

Family Courts in Crisis
Newsletter
February 2014

**Judicial Corruption, Human Rights Violations
& Organized Crime: Connecting the Dots**



An ideology is a conceptual framework with the way people deal with reality. Everyone has one. You have to -- to exist, you need an ideology. The question is whether it is accurate or not....(Alan Greenspan) ---- In other words, you found that your view of the world, your ideology, was not right, it was not working?... (Rep. Henry Waxman)

Alan Greenspan's testimony - House of Representatives Committee on Oversight and Government Reform, Oct. 2008

Countries... have systematically denied the existence of organized crime. Believing that in this way the danger will disappear, like an ostrich that hides its head under its wing when danger approaches...

Know your enemy, because if you do not know what you are up against, you will have a hard time confronting it, a hard time combating it. And, if you [try to fight them] without knowing what you are facing, they will always have the advantage, that is to say, they will always be two steps ahead of you. That is what has happened in the world... and has been this way for a very long time, even today.

A World Without Fear, Baltasar Garzón

Judicial Corruption & Discrimination Against Women within the Court

by Quenby Wilcox – January 2014

Campaigns against judicial corruption usually concentrate on bribery and influence peddling, particularly in terms of “grand corruption”, while discounting the importance &/or prevalence of “petty” corruption, and the more subtle social forces at play. For this reason, combating judicial corruption normally focuses on promoting judicial independence as the solution; assuming that if ‘external’ factors are removed, giving actors a ‘free-hand’, everyone will diligently fulfill their respective roles.

Unfortunately, with judicial systems consistently demonstrating 70-90% negligence rates, this is a dangerous & erroneous assumption. And, one which assumes that corruption is only influenced by ‘exterior’ forces of which actors are consciously and cognitively aware, as well as a false assumption of competence & diligence of said actors. The biases and cognitive limitations of people at play here are explained in *Perception & Misperception of Bias in Human Judgment* by Emily Pronina:

People are not always accurate and objective at perceiving themselves, their circumstances & those around them. People's perceptions can be biased by their beliefs, expectations & context, as well as by their needs, motives & desires. Such biases have important consequences. They can compromise the quality of human judgment & decision making, & they can cause misunderstanding & conflict...

Much of human judgment & action is driven by nonconscious processes. People can form impressions of others, pursue goals, adopt attitudes & regulate their emotions – all without awareness, effort or intention. They claim freedom from racial bias & from gender bias, even in circumstances where they have shown these biases– at times even showing these biases more strongly the more objective they claim to be. When making judgments about who is ‘right’ in a conflict, people tend to side with the person who shares their ingroup identity but they again deny that bias.

And, since ‘cognitive biases’¹ & ‘selective perceptions’² produce the stereo-types in our societies (creating the most insidious & dangerous type of corruption & immorality), it is important to understand what role they play in people’s decision-making process. As Robert Kohls states in *Survival for Overseas Living*;

“Stereotypes are natural; they are one way people everywhere deal with things which are too complex to handle or about which they have inadequate information. [Nancy Adler](#) has said that due to the multiplicity of impulses that our brain is receiving as our sensory receptors are being flooded with stimuli, we have no choice but to ignore most of them in order to pay attention only to those few that we have learned to consider as most vital... another truism about stereotypes is that once formed in people’s minds, they outlive the partial truth that created them in the first place. They are also destructive in personal encounters because they are unfair and because they interfere with getting to know individuals as they really are...

To further complicate matters (in examining the responsibility of a government to protect victims of domestic violence, and how judicial corruption, might impede the fulfillment of that obligation) is that corruption in family courts is not considered ‘important’ by governments and the human rights community because they fail to appreciate the role that homemakers play in a society and socialization of our young. As stated in *When Legal Worlds Overlap Human Rights, State & Non-State Law* by International Council on Human Rights;

“family law [is seen] as ‘minor’ ... [creating] a distinction between ‘major’ & ‘minor’ human rights.”

¹ a pattern of deviation in judgment, whereby inferences about other people & situations may be drawn in an illogical fashion, leading to perceptual distortion, inaccurate judgment, illogical interpretation, or what is broadly called irrationality ²the process by which individuals perceive what they want while ignoring opposing viewpoints.

This attitude has significant implication in terms of the application of human rights law, showing to what extent the rights of women & children within the family are not recognized by societies & human rights advocates. None of the actors involved in the problems (or potential solutions) are recognizing the vital role of the homemaker in producing healthy, well-functioning, productive societies:

*“...by her life within the home, woman gives to the State a support without which the common good cannot be achieved...women and the family often serve a crucial symbolic role in constructing group solidarity vis-à-vis society at large.” ... Thus, control over family law, and by extension women’s rights, is important to the power of state and non-state actors alike....State recognition of demands for distinct family laws therefore needs to be seen...as a **conscious political strategy that has profound human rights implications.**” [With the family considered as the] **“natural primary and fundamental unit group of Society”** [and] **“a moral institution possessing inalienable and imprescriptible rights...***

So in recognition of the fact that the homemaker & family unit, and thereby family law, has a profound human rights implications for the society in question, it is important for human rights advocates to examine the prejudices & biases of judges, lawyers, & psico-social teams within family courts. The most common of which are the following:

