

# ANTICORRUPTION MEASURES OF THE EUROPEAN UNION

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## 1) INTRODUCTION

Corruption is the main global problem and is common to all countries, according to a survey by Ibope Intelligence, in partnership with the Worldwide Independent Network of Market Research (WIN), with more than 66,000 respondents in 65 nations<sup>160</sup>.

Corruption undermines the healthy development of any society and, economically, is an obstacle to the freedom of competition and efficient functioning of the market, while at the same time jeopardizing the rights to free economic performance of other citizens. As with other crimes, the prevention and repression of corruption requires the strengthening of international cooperation among States.

The economic effects of corruption are disastrous and people are increasingly perceiving the consequences in their lives. Corruption triggers other problems such as violence, health deficits, education, security, among others.

The aim of this paper is to analyze the situation of corruption, primarily in general, and to focus on measures to prevent corruption by the European Union, emphasizing a few examples and

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<sup>160</sup> <http://www.ibope.com.br/pt-br/noticias/Paginas/Corrupcao-e-o-principal-problema-mundial,-aponta-pesquisa.aspx>.

pointing out what has already been decided on, since corruption remains a challenge for Europe, a phenomenon that costs the European economy about 120 billion euros per year<sup>161</sup>. EU member states have taken many initiatives in recent years, but the results are uneven and more must be done to prevent and punish corruption.

## 2) CORRUPTION PHENOMENON

### 2.1. PROBLEMS OF CORRUPTION

Corruption is a crime to be fought worldwide, and the state has diminished its ability to promote the investments that society so long for, since some of these values end up being usurped by those who should preserve it. This value, which is diverted from the public coffers, is no longer invested in education, health, sanitation, public transport, works for the common good, culture, even the State's ability to pay its employees better, damage to society.

It happens that this evil does not only derive from the action of unscrupulous public agents, but also from the action of private individuals and companies that end up promoting the offer of advantages so that they can get works and contracts with the public, because for there to be a corrupt, there must be a corrupter. These people who act in this way also harm society, not only because they are the helpers of the public agents in the accomplishment of those evils described above as caused to the public good, but also end up causing other evils to the own private business society, since these end up impeding the free competition, the exaggerated increase of prices, the development of new potentialities, the good competitiveness between companies, among other problems.

Thus, it is necessary to fight against those public agents who end up receiving such illicit advantages, but it is also necessary to fight against that part of the national and foreign businessmen that end up coordinating such thinking and financing public corruption in order to obtain advantages in public contracts. Therefore, we must combat the corrupt and the corrupting.

In "8 Effects of Corruption| On People, Society & Economy" Posted by ranga.nr on December 28, 2017<sup>162</sup>, the following effects were pointed out, to mention only the economy:

a) Decrease in foreign investment: There are many incidents where in foreign investments which were willing to come to India have gone back owing to heavy corruption in the government bodies.

b) Delay in growth: Due to desire to mint money and other unlawful benefits, the officials who need to pass the clearances for projects or industries delay the process. A work which can be done in few days may be done in months time. This leads to delay in investments, starting of industries and also growth. Even if started, company growth hinders as every work linked to officials get delayed due to need to provide bribes or other benefits

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<sup>161</sup> [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report_en)

<sup>162</sup> <http://www.mindcontroversy.com/impact-effects-corruption-public-life-india/>

c) Lack of development: Many new industries willing to get started in particular region change their plans if the region is unsuitable. If there are no proper roads, water and electricity, the companies do not wish to start up there. This hinders the economic progress of that region.

d) Differences in trade ratio's: Some countries have inefficient standard control institutes. Or in other word these standard control institutes are corrupt that they can approve low quality products for sale in their country. Hence you can see countries manufacturing cheap products dump them in big markets. These countries can manufacture cheap quality products but cannot dump in countries with strict standard control institutes. They can do so only in countries with chances of corrupt officials in standard control. One best example is China products which can't be just dumped into Europe and US markets. But can be done in Indian and African markets. So there arises trade deficit that these countries cannot manufacture their own products at cheaper price than those exporting to them. So if corruption is minimized than these countries will have less trade deficits in-terms of exports and imports with other countries and their economies can prosper.

According to a European Parliament study, countries where the most weight corruption has cost about 990 billion euros annually. Eastern countries are among the most corrupt countries in the European Union (EU)<sup>163</sup>.

