addressing the individual circumstances of a company, in particular the foreign bribery risks facing the company. Such circumstances and risks should be regularly monitored, reassessed, and adapted as necessary to ensure the continued effectiveness of the company's internal controls, ethics, and compliance programme or measures.

In addition, the Good Practice Guidance recommends companies to consider a number of measures for ensuring effective internal controls, ethics, and compliance, which – in part – could be relevant also to public sector organisations. Recommended measures include good practices such as:

1. Strong, explicit and visible support and commitment from senior management to the organisation's internal controls, ethics and compliance programmes or measures;
2. A clearly articulated and visible policy prohibiting foreign bribery;
3. Oversight of ethics and compliance programmes or measures regarding foreign bribery shall be the duty of one or more senior officials, with an adequate level of autonomy from management, resources, and authority;
4. Effective measures for internal and where possible confidential reporting by, and protection of whistleblowers;
5. Appropriate disciplinary procedures to address, among other things, violations, at all levels of the organisation, of laws against foreign bribery, and the ethics and compliance programme or measures regarding foreign bribery.

### **2.3.2. OECD Recommendation on Public Integrity**

The OECD Council Recommendation on Public Integrity<sup>1213</sup> was adopted on 26 January 2017. This Recommendation provides policy makers with the blueprint for a public integrity strategy. It shifts the focus from ad hoc integrity policies to a comprehensive, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.

According to the Recommendation, public integrity refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector.

In other words, public integrity means:

- Doing the right thing, even when no one is watching.
- Putting the public interest ahead of your own interests.
- Carrying out your duties in a way that would withstand public scrutiny: if your actions were reported in the newspaper the next day, everyone could agree that you did the right thing, based on the information you had.

The Recommendation is built on three pillars: System, Culture and Accountability.

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<sup>11</sup> <https://www.oecd.org/daf/anti-bribery/44884389.pdf>

<sup>12</sup> <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0435>.

<sup>13</sup> The text of the Recommendation in Arabic: <https://www.oecd.org/corruption/ethics/integrity-recommendation-ar.pdf>

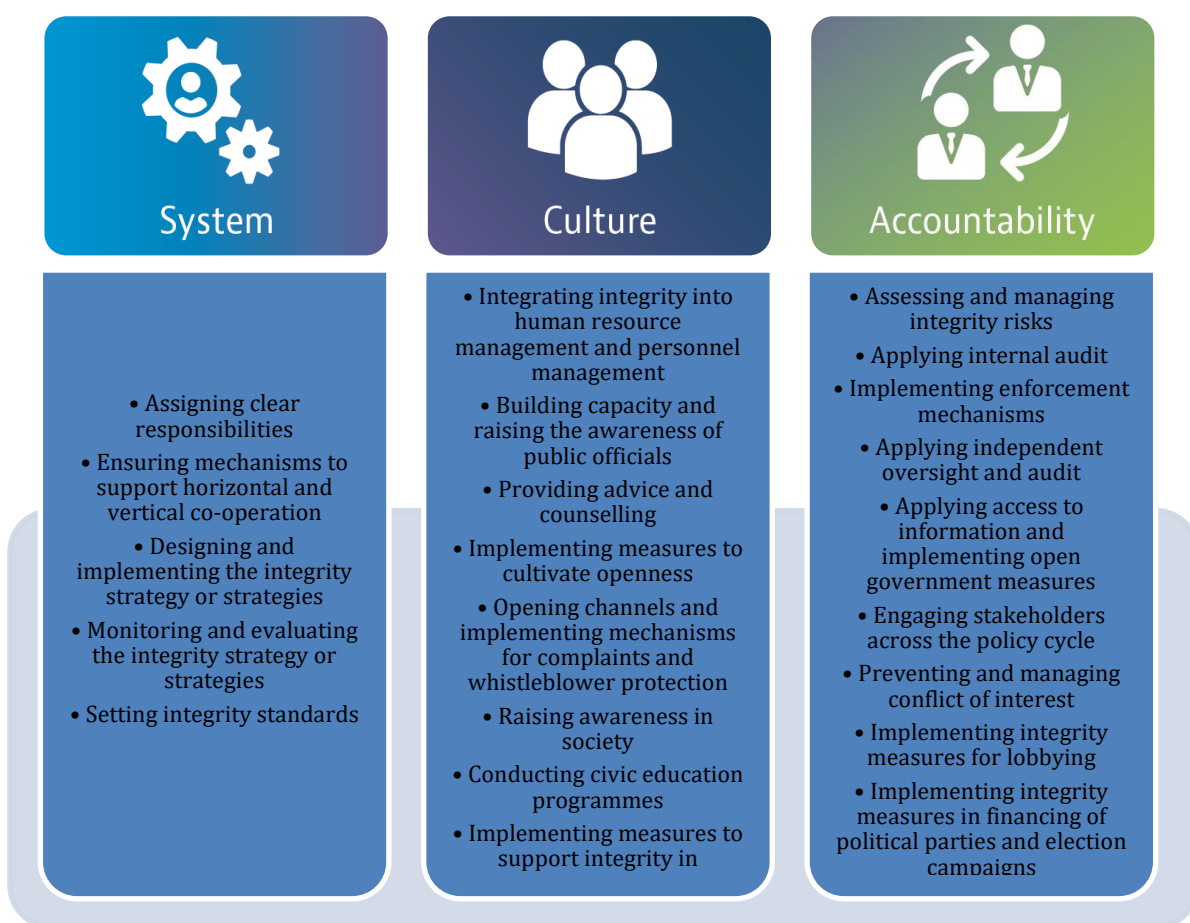


The Recommendation calls upon its adherents to:

1. Demonstrate commitment at the highest political and management levels within the public sector to enhance public integrity and reduce corruption;
2. Clarify institutional responsibilities across the public sector to strengthen the effectiveness of the public integrity system;
3. Develop a strategic approach for the public sector that is based on evidence and aimed at mitigating public integrity risks;
4. Set high standards of conduct for public officials;
5. Promote a whole-of-society culture of public integrity, partnering with the private sector, civil society, and individuals;
6. Invest in integrity leadership to demonstrate a public sector organisation's commitment to integrity;
7. Promote a merit-based, professional, public sector dedicated to public-service values and good governance;
8. Provide sufficient information, training, guidance and timely advice for public officials to apply public integrity standards in the workplace;
9. Support an open organisational culture within the public sector responsive to integrity concerns;
10. Apply an internal control and risk management framework to safeguard integrity in public sector organisations;
11. Ensure that enforcement mechanisms provide appropriate responses to all suspected violations of public integrity standards by public officials and all others involved in the violations;
12. Reinforce the role of external oversight and control within the public integrity system;
13. Encourage transparency and stakeholders' engagement at all stages of the political process and policy cycle to promote accountability and the public interest.

According to the *OECD Public Integrity Handbook*<sup>14</sup> public integrity requires high-level commitment to: 1) support, 2) control and 3) enforce it. Core elements that support public integrity aim to ensure that public officials understand their integrity roles and responsibilities, and can rely on the financial and human resources and guidance available for maintaining public integrity. Core elements also include a strategic approach to public integrity, high standards of conduct, mobilising society, leadership, a merit-based public sector, capacity building and awareness raising, and open organisational cultures. Core elements that control public integrity focus on ensuring the effective accountability of the system, by managing, monitoring and scrutinising the development, implementation and review of commitments. This includes risk management, internal controls, and internal and external oversight, as well as participation by external stakeholders. Finally, core elements that enforce public integrity focus on detecting, investigating and sanctioning public integrity violations, and include the disciplinary, administrative, civil and criminal regime.<sup>15</sup>

**Table 1. Integrity functions<sup>16</sup>**



Taking a systemic approach to promoting integrity and combating corruption requires understanding the wide range of entities and actors which, when combined, make up an integrity system. Moreover, it involves understanding their mandates and capacities, as well as their functions in the overall system. In line with their relevant political and legal context, each government (national and sub-national) and public organisation should have clear roles

<sup>14</sup> OECD (2020), *OECD Public Integrity Handbook*, OECD Publishing, Paris, <https://doi.org/10.1787/ac8ed8e8-en>

<sup>15</sup> Ibid, p. 17.

<sup>16</sup> Ibid, p. 29.

and responsibilities across the integrity system. The following are essential for a successful exercise of responsibilities and co-operation:

- Responsibilities for designing, leading and implementing the integrity system at each level are clear.
- Appropriate resources and capacities are in place to fulfil organisational responsibilities.
- Mechanisms for horizontal and vertical co-operation are established and effective.

With regard to public sector organisations, not all the functions outlined in Table 1 will fall within the remit of the organisation. For example, only a few organisations will have the mandate to ensure integrity in elections and political party financing, or carry out education about public integrity in schools. However, a number of key functions are applicable to all public sector organisations, regardless of the mandate; these are identified in Table 2, along with the position or unit normally responsible for their implementation. It should be clear which unit or individual is responsible for what. The necessary resources should be assigned, and the appropriate cooperation mechanisms established.

**Table 2. Actors and integrity roles at the organisational level<sup>17</sup>**

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<sup>17</sup> Ibid, p. 32.

Position or unit	Integrity role
Highest officer	Ultimately responsible for the agenda, implementation and enforcement of integrity policies for the entire organisation
Management	Responsible for implementation of integrity policies and for promoting ethical behaviour within the organisational units for
Integrity co-ordinator Compliance officer Integrity policy staff	A wide range of different types of officers who fulfil roles relating to: design, support and advice, implementation, co-operation, and
Internal audit and control	Responsible for establishing an internal control system and risk management framework to reduce vulnerability to fraud and
Finance	Responsible for taking care of vulnerable actions around purchasing, tenders, and expense claims in a transparent manner
Legal	Responsible for formulating administrative-legal policy, providing advice based on relevant legislation and the drafting of delegation
Human resource management	Responsible for establishing procedures and providing advice concerning recruitment and selection, job descriptions,
Communication / Information	Responsible for communication concerning integrity standards and procedures
Security / ICT	Responsible for setting up physical and ICT security
Confidential advisor	Responsible for advising employees on and coaching them in the internal reporting process in the event of suspected integrity

Among elements that are essential to implementing public integrity, the Recommendation also focuses on oversight and control within the public integrity system. According to the *OECD Public Integrity Handbook*, a comprehensive model of public accountability comprises two dimensions:

- Answerability: the obligation to provide information, clarification, explanation and justification.
- Enforcement: formal action against illegal, incorrect, inefficient or ineffective conduct of the accountable institution or public official.
- Both answerability and enforcement require an adequate institutional setup at two levels: 1) internal mechanisms (within the bureaucratic chain of command) and 2) external oversight and control mechanisms.
- Within the typology of external oversight, control and enforcement bodies, the following four groups of institutions are focused on: 1) Ombudsmen (general and specialised mandates), 2) supreme audit institutions, 3) administrative courts, specialised administrative courts and courts of general jurisdiction providing independent and impartial judicial review

of administrative actions and omissions and 4) regulatory enforcement agencies (such as Anti-Corruption Agencies and similar), bodies responsible for enhancing compliance and reaching goals of regulation among public and private bodies.

**Table 3. Oversight bodies: Key features, similarities and differences<sup>18</sup>**

Type of body	Status	Mission	Powers
<i>Specialised ombudsmen, information commissioners</i>	Independent bodies accountable to the legislature, often enjoying constitutional status.	Protecting and promoting rights and freedoms	Investigating violations of human rights and freedoms by executive bodies; issuing recommendations in such cases and in general matters
<i>Supreme audit institutions</i>	Independent bodies from the executive with powers often entrenched by the constitution	Ensuring legality, efficiency, effectiveness, and financial and performance management in the public sector	Conducting external, independent audit of legality, regularity and performance of public bodies and policies; issuing recommendations about corrective measures
<i>Administrative courts</i>	Independent and impartial judicial bodies	Providing independent judicial review of the legality of administrative actions	Repealing unlawful administrative acts, requiring administration to take corrective action
<i>Regulatory enforcement agencies</i>	Executive bodies enjoying special guarantees of functional independence	Improving and promoting compliance with rules and regulations and international treaties among private and public organisations	Conducting inspections followed by sanctions in case of non-compliance, licensing, accrediting, permitting or approving economic activities

Although there are a number of ways in which the institutions can be configured, along with the tools and mechanisms that a country may use to achieve external oversight, the following lines of action are essential:

- Fostering adequate responses by public sector entities to oversight bodies' advice.
- Strengthening effective complaint and allegation handling by oversight bodies.
- Ensuring impartial enforcement of laws and regulations by oversight bodies.

To facilitate organisational learning and demonstrate the accountability of public sector organisations, adequate responses to oversight bodies' sanctions, rulings and formal advice is required. Moreover, good governance arrangements increase the prospect of successfully implementing the recommendations and advice of the oversight bodies. In establishing a tracking and monitoring system, it is essential that public organisations assign clear responsibilities, connect the tracking and monitoring system to the management and control cycle, and regularly communicate on the status of implementation to the relevant internal and external bodies.

The tracking and monitoring system should include basic elements such as the advice and which body provided it, the date the advice was issued, and the date by which a response is due. If a response date is not provided by the oversight body and is not outlined in a relevant law or regulation, public sector organisations should set a reasonable time by which they will respond to every advice, recommendation and sanction they have received. To support

<sup>18</sup> Ibid, p. 196.



implementation, public organisations should also designate an individual within the organisation who will be responsible for implementing and/or responding to the advice, as well as updating senior management on the status of implementation. Managers responsible for implementing advice or recommendations can take various measures, depending on the severity or the complexity of said advice or recommendations. A traffic light dashboard document highlighting the more important and/or urgent matters in red may be used to set and highlight priorities.<sup>19</sup>

In addition, in order to improve their responsiveness and openness, oversight bodies - such as Anti-Corruption Agencies - can develop a strategy for better communication and enhancing public participation. With more visibility and trust among the citizens, oversight bodies may achieve greater impact on the administration. Recommendations can be published and disseminated through various communication channels, such as press releases, social media and public presentations.<sup>20</sup>

The principle on oversight also calls on adherents to ensure the impartial enforcement of laws and regulations, which may apply to public and private organisations or individuals, by regulatory enforcement agencies. This requirement can be met if the regulatory enforcement agencies are free from undue influence of political decision makers and interest groups, and remain subject to external accountability, particularly judicial review of their decisions.

The independence of regulatory enforcement agencies has two dimensions: 1) formal (*de jure*) independence requiring that regulatory agencies remain outside the bureaucratic, hierarchical chain of command within a ministry; and 2) actual (*de facto*) independence, which relates to the agency's self-determination in the use of regulatory measures.

Preventing political decision makers from giving instructions or adopting binding guidance and directions on the regulatory enforcement agencies' measures and priorities fosters their formal independence. The agencies can be provided with extensive independence in selecting the regulated entities to be inspected and deciding on the measures to be applied, including sanctions. The managing bodies of agencies can be appointed through open and transparent procedures for a fixed term, with limited possibility for early dismissal based on grounds entrenched in legislation. Their independence also relies upon their autonomy in defining their internal organisation as well as their human resources and financial management.