- The belief that women lie and make false accusations of domestic violence in order to gain preferential treatment during divorce (an illogical premise since women who file complaints for abuse (against them or their children) receive reprisals and detrimental treatment during divorce proceedings).
- The belief that women (particularly homemakers) are hysterical, stupid, don’t understand complex concepts ‘litigation/legal principles’ etc. As stated in (Coltrane 1998) “[they are] weak, lacked strength, their brains [are] too small...”
- The belief that homemakers “don’t do anything” and live-off the hard-work of their husbands. (This is the main reason that lawyers are failing to adequately reclaim common property assets during divorce, and judges are refusing to award alimony to women commensurate with contribution to home and family. As a consequence homemakers are left destitute by courts and denied access to common property assets during the entire process, effectively hampering their ability to defend themselves within the courts.)

In examining the case-study of Spain (see Nov. ‘13 & Jan. ‘14 [Family Courts in Crisis](#) newsletters) – judges award alimony in 11.4% of divorces with reported sums at €500/month (below poverty level) after an average of 15 years of matrimony with the average age of women, 42 years old. Many of these women who have not developed careers and dedicated themselves to raising children & assisting husbands in developing their careers (and elevated salary levels) are left penniless, and thrown into labor-markets where gender & age discrimination is rampant (with unemployment rates of 26.7%) condemning them to a life of extreme poverty. Basically, the courts are relegating the status of the homemaker to one of servitude with no recognition of her contribution to the family or society, & ‘workers’ rights (“safe conditions,” compensation, or pension, etc.) – in violation of Convention of Civil & Political Rights, & Intl. Covenant on Economic, Social & Cultural Rights)

Other social factors, influencing the attitudes, behavior & decisions of judicial actors are:

- Historically victims of domestic violence have been “silenced” by the community in order to protect the “honor” of the abuser (using tactics such as making victims feel “ashamed” & “responsible”, talking about abuse is not “polite” conversation, social ostracisation, restricting access to assets & funds, etc. Lawyers are (illegally) utilizing these same tactics in silencing victims (their clients); simply because this is how everyone has always handled the situation – common custom & habits. – Habits are hard to break, and nowhere is this more evident than in family courts...
- On average two-thirds of populations suffer from “abusive personality” disorders, with abusers more likely to seek jobs which put them in positions of authority and facilitate their access to victims. It

should be noted that the tactics used by lawyers, judges & court psico-social teams are those found in the [‘Power & Control’ - Duluth Wheel Model](#). **Unfortunately, these tactics have become so consolidated & integrated into court customs & procedures, they are widely accepted as ‘standard operating procedures’.** In order to ‘break the cycle of abuse’ in the courts, these procedures must be draconically challenged & eradicated. But first their existence must be recognized!

- Lawyers, judges & court psico-social professionals are in positions where they can easily & readily abuse their powers over women. – This is the reason that accountability of judicial actors by regulatory agencies is of the utmost importance in assuring transparency & accountability of family courts.
- There exists a false assumption that women lawyers, judges, etc. will automatically defend the rights of victims, when in fact these women are as likely, if not more likely, to discriminate against victims or cover-up abuse. As stated in the UN report *In-depth study on all forms of violence against women*:
“Women also commit acts of violence. While women commit a small proportion of intimate partner violence, they are involved to a greater degree in the perpetration of harmful traditional practices”
- There exists a high level of nepotism, “old-school” networks, and antiquated “code of honor” traditions amongst lawyers (and other judicial actors) which encourage (if not obligate) the covering-up for “indiscretions” (negligence, malpractice, etc.) of colleagues
- Divorce courts are a huge money-making industry, with little incentive for lawyers to develop arguments and jurisprudence advancing the rights of women within the family or marriage. Yet, jurisprudence (supreme/constitutional court decisions) in the past few decades, regarding domestic abuse and family law, has made many inroads in advancing father’s rights and ‘abusers rights’, with little opposition/argumentation from family law lawyers. (This is an area which needs serious examination, and work, from a trans-national pool of legal experts in family law, in conjunction with human, civil and women’s rights lawyers.)
- Women’s rights movements have concentrated almost exclusively on women’s rights within the workforce and reproductive rights in the past decades – but not the home or marriage. This has left a “vacuum,” and women have not gained any rights within the family in the past 100 years, simply because no one is “requesting/demanding/arguing for” those rights in the courts. – Again, a simple matter of ‘customs’ and breaking with ‘customs’ – one of the hardest thing to do in a society
 – Feminists & women’s rights activists have traditionally considered homemaker’s role (house-keeping, child-raising, supporting husband’s career, even marriage itself) as ‘shackles of oppression’, so they have little incentive or desire to promote legal rights of homemaker in the courts or elsewhere
- There is no effective over-sight on family courts, with gag orders common when victims attempt to attract media attention; providing the opportunity for corruption in family courts to develop & thrive – **And, why media attention is so vital to bringing changes!**
- **There is an extremely high correlation between abusers and criminal activity.** Organized crime & white collar criminals develop extensive networks within judicial systems, and utilize these during divorce proceedings & DV cases. Some of the tactics utilized (and typical of the problems seen in family courts) are enumerated [The Global Corruption Report: Corruption in the Judiciary \(2007\)](#), Transparency International, and are as follows:
 - *Judicial civil servants manipulate the dates of hearings in order to favor one party over another*
 - *Judge make inexact summary-decision / distort testimonies of witnesses before handing down a sentence*
 - *Judges refuse the introduction of evidence or testimonies in order to favor one party over another*
 - *Civil servants —lose a document*
 - *Prosecutors block avenue of legal reparation*
 - **[Noting that] corruption is more likely in judicial procedure where journalist do not have free access to all fact or lack of activist groups who push for reform.**