This figure is equivalent to 6.3% of the total GDP of the 28 EU countries. For this reason, it has raised a number of calls for the creation of a working group to curb the practice of corruption.

## 2.2. FORMS OF CORRUPTION

The act of corrupting or being corrupted, unfortunately, is at all levels of society. The problem is that many have not yet realized that customary and seemingly harmless attitudes are also corrupt.

We can cite routine acts of corruption as wanting to take advantage in everything; disrespect the right of others, deceive or harm; circumventing traffic laws; bribe, among others.

Corruption is ingrained and is part of our daily lives, in a pandemic species, being no different in the whole world.

The relationship between the representative and the corrupter may take other forms as the public representative acts in a way that favors the corrupter without necessarily subverting his functions in the state, for example issuing a document in exchange for various favors or monetary advantages. How can corruption be characterized by the representative exceeding his normal functions in exchange for favors, for example a ruler using his political influence to favor a businessman in a given contract.

Regardless of the form of corruption analyzed, it should be noted that these acts are usually not committed by only one type of person. The behavior of the public representative is most often related to a person's efforts to obtain benefits differently from other citizens of his or her city, state, or nation. That is to say, the act of corruption usually presents itself as an action between two types

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<sup>163</sup> <http://24.sapo.pt/atualidade/artigos/paises-corruptos-custam-milhares-de-milhoes-de-euros-a-uniao-europeia>

of social actors, in order to use the system in an atypical or illegal way, to obtain particular advantages.

### **3) MEASURES TO COMBAT CORRUPTION**

#### **3.1. UN CONVENTION ON THE FIGHT AGAINST CORRUPTION**

Governments around the world have mobilized to develop international instruments covering prevention, criminalization, international cooperation in combating fraud and asset recovery. The United Nations General Assembly, through Resolution 55/61, recognized the importance of developing an internationally binding legal instrument against corruption and decided to establish an ad hoc Committee open to all States with the task of document.

On December 9, 2003, the United Nations Convention against Corruption (UNCAC) was signed in the city of Merida, Mexico<sup>164</sup>. UNCAC is the largest and most comprehensive anti-corruption instrument.

##### **3.1.1 PREVENTIVE MEASURES**

In the chapter on prevention of corruption<sup>165</sup>, the Convention provides for States Parties to implement effective anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, such as integrity, transparency and so on.

The fight against corruption requires a holistic and long-term strategy, although it is appropriately prioritized and sequenced, depending on the circumstances of the country<sup>166</sup>. States Parties should adopt selection and recruitment systems with objective criteria of merit. They must also take steps to increase transparency in the funding of candidate and political party campaigns. They should develop codes of conduct that include measures to encourage complaints of server corruption and discourage receipt of gifts or any action that may cause a conflict of interest. Bidding processes should foster broad participation and have pre-established, fair and impersonal criteria.

They must also adopt measures to increase access to public accounts for citizens and encourage the participation of society in this process, as well as take preventive measures to money laundering. Finally, he emphasized that the independence of the Judiciary and the Public Prosecution Service is fundamental to the fight against corruption.

The Convention provides for measures to prevent corruption not only in the public sector but also in the private sector. Among them: to develop auditing and accounting standards for companies; to provide effective civil, administrative and criminal sanctions that have an inhibiting

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<sup>164</sup> [http://www.un.org/webcast/merida/pdfs/03-89343\\_Update\\_press.pdf](http://www.un.org/webcast/merida/pdfs/03-89343_Update_press.pdf)

<sup>165</sup> Chapter II – Preventive Measures – art. 5. - United Nations Convention against Corruption.

<sup>166</sup> Corruption: Costs and Mitigating Strategies – Staff Team from the Fiscal Affairs Department and the Legal Department – May – 2016 – contents 578.

character for future actions; promote cooperation between law enforcers and private companies; prevent conflict of interest; prohibit the existence of a "slush fund" in companies; and discourage exemption or reduction of taxes to expenses considered as bribery or other related conduct.

The second chapter of the United Nations Convention against Corruption<sup>167</sup> is entirely dedicated to this subject. The chapter, consisting of ten articles, brings a series of measures to be implemented by States Parties with the aim of promoting integrity, transparency and good governance in the public and private sectors.