Accountability and transparency are the other side of the coin of independence. The regulatory agencies are subject to oversight and control mechanisms to ensure that they effectively achieve policy objectives deemed by government and the legislator to be in the public interest. A clear definition of the regulatory agencies' objectives, comprehensive and meaningful performance indicators, and regular reporting on their performance to the legislature – such as legislative oversight committees, either directly or via their minister – can support this objective.<sup>21</sup>

While regulatory enforcement agencies are necessary to protect public goods and improve regulatory outcomes, their activities also create burden and costs for the regulated industries and markets. Smart enforcement is less visible and less burdensome for businesses, and more effective in serving the public interest. Inspection reforms of recent decades provide an extensive catalogue of measures serving this purpose, including:

- Joint planning of inspections enhanced by joint IT systems for all or most of the inspectorates.

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<sup>19</sup> Ibid, p. 199.

<sup>20</sup> Ibid, p. 200.

<sup>21</sup> Ibid, p. 202.

- Risk-based targeting enabling agencies to limit the total number of inspections, while increasing the effectiveness of the overall inspection scheme. Risk-based targeting requires advanced methodology and access to data collected by numerous public institutions.
- Providing regulated entities with clear guidance on “how to do things right”, including the preparation and publishing of checklists to be used by the inspectors.<sup>22</sup>

### 2.3.3. Support for Improvement in Governance and Management

Support for Improvement in Governance and Management (SIGMA) is a joint initiative of the OECD and the European Union. Its key objective is to strengthen the foundations for improved public governance, and hence support socio-economic development through building the capacities of the public sector, enhancing horizontal governance and improving the design and implementation of public administration reforms, including proper prioritisation, sequencing and budgeting. The SIGMA has outlined a series of Principles of Public Administration specifically relevant for EU candidate countries. These principles define what good governance entails in practice and outline the main requirements to be followed by countries during the EU integration process. The principles also feature a monitoring framework enabling regular analysis of the progress made in applying the principles and setting country benchmarks. Despite the specific enlargement context, many of the principles apply and could provide useful guidance to any European administration.

Although general good governance criteria are universal, to support the dialogue on public administration reform in countries neighbouring the EU, SIGMA has developed The Principles of Public Administration: A Framework for ENP Countries<sup>23,24</sup>.

The Principles include 12 key requirements and 38 Principles that are further broken down into sub-principles. They are accompanied by a Methodological Annex. The Annex presents a methodological tool, which allows interested countries to evaluate their own current state of affairs in relation to some or all of The Principles of Public Administration and also to measure progress in the implementation of reforms over time. The methodological tool can be used with external expert support or to support self-assessment. However, the tool is used, the collection of significant amounts of data and a strong analytical capacity to support robust evaluation are required to achieve rigorous and credible outcomes.

The methodological tool features both qualitative and quantitative indicators, and focuses on the implementation of reforms and how the administration performs in practice. It uses, where relevant, other internationally recognised indicators, for example indicators from the World Economic Forum and the World Bank. The indicators enable the measurement of progress, as well as provide information and input for the country on the steps that could be taken to further develop and improve the public administration. As with The Principles of Public Administration, the methodological tool is flexible; a country may decide to use all or some of the indicators for an evaluation of its current situation.

Since the framework enables analysis and tracking of progress in very specific fields, the institutions dealing with different aspects of the public administration can analyse the indicators relevant to their area(s) of responsibility.

For example, the chapter Service Delivery defines four Principles, grouped under one key requirement for the service delivery area. Key requirement: Administration is service-delivery oriented; the quality and accessibility of public services is ensured. The 4 Principles are as follows:

<sup>22</sup> Ibid, p. 206.

<sup>23</sup> <http://sigmaweb.org/publications/Principles-ENP-Eng.pdf>

<sup>24</sup> <http://sigmaweb.org/publications/Principles-ENP-Arabic.pdf>

<b>PRINCIPLE 1:</b>	Policy for service delivery-focused state administration is in place and applied.
<b>PRINCIPLE 2:</b>	Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.
<b>PRINCIPLE 3:</b>	Mechanisms for ensuring the quality of public service are in place.
<b>PRINCIPLE 4:</b>	The accessibility of public services is ensured.

Examples of indicators:

#### QUANTITATIVE INDICATORS

- Expenditure on general public services as a share of gross domestic product.
- Percentage of users satisfied with public services.
- Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).

#### QUALITATIVE INDICATORS

- Extent to which citizen-oriented policy for service delivery is in place and applied.
- Extent to which policy and administrative preconditions for e-service delivery are applied.
- Extent to which the legal framework for good administration is in place and applied.

### 2.3.4. Further OECD tools on Public Integrity

In addition to the Public Integrity Handbook, the OECD has produced further tools to assist governments and public organisations to implement public integrity.

The *OECD Public Integrity Toolkit*<sup>25</sup> offers digital tools to manage and promote public integrity. Developed and tested by OECD governments and selected partners, the tools will help policy makers and practitioners to face the daily governance challenges related to integrity. The Toolkit is regularly updated.

The *OECD Public Integrity Maturity Models*<sup>26</sup> allow a government (national or subnational) or a public sector organisation to assess the elements of their integrity systems, and identify where they are situated in relation to good practice across four categories: nascent, emerging, established and leading.

<sup>25</sup> <https://www.oecd.org/governance/ethics/public-integrity-toolkit.htm>

<sup>26</sup> <https://www.oecd.org/governance/ethics/public-integrity-maturity-models.htm>

Forthcoming *OECD Public Integrity Indicators* to be used in conjunction with the public maturity models will provide for performance indicators to produce a qualitative, subjective assessment of public integrity.

The *Recommendation of the Council on Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises (ACI Guidelines)*<sup>27</sup>, which is the first international instrument to offer the state, in its role as an enterprise owner, support in fighting corruption and promoting integrity in SOEs. They were adopted by OECD governments at the annual Ministerial Council Meeting on 22-23 May 2019. They are also supplemented by the Implementation Guide<sup>28</sup>, which covers the four pillars of the ACI Guidelines. Like the Guidelines, the Implementation Guide is addressed to government officials charged with exercising ownership of state enterprises on behalf of the general public, but can be useful for companies and civil society too. It provides answers to common questions about the Guidelines and presents many country examples of the different ways that the Guidelines can be put into practice.

## 2.4. EUROPEAN UNION ACTIONS, STANDARDS AND GUIDANCE IN THE AREA OF PUBLIC INTEGRITY AND ANTI-CORRUPTION

The EU has a general right to act in the field of anti-corruption policies, within the limits established by the Treaty on the Functioning of the European Union. In particular, the EU should ensure a high level of security, including through the prevention and combating of crime and the approximation of criminal laws. In its Article 83, the Treaty recognises corruption as a 'euro-crime', therefore the EU holds legislative powers to regulate this area.

The EU has adopted some **specific anti-corruption legislation**, in particular the Convention on the Protection of the European Communities' Financial Interests and its protocols ('PIF Convention') (1995), the Convention on the Fight against Corruption involving Officials of the European Communities or officials of the EU Member States (1997), the 2003 Framework Decision on combating corruption in the private sector, and the Directive on the fight against fraud to the Union's financial interests by means of criminal law ('PIF Directive') (2017).

Further examples of sector-specific EU legislation include measures in the area of money-laundering and recent Directive on whistleblower protection.

In the area of the EU **institutional set-up**, the European Commission's anti-corruption efforts are centred around the following main pillars: mainstreaming anti-corruption provisions in EU horizontal and sectorial legislation and policy; monitoring performances in the fight against corruption by Member States; supporting the implementation of anti-corruption measures at national level via funding, technical assistance and experience-sharing; improving the quantitative evidence base for anti-corruption policy. While the European Commission regularly receives reports about alleged corruption cases in Member States from citizens, it has no powers to intervene in individual cases<sup>29</sup>.

A number of EU agencies, such as Eurojust, OLAF and Europol, have a role to play in the area of preventing, detecting and enforcing fraud and corruption. In addition, the European Public Prosecutor's Office (EPPO) has become functional as of 2021 June and will play a key role in fighting fraudulent action targeting the EU's budget, including corruption. Anti-corruption work is also ongoing in such networks as European Partners Against Corruption (EPAC) and European contact-point network against corruption (EACN).

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<sup>27</sup> <https://www.oecd.org/daf/ca/Guidelines-Anti-Corruption-Integrity-State-Owned-Enterprises.pdf>.

<sup>28</sup> <https://www.oecd.org/corporate/ca/Implementation-Guide-ACI-Guidelines.pdf>.

<sup>29</sup> [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption_en)

Anti-corruption is also an integral part of the EU accession **criteria**. The Copenhagen criteria are the essential conditions all candidate countries must satisfy to become a member state. These are:

- Political criteria: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- Economic criteria: a functioning market economy and the capacity to cope with competition and market forces;
- Administrative and institutional capacity to effectively implement the *acquis* and ability to take on the obligations of membership.<sup>30</sup>

Anti-corruption is also an important element in the EU external action area and many non-EU countries, including Jordan, benefit from technical assistance programmes such as European Neighbourhood Instrument in the sectors of the rule of law and justice.

Since the EU is based on a set of shared values including respect for fundamental rights, democracy, and the rule of law (Article 2 of the Treaty on European Union), anti-corruption is seen as a part of **rule of law** framework in the latest EU Rule of Law reports<sup>31</sup> by the European Commission. Also, the annual European Semester country reports include detailed analysis of corruption risks and associated challenges together with Country Specific Recommendations, endorsed each year by the European Council. In addition, the fight against corruption in two EU Member States is monitored through a specific Cooperation and Verification Mechanism.

According to the 2020 Rule of Law Report, the fight against corruption is essential for maintaining the rule of law. Corruption undermines the functioning of the state and of public authorities at all levels and is a key enabler of organised crime. Effective anti-corruption frameworks, transparency and integrity in the exercise of state power can strengthen legal systems and trust in public authorities.

Despite a large number of legal acts, instruments, policy reports and other tools, there is no single set of the EU standards on anti-corruption and integrity in the public sector. As the European Commission states, the fight against corruption cannot be reduced to a standard ‘one-size-fits-all’ set of measures. It also needs to take into account specific risk factors, which may vary between different countries. Nevertheless, all Member States need tools in place to prevent, detect, curb and sanction corruption.

A comprehensive approach to fighting corruption must rely on a combination of prevention and repressive measures. Corruption prevention policies cover many areas, typically including ethical rules, awareness-raising measures, rules on asset disclosures, incompatibilities and conflicts of interest, internal control mechanisms, rules on lobbying, and revolving doors. Transparency, access to public information, the protection of whistleblowers and an overall culture of integrity in public life are key elements enabling the prevention and detection of corruption.<sup>32</sup>

Reducing corruption can be achieved when there is a real culture change in public bodies and wider society. The simple adoption of statutory legislation or administrative measures will not suffice, but effective and sustainable implementation of both will make a difference in tackling corruption. Some Member States that have faced serious challenges in dealing with corruption have set up complex and sophisticated legal and institutional frameworks and adopted numerous targeted strategies or programmes. Other Member States have less comprehensive frameworks in place but face lower risks of corruption. This is due

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<sup>30</sup>[https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/accession-criteria\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/accession-criteria_en)

<sup>31</sup>2020 Rule of Law Report: [https://ec.europa.eu/info/publications/2020-rule-law-report-communication-and-country-chapters\\_en](https://ec.europa.eu/info/publications/2020-rule-law-report-communication-and-country-chapters_en)

<sup>32</sup>Selected citations from the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions „The rule of law situation in the European Union“, COM(2020) 580 final.

to established preventive mechanisms, practices or traditions, for example involving the suppliers and recipients of public services or high levels of transparency.<sup>33</sup>

Building integrity in public administration, including by strengthening the merit-based component and implementing an effective corruption prevention policy, requires addressing issues such as conflict of interest, clientelism and favouritism. Other important areas include lobbying regulation, external and internal administrative verification mechanisms, asset and interest disclosure, effective whistleblower protection, detection, investigation and prosecution of corruption offences.

The EU Quality of Public Administration Toolbox is a product of the European Commission's Interservice group on Public Administration Quality and Innovation. It is the result of an active collaboration and co-production of the number of Commission Services, which designed, steered and contributed to its structure and contents.

The Toolbox was first launched in April 2015 to support, guide, encourage and inspire those who want to build public administrations that will create prosperous, fair and resilient societies. The Toolbox aims to help countries with addressing country specific recommendations, and with delivering successful strategies and operational programmes. In 2017, the Toolbox<sup>34</sup> was further revised and complemented. It is conceived as a helpful and practical guide for civil and judicial administrations to the challenges of good governance in a constantly changing environment.

The Toolbox examines the key elements of good governance and highlights positive real-world responses in Member States to dilemmas in administration. It provides for principles and values which are the foundations of good governance, shaping behaviour in public administration. Every administration operates with its own set of values, which reveal themselves in the daily delivery of public policies and services. Where they are implicit and unstated, they become the aggregation of every official's conduct and performance, which runs the risk of inconsistency, uncertainty and instability. Where they are explicit and codified, they become common not personal, sometimes backed up with training workshops or staff discussions, and possibly also supervisory mechanisms to hold officials to these value systems. There is no 'right' or 'wrong' formulation: each administration has its own typology and terminology, but there are recurring themes. A consensus view of modern public administration can be summarised in 15 values, with alternative or related terms in *italics*.<sup>35</sup>

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<sup>33</sup> European Semester thematic 'Fight against corruption', European Commission, 2017: [https://ec.europa.eu/info/sites/default/files/file\\_import/european-semester\\_thematic-factsheet\\_fight-against-corruption\\_en\\_0.pdf](https://ec.europa.eu/info/sites/default/files/file_import/european-semester_thematic-factsheet_fight-against-corruption_en_0.pdf)

<sup>34</sup> <https://ec.europa.eu/esf/main.jsp?catId=3&langId=en&keywords=&langSel=&pubType=434>

<sup>35</sup> <https://ec.europa.eu/social/BlobServlet?docId=18556&langId=en>.



Value	Description
<b>Legality</b>	Good governance starts with applying the rule of law. In the context of fiscal governance, legality is also referred to as regularity.
<b>Integrity</b>	Good governance goes beyond legal constraints, it means doing the right thing - ensuring the administration is trustworthy and a reliable partner to business. Individual ethics and honesty are integral elements. Public funds should be managed with propriety.
<b>Impartiality</b>	Public administrations should apply equal treatment to all citizens and businesses, implying respect to all, fairness and equity, objectivity in decision-making, and avoiding discrimination.
<b>Inclusiveness</b>	This value goes further than <i>impartiality</i> , ensuring that governance is participatory, including partnership with stakeholders so the administration becomes consensus-oriented.
<b>Openness</b>	Transparency enables citizens and businesses to open a window into the inner workings of government. Open government goes further by putting information into the public domain. This value is closely related to <i>inclusiveness</i> and <i>accountability</i> .
<b>User-centricity</b>	Public administrations increasingly aim to be citizen-oriented and business-friendly. This value is also related to <i>inclusiveness</i> , and emphasises professionalism, reliability, respect and courtesy.
<b>Responsiveness</b>	User-centricity implies that public administrations are responsive, ensure that information and other services are provided in a timely manner, put things right when things are not going well, and show agility, resilience and flexibility in the face of crises.
<b>Connectivity</b>	Government should be 'indivisible', so that citizens and businesses receive the same standard of care and can access services through one or any portal, at their convenience. Administrations should apply subsidiarity when taking a 'whole of government' approach to organising resources and use coordination to ensure joined-up government.
<b>Efficiency</b>	Efficiency is about the relationship between inputs and outputs in policies, programmes, projects, services and organisations. Modern public administrations manage their processes and available resources to achieve the best results for their communities: value for money and sound public finance management.
<b>Effectiveness</b>	Effectiveness (or efficacy) concerns the extent to which objectives have been or should be achieved due to the policy, programme, project, service or the organisation's activities. Increasingly, administrations are expected to exhibit results orientation, to select and implement the instruments to achieve high-level objectives and meet societal needs.
<b>Sustainability</b>	Depending on the context, the focus might be the durability of outcomes (financial and/or technical) beyond the life of the policy intervention, or the use of finite resources and the impact on the natural environment and climate change, as part of social responsibility.
<b>Vision</b>	In the interests of sustainability, administrations need to think about medium-long term optimising, as well as short term satisficing, which demands leadership.
<b>Reflection</b>	Excellence is challenging the status quo, searching and striving for improvement, and effecting change by continuous learning to create innovation opportunities.
<b>Innovation</b>	The pursuit of improvement should translate into openness to transformation, and creating systems which encourage fresh thinking and creative ways to solve new or existing challenges, both from inside and outside the administration. To turn theory into reality, public sector organisations must be able to manage change.
<b>Accountability</b>	Ultimately, governments and their administrations are answerable for the decisions they take (which puts a premium on their <i>legality, integrity and openness / transparency</i> ).