Examining the Links Between Organized Crime and Corruption by Center for The Study of Democracy, further exposes the influence white-collar criminals/abusers have at their disposition, recalling that abuse is about power & control;

“white-collar criminals exert more pressure on the judiciary, as they have easier access to social networks that facilitate corruption... organised crime uses social, professional & political networks to influence the judiciary... Certain type of companies, such as law firms are in high demand by organised crime as middlemen... Attorneys have a significant competitive advantage over all other intermediaries – they can provide services through the whole institutional chain, starting with police & going all the way to prosecutors and even judges... ‘Collusion’ is often a more appropriate way of describing professionals’ corrupt behaviour, including that of lawyers...

The factors which influence corruption in family courts, their failure to protect victims, and failure to recognize the rights of women and children involve a large range of factors, which must be examined from an intersectional approach by women’s & human rights organizations, as well as regulatory agencies when evaluating the actuation of judicial actors. Additionally, prosecutorial agencies must take a proactive role, and a hard stance, when investigating and evaluating criminal negligence, with severe sanctions & reparations to victims for monetary loss as well as personal suffering.

Unfortunately, regulatory agencies, beginning with Bar & Judge Associations are not proactively investigating cases where victims have been denied protection and/or rights violated, justifying their refusal to investigate under the erroneous contention that it violates the judicial independence of lawyers and judges. **(A full examination of judicial independence vs. accountability/transparency, & their inter-dependence rather than mutual exclusivity, will be covered in upcoming FCC newsletters.)**

In the case of Bar Associations in the USA, the sanction rate of complaints received is 2 – 2½ % (with legal malpractice & negligence rates in the USA at an est. 70-75%). And, the Bar Association of Madrid has contended, in writing, that it is the **“right of a lawyer to violation their client’s rights under the principle of judicial independence”** (see Preliminar 859/13 <http://worldpulse.com/node/80671>).

The failure of government regulatory agencies (arguing that ALL agencies which fulfill a public function or authority are ‘government agencies’) to fulfill their obligation to assure transparency and accountability of those they license, regulate, and sanction **is one of the principle and the root causes of the failure of family courts to protect & defend the rights of victims.**

Sadly, lack of ‘good governance’ of regulatory agencies is not found only in those who supervise court systems, but is rampant in all sectors of societies and industries, and in countries across the globe (as the current global economic crisis is testimony). In the USA for example, we see it in the banking/financial markets and the SEC; the environment and the EPA; health-care systems and the HHS, FDA, AMA & APA, etc.; the list goes on. But, paradoxically political campaigns, promises and rhetoric are never directed at reforming these systems, promoting ‘good governance’, or eradicating rampant abuses of power and corruption within them. – **Until and unless political leaders are willing (and able) to address these issues and problems, the world will continue on its current spiraling descent.**

A perfection of means and confusion of aims, is the underlying problem. This is the true challenge of the 21st century, and will determine if humanity survives the 22nd century.

There are those who believe destiny rests at the feet of the gods, but the truth is that it confronts the conscious of man with a burning challenge. – Eduardo Hughes Galeano

The Relationship between Human Rights and Corruption: The Impact of Corruption on the Rights to Equal Access to Justice and Effective Remedy

THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY

Review Meeting

Victoria Jennett

Corruption in the judicial system undermines democracy and human rights as well as diminishing economic growth and human development. The judicial system is the cornerstone of democracy: the enforcer and interpreter of the law passed by the legislature and implemented by the executive. It is also the final arbiter of disputes between parties. If a justice system is corrupt public officials and special interest groups can act in the knowledge that, if exposed, their corrupt and illegal acts will go unpunished. Public confidence in governance and the institutions of state is eroded as judicial corruption facilitates corruption across all sectors of government and society. Human rights are debased as citizens are not afforded their rights of equal access to the courts, nor are they treated equally by the courts. The international business community is reluctant to invest in countries – often developing countries that most need investment – where there is no certainty in the rule of law and no guarantee that contracts will be respected because the judicial system is in the service of those in power or with the deepest pockets rather than in service to the rule of law.

International Instruments that Oblige States to Combat Corruption in the Judicial Sector

Human rights lawyers and activists are familiar with the range of rights that international and national bodies, notably the UN but also the Council of Europe, increasingly the EU, many regional bodies as well as national systems, have agreed that citizens should enjoy vis-à-vis access to justice as well as the obligations these bodies have conferred on states to provide fair, effective and prompt access to justice. They are perhaps less familiar with the “daily bread” of anti-corruption activists: the international obligations on states to prevent and combat corruption throughout all institutions of state and sectors of society and to prosecute private sector companies that bribe foreign officials as well as a menu of international and national criminal laws and soft laws tackling corruption.