Among other obligations under the Convention, Article 5 states that States Parties undertake to adopt public policies against corruption in order to promote the participation of society and, at the same time, to reflect the principles of the rule of law, proper public goods and services, integrity, transparency and accountability. To this end, the United Nations Convention requires each State Party, in accordance with its legal system, to ensure the existence of bodies or bodies with the necessary independence to apply, develop, coordinate and disseminate policies to prevent corruption.

As preventive measures to be adopted by the public sector, the Convention also emphasizes issues related to the hiring and functional promotion of public servants. According to Article 7 of the Convention, States Parties should adopt systems for the recruitment, hiring, retention, promotion and retirement of public servants based on principles of efficiency and transparency and on objective criteria such as merit, equity and fitness. Such systems should provide for adequate procedures for the selection and training of public office holders, especially those considered vulnerable to corruption.

Under the Convention, States Parties must also adopt measures to promote transparency and accountability in the public management of the treasury. Transparency is one of the most powerful allies in the fight against corruption. When there is information on public spending and free availability of benefits and privileges, corruption is being reduced<sup>168</sup>.

The Convention is not limited to establishing measures to prevent corruption in the public sector. In order to prevent corruption in the private sector, UNCAC requires States Parties, in addition to improving accounting and auditing standards, to provide for effective, proportionate and dissuasive civil, administrative or penal sanctions for non-compliance with existing standards.

Also in the chapter on measures to prevent corruption, Signatories commit themselves to, among other actions, increase transparency, promote citizen participation in decision-making processes, carry out public information activities, and promote public education programs for the social control. In addition, it is incumbent upon States Parties to respect, promote and protect the freedom to seek, receive, publish and disseminate information on corruption. In this regard, a free press is useful in exposing corruption and catalyzes support for reforms<sup>169</sup>.

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<sup>167</sup> Chapter II – Preventive Measures – United Nations Convention against Corruption.

<sup>168</sup> Against Corruption – A book of essays – Mart Laar – Contents 2588.

<sup>169</sup> Corruption – What Everyone Needs To Know – Ray Fisman and Miriam A. Golden – page 264.

It is important to mention that, in the last article of the Preventive Measures Chapter, the Convention establishes a broad internal regulation and supervision of financial and non-financial institutions in order to prevent and detect all forms of money laundering.

### 3.1.2 INTERNATIONAL COOPERATION

The chapter on international cooperation<sup>170</sup> in the Convention emphasizes that all aspects of anti-corruption efforts require international cooperation, such as mutual legal assistance in collecting and transferring evidence, in extradition proceedings, and joint investigation, tracing, freezing of assets, seizure and confiscation of corruption products.

The Convention innovates in relation to previous treaties by allowing mutual legal assistance even in the absence of double criminality, if not involving coercive measures. The principle of double criminality provides that a country need not extradite persons who have committed acts that are not considered crimes in their territory. But from the Convention, these requirements become more malleable, as it is anticipated that even crimes that are not defined with the same terms or category can be considered equivalent, making possible the extradition.

## 3.2. EUROPEAN COMMISSION

### 3.2.1 DEFINITION

The European Commission is the executive body that defends the general interests of the European Union<sup>171</sup>. The Commission is headed by the so-called "College" composed of 28 Commissioners, who jointly decide on the Commission's policy strategies and priorities. A new Commission is appointed every five years. The Commission is represented around the world, with representation offices on EU territory being the Commission's spokesperson in the country where they are located.

The European Commission plays an active role in developing the EU's overall strategy and in designing and implementing EU policies. It evaluates and reports on its policies on a regular basis.

Along with the other main EU institutions, the European Commission develops the overall strategy and political direction of the EU.

Every five years, at the beginning of a new Commission term, the president of the Commission also determines the political priorities for its upcoming term of office. The Commission turns these priorities into concrete actions on a yearly basis through an annual work programme, which sets out a plan of action for the next twelve months.

Prevention and detection of fraud are at the heart of the Commission's anti-fraud policy. However, other factors are equally important, including effective and efficient investigations, rapid recovery of sums unduly paid by the EU budget and the imposition of dissuasive sanctions. Member States manage almost all of the revenue from the EU budget and also share with the

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<sup>170</sup> Chapter IV - United Nations Convention against Corruption.

<sup>171</sup> [https://ec.europa.eu/info/about-european-commission\\_pt](https://ec.europa.eu/info/about-european-commission_pt)

Commission the management of most of the budget expenditure. The remainder are managed directly by the Commission services, partly in co-operation with the administrations of third countries and international organizations.