Theme 2 of the Toolbox is devoted to ethics, openness and anti-corruption in public administration. According to the authors of the Toolbox, integrity is a core principle of good governance. The presumption should be that public officials always perform their duties to the highest ethical standards. However, there is the ever-present potential for position and power to be misused for personal or private gain. If corruption becomes endemic, it undermines development by destroying trust, misallocating resources, and depressing investment and growth.<sup>36</sup>

The Toolbox tackles a number of topics on anti-corruption, including on:

- Importance of clear statements of ethical values & standards;

<sup>36</sup> The EU Quality of Public Administration Toolbox, Theme 2: Ethics, openness and anti-corruption, p. 2.

- Setting up legal and institutional framework;
- Managing corruption risks;
- Transparency and openness;
- Internal and external oversight;
- Merit-based recruitment and other human resources management techniques;
- Information, guidance, training to public officials;
- Disclosure of interests, income and assets / managing conflicts of interests;
- Administrative simplification, controls, simplification, IT tools and innovative policy designs;
- Internal and external reporting channels and whistle-blowers protection;
- Detection and enforcement of infringements and offences.

This list may also serve as indication of which areas are important for implementing and enforcing anti-corruption on the state, sectorial and organisational levels.

According to the authors of the Toolbox, these are the main messages for policy makers and managers:

- Agree and adopt a set of stated values (ethical codes), within the overall framework of principles and values of good governance, to guide behaviour and actions;
- Prepare and implement tailored policies and strategies, which are designed around sources of corruption risk – identifying potential opportunities and lack of constraints, assessing probability and impact of the risk materialising;
- Make sure that these policies and strategies are comprehensive (individual instruments are likely to be ineffective in isolation), including enforced laws, greater openness to scrutiny, independent media, active civil society, effective judiciary, ethical HR management, and ‘rulechangers’ (administrative simplification, eGovernment, controls and audits);
- Take a balanced approach (encouraging ethical behaviour, deterring and detecting corruption) that builds trust within the administration itself, as well as the public.

The ultimate aim should be to reach the point where values are internalised, rules are implicit, and recourse to enforcement is the last resort. Good governance is synonymous with ethical administration.<sup>37</sup>

## 2.5. INTERNATIONAL ANTI-CORRUPTION ACADEMY

International Anti-Corruption Academy (IACA) was initiated by the United Nations Office on Drugs and Crime (UNODC), INTERPOL, the European Anti-Fraud Office (OLAF), the Republic of Austria, and other stakeholders. The official launch of the Academy came about in 2010. It gained the status of an international organisation in 2011 and has since witnessed an ever-growing number of Parties and partners (to date, the Academy has a constituency of 80 Parties, comprising 76 UN Member States and four IGOs, including the Hashemite Kingdom of Jordan since 2010). Through education, training, research, and cooperation, IACA empowers professionals and provides technical assistance to stakeholders seeking to strengthen their anti-corruption and compliance regimes.

IACA’s principal mission is to deliver and facilitate anti-corruption education and training for professionals and practitioners from all sectors. The universal approach and holistic curricula address a wide range of disciplines and cater to various regions of the world, like:

- International – observing regional diversity, servicing all corners of the globe, and foreseeing the broadest possible outreach;
- Inter-disciplinary – providing know-how and expertise from various academic and non-academic fields;

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<sup>37</sup> The EU Quality of Public Administration Toolbox, 2017 abridged version, p. 66.



- Inter-sectoral – catering to all sectors of society;
- Integrative – bridging the gap between theory and practice by offering theoretical and practical knowledge and tools;
- Sustainable – striving towards long-term and long-lasting solutions and services.

All of IACA's programmes feature internationally renowned professors and practitioners. These include own in-house experts of IACA, members of IACA's Frequent Visiting Faculty, and other prominent figures in anti-corruption and compliance.

IACA offers academic programs, the flagship is "Master in Anti-Corruption Studies (MACS)", the first global, postgraduate degree programme in anti-corruption and compliance. The MACS programme runs over two academic years with seven modules and a Master Thesis, including:

1. Introduction and Politics of Corruption, Anti-Corruption and Reform;
2. Corruption, Law, and International Initiatives;
3. Sociological, Criminological and Political Economy Approaches to Study Corruption
4. Economics of Corruption;
5. Anti-Corruption Compliance and Internal Investigation in Business Enterprises;
6. Anti-Corruption Enforcement;
7. Corruption Prevention, Corruption in the Digitized World, and the Future of Anti-Corruption.

The 2<sup>nd</sup> academic program is "International Master in Anti-Corruption Compliance and Collective Action (IMACC)", this specialised master's programme is focused on business professionals in these fields.

The 3<sup>rd</sup> academic program (in cooperation with the United Nations Institute for Training and Research, "unitary") is "Master in Anti-Corruption and Diplomacy (MACD)", it reflects a variety of academic disciplines necessary for providing comprehensive insight into corruption, anti-corruption, compliance systems, and diplomacy.

In addition, IACA provides (regional) summer academies (e.g. Central and South America, Middle East) and tailor-made training, which address the specific anti-corruption and compliance needs of individual organisations. These organisations (participants) are able to:

- Define their requirements - topics, participants (number and function), timing (dates and duration), location, and budget
- Focus on their specific anti-corruption and compliance needs
- Strengthen their institutional capacity to fight corruption
- Join IACA's alumni network of professionals in about 150 countries.

Such tailor-made-trainings were conducted during the past years, among others, for National Anti-Corruption Commission of Thailand (NACC), Anti-Corruption and Civil Rights Commission (ACRC) of the Republic of Korea, Audit Board of the Republic of Indonesia, National Anti-Corruption Commission of the Kingdom of Saudi Arabia, Practitioners from Eurasian Economic Union (EAEU) Member States or Siemens AG.

Due to pandemic situation IACA provides online trainings on various anti-corruption and compliance topics for professionals with different levels of experience working in the public and private sectors (duration 4-6 weeks), e. g. "Handling Conflicts of Interest in the Public Sector", "Using Asset Disclosure to Detect Indicators of Corruption", "Corporate Internal Investigation Techniques", "International Risk Management in Life Sciences" or "Tax Compliance and Corruption".

Finally, research is a central element of IACA's mandate and helps to support its programmes and activities around the world. By making its research outputs available to a broad audience, the organisation intends to position itself as a centre of innovative thinking in anti-corruption, compliance, and collective action. Research topics of last years were, among others, "Benchmarking Studies on Anti-Corruption Compliance Programmes", "Comparative study on anti-corruption compliance standards and guidelines", Comparative

study on anti-money laundering/combating the financing of terrorism (AML/CFT) and anti-corruption compliance regulation”. In 2017 IACA’s Research Fellowship Programme for highly qualified and motivated young researchers to conduct innovative research in the areas of anti-corruption, compliance, and/or collective action was implemented.

### **3. EXPERIENCE AND BEST PRACTICES FROM SELECTED EU MEMBER STATES AND OTHER COUNTRIES**

#### **3.1. RULES ON INTEGRITY IN GERMANY<sup>38</sup>**

The German Government has undertaken two major steps to create and maintain public trust in the integrity of public administration: Firstly, the administration must define rules for how it will carry out its tasks; and secondly, the administration must ensure compliance with these rules.

The Federal Republic of Germany is divided into 16 federal states (Länder) and the Federal Government. The federal states are responsible for the police and the public prosecutor's office, among other things. The tasks of corruption prevention are also in their hands as far as it does not concern federal employees. Therefore, the federal government's guideline is only binding for the federal administration. However, the federal states have followed the federal government's anti-corruption guideline and implemented it in their areas of responsibility in a binding manner and even tightened it up in some cases. Thus, the federal government's guideline serves like a framework guideline for the federal states.

The Federal Government first published its Directive concerning the Prevention of Corruption in the Federal Administration in 1998; the current version is dated 30 June 2004. The Directive covers the major aspects of a preventive strategy, such as identifying areas of administrative activity especially vulnerable to corruption, designating a contact person, raising awareness among employees and creating principles for awarding contracts.

The Directive also contains a code of conduct for federal employees and guidelines for supervisors and executives. The code of conduct is targeted at employees and explains the principles of transparent and honest conduct. The guidelines show supervisors and executives what action they must take to minimize the risk of corruption in their area of influence.

The Directive is enacted pursuant to the Basic Law of the Federal Republic of Germany. It is binding for the measures taken by all federal agencies for the prevention of corruption; the supreme federal authorities, the authorities of the direct and indirect federal administration, the federal courts and federal special funds are all considered to be federal agencies. The Directive also applies to the armed forces; the Federal Ministry of Defence is responsible for settling the details. It also applies correspondingly to legal entities under public or civil law which are wholly owned by the Federal Republic of Germany.

The Federal Government has considered the following individual areas for the prevention of corruption:

1. Identifying and analysing areas of activity especially vulnerable to corruption
2. Transparency and the principle of greater scrutiny
3. Staff
4. Contact person for corruption prevention
5. Organisational unit for corruption prevention
6. Staff awareness and education
7. Basic and advanced training
8. Conscientious administrative and task-related supervision
9. Notification and action in case of suspected corruption
10. Guidelines for awarding contracts:

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<sup>38</sup> Federal Republic of Germany, Federal Ministry of Interior, Bundesanzeiger Nr. 148, S. 17745

- 10.1. Competition
- 10.2. Separation of planning, award and settlement of accounts as a basic principle
- 10.3. Exclusion from competition
- 10.4. Anti-corruption clause, obligation of contractors under the Act on the Formal Assignment of Responsibilities to Persons Other than Civil Servants
11. Donations to public activities and facilities; sponsoring
12. Recipients of contributions
13. Special measures
14. Anti-corruption code of conduct

The complete Directive can be found in the annex to this document. There, the 15 sub-areas are described and elaborated in detail.

Also, the Anti-corruption Code of Conduct, which is intended to inform staff of situations in which they might inadvertently become involved in corruption, is attached to the annex. This Code of Conduct also aims at urging staff to fulfil their duties properly and lawfully and at alerting them to the consequences of corrupt behaviour.

Additionally, the attached Directive contains:

- Recommendations for Prevention of Corruption in the Federal Administration
- Circular on the Ban on Accepting Rewards or Gifts
- General Administrative Regulation on Sponsoring
- General Administrative Regulation on the Use of Persons not Employed in the Public Service (External Persons) in the Federal Administration

For further details see Appendix 1 “Rules on Integrity” of the Federal Republic of Germany, issued by the Federal Minister of the Interior.<sup>39</sup>

### **Best practice model in Europe of a multi-purpose agency for combating corruption**

As described in the chapter before the Federal Republic of Germany is divided into 16 federal states (Länder). Each of these 16 Länder is responsible for the organisation of the police and the public prosecutor's office in their respective areas. One of these 16 Länder is the Free and Hanseatic City of Hamburg.

The Council of Europe has designated the Internal Investigations Department of the Free and Hanseatic City of Hamburg (D.I.E.) as a best practice model for combating corruption in Europe due to this multi-agency approach. This inter-agency approach means that the anti-corruption unit is responsible for investigations, prevention and training as well as public awareness in the fight against corruption.

The Department in Hamburg is responsible for investigations of violations by police officers and for investigations of cases of corruption for the entire administration and private business. In addition to its repressive tasks, the main duty of the department is to steer the prevention of corruption for the entire Hamburg administration and private sector.

In parallel, the department conducts corruption prevention training and awareness raising campaigns.

The D.I.E. is an independent body which reports on corruption prevention measures directly to the Government of the Free and Hanseatic City of Hamburg.

### **Competence and Staff**

Subject matter competence - police matters and offences committed by public officials  
- was retained in the D.I.E. as was the organisational attachment as an investigating agency

<sup>39</sup> [https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?\\_\\_blob=publicationFile&v=3](https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile&v=3)

of the detective police which is subordinate to the right of control of the State Councillor in the Authority of the Interior. Irrespective of this special order of authority, which does not provide for any influence by the State Councillor - that is of the political level - on individual investigative acts, the Section is integrated into continuous rounds of meetings in order to ensure the required exchange of information with the "general" police force at management level.

The focus of activities is put on:

- Suspected offences by police officers in connection with the general world of criminals ("involvement in the world of criminals") and
- Combating corruption in the administration in general.

In addition, the evaluation of existing intelligence targeted specifically at prevention was intensified.

The previous practice of individual employees being in charge of particular matters characterized by largely rigid demarcations of competence was discontinued in favour of the setting up of flexible investigative teams.

In the selection of staff, efficient police detectives are relied on commanding the most different special knowledge - including specialists in white-collar crimes as well as tax investigators. Voluntariness and personal integrity are particularly important criteria. All officers of the D.I.E. are subject to rotation which means that after five years in charge of offences committed by police officers and after eight years in charge of offences of corruption they leave the D.I.E. and return to the "regular" detective police departments. This rotation system, for one thing, is to counter routine processes and, for another, to make it quite clear that work with the "internal investigators" is not a blemish precluding renewed assignment to the general police service.

The Department has had its own surveillance unit. The background to that decision was that the D.I.E. in its field of responsibility had such a great number of cases involving appropriate operative requirements that there was no doubt that such a unit would be used to capacity. The assignment of tasks to surveillance units such as the mobile task force or other investigative units of the police, at least in the case of police matters, is always no optimum solution because of the insufficient compartmentalization of those agencies and the degree to which their employees and their technical equipment and vehicles are known within the police force.

The remedial tasks of the D.I.E. include carrying out criminal investigations as well as - in the actual case - investigations during the run-up to a criminal offence ("grey area cases"). Disciplinary investigations deliberately and intentionally come within the competence of the D.I.E. just as little as the processing of complaints without any recognizable relevance to criminal law. Basically, those functions come within the competence of the (disciplinary) superiors of the respective agencies. In this connection a constant flow of information from the agencies - particularly the superiors - to the D.I.E. is indispensable though - especially in the light of "grey area cases".

Conversely, information about preliminary investigations conducted by the D.I.E. involving public servants is generally furnished only after a decision by the competent public prosecutor's office.

This strict separation of processing complaints and conducting disciplinary investigations on the one hand from criminal investigations on the other - in addition to the principle of unprejudiced conduct of investigations - resulted in widespread acceptance of the D.I.E. among police officers.