There exist also myriad international instruments that regulate the behaviour of judges and the judicial system. **Unfortunately many of these standards have not been fully implemented.** However with strong political will they are ready and waiting to be invoked. These standards include the *Bangalore Principles on Judicial Conduct* (2002); *UN Basic Principles on the Independence of the Judiciary* (1985); *UN Basic Principles on the Role of Lawyers* (1990); *UN Basic Principles on the Role of Prosecutors* (1990); *Council of Europe Recommendation no. R(94) 12 of the committee of Ministers to Member States on the Independence, Efficiency and Role of Judges* (10/13/93); *Council of Europe European Charter on the Statute of Judges* (07/08-10/98); *Latimer House Guidelines for the Commonwealth Judges* (1998) & *Latimer House Principles on the Accountability & Relationship Between the Three Branches of Government* (2003); *The Limassol Conclusions for Commonwealth Judges* (2002); *the International Bar Association, Code of Minimum Standards of Judicial Independence* (‘New Delhi Standards’) (1982) amongst a great many others.

As indicated in the preceding paragraph, the international legal community has developed a great body of standards on judicial independence **but it has been less active in developing standards on judicial accountability. In this regard anti-corruption conventions offer much to the promotion of accountability in the judicial sector.**

UN Convention Against Corruption (UNCAC) is of particular significance to those seeking to tackle corruption in the judicial system. Its provisions encompass a holistic understanding of the underlying causes of corruption and the myriad opportunities for corruption to fester and grow. It allows for countries to assess, promote and implement anti-corruption and judicial reforms and to measure the progress of their reforms. UNCAC covers a range of corrupt activities with the main focus on preventing and punishing the bribery of public sector officials including judges. Bribery encompasses payment and receipt of bribes, as well as diversion of property by public officials. UNCAC also covers the bribery of private sector employees and embezzlement by them. Apart from these criminal offences, corruption addressed by UNCAC includes nepotism and favouritism in public sector recruitment and promotion. Related offences covered include laundering the proceeds of corruption, aiding and abetting corruption and obstruction of justice.

Actors in the Judicial System

There are many actors in the judicial system who can contribute to corruption in the judiciary. Judges, magistrates, prosecutors and judicial officers work in a complex environment, interacting with a range of other actors who can affect the way in which they perform or are perceived to have performed their duties. These other actors include judicial associations, politicians, citizens and businesses, journalists and other media actors, academics and NGOs as well as donors who support judicial reform programmes. In this section each actor is examined in turn in order to assess what duties or responsibilities they have to perform in order to challenge corruption in the judicial system. In so doing the kinds of obstacles they face – as duty-bearers to provide fair justice for all– are eked out.

Responsibilities of Judges

Judges, as individuals, have many responsibilities and with these come a range of risks of corruption. Their responsibilities pertain to the following areas, which map up to principles of good, clean judiciaries: “independence and impartiality”, “integrity”, “education”, “legal accountability”, “administrative accountability”, “judicial office is not to be abused”, “conflicts of interest must be avoided”, “freedom of speech and association” and “discipline and removal from office”.... **Human rights lawyers and activists will no doubt recognise these responsibilities and be able to re-cast them in terms of rights and obligations of citizens and states vis-à-vis access to justice requirements (including administrative procedures) under international human rights law.**

Responsibilities of the Judiciary

The judiciary as a whole, as distinct from individual judges, has particular responsibilities regarding several key areas that are essential to the overall integrity of judicial systems... which are the principles of “judicial independence”, “ethical conduct”, “clean appointments systems”, “accountability and transparency” and “discipline”.

Responsibilities of Politicians (Legislature and Executive)

As mentioned at the outset of Part 3, actors beyond the justice system play a key role in its fair and clean operation. The relationship between political actors both within the executive and the legislature and the judiciary is finely calibrated.

Where the legislature is involved in determining whether or not a judge should be suspended or removed, it must carry out its functions fairly and transparently without undermining judicial independence. The executive can play a vital role in bringing transparency to the workings of judicial systems and educating the public about the law, legal and court systems, legal rules and procedures, as well as legislation and judicial information.

Responsibilities of Judges' Associations

Judges' associations have responsibilities in three main areas that pertain to a healthy fair justice system: that of protecting "judicial independence", "promoting judges' training and public education" and ensuring "judicial accountability".

Responsibilities of Prosecutors

Prosecutors must protect their independence. They should submit themselves to appropriate oversight of the prosecution service. They are obliged, like judges, not to accept or seek gifts or allow threats or any improper inducements to influence a decision about when to prosecute. They should never withhold evidence so that they only mount an ineffective challenge to defences or weaken arguments in favour of conviction or penalty.

Responsibilities of Lawyers

Lawyers have a role in protecting the independence and enhancing the accountability of the judicial system. They can also represent corruption risks if their behaviour is not carefully considered. Lawyers should not seek to influence the decisions of judges in any way that is improper or outside the bounds of the law and legal procedure. They should not mislead the court or clients, nor should they accept gifts, bribes or inducements of any kind.