### 3.2.2 REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

This report<sup>172</sup> provides an analysis of corruption in the EU Member States and the measures taken to prevent and combat it. It aims to initiate a debate involving the Commission, Member States, the European Parliament and other stakeholders to support the fight against corruption, work and identify ways in which the European dimension can help.

The Commission, with this Communication, improves and modernizes its anti-fraud strategy. The overall objective of the Commission's new anti-fraud strategy is to improve prevention, detection and investigation conditions, as well as to obtain adequate redress and to achieve a sufficient level of deterrence, by means of proportionate and dissuasive sanctions, with due respect for the law. anti-fraud strategies at the level of each Commission service, and taking into account and clarifying the responsibilities of the different actors.

Article 325 of the Treaty on the Functioning of the European Union (TFEU)<sup>173</sup> states that the Commission and the Member States shall combat fraud and any other illegal activity detrimental to the Union's financial interests. Prevention and detection of fraud are therefore, a general obligation imposed on all Commission services in the exercise of their day-to-day activities involving the use of resources.

The European Commission implements the EU budget in accordance with the principles of sound financial management (Article 317 TFEU). It is committed to ensuring that the existing framework, policies, rules and procedures allow the effective prevention and detection of fraud.

Financial management and accountability have been strengthened. The Commission's services are responsible for managing the operational and administrative resources allocated to them to implement EU policies or to contribute to the smooth functioning of the Union's institutions in a cost-effective way and reducing as much as possible the burden administrative. In this respect, the Commission services<sup>174</sup> are responsible for taking the necessary measures to provide reasonable assurance on the prevention and detection of fraud and irregularities.

### 3.3. OLAF

#### 3.3.1. DEFINITION OF OLAF

The European Anti-Fraud Office (OLAF) is the only EU body mandated to detect and

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<sup>172</sup> European Commission, Brussels, 3.2.2014 COM(2014) 38 final

<sup>173</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:326:FULL:PT:PDF>

<sup>174</sup> Os gestores orçamentais delegados, na aceção do TFUE (artigo 322.º) e do Regulamento Financeiro (Regulamento (CE, Euratom) do Conselho n.º 1605/2002, de 25 de Junho de 2002, que institui o Regulamento Financeiro aplicável ao orçamento geral das Comunidades Europeias (JO L 248 de 16.9.2002, p. 1).

inquire about the fraudulent use of EU funds and to terminate it. Although it has an independent status with regard to its investigative powers, OLAF is part of the European Commission.

OLAF investigates cases of fraud affecting the EU budget, corruption and serious misconduct in the European institutions and contributes to the European Commission's anti-fraud strategy.<sup>175</sup>

To carry out its mission, OLAF conducts independent investigations into possible cases of fraud and corruption involving EU funds in order to ensure that EU taxpayers' money is used in projects that create jobs and growth in Europe. of the citizens' trust in the European institutions in investigating serious misconduct committed by staff and members of the European institutions devises an appropriate anti-fraud policy for the European Union.

### 3.3.2 OLAF'S PERFORMANCE

OLAF investigates cases of fraud, corruption and other illegal activities, detects and investigates serious professional misconduct of staff of the European institutions, helps the European Commission to define and implement policies to prevent and detect fraud.

Inquiries carried out by OLAF may include interviews and inspection of premises, in particular outside the EU. OLAF also coordinates inspections by national anti-fraud bodies.

Following the completion of an investigation, OLAF recommends measures to the EU institutions and national governments concerned: criminal investigations, criminal proceedings, financial recoveries or other disciplinary measures.

OLAF also controls how its recommendations are put into practice.

The agency also has operations in customs operations. National customs authorities both inside and outside the EU regularly conduct joint operations with OLAF (and other EU agencies) to combat cache and fraud in general in certain high-risk areas and on routes already identified.

### 3.3.3 RESULTS

An example of OLAF's activity was the seizure, in October 2014, of an international customs operation of over 1.2 million counterfeit goods and 130 million cigarettes. The operation, codenamed REPLICA, aimed at importing counterfeit goods, namely cigarettes, perfumes, spare parts for automobiles and bicycles, toys, fashion accessories and electrical appliances transported by sea.