## **Prevention**

To fight corruption, the Hamburg administration has decided on a so-called three-pillar approach comprising a package of three corresponding measures:

1. Creating abuse-resistant administrative processes to be firmly entrenched in intra-authority monitoring and control devices and to be improved on a continuing basis (Controlling and Internal Auditing);

2. Regularly making people sensitive to corruption indicators by further training of employees and superiors and information of the public;

3. As well as consistently prosecuting offences under criminal law and service regulations and imposing sanctions on cases of corruption. In addition to that three-pillar approach, the intensive preventive activities of the D.I.E. are based mainly on three mainstays: the Central Advisory Office, the Antikorruptionskonferenz (AKK) [anti-corruption conference] and the Discussion Group Corruption.

### **The Central Advisory Office**

The Central Advisory Office to fight corruption at the Department of Internal Investigations was established by resolution of the Anti-corruption Conference. It is available as a contact for issues of the preventive and remedial fight against corruption to all salaried civil servants but also to private individuals.

Based on the realization that corruption is a conspiratorial offence and that parties providing a lead or witnesses are very rarely available, the Central Advisory Office's own activities were also greatly intensified. Hence that Office has since more than a year organised external prevention events on the subject of corruption in authorities and companies, special importance being attached to information about the punishability and consequences of corruption. Especially in the case of events involving superiors, made a subject of discussion is how to identify and deal with corruption indicators. In addition, the Central Advisory Office is integrated into training and advanced training programmes of the authorities and is at the disposal of every citizen and employee in the authorities as a contact. Moreover, twice a year a three-day administrative workshop is held about identification and prevention of corruption.

Due to the presence of the Advisory Office as an office embracing several authorities, the inhibition threshold for employees in the authorities to contact the D.I.E. about possible corruptive practices is distinctly lowered. The Central Advisory Office's work is supported by the obligation on all Hamburg authority employees to notify the criminal prosecution authorities upon identification of any suspected corruption.

The intensification of the Central Advisory Office's activity has brought about a marked increase in leads and resultant criminal proceedings.

### **The Anti-Corruption Conference (AKK)**

Sometimes, a weak point in the prevention of corruption is that the responsibility of the measures is concentrated on a single authority. However, corruption is a cross-cutting issue, at least for the entire administration. For the successful development of anti-corruption standards and their implementation, it is imperative that all stakeholders actively participate in the implementation and take over responsibility. Anti-corruption measures will only be successfully implemented if they are also seen as one's own. Therefore, the responsibility for implementing anti-corruption measures should be distributed among all authorities affected by possible corruption. To improve inter-agency cooperation, an inter-agency anti-corruption conference can be very helpful. Its main task is to monitor and supervise the implementation of the NIS recommendations and to coordinate the need for discussion. This anti-corruption conference should be staffed by high-ranking employees of the respective authorities who can make binding decisions for their respective areas. Experience has shown that with such a

body, the implementation of anti-corruption measures can be significantly improved for all authorities.

For the purpose, mentioned above, the interauthority *Anti-corruption Conference* was constituted on the recommendation of the *working party Fight against Corruption* as an institution to improve interauthority cooperation in Hamburg. Its function essentially is to supervise the implementation of the recommendations presented by the *working party Fight against Corruption* in the *Concept to Fight Corruption in Hamburg* and to coordinate discussion requirements. Participants in the AKK are senior representatives of the individual Hamburg specialist authorities, inter alia, the public prosecutor's office, the section for white-collar crimes at the State Criminal Investigation Office, the judicial authority, the audit office, the Authority for Economic Affairs and Labour, the human resources office, the Revenue Authority as well as the Internal Investigations Section whose head at the same time chairs the AKK.

At conferences held almost every month current aspects of corruption are discussed and measures embracing several authorities initiated. The individual recommendations worked out by the AKK are on the one hand conveyed to the individual authorities by conference participants and their implementation in practice initiated there. On the other hand, the recommendations lead to resolutions adopted by the senate, thus being binding on all Hamburg authorities.

So, the AKK has, for instance initiated and adopted measures concerning personnel rotation, training and further training measures on the subject of corruption, duties to report suspected corruption, measures to counter exclusivity stipulations, acceptance of gifts and rewards or obligations of experts as well as architects' and engineering offices.

### **The "Discussion Group Corruption"**

The *Discussion Group Corruption* was set up at the D.I.E., in which employees of the Department of Internal Investigations and of the agency of the Hamburg public prosecutor's office competent to deal with corruption proceedings participate. This body, which meets about every four weeks or as required, exchanges actual experience gained in the conduct of investigations, discusses legal issues and current proceedings as well as their contemplated continuation.

### **Outlook**

A factor of prime importance to the efficient fight against corruption is the political will to effectively take action against corruption. That means that the political decision-makers must make their own contribution to this subject and consider it a personal concern.

The close attachment of the D.I.E. to the State Secretary in the Authority of the Interior guarantees that the Section is appropriately equipped in terms of human and technical resources to meet demands. In addition, the concerns of the fight against corruption are forcefully emphasized in a way embracing several authorities. The result thereof was, for instance, that the senate of the Free and Hanseatic City of Hamburg adopted resolutions on extensive measures to improve the fight against corruption - such as, for instance, improving and increasing human and material resources of the D.I.E., providing a free of charge "citizen telephone", increasing personnel and means of the public prosecutor's office in charge of offences of corruption, intensifying cooperation between the criminal prosecution authorities and other authorities, supporting the D.I.E. by tax auditors of the revenue authorities, carrying out checks irrespective of any suspicion in order to identify corruption through internal audits, initiating a Freedom of Information Act, broadening the offer of information and extending training measures in sectors other than the authorities.

In addition, employees in public service who themselves are involved in corruption charges are to be promised by their employers that disciplinary or labour consequences may be dispensed with if they actively cooperate or cooperated in the detection of the offences. An appropriate provision which does not affect the state's right to punishment would sufficiently encourage a potential informer to make full disclosure of his knowledge and possibly create for him the opportunity to back out of existing situations of blackmail.

The main ingredient of effectively fighting corruption continues to be obtaining information about corrupt acts. Due to the manner of commission being based on conspiracy and an often noticed tendency to publicly dismiss witnesses and parties providing a lead as informers, attempting to denounce them as the actually morally guilty parties, corruption largely escapes criminal prosecution. To improve that situation therefore is given priority at the AKK and the D.I.E.

In line with those considerations, the Pro Honore Association - supported by the Hamburg Chambers of Commerce and Handicrafts and by the Vereinigung eines ehrbaren Kaufmanns zu Hamburg [Association of an Honourable Businessman at Hamburg] established an external "fiduciary liaison body". The tasks of such body are attended to by a lawyer's office collecting, evaluating and, should the occasion arise, passing on to the criminal prosecution authorities information from parties providing leads. This is to enable preliminary investigations protecting the party providing leads in the actual case from unjustified discrimination by co-workers, superiors or competitors and guaranteeing that such party's identity will be kept anonymous up to the trial.

### **3.2. NATIONAL ANTICORRUPTION STRATEGY OF REPUBLIC OF AUSTRIA<sup>40</sup>**

#### **Federal Bureau of Anti-Corruption (BAK)**

With the entry into force of the Federal Law on the Establishment and Organisation of the Federal Bureau of Anti-Corruption (BAK) as of 1 January 2010, the (former) Federal Bureau for Internal Affairs (BIA) was transformed into the BAK. BAK is now the Anti-Corruption Agency of Austria.

The BAK is an institution of the Austrian Federal Ministry of the Interior. Organisationally it is established outside the Directorate-General for Public Security and has nationwide jurisdiction in:

- The prevention of and the fight against corruption;
- The close cooperation with the Public Prosecutor's Office for White-Collar Crime and Corruption;
- Security police and criminal police cooperation with foreign and international anti-corruption institutions.

According to its legal mandate, the BAK follows a 4-pillar approach:

- Prevention – includes, inter alia, the analysis of corruption phenomena and the development of adequate preventive measures.
- Education – through information transfer as well as educational and awareness raising campaigns.
- Law enforcement – i.e. security police and criminal police investigations.
- Cooperation – with national and international institutions working in the field of preventing and combating corruption, as well as exchange of best practices.

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<sup>40</sup> Republic of Austria, Federal Ministry of Interior. By Council of Ministers decision dated 31 January 2018, the Austrian government adopted the National Anti-Corruption Strategy.

It is divided into three departments: 1) Resources, Support and Legal Affairs, 2) Prevention, Education and International Cooperation and 3) Operational Service.

Federal Act based on the Establishment and Organisation of the Federal Bureau of Anti-Corruption the tasks of BAK include nationwide jurisdiction in security and criminal police matters concerning the following criminal offences:

1. Abuse of official authority;
2. Corruptibility;
3. Acceptance of an advantage;
4. Acceptance of an advantage for the purpose of exerting influence;
5. Bribery;
6. Offering an advantage;
7. Offering an advantage for the purpose of exerting influence;
8. Illicit intervention;
9. Breach of official secrecy;
10. Breach of trust due to abuse of an official function or due to involvement of an office holder;
11. Misuse of funds or assets to the detriment of the financial interests of the European Union;
12. Acceptance of gifts by persons holding a position of power;
13. Agreements restricting competition in procurement procedures as well as serious fraud and commercial fraud on the basis of such agreement;
14. Acceptance of gifts and bribery of employees or agents;
15. Money laundering, if the assets arise from the offences above, criminal associations or organisations, if they intend to commit the offences above;
16. Acts punishable pursuant to the Criminal Law as well as to other laws relevant to criminal law, if they are related to the offences above and are subject to prosecution by the BAK upon written order by a court or public prosecutor's office;
17. Acts punishable pursuant to the Criminal Law as well as to laws relevant to criminal law concerning public employees of the Federal Ministry of the Interior, to the extent that they shall be prosecuted by the BAK upon written order by a court or public prosecutor's office.

The BAK is responsible for cooperation in investigations within the framework of international police cooperation and administrative assistance the BAK is responsible for cooperation with foreign authorities and international institutions in the field of prevention of and fight against corruption in general, and, in particular, exchange of experience in this area.

The BAK shall analyse corruption phenomena, gather information on preventing and combating them and develop appropriate preventive measures. In this context, the BAK is responsible for strengthening the willingness and abilities of individuals as well as territorial communities or authorities to obtain knowledge about measures for the prevention of corruption and promotion of integrity and, accordingly, to develop an awareness of this issue.

### **National Anti-Corruption Strategy (NACS)**

The Austrian National Anti-Corruption Strategy (NACS), adopted by the Austrian Council of Ministers on 31 January 2018, provides a framework for all measures taken to prevent and combat corruption.

It was developed under the direction of the Federal Ministry of the Interior, in particular the Federal Bureau of Anti-Corruption (BAK), and the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice with the involvement of all relevant stakeholders from public administration, civil society, and business. Various topics related to corruption



prevention had been discussed in the framework of ten expert panels organised by the BAK. The content of these discussions was then condensed and taken as a basis for the formulation of the NACS.

At the heart of the strategy are the commitment to integrity, the willingness to cooperate at national and international levels, the promotion of integrity, especially in public administration, and the implementation of awareness-raising measures in the public and private sector.

The strategy comprises the promotion of integrity and prevention of corruption in all sectors, ranging from public administration to the business sector and civil society. On the basis of this strategy, the Action Plan 2019-2020, which will consist of specific measures, is being prepared. In accordance with the NACS, the Action Plan is divided into the sections "Prevention" and "Law Enforcement". The six sub-categories of the section "Prevention" provide a better overview of this vast field and define priorities that will be adjusted to current developments every two years.

### **NACS Action Plan**

The anti-corruption strategy adopted in January 2018 provides the strategic framework and sets out the basic principles and objectives, while the action plan (adopted in January 2019) contains specific measures to be implemented by the Federal Chancellery and the federal ministries over the next two years.

At various events organisations and institutions from all sectors were invited to participate in the preparation of the action plan in order to work together in a national alliance against corruption.

In accordance with the structure of the NACS, the action plan, which was drawn up in close cooperation between the BAK and other responsible departments and was agreed by the Co-ordinating Body on Combating Corruption, is divided into the sections "Prevention" and "Law Enforcement". In the "Prevention" section six sub-categories were created to provide a better overview and define priorities. Examples are the promotion of integrity and compliance through, inter alia, the Austria-wide "Network of Integrity Officers", as well as the development, evaluation and revision of department-specific codes of conduct and of the code of conduct "The responsibility rests with me", which is applicable across all federal ministries and territorial authorities. The section also includes risk analysis and risk management, awareness-raising and (advanced) training in the areas of compliance, integrity and corruption prevention.

The aim of this decision taken in the 42nd session of the Council of Ministers is to bindingly implement the measures listed in the action plan or to initiate corresponding implementation steps in the period from 2019 to 2020. In order to periodically supplement and update the action plan, it was conceived as a "living document".

### **The integrity officer network**

The concept of integrity is to be further strengthened in Austria. Integrity is being anchored even more strongly than before in the awareness of public sector employees as a fundamental element in promoting integrity, reliability and efficiency. For this purpose, the BAK trains public service employees as experts in questions of promoting integrity and preventing corruption as part of a network of integrity officers. These integrity officers should act as multipliers of the concept of integrity in their organisational units. The BAK sets up, operates and administers an Internet platform (IBN platform) for the integrity officer network, on which the integrity officer can access further information on the topics of compliance, corruption, ethics, integrity or organisational culture. In addition to the Internet platform, the

BAK will in future also offer regular follow-up meetings for integrity officers. *The whole National Anti-Corruption Strategy of the Republic of Austria is attached as Annex No. 3 to this document*<sup>41</sup>.

### **3.3. CORRUPTION PREVENTION MODEL IN LITHUANIA**

#### **3.3.1. New Law on Corruption Prevention of the Republic of Lithuania**

In June 2021, a new Law on Corruption Prevention of the Republic of Lithuania was adopted and it will come into force in the beginning of 2022. This law lays down the basic principles, objectives and tasks of the corruption prevention and strengthening national security by reducing the threats posed by corruption in both the public and private sectors, the measures to create an environment resilient to corruption and the legal basis of such measures, the corruption prevention bodies, their rights and duties in the field of corruption prevention.

The key aspects of the new regulation are:

- Principle of subsidiarity;
- Establishment of subjects responsible for promoting integrity and applying corruption prevention measures;
- New and updated corruption prevention measures.

#### **Principle of subsidiarity**

The Law on Corruption Prevention is mainly based on a principle of subsidiarity. This principle means that every public institution is responsible for promoting integrity within the field of its activities in the first place. Meanwhile, independent authorities should take care of their own and their subsidiary public institutions (institutions which are under a particular authority or fall under the field of governance of such authority). In other words, actions of the authority regarding corruption prevention should be activated in cases when corruption risks cannot be managed and integrity cannot be promoted by solo efforts of a public institution. In this context a term “authorities” means public institutions which are not under any other institution (e. g., ministries, municipalities, the Office of the Parliament, etc).

This principle is established taking into account a big number of public institutions in Lithuania which have insufficient human resources, capacities or finance and consequently are not able to implement corruption prevention measures properly. It is expected that application of the principle would ensure a comprehensive and thorough corruption prevention in all public institutions.