Lawyers have a responsibility concerning the work they take on and carry out. They are responsible for the management of their caseloads and must not overstretch themselves otherwise they run the risk of cutting corners and impeding justice. They should not accept new cases knowing that a hearing will clash with an ongoing case or seek adjournments unnecessarily or for the sake of their own convenience or personal gain. They also have a duty to report any unethical behaviour to the relevant professional body that uses settled complaints procedures. **Indeed should they be privy to criminal behaviour or anything that improperly influences judicial decisions, they have a duty to report it to the relevant law enforcement body.**

Role of Individuals and Businesses

Litigants and defendants have a responsibility not to undermine the independence of the judicial system. They must respect the legitimacy and authority of the courts. Indeed they must accept the decisions of the courts and submit to any enforcement procedures. They should not seek to improperly influence the decisions of judges whether by words, acts of violence or the paying of bribes.

They also have a responsibility to enhance accountability in the justice system. Individuals should report suspected or actual breaches of the code of conduct, or corruption by judges, court administrators or lawyers, using formal complaints procedures that are safe, confidential and rigorous. They must not seek to influence the outcome of any disciplinary proceeding or initiate vexatious or malicious proceedings.

Role of the Media and Journalists

Journalists need a safe working environment in which to report on the activities of the judiciary and legal proceedings. They have a role in bringing transparency to the workings of the judicial system and informing the public of the work of the judiciary. Journalists must take care to respect judicial independence and not use their publications and media outlets to seek to influence or intimidate judges. However this principle is not to be used to prevent journalists from commenting fairly on legal proceedings, and reporting suspected or actual corruption or bias. Journalists should not be prevented in law from reporting on legal issues, nor should they themselves be intimidated or prevented from operating. Should defamation charges be brought against journalists and media outlets and proven, the amount of damages awarded should not be punitive.

Steps should be taken to ensure that journalists are trained in legal reporting so that reports of cases, judicial activities and anti-corruption procedures or inquiries are fair and accurate. Journalists should be encouraged to comment on any complaints or disciplinary procedures where they are made public, holding to account those involved on either side of disciplinary procedures by making transparent their workings.

Role of Civil Society

Civil society in this context refers to academics and NGOs. They too have a significant role in shedding light on the workings of the judiciary thereby helping to mitigate any risks of corruption that are fostered by shady dealings in secret places...They can also contribute to the understanding of issues relating to judicial corruption by monitoring potential indicators of corruption, such as the incidence of corruption, engineered delays and the quality of decisions and by commenting on the decisions of judges. Their expertise can be shared with judges in developing training strategies for judicial actors.

Role of Donors Supporting Judicial Reform Programmes

Judicial reformers, whether they be international institutions such as the World Bank, the International Bar Association, the American Bar Association, bilateral donors or indeed national institutions such as Ministries of Justice or national bar associations, **have traditionally focused their reform efforts on bolstering judicial independence against interference from other organs of state, particularly the executive. While this is right and proper this emphasis has meant that less attention is given to the role of accountability measures in tackling corruption. Indeed accountability mechanisms can themselves serve to strengthen judicial independence since they are not just a means of holding the judiciary to account for its actions and decisions, but they are also a way of making transparent the relationship between the judiciary and political power and guarding against undue political interference in the judicial system.**

This essay makes the plea to the human rights community: demonstrate and explain to those in the anti-corruption community where and how human rights principles can be used to advocate for the systemic changes that are outlined above in order to tackle corruption. Inform anticorruption activists which human rights can be invoked in order to bolster the common concern, of human rights and anti-corruption activists alike, for a corruption-free judicial system which enables access to justice for all especially the most vulnerable of citizens in countries across the world.

Examining the Links between Organised Crime & Corruption

by the Center for the Study of Democracy

The European Commission (EC) contracted the Center for the Study of Democracy (CSD) to analyse the links between organised crime and corruption. The main objectives of the study were to identify:

- causes and factors that engender corruption by organised crime (*including white-collar criminals*) within the public and private sectors,
- the scope and the impact of that corruption on society and institutions;
- organised crime's main corruption schemes, the areas or risks they create, and the related differences amongst European Union (EU) Member States (MS);
- best practices in prevention and countering corruption linked to organized crime;
- framework for a future assessment of trends in the link between organized crime and corruption, as well as corresponding counter measures.