One of the main types of fraud in the European Union is cigarette cache. The evasion of customs duties and excise duties on cigarettes, usually through cache, is one of the main types of fraud in the EU. OLAF is notified of suspicious movements of cargo ships by partner organizations and carries out cross-checks of national data to find out what the contraband methods are.

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<sup>175</sup> [https://ec.europa.eu/anti-fraud/home\\_pt](https://ec.europa.eu/anti-fraud/home_pt)



During the period 2012-2014, the joint operations of OLAF and the national bodies led to the seizure of:

- 9 ships carrying about 215 million cigarettes (representing tax evasion of around € 43 million).
- containers with 93 million cigarettes (avoidance of excise duty in the order of 15 million euros).

Since its creation in 1999, OLAF has closed 3 500 investigations with the following results:

- 335 people have been sentenced to imprisonment totaling 900 years; - more than € 1.1 billion (EU funds) have been recovered (not including financial penalties); - an average of EUR 100 million was recovered.<sup>176</sup>

Between 2010-2016, OLAF:

- Concluded over 1600 investigations
- Recommended the recovery of over €3.6 billion to the EU budget
- Issued over 2000 recommendations for judicial, financial, disciplinary and administrative action to be taken by the competent authorities of the Member States and the EU.

As a result of OLAF's investigative work, sums unduly spent were gradually returned to the EU budget, criminals faced prosecution before national courts and better anti-fraud safeguards were put in place throughout Europe.

Workload in 2016<sup>177</sup>:

- In 2016, OLAF opened 219 new investigations and concluded 272 investigations.
- The average duration of concluded and on-going investigations in 2016 was 18.9 months.

The average duration of the selection phase, in which OLAF assesses the incoming information and decides whether to open an investigation, was 1.7 months.

- OLAF had 344 on-going investigations at the end of 2016.
- OLAF had 415 staff members, the majority of whom work on investigations.

The European Anti-Fraud Office (OLAF) conducts administrative investigations and draws on its experience and capacity to assist other Commission services in preventing and detecting fraud.

### 3.4. EUROPOL

The law enforcement agency of the European Union, Europol, is also involved in the fight against fraud as part of its mandate to protect the internal security of the European Union.

Headquartered in The Hague, the Netherlands, it provides support to the 28 Member States of the Union in the fight against serious forms of international crime and terrorism. In addition, it collaborates with many third countries and international organizations.

In addition to the twelve points of its mandate relating to operational activities, Europol is charged with combating fraud in the field of counterfeiting and value added tax (VAT). Counterfeiting of the euro costs the European Union millions of euros each year.

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<sup>176</sup> [https://ec.europa.eu/anti-fraud/investigations/fraud-figures\\_pt](https://ec.europa.eu/anti-fraud/investigations/fraud-figures_pt)

<sup>177</sup> ([https://ec.europa.eu/anti-fraud/investigations/fraud-figures\\_en](https://ec.europa.eu/anti-fraud/investigations/fraud-figures_en))

This type of fraud is extremely profitable and causes large tax losses in all EU Member States. An update to the "Study on the VAT Gap in the EU-28 Member States", published in August 2016, reported that the difference in VAT, which is the difference between the expected tax receipts and the amounts actually collected, totaled around 160 billion euros in 2014<sup>178</sup>.

A joint action aimed at VAT fraud in October 2016 saw prosecutors and police authorities from Austria, Belgium, Germany, Ireland, Italy, the Netherlands, Norway, Poland, Spain, Sweden, Switzerland and the United Kingdom, supported by Europol, to deliver a new blow to a criminal organization responsible for defrauding EU citizens of some EUR 320 million<sup>179</sup>.

OLAF and Europol signed a cooperation agreement in 2004, which provides for the two organizations to work together to combat fraud, corruption or any other criminal offense or illegal activity in the context of organized international crime, detrimental to the financial interests of the Organization. European Union. The agreement facilitates the exchange of technical and strategic information between the two entities, as well as cooperation in the scope of threat assessment and risk analysis in areas of common interest, excluding the exchange of personal data.

### 3.5. EXAMPLES IN SOME EU COUNTRIES

#### 3.5.1 GERMANY

Germany is a country that is among the richest on the planet but is not immune to corruption. An example of this is the case of Siemens, one of the largest companies in the country. Just over ten years ago, it came under the spotlight around the world after an investigation pointed out that between 2001 and 2007, about \$ 1.4 billion in bribes were paid by the company in several countries in exchange for contracts together to governments.