#### **Subjects responsible for promoting integrity**

The law establishes requirements for competence, rights and obligations, as well as protection guarantees of subjects that are responsible for promoting integrity in a public sector organisation. The head of the public sector institution must ensure the operational and organisational independence of the subject responsible for creating an environment resilient to corruption, the resources necessary for the activities, the rights of those responsible for those activities and operational guarantees, including measures to protect those responsible for creating an environment resilient to corruption and (or) their employees against possible adverse effects due to the functions they perform. Mainly, the subject responsible for corruption prevention and promoting integrity in a public institution must have abilities and qualifications sufficient to perform their functions, the possibility to provide data on detected infringements, corruption risk factors, proposals for the creation of an environment resilient

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<sup>41</sup> <https://bak.gv.at>

to corruption and other relevant information directly to the head of the public sector institution, as well as the possibility to continuously improve qualifications in promoting integrity.

### **Corruption prevention measures**

The new regulation provides for the list of updated and new corruption prevention measures. There are three new measures which are not established in the current law: 1) Assessment of corruption risk management; 2) Codes of ethics and conduct; 3) Determination of anti-corruption level of public sector entities. The latter measure is considered as a new approach for measuring integrity and anti-corruption, therefore it is described in more detail in the Chapter 3.3.3.

It should be noted that some of the measures to create an environment resilient to corruption or promote integrity are also established in other laws (e. g. Law on Whistleblower Protection, Law on Lobbying, Law on Reconciliation of Public and Private Interests, etc). Together these laws create a system of corruption prevention.

#### **3.3.2. The initiative of Integrity Academy**

On December of 2020 the President of Republic of Lithuania launched the initiative “Integrity Academy”<sup>42</sup> (hereafter the Academy). The Academy is a platform for exchanging the best anti-corruption practices, where leading experts within the field of integrity share their experiences and advice on how to create an effective anti-corruption environment. Activities of the Academy are coordinated and organised by the Special Investigation Service of the Republic of Lithuania (STT) and supported by volunteering experts from public and private sectors. The idea behind this initiative is to unite national highly experienced and competent anti-corruption experts in order to share best practices and knowledge in the field of integrity. The approach of the Academy is based on the ‘professionals to professionals’ concept. The Academy is open to all public sector organisations, including SOEs, which voluntarily join the project, willingly commit to its activities, share their best practices and benefit from the insights of other participants. All the participants and experts that are involved in the initiative work voluntarily and free of charge.

The Academy is operating in two directions: 1) organising best practice sharing events and providing training; 2) providing direct methodological assistance and expertise for participants.

1. In order to participate in the Academy, public organisations must first submit a specifically designed form and provide general information about their needs regarding the anti-corruption activities. The participants may be divided accordingly: the ones asking for help to improve the effectiveness of integrity and corruption prevention measures and the ones that are devoted to share their knowledge with other participants during webinars, as well as to help them to improve the level of corruption prevention, if there is such a need. The latter organisations mainly take part in best anti-corruption practice sharing events. Whilst, participating organisations, which are asking for help, at first need to sign a document called “Commitment to participate in the academy” and hereby express their willingness to engage in the activities of the Academy. During the next step, the Academy organiser (i.e. STT) uses a specific methodology, which helps to assess the current situation in the participating organisation and identify possible risks of corruption. The assessment is based on a questionnaire, which consist of several blocks, each of them representing a specific element of anti-corruption system in organisations, e.g. risk management, anti-corruption policy, due diligence, internal audit, public procurement, etc (*see more details on the methodology in the*

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<sup>42</sup> For more information about the Integrity academy, please visit official website: <https://skaidrumoakademija.lt/en/naujienos-english/>

*next chapter*). In the following step, the submitted answers are analysed, deficiencies in the anti-corruption system of the participating organisations are indicated, and finally, particular external anti-corruption experts who will act as mentors and assist in improving the anti-corruption system are assigned by the Academy organiser. After one year or any other period agreed, the participants will answer the questionnaire once again. The expectation being that the results would indicate the corruption prevention progress in the organisations by comparing results between the first and second assessments. In case an organisation makes significant progress it may become a partner of the Academy, delegate its own employees as experts and share gained experience and knowledge with other public organisations during training sessions or methodological assistance.

2. Individual academy experts work with organisations - it is just one of two academy activities. The second one is organising webinars to all participants and other public and private sector representatives on particularly practical anti-corruption topics, such as anti-corruption or gift policy, public procurement transparency, etc. During these webinars, exemplary public institutions are invited to share their expertise according to the selected topic. In most cases, the presentations are made by public institutions, which submit a specifically designed form to participate in the Academy and express their willingness to share their knowledge with other participants. All presentations and video recordings of the events are being uploaded to the website of the Academy and Youtube in order to spread good anti-corruption practices among public organisations more widely.

In general, the Integrity academy is seeking to initiate the “snowball effect” of anti-corruption culture in the public sector, which means that development of integrity would increase faster and faster upon public sector organisations themselves. The strategic goal is to create a corruption-intolerant national public sector that would be more efficient and highly trusted by the society.

### 3.3.3. Determination of anti-corruption level

The new Law on Corruption prevention will come into force in Lithuania. The law establishes a list of various corruption prevention measures and one of them is the determination of the anti-corruption level of public sector entities. Although the entry into force of this measure will take place next year only, it is already being applied within the public sector, especially in the Integrity Academy.

The determination of anti-corruption level is based on a questionnaire, which consist of 11 blocks, each of them representing a specific element of anti-corruption system in organisations: culture of transparency, risk management, protection of whistleblowers, improvement of legislation, due diligence, management of conflict of interests, screening of persons, public procurement, corruption prevention programmes and digitalisation (please see Annex No. 2).

In order to ensure a holistic approach, questions are formulated taking into account three main elements:

1. **Legal regulation** (every procedure, including implementation of corruption prevention measures should be regulated by legal acts);

2. **Responsibility** (every corruption prevention measure must have a manager/host that is responsible for its implementation);

3. **Control** (implementation of corruption prevention measures should be supervised and controlled, including public scrutiny).

Each block contains a different number of questions which are formulated to be answered only ‘Yes’, ‘Partly’, ‘No’. All the questions in each block are graded and have different amount of points regarding their importance to particular anti-corruption measures. For example, in a case of filling a block of questions on whistleblower protection, a public

institution would get 20 points if it answers positively to a question regarding establishment and approval of a procedure for managing information received from whistleblowers and it would get 10 points if it answers positively to a question whether it has provided information on its website where cases of corruption can be reported. However, a public institution would get half of the points in case it answers 'Partly' and zero points if it answers 'No'. There are several control questions and scores of the answers to these questions are swapped - the answer 'Yes' would give zero points and the answer 'No' would give all the points of the answer. The total amount of points of each block is equal to 100.

It should be noted that not all blocks of the questionnaire must be answered. Public institutions may answer only those blocks of questions that are relevant to its activities. For example, the block of questions "Screening of persons" may not be relevant to those institutions for which this corruption prevention measure is not applicable. In such a case, all questions in the block may be skipped and not be filled in. However, if a public institution chooses to fill in a certain block of questions, all the questions in the block must be answered.

Furthermore, public institutions have to briefly provide additional information next to the answer which gives any points. Usually, public institutions need to provide an additional comment, a link to a particular webpage, a link to a legal document or provide its number, date of adoption and other relevant information. The collection of such information has two purposes: 1) it helps public institutions to provide honest and reasoned answers; 2) it helps for subjects that are supervising and monitoring anti-corruption activities of public institutions to collect relevant information. To support the second purpose, every block of the questionnaire has a couple more questions which are used to collect additional information on implementation of a particular anti-corruption measure. Answers to these questions are not involved in the final result of a public institution's resistance level to corruption, however it provides some statistical data which allows to see a more comprehensive picture of application of a particular anti-corruption measure. For example, in the block of questions "Whistleblower protection" there are a couple questions regarding the number of reports and detected cases of corruption which are necessary to indicate a volume of reports and if an internal reporting channel is working.

The level of anti-corruption is calculated in accordance with the average score - the sum of accumulated points is divided by the number of blocks which were answered and multiplied by 100 percent. The final result is assessed in accordance with the following intervals:

Resistance level to corruption		Intervals	
Very high		>90%	100%
High		>70%	=90%
Average		>40%	=70%
Low		>10%	=40%
Very low		0%	=10%

In order to get more comprehensive results and increase the objectiveness of determination of anti-corruption level, it is foreseen to use a survey of employees as well. This survey would show their opinion on the corruption prevention system from inside of the organisation, efforts made by the management and the temperature of integrity within the

public institution. The results of the survey would be an integral part of the overall result of anti-corruption level.

### **3.3.4. Coordination and monitoring unit of STT functions**

The Special Investigation Service of the Republic of Lithuania (STT) has established the Coordination and Monitoring unit (hereinafter - CMU) under the Corruption prevention department. The idea behind the new unit is to ensure effectiveness of corruption prevention measures and coordinate actions of different entities in the field of corruption prevention at national level. The CMU focuses mainly on three activities: 1) coordinating and providing methodological assistance to public sector organisations and officials, who are responsible for promoting an environment of anti-corruption in their organisations; 2) monitoring implementation of corruption prevention measures by the public sector organisations; and 3) promoting anti-corruption culture in the private sector.

The CMU coordinates and provides methodological assistance for public sector organisations through organising seminars, where various corruption prevention measures are presented and the way how to effectively implement them is explained. The CMU also regularly organises meetings with public sector institutions in order to: 1) discuss biggest challenges, while implementing corruption prevention measures, 2) share best anti-corruption practices among institutions, 3) promote exchanging contacts between employees, responsible for corruption prevention and integrity in different public sector institutions. These meetings are a very important part of the networking of corruption prevention specialists who meet each other and later can communicate and cooperate during their daily work regarding promoting integrity. Furthermore, during the meetings public institutions such as ministries and municipalities are being encouraged to be responsible and proactive to promote an anti-corruption environment both internally and in subordinated bodies (institutions which are under the ministries or municipalities).

Additionally, the CMU analyses data from corruption risk analysis and legal proofings that are conducted by other units of the Corruption prevention division of the STT, as well as monitors how public sector organisations implement corruption prevention measures by collecting data from organisations directly or through their websites, and presents summarized findings publicly. These findings are very important for the public organisations as they identify which fields are prone to corruption and what measures should be taken in order to mitigate corruption risks.

In 2018, two operational guidelines were released by the Corruption prevention department of the STT. The first one, “A Guide of Development and Implementation of an Anti-corruption Environment in the Public Sector”<sup>43</sup>, was dedicated to all public sector organisations to help them to create an environment of anti-corruption, and the “Anti-corruption handbook for business”<sup>44</sup> was dedicated to promoting an anti-corruption environment in the private sector. The CMU is responsible for dissemination of these guidelines and spreading their ideas among public and private entities. The unit is also responsible for regular review and update of these publications in case the newest best practices or recommendations from international organisations emerge.

Furthermore, in order to promote integrity in the private sector, the CMU organises meetings, conferences, and carries out various surveys to analyse the needs of the private sector and attract its attention to corruption prevention.

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<sup>43</sup> English version of anti-corruption handbook for public sector:  
<https://stt.lt/doclib/mqkqladtqnnds9rqy3zesjp9fypw9css>

<sup>44</sup> English version of anti-corruption handbook for business:  
<https://www.stt.lt/en/doclib/wnl41crg3tmvszezuchrvrtz9ehuam8f>

### 3.3.5. SOE Good Corporate Governance Index

In 2012, an analytic Governance Coordination Centre aiming to ensure a consistent and professional governance of the SOEs was established by the Government of the Republic of Lithuania. Centre's functions include a wide scope of coordinating activities: selection of the independent board members, oversight of strategic plans implementation, preparation of reports regarding SOEs performance and the dissemination of the information, assistance in SOE policy making and consulting regarding good governance principles implementation.

The Governance Coordination Centre has created an evaluation tool – the SOE Good Corporate Governance Index (hereinafter - Index). The purpose of the Index is to evaluate and measure how the state-owned enterprises (SOEs) and the institutions representing the state implement main practices of good governance, which encompass recommendations formulated by the Organisation for Economic Cooperation and Development (OECD), the provisions of the Ownership Guidelines, Transparency Guidelines and Nomination Guidelines, as well as other policies and global best practices. At the present time this is the only tool on the basis of which the quality of governance of all SOEs and their subsidiaries, as well as their compliance with the provisions of legal acts, are evaluated. The Index is issued as a separate governance report where aggregated results of SOE governance are presented. The reports are publicly accessible on the website of the Governance Coordination Centre.<sup>45</sup>

A methodology of the Index is based on the OECD governance principles, the laws and the Resolutions of the Government defining SOE governance in Lithuania. Seeking for a comprehensive evaluation of SOEs, the methodology is supplemented with other global governance practices, which are not necessarily laid down in national legal acts, for example, sustainability (corporate social responsibility). For this reason, the methodology of the Index is much broader than just the evaluation of compliance with the national SOE governance policy.

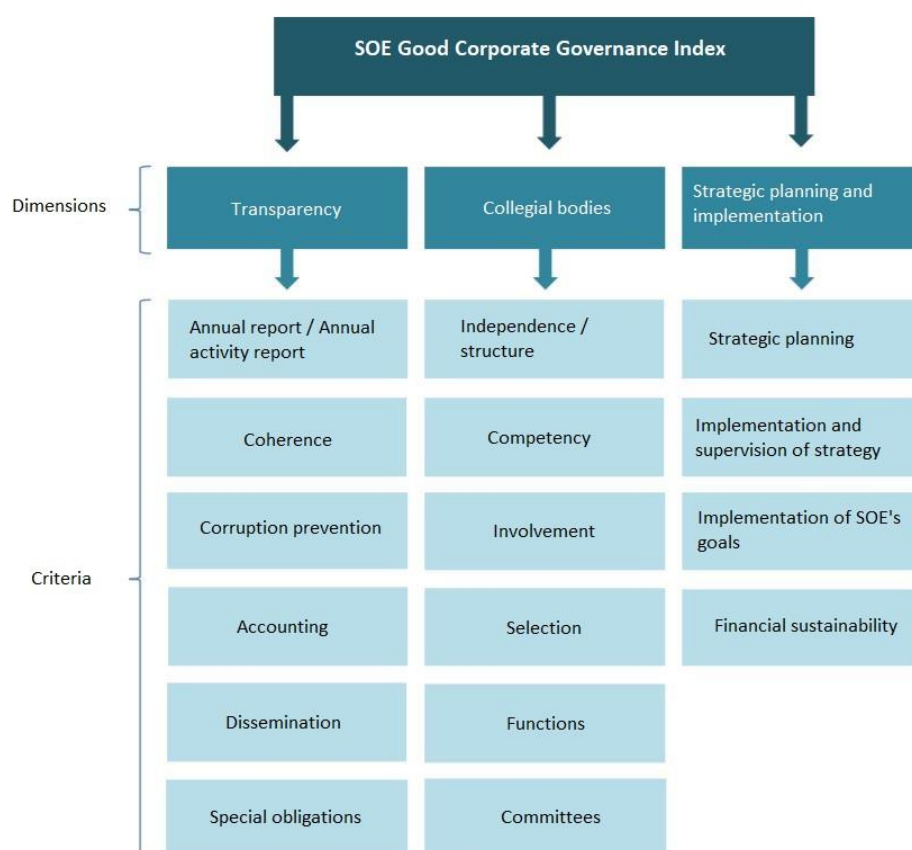
The structure of the Index reflects the main areas (dimensions) covered by the legislation: 1) transparency (accountability), 2) collegial bodies and 3) strategic planning and implementation. Each area (dimension) is divided into criteria which help to identify strengths and weaknesses of SOEs governance. Overall, the index consists of 16 criteria: 6 of transparency, 6 of collegial bodies and 4 of strategic planning and implementation.