FIGURE 1. INSTITUTIONS AND LEVELS TARGETED BY ORGANISED AND WHITE-COLLAR CRIMINALS

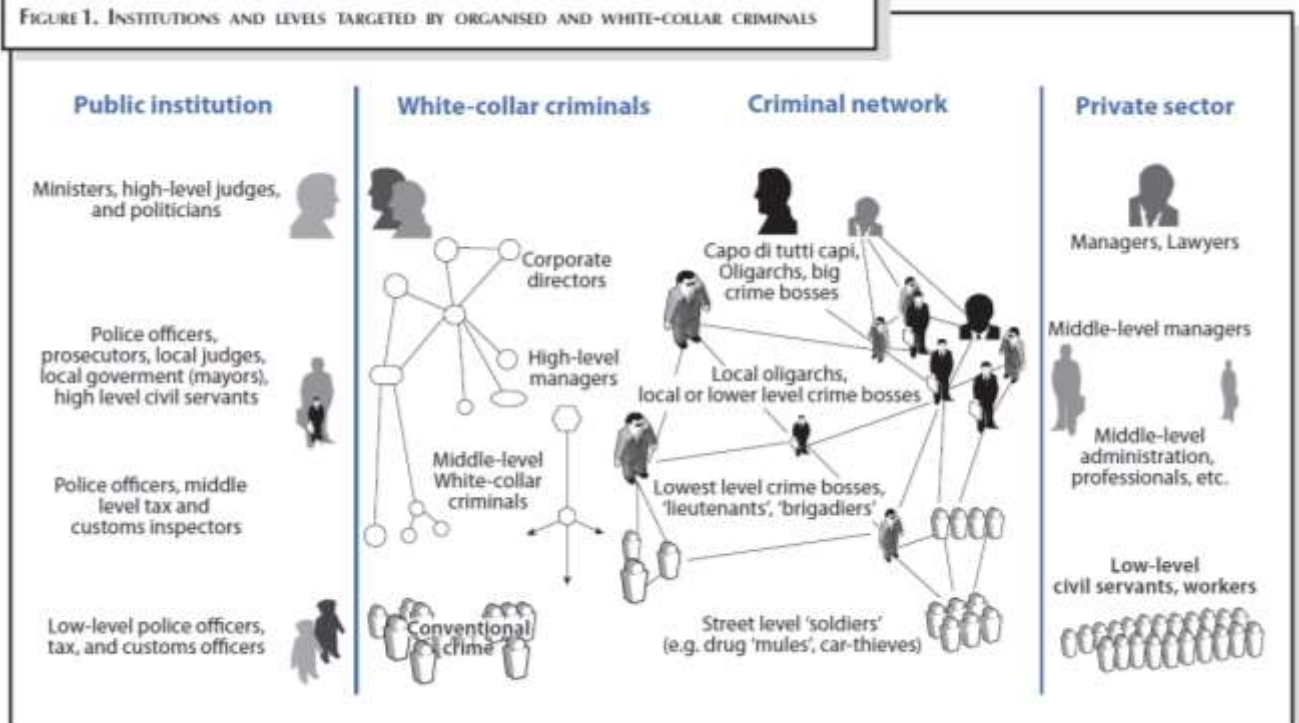
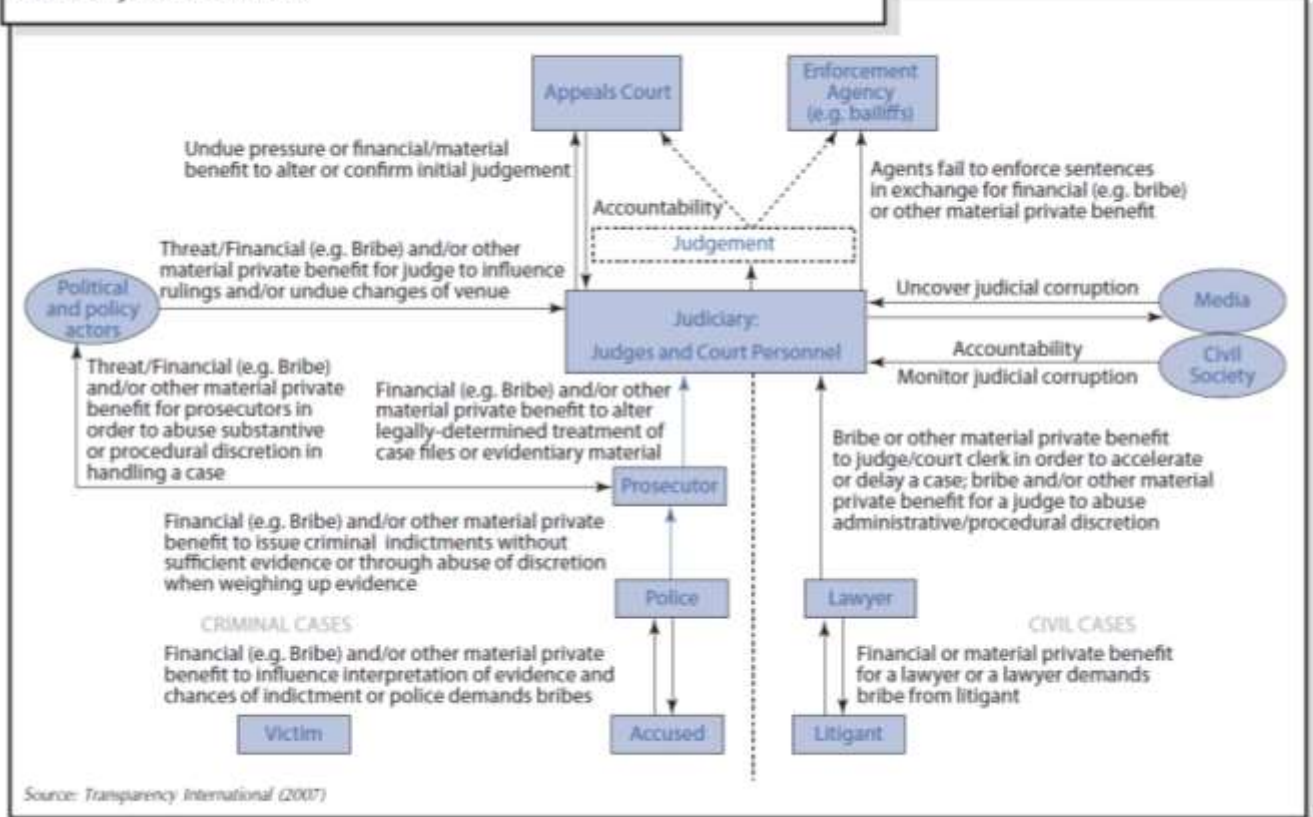