The case served as a milestone in the German trajectory in the fight against corruption, which was already faced before, but not with the current effectiveness. In both the public and private sectors, the concern to adopt compliance measures, a term that can be translated as a concern to follow legal practices, has increased. They are codes of conduct, channels of anonymous denunciations for employees, and legislation with more rigid punishments. Such measures have reflected a greater global perception of corruption in Germany: the country rose two places in the Transparency International ranking and took tenth in the list of more transparent nations<sup>180</sup>.

In this scenario, the German government has a series of rules for employees and takes some measures to prevent, control and combat possible wrongdoings that may be committed. The focus is on so-called "contact persons": officials who exist in virtually every ministry in the country, as well as in their subordinate bodies, and are responsible for receiving complaints from other employees when there is any suspicion of corruption.

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<sup>178</sup> TAXUD/2015/CC/31, the "VAT Gap" provides an estimate of revenue loss due to tax fraud, tax evasion, as well as bankruptcies, financial insolvencies or miscalculations.

<sup>179</sup> Europol Review 2016 – April 2017 – pag. 58 in [https://www.europol.europa.eu/annual\\_review/2016/](https://www.europol.europa.eu/annual_review/2016/)

<sup>180</sup> [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016)

In general, these people already work in internal departments that deal with corruption and have great mastery of the subject.

Another measure adopted is risk mapping: each ministry has an internal review department, which prepares a standard questionnaire and sends it to all other sectors of the institution. Issues such as number of trips abroad, contracts with private companies, among others, are some that are present in the document. In addition, there is a circular, valid for all civil servants in Germany, about accepting gifts from private companies: legal persons can give a public official a gift of no more than € 25 a year. The equivalent of small souvenirs, such as a notebook and a pen<sup>181</sup>.

Depending on the context, employees should request a direct authorization from the Human Resources department of each government body to accept gifts whose value exceeds the limit. It is also possible to inform later on the receipt of some blessing that does not fit the rule: if a public official is invited to a lunch after an event, for example, he can go, but he must inform the government later. The rule is a bit more rigid for some servers, like the federal police officers or those who work in customs: they are not allowed to receive a gift of any value.

The measures taken by the German government have made the country rise in the ranking of more transparent nations of the planet, according to a survey by Transparency International. Germany ranks tenth in a list of 176 countries. Another factor that contributes to this good placement is the country's implementation of all the anti-corruption regulations established by the United Nations.

### 3.5.2 PORTUGAL

Portugal has also been trying to take a preventive stance, which culminated in the creation of a Council for the Prevention of Corruption (CPC), instituted by Law no. 54/2008, of September 4<sup>182</sup>. According to art. 1, the CPC is an independent administrative entity, operating at the Court of Auditors, which carries out a national activity in the field of the prevention of corruption and related offenses. Corroborating this idea, art. 2<sup>o</sup> indicates that the activity of the CPC is exclusively oriented towards the prevention of corruption. Pursuant to the same article, the CPC will collaborate, at the request of the public entities concerned, in adopting internal measures capable of preventing the occurrence of acts of corruption, such as the development of codes of conduct and the promotion of initial training actions or permanent policies relating to the prevention and combating of corruption. The line of action of this body has been focused on the analysis of the management of public funds, values and assets, for this purpose, has prepared and submitted, by electronic means, a questionnaire to the heads of entities, services and bodies of the Central and Regional Public Administration. After analyzing the responses of the 700 questionnaires received, the CPC concluded that the areas of public procurement and public benefits (only areas analyzed) presented high risks of corruption, which should be addressed (Recommendation 1/2009).

Thus, in order to minimize the occurrence of these and other corruption risks and to comply

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<sup>181</sup> [http://www.diariodepernambuco.com.br/app/noticia/politica/2017/12/17/interna\\_politica,734846/governo-alemao-emprega-medidas-para-evitar-que-funcionarios-publicos-c.shtml](http://www.diariodepernambuco.com.br/app/noticia/politica/2017/12/17/interna_politica,734846/governo-alemao-emprega-medidas-para-evitar-que-funcionarios-publicos-c.shtml)

<sup>182</sup> [http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1367&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1367&tabela=leis)

with the recommendations of international organizations, the CPC decided in July 2009 to approve Recommendation no. 1/2009, which provides for the preparation of Risk Management of Corruption and Related Offenses (PGRIC)<sup>183</sup>. Pursuant to this regulation, all entities that manage public money, assets or assets, should prepare and send, until December 31, 2009, to the CPC the respective PGRIC. Even so, currently, there are public entities that have not complied with the stipulations of this law, perhaps because it is not compulsory, since it is a recommendation<sup>184</sup>.