A table below shows a structure of the Index.

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<sup>45</sup> <https://governance.lt/en/>





In order to reflect as accurately as possible how each SOE implements good governance practices, each criterion or dimension is assigned an appropriate weight (coefficient). For example, the presence of independent members in collegial bodies has a greater impact than the formation of committees attached to a collegial body, therefore the coefficient to the Independence / structure criterion is higher.

Governance evaluation is calculated based on the level of practices implemented. For each implemented governance practice, points are awarded on a scale from 0 to 2 points:

- 2 points for compliance with good governance practice;
- 1 point for partly compliance with good governance practice;
- 0 points for non-compliance.

After evaluating all governance practices and assigning each of them an evaluation score from 0 to 2, these scores are multiplied by the coefficients assigned to each practice and then summed. The obtained rating is converted into a 0-10 point grading system. The final result is given an appropriate letter as shown in the table below.

Evaluation table									
D	C-	C	C+	B-	B	B+	A-	A	A+
0 - <1	1 - <2	2 - <3	3 - <4	4 - <5	5 - <6	6 - <7	7 - <8	8 - <9	9 - 10
Negative evaluation				Average evaluation			Positive evaluation		

Although the same letter estimate may represent a different score in a 0-10 point grading system, the quality of the implementation of the assessed practices is considered to be identical if they are given the same letter rating. For instance, if a company X is rated 7.1 and a company Y is 7.8, the final rating of both companies will be A- and it would mean that both companies are rated equally.



## **4. ANALYSIS OF THE JORDANIAN NATIONAL INTEGRITY STANDARDS IN PUBLIC SECTOR**

### **4.1. HISTORICAL AND LEGAL CONTEXT OF THE NATIONAL INTEGRITY STANDARDS**

The Hashemite Kingdom of Jordan was one of the first Arab countries to join the UNCAC. UNCAC comprehensively requires that States' Parties put in place and implement effective and coordinated anti-corruption policies that promote the participation of non-state actors and set forth the principles of the rule of law, proper management of public affairs, and public property, integrity, transparency and accountability.

As it is mentioned above, Jordan has signed and ratified the UNCAC. The implementing Law No. 28 of 2004 was adopted on 8 June 2004 and published in the Official Gazette on 1 August 2004. The Law stipulated that the Convention is considered valid and effective for all its intended aims, and that the Prime Minister and Ministers shall be responsible for the implementation of its provisions<sup>46</sup>.

In 2005, His Majesty King Abdullah II directed the government to form an independent commission and draft a law to combat corruption. Accordingly, Jordan Anti-Corruption Commission (hereinafter – JACC) was established and a new anti-corruption law went into effect in 2006 (Anti-Corruption Commission Law No. 62 of 2006). The JACC became fully operational in 2008. The JACC developed a National Anti-Corruption Strategy for 2008-2012 to combat corruption and pursue its perpetrators.

In order to improve the public sector, the Ombudsman Bureau was established in 2008 by Ombudsman Bureau Law No. 11 of 2008. It investigated complaints regarding any decision, measure, practice or omissions of Public Administration or its employees. The objective that the Ombudsman Bureau sought to achieve was to promote the principles of transparency, integrity, accountability and equal opportunity in the public administration. The Ombudsman Bureau began its operations in early February 2009.

It is also worth noting that Jordan is one of the signatories of the first pan-Arab anti-corruption instrument – the Arab Convention against Corruption which was issued by the League of Arab States and signed on 21 December 2010<sup>47</sup>.

In order to set up joint objectives for the public and private sectors, to enhance the functionality of the anti-corruption mechanism, the National Anti-Corruption Strategy of Jordan 2013-2017 and associated Action Plan was adopted.

In pursuit of enhancing transparency, good governance and fighting corruption the National Integrity Charter and Executive Plan was launched in December 2013<sup>48</sup>. A Royal Committee was consequently formed and given the task to follow-up and evaluate the national integrity system<sup>49</sup>.

In 2015, the Government of Jordan published a ten-year economic and social blueprint, entitled “Jordan 2025: A National Vision and Strategy”. It represented a long-term national vision, which included policies and procedures that should be implemented by 2025 through a widespread participation between the government, business sector and civil society. Its basic

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<sup>46</sup> Conference of the State Parties to the UNCAC 2012, Executive summaries, page 2:

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1187238e.pdf>

<sup>47</sup> A Glance at the Arab convention to fight corruption: <https://uncaccoalition.org/a-glance-at-the-arab-convention-to-fight-corruption/>

<sup>48</sup> Remarks by His Majesty King Abdullah II at the Ceremony to launch the National Integrity Charter and its Executive Plan: <https://kingabdullah.jo/en/speeches/ceremony-launch-national-integrity-charter-and-its-executive-plan>

<sup>49</sup> Rule of Law and Civil State by Abdullah II Ibn Al Hussein: <https://kingabdullah.jo/en/discussion-papers/rule-law-and-civil-state>

principles include promoting the rule of law and equal opportunities, increasing participation in the policy decision making, aiming for achieving fiscal sustainability and strengthening institutions<sup>50</sup>. Provisions on transparency, accountability, integrity, and access to information are also included.

Following the process of the reforms, the adoption of the public sector restructuring law of 2014 and the Royal Committee's recommendations to establish a new Integrity and Anti-Corruption Commission<sup>51</sup>, the Integrity and Anti-Corruption Commission Law No. 13 was passed in 2016 to merge two institutions – JACC and the Ombudsman Bureau, into one legal entity: the Integrity and Anti-Corruption Commission (hereinafter – JIACC). JIACC is an independent legal entity, with the mission to combat corruption across the Kingdom. The new entity was given the responsibility to assure the implementation of the national integrity system and to design and realize the strategies and plans in this field.

The continued efforts in the development of anti-corruption legislation and the concept of national integrity system, together with the structural reforms, have been followed by the adoption of the National Strategy for Integrity and Anti-Corruption 2017-2025.

In the light of certain developments, changes and new information from the local and international environment, for the purpose of improving the scope and the effectiveness of implementation, the updated National Strategy of Integrity and Anti-corruption 2020-2025 came into force.

JIACC's key areas for action are provided by the Integrity and Anti-corruption Law<sup>52</sup>, as amended by Law No. 25 of 2019 and are as such:

1. The oversight of institutions in order to ensure that the Public Administration and Executive Authority adhere to certain integrity principles and values (Article 4-b, c, d), and private sector's control bodies and civil society institutions apply good governance principles (Article 4-l).

2. The participation in Law-making: activating of values and rules of conduct for Public Administration (Article 4-a), ensuring the presence of legal framework for accountability (Article-4-f), adoption of national integrity standards (Article 8-a-2), proposing draft legislations related to the commission's work and submitting them to the Council of Ministers (Article 8-a-13).

3. The examination of complaints and grievances from citizens (Articles 4-g; 8-a-5, 8; 11, 13).

4. Investigation, prosecution (Articles 4-i, 8-a-8, 17, 20, 21, 23).

5. Raising awareness (Articles 8-a-2, 9) and spreading information about the risks of corruption, nepotism, and favouritism on state (Article 8-a-10), periodically reporting on JIACC activities (Article 8-a-17). Building transparency through public access to information (Article 4-e).

6. Protection of whistleblowers, witnesses, informants and experts in corruption cases (Article 24).

7. Cooperation and coordination (Articles 4-h, 8-a-4).

The Law, specifically Articles 4-a, 8-a-2, 14-a, c, stipulates JIACC's duties and powers for the adoption of national integrity standards (hereinafter – NIS) in the public sector, raising awareness and encouraging the application.

Based on this role, JIACC developed the NIS and passed them through a number of procedures, discussions among relevant public institutions including NGOs and other entities in Jordan. The NIS were approved by the Board of the JIACC in 2017 and were distributed to all ministries, departments and state institutions (hereinafter – MDAs) through the Prime

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<sup>50</sup> Jordan 2025, A National Vision and Strategy: <http://extwprlegs1.fao.org/docs/pdf/jor154088.pdf>

<sup>51</sup> Rule of Law and Civil State by Abdullah II Ibn Al Hussein: <https://kingabdullah.jo/en/discussion-papers/rule-law-and-civil-state>

<sup>52</sup> Hereinafter referring to English version of the Law and other documents

Minister circular. MDAs were instructed to adhere to the standards and make employees aware of them.

The Law does not explicitly stipulate the provisions on the process of monitoring of the NIS implementation and (or) compliance procedures and consequences for not complying with the NIS. In cases where the grievance is well founded, the Law (Article 13) establishes more specific rules on how it should be proceeded.

The Law (Article 36) requires that the Prime Minister and Ministers shall implement the provisions of the Law and JIACC sees the NIS as legally binding. JIACC's recommendations on the NIS application, however, could be interpreted as not legally-binding, although the MDAs understand the importance of compliance with NIS and implementation of JIACC's recommendations.

The NIS consists of 5 standards: Rule of Law, Accountability, Transparency, Justice, Equality and Equal opportunities and Good governance. These standards are applied to all MDAs in Jordan. Since the approval in 2017, there have been no amendments to the NIS. If a need for amendments arises, modifications would be done through the approval of the Board of the JIACC on the amendments.

In this context, it should also be pointed out that according to the Integrity and Anti-corruption law Article 4, private sector bodies and civil society institutions, including state owned enterprises (hereinafter – SOEs), adopt and apply good governance standards and principles. Private sector entities provide information about the implementation status of the principles of the Good Governance standard to their controlling bodies.

## **4.2. ANALYSIS OF THE NATIONAL INTEGRITY STANDARDS**

The Integrity and Anti-corruption law sets out a wide range of principles, values and quality standards for public services that should be applied in the public sector of Jordan. They are as such:

- Good governance (Article 4-c);
- Values of equality, merit, entitlement and equal opportunity (Article 4-c);
- Transparency when establishing its policies and taking decisions (Article 4-d), transparency in public administration's performance, hiring procedures (Article 15-a), public access to information through "one-stop-shop" (Article 15-b, Article 4-e);
- Accountability of public officials and decision makers (Article 4-f);
- Fairness and impartiality (Article 4-b);
- A high-quality service to the public (Article 4-b).

The NIS could be seen as a structured accumulation of already existing principles and values, rights, powers and obligations that are already laid down in Jordan law, which impose integrity, transparency and anti-corruption. If this is the case, it strengthens the legally binding nature of the NIS. Moreover, it could have a positive effect on the NIS implementation as the duties and commitments are known to the institutions and are or should be implemented according to the existing laws and progress monitored. This, thus, loosens the administrative burden when reporting on compliance with the NIS.

Regarding the principles and values applicable in the public sector, it is worth noting the Jordanian Code of Conduct in the Public Sector and the Ethics of the Public service. The Code of Conduct is adopted by the Ministry of Public Sector Development in accordance with the Civil Service Law No. 82 of 2013 and is based on the foundations and principles of justice, transparency, accountability, integrity, professionalism, and neutrality.

The NIS are composed of two parts that are as follows:

### **1. Sub-criteria that elaborate and specify the scope of each standard.**

Sub-criteria, in certain cases, can be seen as a way to split a standard into specific and comprehensible categories, for example:

- Standard of Quality of Service, Standard of Justice and Equality and others from the Standard of justice, equality and equality of opportunity;
- Standards of Reference and Application are a part of the Rule of Law standard.

On the other hand, some sub-criteria are given the role of a performance indicator, such as, number of meetings, number of partnership councils (sub-criteria for Transparency Standard). The amount and content of sub-criteria varies (see Table 1), potentially depending on the standards' complexity.

## **2. Measurement indicators that should help to evaluate the progress and (or) to assess the results.**

The amount and content of measurement indicators also varies per standard. Some repetition and overlapping can be observed. The 6<sup>th</sup> and 9<sup>th</sup> key points of measurement indicators for the Rule of Law refer to the similar goal of adopting procedures that prevent nepotism. Both, the first sentence of the 2<sup>nd</sup> key point of measurement indicators for the Transparency and the 2<sup>nd</sup> key point of measurement indicators for the Rule of Law are likely pointing at the necessary regulatory framework that should be in place.

It is noteworthy that during the COVID-19 outbreak pandemic the Government Compliance Examination Matrix (hereinafter - Matrix) was developed by the JIACC and used for MDAs' self-assessment.

Regarding the Matrix, firstly it can be noted that sub-criteria and measurement indicators utilized in the Matrix differ in quantity (see Table 1) and content, in comparison to the adopted NIS. Secondly, they are more structured and might be easier to apply and (or) comply with, paving a path for the revision of the NIS. Furthermore, the Matrix may be considered as an operational tool and could be further developed as an implementation guideline of the NIS with clear indicators which would refer to measures that should be implemented and actions that should be taken by an MDA in order to comply with the NIS.

*Table 1*

	Sub-criteria (NIS)	Sub-criteria (Matrix)	Measurement indicators (NIS)	Measures (subjects of examination) (Matrix)
Rule of law	3	2	11	9
Accountability	7	6	6	37
Transparency	6	3	9	15
Justice, equality and equality of opportunity	4	3	7	27
Good governance	7	1	9	31

In addition to the above, it should be emphasised that the standards, sub-criteria and measurement indicators are of complex nature and closely interlinked with each other. For

example, access to information could be seen as a precondition for both transparency and accountability standards. As mentioned before, some sub-criteria are given the role of performance indicators, therefore in practice this may confuse MDAs setting up the goals to be reached in order to comply with the NIS. It is not always clear which indicators measure the fulfilment of a particular sub-criteria, as well as how the achievement of a particular indicator would be evaluated, for instance, what percentage or what particular information should be available to citizens in order to comply with the transparency standard. Consequently, for a common comprehension and efficient implementation, further discussions are needed for structuring sub-criteria and measurement indicators in a consistent manner. This is to avoid overlapping and difficulty in interpreting the measures for compliance.

### **Focus on legal regulation**

Any effective fight against corruption requires well-defined and workable legal provisions and rules. It is thus necessary to continue reviewing on a regular basis whether the provisions in force are still consistent, concise, comprehensive, accurate, clear and unambiguous and that they guarantee efficient application. In terms of the NIS, Rule of Law is a standard that requires legality in MDAs' work and procedures.

MDAs participated in a survey performed by Component 1 experts and shared the main challenges to implementation of the Rule of Law standard. One of them was the lack of clear and sound, sufficient and effective legislation. In addition, JIACC's Annual Report 2019 and the Integrity Status for the year 2020 (hereinafter – Report 2020) have identified issues regarding legislation, the need for sound and effective law and timely issued implementing legal acts (regulations, administrative provisions etc.). In that connection, it points out that inclusiveness and an appropriate framework, that allows examining the impact, the quality of draft laws and transparency of law-making processes, and thus could ensure that laws are the result of a broad discussion within society.

Overall, if during compliance assessment, a negative pattern is identified, it would be recommended to analyse the situation in depth while determining possible causes as well as formulating recommendations for the Executive Authorities. It is also important to stimulate a constructive debate on the inter-institutional level and examine how challenges can be addressed through drafting law amendments, inter-institutional working plans and, where appropriate, strategic plans on the national level. The issue-addressing plans with clearly identified measures, well defined results to be achieved, measurement indicators, time-frame and assigned institution responsible for the monitoring and adjustment, would be more workable for the institutions responsible for their implementation.