FIGURE 3. JUDICIAL CORRUPTION



Defining Corruption

Colin Nye, speaks of corruption as the abuse of public power not solely for private profit or wealth but also for “status gains” (Nye 1967), and Khan (1996) who defines corruption as the misuse of public power for motives such as wealth, power, or status. ... Heidenheimer (1989), categorises corruption according to social acceptance, positing ‘shades’ of corruption from ‘white’ (socially acceptable) to ‘grey’ to ‘black’ corruption (socially unacceptable)...

Spencer et al. (2006) describe corruption as “many kinds of “irregular” influence, the objective of which is to allow the participants to make profits they are not entitled to, the method being the breaking of internal or external rules”. ..

Spencer et al. (2006) differentiate between the following levels of corruption:

- systemic, when corruption is incorporated within the entire or particular aspect (e.g. border control) of the rule of law system (multiple institutions: judiciary, police, customs, tax, etc.);
- institutional, where the institution affected is tolerant of corrupt practices;
- individual, where the person is prepared to undertake illegal actions because their employment provides them with an opportunity to exploit their position for gain.

All these levels are relevant when the links between corruption and organized crime are discussed. While some limit the term ‘corruption’ only to the public sector, private sector corruption will also be considered in this report. Private sector corruption is most often referred to as ‘fraud’.

For the purposes of the present report, the focus will be on cases in which outsiders (criminal groups or companies) corrupt someone within a private firm in order to facilitate a crime, launder money, or abuse the targeted company in some way. Further aspects of private sector corruption and some of the possibly grey areas are further discussed in the chapter on private sector corruption.

One complex issue that spreads across both definitions ‘corruption’ and ‘organised crime’ is the question of how to treat the direct participation public officials in criminal activities: particularly in cases where they are not simply abusing their ‘public powers’, but engaging in a range of criminal activities, or managing a criminal enterprise. Examples could be:

- cases of police officers running their own prostitution rings or drug distribution networks;
- politicians covertly controlling companies that engage in criminal behaviour;
- cases where criminals have managed to accumulate sufficient legitimate power than to directly participate in local politics (‘state capture’).

One important aspect of explaining the links between corruption and organised crime involves determining the extent to which the two are interrelated... The perceived link between corruption and organised crime prompted the UN General Assembly to adopt resolution 55/61 in December of 2000 recognizing that an effective international legal document against corruption, independent of the Convention against Transnational Organised Crime, was necessary. The UN Convention against Corruption adopted consequently declares that States Parties to the convention are “concerned also about the links between corruption and other forms of crime, in particular organised crime & economic crime, including money-laundering”

The Council of Europe has also acknowledged the existence of links between corruption and organised crime. One of the 20 Guiding Principles for the fight against corruption, adopted in 1997 seeks “to ensure that in every aspect of the fight against corruption, the possible connections with organised crime and money laundering are taken into account”.

The link between corruption and organised crime has received some, although not yet sufficient attention at EU level. In 2004, Europol recommended that “the vulnerability to corruption of the public and the private sector needs to be properly evaluated... [given that a] clear-cut picture on the use of corruption by OC groups does not exist”

The lack of information and understanding of the issue is reflected in the fairly limited attention that it has received in EC policy documents and legislation. In 2003, Council Framework Decision 2003/568/JHA on combating corruption in the private sector was adopted, mandating the criminalization of corruption and establishing that legal, in addition to natural, persons could be held responsible for corruption offenses.

MAPPING CORRUPTION AND ORGANISED CRIME IN THE EU

Historical factors

Several clusters of EU countries could be hypothesized to have their roots in history as well as geography: Southern Europe (Italy, Southern France, Southern Spain), Eastern Europe (the Balkans, the Baltic region and Poland) and the Netherlands and UK. The southwest hub, characterized by the oldest traditions in organized criminal activities, is centred around

Southern Italy. It affects the whole of Italy and is connected to Corsica, Southern France and Spain, although its influence spreads to places in Germany or the Netherlands. The prehistory of this cluster's hub dates to the establishment of the Italian state... Following acts of violence against magistrates at the beginning of the 1990s and the introduction of new Italian policies aimed at crushing organised crime, there was a tangible reduction in the range of activities and the forms of influence exerted by big traditional crime groups... there is a tendency at present by traditional criminal structures to apply 'softer methods' that involve less violence, cronyism, the use of immigrant crime organizations, etc.