Nonetheless, the lack of delivery of the PGRIC to the CPC is grounds for "aggravated responsibility" in case of failure in the audits that the state inspection services perform to public entities. In addition, the unjustified failure to comply with the duty to cooperate with the CPC shall be communicated to the respective supervisory bodies for punitive, disciplinary or administrative purposes (article 9, Law no. 54/2008).

The PGRIC is essential to assess the risks of corruption and to avoid or minimize its occurrence and, ultimately, to assess financial, criminal or other liability (OECD, 2011)<sup>185</sup>. This document, besides being a measure to combat corruption, can be a powerful management tool; in fact, the ideal is that PGRIC should be directed not only to the prevention of corruption, but also to management risk. In order to facilitate the preparation of the PGRIC, the CPC defined the elements that should be included in this document, namely, the risks of corruption, typified by area or department, the risk prevention measures identified and those responsible for their management, who will act under the direction of the highest governing body (Recommendation No. 1/2009).

### 3.5.3 DENMARK

Denmark has taken action several centuries ago to combat corruption, making it consistently top of the 168-nation ranking of Transparency International, the leading global indicator of corruption.

In the Danish example there are initiatives from the mid-17th century when Denmark lost part of its reign to Sweden and saw a more efficient administration to collect taxes and finance ongoing battles<sup>186</sup>. At a time when the nobility enjoyed many privileges, King Frederik III forbade the receipt or offer of tips and gifts, under penalty of death. And it instituted rules for hiring public servants based on merit, not title. From then on, new measures were instituted period by period.

Even so, it is a fact that countries that are at the top of the rankings are naturally not free of corruption. Denmark continues to fight corruption and delivers its revenue:

a) Less perks for politicians - there are several measures in this sense as absence of private car, being delivered a card for taxi, which can only be used when attending official events; limit of

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<sup>183</sup> [https://www.ama.gov.pt/documents/24077/28645/Recomendacao\\_n1\\_2009.pdf/90d38536-53d6-4e9a-b4a5-c0581847bdc1](https://www.ama.gov.pt/documents/24077/28645/Recomendacao_n1_2009.pdf/90d38536-53d6-4e9a-b4a5-c0581847bdc1)

<sup>184</sup> R. Cunha, S. Serra & M. M. Costa. Medidas de Combate à Corrupção em Portugal, from <https://tmstudies.net/index.php/ectms/article/viewFile/493/796>

<sup>185</sup> [http://www.oecd.eu/Documents/OECD\\_Booklet\\_Amsterdam\\_WEB.pdf](http://www.oecd.eu/Documents/OECD_Booklet_Amsterdam_WEB.pdf)

<sup>186</sup> [http://www.bbc.com/portuguese/noticias/2016/01/160126\\_dinamarca\\_corrupcao\\_fm\\_ab](http://www.bbc.com/portuguese/noticias/2016/01/160126_dinamarca_corrupcao_fm_ab)

events outside the city to control displacement and food expenses; gifts must be made public and passed on to civil entities. These rules apply to all levels of public office.

b) Little space to indicate jobs - It prevents the person from benefiting from the public sector. For example, when the politician is elected, the team that will work with him is the same as the previous administration. In addition, the professional who does not report an illegal act is dismissed and, therefore, makes it difficult to receive economic incentives. With this, there are clear rules on conflicts of interest, the implementation of codes of ethics and the obligation of declaration of assets.

c) Broad transparency - Denmark was considered the most transparent nation in the "2016 Best Countries" ranking, of the University of Pennsylvania, United States<sup>187</sup>. Government websites, from all walks of life, are usually well-equipped with data on politicians' spending, salaries, investments by area, etc. And any citizen can request information that is not there.

d) Reliable and prepared police - Rarely, corruption cases involve the Danish police. Trust in the institution is considered very high, according to the 2015-2016 Global Competitiveness Report of the World Economic Forum<sup>188</sup>. Police enjoy high level of confidence and being a police officer is generally considered a relatively status position, attracting many young people.

e) Low impunity - Denmark's criminal justice system works well, punishments of active or passive bribes, abuse of public power, embezzlement, fraud, money laundering and bribery. Although penalties are not so severe, they are enforced and enforced, which inhibits criminal practice.