For example, analysing the Report's 2020 section on the standard of Justice, Equality and Equal Opportunities, a pattern of lacking clear-cut rules regarding the training of employees, rewards and incentives, rules for relationships with suppliers could be observed. Thus, without prejudice to the existing legal framework, it would be worth discussing, drafting and approving common rules on a national level. If appropriate, this common rule could be adjusted according to specific needs of the public institution, as it is in the case with the Code of Conduct.

### **Enhancing safeguards in public sector**

Considering the accountability standard, the importance of the protection of whistleblowers and informants should be mentioned, including an establishment of mechanisms in all MDAs for reporting any wrongdoing within MDAs and ensuring the protection of persons who report. It should be noted that the Integrity and Anti-corruption law

(Article 24) stipulates that the JIACC provides the protection for whistleblowers, witnesses and informants but only in corruption cases. Encouraging employees to report wrongdoing and protecting them when they do it, is essential for corruption prevention in both the public and private sectors. Employees are usually the first to recognise wrongdoing in the workplace. Empowering them to speak up without fear of reprisal can help authorities both detect and deter violations. In the public sector, protecting whistleblowers can make it easier to detect passive bribery, the misuse of public funds, waste, fraud and other forms of corruption. Whistleblower protection is internationally recognised as an essential safeguard of the public interest and a major way to foster a culture of public accountability and integrity.

Corruption, fraud, and wrongdoing, as well as health and safety violations, are much more likely to occur in organisations that are closed and secretive. In many cases, employees may be aware of the wrongdoing, but feel unable to say anything for fear of reprisals, concern about acting against the organisation's culture, or lack of confidence that the matter will be taken seriously. The negative implications of this are far-reaching for both organisations and society as a whole<sup>53</sup>.

The EU Whistleblowing Directive, which went into force at the end of 2019, directs all member states of the European Union to adopt national laws by the end of 2021 to implement the directive. Main requirements of EU Whistleblower protection rules are:

- Organisations with over 50 employees and local authorities must create internal reporting procedures and channels.
- Reporting persons will include not only employees, but also non-executive directors, the self-employed, contractors, volunteers, trainees and shareholders.
- Whistleblowers and their supporting colleagues and / or relatives must be protected from retaliation.
- Protection is extended to those who had reasonable grounds to believe that the information on breaches reported was true at the time of reporting, irrespective of whether those breaches are substantiated.
- Whistleblowers will not be considered as infringing any restriction on disclosure of information imposed by contract or by law (i.e., non-disclosure agreements, confidentiality clauses, breach of copyright, trade secrets etc.) and will be protected from liability when disclosing such information.
- Whistleblowers may get a remuneration for information which helps to reveal and investigate an act of corruption or other violation which might cause harm.

It is notable that there are no clear provisions in the NIS with regard to encouraging employees of MDAs to report about any wrongdoing which might be observed or recognised in the workplace. The Matrix contains some criteria regarding the implementation of the standard of accountability, as: *there is an effective electronic and paper complaints and suggestions system; there is a clear and generalized methodology for handling complaints, there is a committee / department concerned with following up complaints and suggestions*, etc. However, they are considered as a part of general obligation to have a system for complaints and suggestions addressed to MDA without detailed requirements to protect employees who report (submit a complaint), as well as to ensure confidentiality where necessary, have in place a process how the reports are analysed, who analyses them and what decisions can be taken by an MDA. In case an MDA is not able to protect an employee who reports or an employee does not trust an internal reporting channel established in the workplace, there should be an option to report directly to the JIACC which would analyse the report and ensure protection for persons from negative consequences. Taking into account the importance of whistleblower protection, it is recommended to broaden the standard of

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<sup>53</sup> Committing to Effective Whistleblower Protection. <https://www.oecd.org/corruption-integrity/reports/committing-to-effective-whistleblower-protection-9789264252639-en.html>.

accountability and include requirements for each of MDAs to establish a clear mechanism for reporting, install internal reporting channels and ensure protection for persons who report.

Furthermore, the standard of accountability is closely related to managing conflicts of interests. Nevertheless, management of conflict of interest is not indicated as a sub-criteria, nor a measure indicator in any of the standards in the NIS. On the other hand, in the Matrix there are a couple subjects of examination regarding implementation of the accountability standard: *there is a methodology for disclosure and prevention of conflicts of interest*; and *the existence of mechanisms and procedures to ensure employee adherence to the methodology of disclosure and to prevent conflicts of interest*.

A conflict of interest is a situation where a person performing his official duties must perform a certain action, but such action (a part of official functions, resolution, etc.) is related not only to a person's direct duties, but also with his or close person's private interest. The conflicts of interest are directly related to the following corruption phenomenon: nepotism, clientelism – power-based relations and decision-making procedures, as well as cronyism – patronage of friends. Conflict of interest itself is not yet a violation, but it is a clear signal that a person must immediately take detailed procedures which should be established by the law.

As conflict of interests may be a form of corruption, public institutions should have a robust mechanism in place to manage these conflicts, as well as be prepared to analyse situations where employees have arising conflicts of interest. Taking this into account, it is considered to include management of conflict of interests as a sub-criteria of the standard of accountability in the NIS. This would emphasize the importance of managing conflict of interests and ensure that MDAs would follow the requirement to have such a management system. Furthermore, it is believed that MDAs would collect and provide to JIACC more information regarding conflict of interest and that would help to implement a duty set out in Article 8, paragraph 10 of the Integrity and Anti-corruption law - issue periodic reports indicating the risks of corruption, nepotism, and favoritism on state institutions and public administrations.

### **Transparency and openness**

The Integrity and Anti-corruption law comprises provisions on transparency through, firstly, the Executive Authority adherence to transparency when establishing its policies and taking decisions (Article 4-d). Secondly, openness and transparency of public administration while performing its duties, hiring its staff, forming contractual relations (Article 15-a). Thirdly, establishing a special window (“one-stop-shop” principle) for the access to information in accordance with applicable legislation (Article 15-b).

As it is specified in JIACC's Report 2020, there are slow steps towards the access to information in terms of classifying documents and establishing ways to obtain information. Given that the Integrity and Anti-corruption law stipulates provisions on ministers' responsibility to implement law requirements, if appropriate, provisions can debatably be mirrored as sub-criteria for Transparency standard or as clear-cut measurement indicators. For example, to put the establishment of a special window (application of “one-stop-shop” principle) into a measurement indicators list, especially if the special window is defined by the laws.

According to the Matrix, MDAs should provide information about publishing of respective decisions (Matrix, Transparency, Disseminating information, the 3<sup>rd</sup> key point). The Report 2020 shows that there is a lack of information listed on MDAs' websites. Therefore, in order to encourage MDAs to publish information, a request to send the hyperlinks to the relevant decisions that are published on MDAs' websites, could be included in the Matrix.

In addition to the transparency standard and the Article 4-d of the Integrity and Anti-corruption law, it is not immediately obvious how the implementation of the provision is measured and if the law-drafting material could be accessible for citizens, all public or private entities. It is considered that the law should establish clear and explicit rules on what particular information about decision making and law-drafting procedures of MDAs has to be published on MDAs' websites and be open for public scrutiny. The same consideration applies to publishing anti-corruption activities (e.g., publish information about corruption prevention measures which are applied within an MDA, the subject that has a function of promoting integrity and implementing corruption prevention measures, results of implementing recommendations issued by the JIACC, anti-corruption initiatives in which MDA participates or sponsors, etc).

### **Standard of good governance**

It should be taken into account that Jordanian authorities are working on developing the standard of good governance as it is foreseen in the renewed National Strategy of Integrity and Anti-corruption for 2020-2025. Referring to the strategy, there is a project No. 1, which enforces the development and revision of the good governance principle within the NIS, with the particular emphasis on the best practices, as well as enhancement of partnership with all the stakeholders. The project has to be implemented by the end of 2021.

Public governance could be understood as processes of the establishment, formulation and inclusion in the formulation of public policy and its implementation, aimed to adopt and implement governance decisions, through the participation of public administration institutions and society, and provide public services. Governance is the manner in which power is exercised in the management of a country's economic and social resources for development.

It has to be acknowledged that the principle of good governance could be described and interpreted from both a broader and narrower perspective. Simply put, "governance" means the process of decision-making and the process by which decisions are implemented (or not implemented). Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance<sup>54</sup>. Following this concept, good governance has 8 major characteristics: participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law<sup>55</sup>. Good governance is considered as the ability to achieve stated policy goals, in line with the principles and values of integrity, rule of law, transparency, accountability, effectiveness and efficiency, among others. Furthermore, 12 principles of good governance are enshrined in the Strategy on Innovation and Good Governance at local level, endorsed by a decision of the Committee of Ministers of the Council of Europe in 2008<sup>56</sup>. According to the strategy, good governance consists of 12 principles including openness and transparency, rule of law, accountability, etc. However, in terms of the NIS, it does not mean that the standard of good governance should cover other standards of the NIS or be considered as an "umbrella standard", because such an approach may create confusion in implementation and assessment of implementation. For instance, it would be not clear whether full implementation of other four standards of the NIS would automatically mean compliance with the standard of good governance and contrary - whether implementation of the standard of good governance would automatically mean compliance with other four standards. Thus, the standard of good governance should be considered as a horizontal

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<sup>54</sup> UNESCAP, What is Good Governance: <https://www.unescap.org/sites/default/files/good-governance.pdf>

<sup>55</sup> Ibid.

<sup>56</sup> Council of Europe, 12 Principles of Good Governance: <https://www.coe.int/en/web/good-governance/12-principles#%7B%2225565951%22%3A%7B%7D%7D>.



standard which is being implemented parallelly implementing other standards of the NIS and vice versa.

Currently, the standard of good governance in the NIS contains such sub-criteria as planning, organisation, monitoring and evaluation, sound decisions and procedures, optimal use of human and financial resources, participation in the awards that promote institutional performance, risk and performance management. As mentioned before, some sub-criteria of all the NIS overlap, the standard of good governance is no exception as adoption of clear decisions and procedures are foreseen in other standards as well. In addition, sub-criteria of the standard of good governance indicated in the NIS and in the Matrix differ and it might bring confusion while implementing the standard, as well as assessing its implementation. It is also notable that the NIS provides for much less measurement indicators for standard of good governance than the Matrix (9 and 31) and not all of them clearly disclose which of them should be implemented to comply with a respective sub-criteria of the standard. Taking into account the importance of the good governance standard, it is considered to establish two or more measurement indicators in the NIS for measuring compliance with each sub-criteria of the standard.

Thus, good governance could be considered as a general principle covering all the NIS and many other aspects of a country's life. However, following the possible philosophy that stands behind the NIS concept, good governance could be seen, understood and interpreted as a standard that ensures prevention, detection and dealing with corruption. In addition to that, good planning, oversight and evaluation, effective utilization of resources, provision of good quality administrative and public services, strengthening the capacities of public administration institutions and improvement of their performance.

Moreover, taking into account that good governance has a direct connection with provision of high-quality public service, representative views from, for example, current service users about the suitability and quality of existing services are relevant. Such views can be expressed through a variety of mechanisms, such as surveys, websites, and direct feedback from clients. The implementation of good governance principle also should include disclosure of how the public entity will use this input in its decision making and how it will feed these decisions back to the public and service users. In terms of good governance, inclusiveness of public society in public decision making and development of public services is crucial. Additionally, feedback from public society could be used as a measurement indicator of implementation of the good governance standard.

In conclusion, in pursuit to develop a good governance standard as an integral part of the NIS, first and foremost, a clear concept and understanding in the light of the other 4 standards, should be developed.

## **Conclusions**

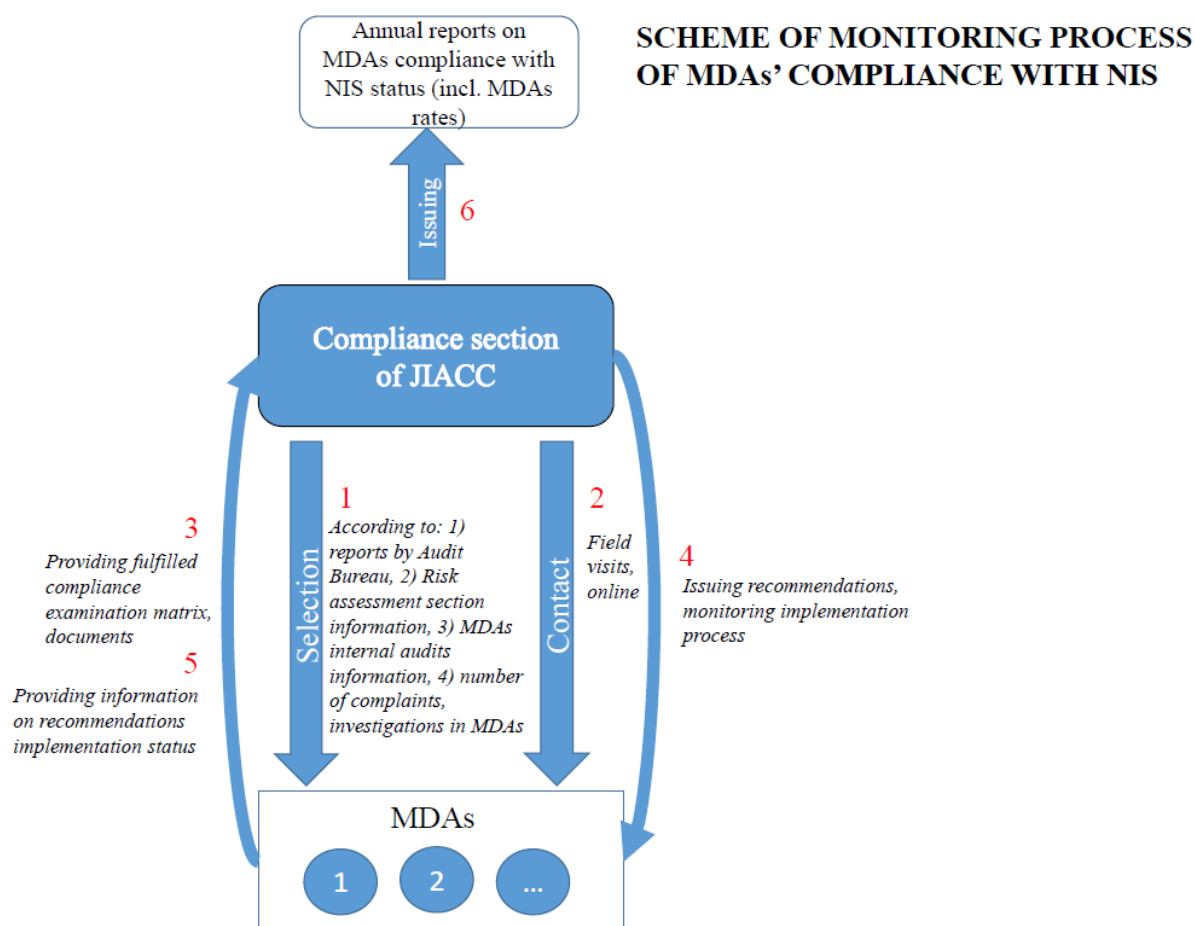
In summary and in the interests of consistency, it would be advisable in the NIS to reflect rights, powers and obligations that are already laid down in Jordan law, which impose integrity, transparency and anti-corruption. As previously mentioned, it could also have a positive effect to the NIS implementation as the duties and commitments are known to the institutions and are or should be implemented according to the existing laws. Interpreted systematically, this recommendation is of use assuming that Jordan law is in compliance with international conventions, treaties and other commitments that Jordan has already entered into. If that, in some aspect, is not the case or the laws are not clear-cut and effective, safeguards that are internationally recognized as crucial for integrity could be formulated as sub-criteria. For example, sub-criteria of whistleblower protection, management of conflict of interest could be added to the NIS. The importance of access to draft legal acts and decisions should also be noted in this regard.

For a common understanding and efficient implementation of the NIS, firstly, the Matrix could be considered as a useful basis for further reflection on the NIS development. Secondly, an open discussion with all stakeholders concerned could be promoted, that would also serve for awareness raising among public entities and dissemination of integrity standards.

## 5. ANALYSIS OF THE IMPLEMENTATION AND MONITORING MECHANISM OF THE JORDANIAN NATIONAL INTEGRITY STANDARDS

Responsibility for monitoring implementation of the NIS in public institutions (MDAs) is dedicated to the Compliance section under the Integrity & Prevention Directorate of the JIACC.

*The scheme of monitoring process provided below:*



As it could be seen from the scheme, the whole monitoring process of the NIS implementation can be divided into 6 parts:

1. First of all, the Compliance section selects MDAs, whose implementation of the NIS will be monitored. Selection is being made taking into account 4 sources of information: 1) reports made by the Audit Bureau, 2) corruption risk analysis conducted by the Risk assessment section of the JIACC, 3) audits performed by the Internal Control units of MDAs, 4) investigations and complaints related to a particular MDA. It is worth mentioning that state-owned enterprises (SOEs) are not in the scope of selection. SOEs are considered as private legal entities, which need to comply with only one standard of the NIS – Good governance. The monitoring of the compliance of SOEs with this standard is a duty of three MDAs:

Companies Control Department, Jordan Securities Commission, Government Investments Management Company.

2. During the next step, employees of the Compliance section make field visits or online meetings with MDAs. During the pandemics, only online meetings were held. Although in the past all meetings with representatives of Jordanian municipalities were held online as well, because of the large number of municipalities. During the meetings, employees of the Compliance section ask representatives of MDAs for the comments on the status of implementing the NIS within the institution and ask to fill in the Compliance examination matrixes.

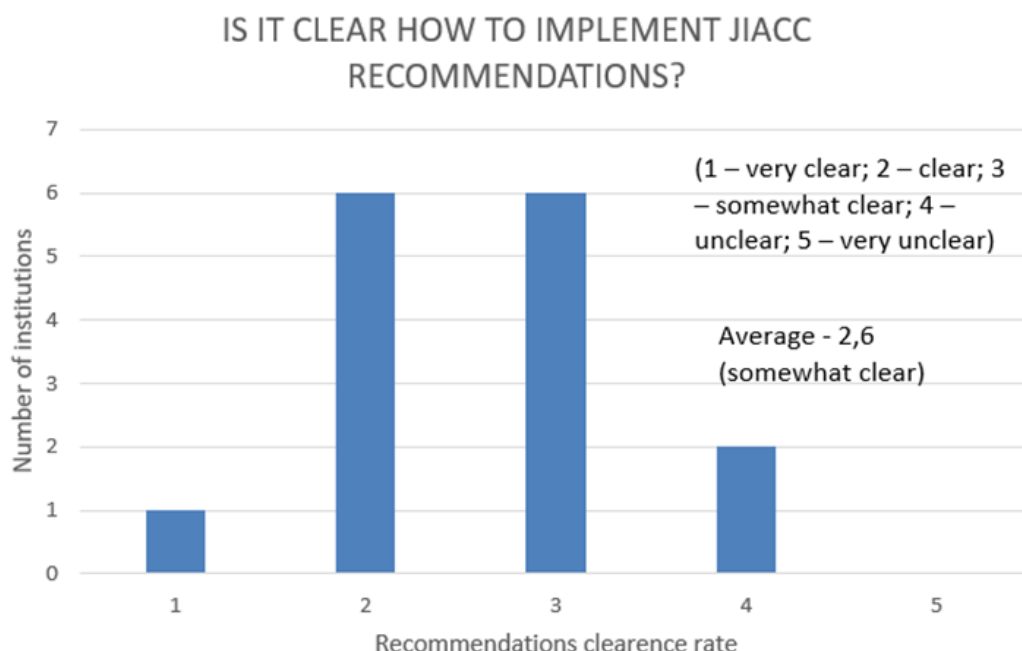
3. Then, MDAs fill out the Compliance examination matrixes and send them to the Compliance section. Documents that justify the status of MDAs' stated compliance level with the NIS are also being attached. According to the results of the survey conducted by the experts, all surveyed MDAs expressed the need for the training on implementation of the NIS. Since the NIS went into force in 2017, no training, workshops on how to implement the NIS in MDAs have been held.

4. After receiving the fulfilled matrixes with the documents provided by the MDAs, the Compliance section evaluates the status of MDAs' compliance with the NIS. Afterwards, the section prepares a report and sends recommendations to MDAs on how to increase the level of compliance with the NIS (reports and recommendations need to be approved by the JIACC Board before submitting).

5. Then, if MDAs receive recommendations for the first time, they have up to 12 months to implement them. If recommendations are received for a second time – MDAs have 6 months to implement them. It is worth mentioning that the Compliance section does not provide MDAs with any contacts of employees who prepared recommendations. Representatives of MDAs can contact employees of the Compliance section only through a common phone line of the JIACC. There are two main obstacles, which could impede MDAs for more efficient implementation of recommendations issued by the Compliance section of JIACC. First of all, according to the results of the survey conducted by the experts, MDAs rated JIACC's submitted recommendations as somewhat clear, on average.<sup>57</sup> A diagram below shows MDAs valuation on Compliance section provided recommendations clearance level.

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<sup>57</sup> Performed survey questions valuation scale: (1 – very clear; 2 – clear; 3 – somewhat clear; 4 – unclear; 5 – very unclear)



Furthermore, experts of the project translated several examples of the Compliance section submitted recommendations and identified that some recommendations are not detailed enough and can be misunderstood by targeted MDAs. For instance, one of the issued recommendations by JIACC was: *“Communicate with institution X to solve the problem of their delegate to the Ministry of Y to ensure that the control process proceeds as it should”*. Targeted MDA responded: *“We were not provided with anything mentioned in the implementation of the recommendation”*. Such situations show a lack of communication between JIACC and MDAs. This situation can lead to not so efficient implementation of the NIS.

6. Each year the Compliance section submits summarised information to the integrity status reports about MDAs which had the highest and the lowest response rate to the recommendations issued by the JIACC.

It is worth mentioning that only 3 employees work in the Compliance section and they are responsible for making meetings with MDAs, analysing fulfilled Compliance examination matrixes, developing recommendations and reports on MDAs status of compliance with the NIS. The Compliance section has an internal share folder in the local IT network where all employees of the section share their monitoring data on MDAs. There is an electronic table created for monitoring, which consists of these columns: name of MDA to which recommendations are provided, number of submitted recommendations, number of implemented and unimplemented recommendations. However, by using IT instruments there could be more analysis done, related to the monitoring of MDAs responses deadlines to Compliance section recommendations, identification of most common challenges MDAs are facing, while implementing NIS or JIACC recommendations, etc.

## Conclusions

After reviewing all the monitoring mechanisms of the NIS implementation in MDAs, it seems that the monitoring process is focused more on implementation of JIACC recommendations (made by Compliance section) than on particular NIS. In annual reports of JIACC, which are available publicly, best and worst performers are mentioned according to their implementation rate of JIACC recommendations. This mechanism does not motivate MDAs to implement the NIS, until JIACC selects them for monitoring and asks them to fulfill

the Compliance examination matrix and issue recommendations according to these fulfilled forms. Valuation of MDAs compliance status to NIS (not JIACC recommendations) and performing this data on JIACC annual reports, would motivate MDAs more to implement the NIS, even without JIACC contribution. Of course, the Compliance section should continue issuing recommendations, but implementation of these recommendations will not be valued in annual reports - there should be mentioned monitored MDAs only the final status of compliance with the NIS. Recommendations issued by JIACC could help MDAs to increase their implementation of the NIS rate, until the deadline, set by JIACC.

Monitoring data of MDAs' implementation rates of the NIS could also be published not only in annual JIACC reports but in the organisation's website online platform as well. In this platform, all MDAs that were monitored and evaluated should be mentioned with their current compliance with the NIS rates. This table of ratings would show which MDAs are best and which - worst performers on implementing the NIS. Platform could also perform MDAs compliance rates with each five standards separately in order to show, what standards are implemented better and which - not so well. This type of data could encourage competition among MDAs to compete and seek a better NIS implementation rate that could be seen publicly.

After reviewing all the NIS implementation and monitoring process, these obstacles and shortcomings were identified also:

1. Some public legal entities (SOEs) have exceptions and do not have a duty to comply with all standards of the NIS.

2. MDAs representatives, responsible for implementing the NIS, lack methodological information, guidelines, and training on practical implementation of the NIS.

3. MDAs, which received recommendations on implementing the NIS from the Compliance section of JIACC, do not have a direct contact channel to clarify the received recommendations a bit more or get a consultation from a person who submitted these recommendations, if needed.

4. The Compliance section of JIACC lacks human resources, analytical IT capabilities (including IT software and appropriate training for employees).

## 6. RECOMMENDATIONS AND PROPOSALS

1. In order to provide for a legal basis and clear procedure for implementing and monitoring of the NIS, **develop and adopt a legal act**, which would provide for main principles of the implementing and monitoring mechanism of the NIS, **including on:**

- 1.1. Scope of application of the NIS monitoring mechanism;
- 1.2. Criteria and mechanism for selecting public sector entities into the monitoring process;
- 1.3. Functions and rights of the JIACC in monitoring the implementation of the NIS;
- 1.4. Obligations and rights of the public sector organisations;
- 1.5. Main elements of the monitoring cycle, including deadlines for implementation and response;

- 1.6. Possible 'disciplinary' measures for lack of responding to the recommendations.

2. **When further reviewing the NIS:**

- 2.1. Consider including sub-criteria of whistleblower protection and management of conflict of interest to the NIS as these safeguards are internationally recognised to be crucial for ensuring integrity. In addition, consider including relevant measurement indicators, for example, whether an internal reporting channel is established, whether clear rules for disclosing private interests and withdrawal from relevant decision making are adopted, etc.

2.2. As the standard of good governance has a direct connection with provision of high-quality public service, consider supplementing the standard of good governance and establishing a requirement for MDAs to analyse suitability and quality of the services they provide through conducting surveys or collecting feedback from the users and provide aggregate data to the JIACC, or pursuant to Article 4-b of the Integrity and Anti-corruption Law, consider conducting surveys by the JIACC at national level. In addition, consider to use feedback from the users as a measurement indicator of implementation of the standard.

2.3. Clearly distinguish sub-criteria and measurement indicators in the NIS, as well as, ensure that each sub-criteria would have at least one measurement indicator, which would be used to assess whether MDAs meet the sub-criteria.

2.4. Consider to unify sub-criteria of the standards which are identified in the NIS with sub-criteria in the Matrix.

2.5. Consider applying all standards of the NIS to SOEs (not only the standard of good governance).

2.6. Raise awareness of the NIS in private sector organizations, NGOs and civil society by involving these groups in anti-corruption activities, initiatives, conferences.

2.7. Involve private sector organizations, NGOs and civil society into discussions regarding development of the NIS and integrity in general, as well as consider partnership with these subjects.

2.8. Consider the best international practices regarding the principle of good governance, including those provided in this Study.

### **3. When further developing the monitoring mechanism of the NIS:**

3.1. If it is not possible to monitor all MDAs implementation status on implementing NIS (because of lack human, IT resources), consider taking into account MDAs possible comparability, e. g. analyse all ministries, all local administrations, all water companies etc., when selecting public sector entities for compliance reports.

3.2. Consider adopting and applying a similar methodology to the one used in the Integrity Academy of Lithuania to measure performance of MDAs implementing the NIS (for more information see Chapters 3.3.2 and 3.3.3) and prepare guides for measuring the public administration's compliance with the NIS and enforcing their application.

3.3. Consider focusing more on monitoring of MDAs' compliance with the NIS, not with JIACC issued recommendations. MDAs' compliance with the NIS rates (not only MDAs' response rate to JIACC issued recommendations) should be published in the reports and summaries. Published compliance reports or their summaries should include results of all monitored public sector entities, not just "top" and "worst" performers. Reports and summaries should also include MDAs current statuses on implementing each of the five NIS separately.

3.4. Consider further developing a regularly updated monitoring system, which would provide society, media and decision makers with the MDAs' current rates on the implementation of the NIS. For example, in the JIACC website an online table that would show all MDAs' statuses on implementing the NIS could be created. The table may consist of following columns: name of MDA, compliance status with all NIS, compliance statuses with each standard separately, current position (according to implementation level of NIS) among others MDAs, progress made compared to previous period, etc.

### **4. As a number of MDAs have expressed a lack of information and methodological assistance on implementation of the NIS:**

4.1. Consider developing a handbook or similar tools to further explain core elements of the NIS and the obligations stemming from them to public sector organisations.

4.2. Consider further developing the Examination matrix as an implementation guideline or plan of the NIS with clear indicators which would refer to measures that should

be implemented and actions that should be taken by MDAs in order to comply with each standard respectively.

4.3. Organise regular training on each standard of the NIS, their implementation and best practices.

4.4. Organise regular meetings with MDAs with similar legal status and operating areas. During these meetings “top” performers could share their best practices in promoting integrity and implementing the NIS with other MDAs and by this assist the JIACC in implementing its role (for more information please see Chapters 3.3.2 and 3.3.4).

**5. With regard to the JIACC:**

5.1. Consider establishing a continuous high level anti-corruption conference to supervise the implementation of anti-corruption measures. The conference should be composed of decision-making representatives of the respective authorities and be chaired by the Chairperson of the JIACC (see Chapter 3.1).

5.2. Consider further separating “monitoring/control” and “coordination/training/awareness-raising” functions among the Divisions of the Prevention and Integrity Directorate. For instance, in order to ensure impartiality and functional independence of the Compliance Division in its oversight function when producing compliance reports and monitoring their implementation, the Division roles related to coordination and cooperation with public and private sector entities in promoting NIS could be transferred to other Divisions.

5.3. Recruit additional human resources to the Compliance Division.

5.4. Continue a good practice of asking MDAs to complete an examination matrix themselves and use electronic tools (e. g. Excel worksheets) for that purpose.

5.5. Supply the Compliance Division employees with analytical IT software (e.g. Tableau, Qlick, Excel pivot tables) and specialised training, as they own all the monitoring data on MDAs status on implementing NIS.

## Annexes

1. “Rules on Integrity” of the Federal Republic of Germany, issued by the Federal Minister of the Interior,  
<[https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?\\_\\_blob=publicationFile&v=3](https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile&v=3)>.
2. “Integrity Academy“ questionnaire for anti-corruption level determination in institution (attached MS Excel file).
3. National Anti-Corruption Strategy of the Republic of Austria, <[https://www.bak.gv.at/bmi\\_documents/2178.pdf](https://www.bak.gv.at/bmi_documents/2178.pdf)>.
4. Law on Corruption Prevention of Lithuania.
5. Description of the Whistleblowing hotline system.