The institutions of justice are strong and independent. In addition, the mechanism of punishment is hard, there being no intolerance even with simpler attitudes<sup>189</sup>.

#### 3.5.4 ROMANIA

Romania joined the European Union in 2007 to solve problems related to judicial reform and the fight against corruption. The Cooperation and Verification Mechanism (CVM)<sup>190</sup> has been set up and the CVM reports have sought to help focus the efforts of the Romanian authorities by formulating recommendations and recording progress.

Recently, in the CVM report of January 2017, the Commission analyzed the situation by providing an overview of the results achieved and the remaining challenges and identified the main measures that still needed to be taken to achieve the objectives of the CVM. To this end, the

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<sup>187</sup> <http://omegaworldnews.com/?p=24541>

<sup>188</sup> <http://reports.weforum.org/global-competitiveness-report-2015-2016/competitiveness-rankings/#indicatorId=GCI.A.01>

<sup>189</sup> [http://www.bbc.com/portuguese/noticias/2016/01/160126\\_dinamarca\\_corrupcao\\_fm\\_ab](http://www.bbc.com/portuguese/noticias/2016/01/160126_dinamarca_corrupcao_fm_ab)

<sup>190</sup> Conclusions of the Council of Ministers of October 17, 2006 (13339/06); Commission Decision establishing a mechanism for cooperation and verification of progress in Romania with regard to specific benchmarks in the areas of judicial reform and the fight against corruption and organized crime of 13 December 2006 (C (2006) 6569 final).

Commission has made twelve main recommendations, which, if implemented, will lead to the finalization of the CVM process.

This report shows that Romania has made important progress towards meeting the CVM reference criteria. Some of the main institutions were created and legislation of great importance was passed. The reform of the Criminal Code and the Civil Code is almost complete. The report confirms that the Romanian judicial system has been thoroughly reformed and the body of judges has repeatedly demonstrated its professionalism, independence and accountability.

I emphasize here Recommendation no. 8 which has been satisfactorily fulfilled, according to the Report from the Commission to the European Parliament and the Council<sup>191</sup>. The Recommendation provided for the introduction of the PREVENT system. The National Integrity Agency and the body responsible for awarding public contracts should set up a reporting mechanism for ex-ante public procurement controls and follow-up, including the ex-post controls carried out, as well as conflicts of interest or corruption. It should also organize public debates in which the government, local authorities, the judiciary and civil society can express their positions. This system went into operation in late June 2017 and is showing its first results.

Finally, the report presents the progress made following the recommendations made in January 2017. As in previous years, it is the result of careful consideration by the Commission, in close cooperation with the Romanian institutions, and the contributions of civil society and other interested parties, including other Member States.

#### **4) CONCLUSION**

It is true that corruption has existed since the formation of the earliest civilizations and that today it is a reality in both developed and developing countries. Corruption includes a set of illegal practices that are increasingly sophisticated and difficult to detect given their invisibility and dilution of the phenomenon in the political and administrative system itself, as well as in all forms of economic crime<sup>192</sup>.

Since the 1990s, a consensus has emerged in the international community that the advance of corruption contributes to the increase of poverty, and has a negative impact on trade relations. With the prioritization of the fight against corruption on the international agenda and with the certainty that fair and democratic societies can not develop with the advancement of this practice, several multilateral agreements are celebrated. Thus, governments around the world mobilized to develop international instruments covering prevention, criminalization, international cooperation and recovery of assets.

The European Union, however, supports Member States in their investigations through the European Anti-Fraud Office (OLAF), as mentioned above. Ultimately, corruption undermines

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<sup>191</sup> REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the progress made in Romania in the context of the Cooperation and Verification Mechanism - Brussels, 15.11.2017 COM (2017) 751 final

<sup>192</sup> (Morgado, 2003)

public confidence in democratic institutions and processes. Combating corruption and fraud is a national responsibility and the Member States of the European Union have created most of the legal instruments and institutions needed to prevent and combat corruption and fraud. The fight against corruption contributes effectively to the competitiveness of states in the global economy.

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