At the same time, the old methods still persist. There is clear evidence of extortion and racketeering in efforts to influence local authorities and public tenders.... new collaborations with other criminal structures from the Balkan countries, China, Latin America and Russia. The Italian- Spanish criminal networks established during the period of the 'French connection' got their golden chance for money laundering with the explosion of the real estate market in Spain. Taking of advantage of the Spanish state's preoccupation with terrorism, organised crime invested in construction and tourism. Simultaneously, organised crime groups based in Corsica, Southern France and Spain have maintained their presence, despite the expansion of immigrant involvement in organised crime and despite the emergence of flourishing new criminal markets in cocaine, prostitution, and money laundering via real estate.

Four key factors from the recent history of EU-10E countries should be taken into account:

- The informal networks of former communist elites, particularly law-enforcement agents;
- The significance of privatisation process and the opening of borders in the origins of organised crime;
- The impact of criminal structures from the former Soviet Union at the beginning of the 1990s, and the ongoing instability in the Caucuses, Moldova and Ukraine;
- the wars in former Yugoslavia and the Yugoslav embargo in particular for Western Balkan countries, but also for countries neighbouring Serbia; and the ongoing instability in Bosnia and Kosovo...

The number of law-enforcement officers and police informants in Eastern Europe before 1990 was at an entirely different scale than in Western Europe. With the dissolution of secret police services, many of them turned to various criminal activities (e.g. protection rackets, cross-border smuggling, and embezzlement in the massive privatisation process). These criminal networks from the 1990s eventually lost their power but were transformed into networks of companies that presently manage to influence both the formal economy and various grey areas of the criminal economy, in either case actively resorting to corruption. During the past two decades, the communist-era law-enforcement origins of these individuals provide them with law-enforcement connections that allow them to avoid prosecution.

Former MoI or special services officers use the specific law-enforcement culture of loyalty to form networks that allow former officers access to police information, often resulting in competitive advantage in business projects or bids for public contracts. Many former officers turned to being lawyers and became intermediaries between organised crime, law

enforcement and the judiciary. The networks consist of current Mol/lawenforcement officers, prosecutors, or judges, as well as their families that often enter similar professions.

The historic legacy of privatisation of state assets: in the early 1990s, between 70% and 100% of property in EU-10E countries was state-owned. Instead of guarding the legality of this process, law enforcement and the judiciary often profited from it. As a result, today's economic elites are often part of the above described networks. The abuses of privatization processes, much like public tenders today, attracted organized crime and provided it with opportunities to accumulate economic power and legitimacy. In a period when access to capital was limited and foreign investors wary, criminal profits were invested in privatisation.

The opening of borders in former communist countries allowed former security officers with connections to border police and customs to quickly assume key roles in controlling cross-border smuggling of consumer and excise-tax goods. Again, access to corruption networks was instrumental in assuming this role. The Basque Country (Spain), Northern Ireland (UK), and Corsica (France) are the three regions where **terrorism and independence movements** are a continuing problem. The long history of terrorist activity has created networks of loyalties between terrorists, parts of law enforcement and local politicians. With the signing of peace accords in Northern Ireland, many former terrorists turned to organised crime, controlling the drugs trade or providing protection rackets of prostitution networks, occasionally drawing on historic loyalties from law enforcement to avoid prosecution (CS-ES, UK). The case study on France also shows in detail how the various independence groups have used (and continue to use) criminal activities to fund their operations. It also shows how under the guise of independist movements certain groups facilitate their criminal operations.

Economic factors

- The significant differences in economic development and national institutions in the EU, especially since the latest enlargement in 2007, is one of the most important factors affecting clustering. The most affluent country in the EU is anywhere from three to five times richer than the poorest Member State, depending on whether nominal GDP per capita or GDP PPP²⁹ per capita figures are used. The differences are even more striking if regional disparities within and between countries are taken into account, as well. That is, if one were to compare the richest EU regions in some EU-17 countries to the poorest regions in Northwest Bulgaria, Northeast Romania, Southeast Poland, etc. Such disparities create conditions, where low-paid public officials in poorer countries are much more likely to engage in corrupt behaviour. The disparities, on the other hand may influence the size of illegal markets. EU-17 illegal markets for drugs, illegal cigarettes, or prostitution are much larger than those in EU-10E countries.
- Other socio-economic factors, such as the absolute size of a country's economy and its demographics, also influence the structure of organized crime markets. In this manner, large economies such as those of France, Germany and the UK generate high levels of overall consumption and demand for illegal goods or services. On the other hand, criminal organisations find countries with high per capita incomes, yet smaller overall population levels, (Denmark, Finland, Ireland or Luxembourg) as less profitable than big markets.

On the other hand in smaller countries, resources are highly concentrated in small public administrations, and few public officials there fall under more corruption pressure. Thus, despite the fact that the overall size of a country's economy drives levels of demand for illegal goods and acts as a significant factor in attracting organised criminals, highly affluent locations, such as big cities, act as magnets for the concentration of OC activities. For this reason, interviews indicated that organized criminal activity and corrupt practices were highly concentrated in cities like Amsterdam, Barcelona & London (CS-NL, CS-ES, UK).

- A more pronounced presence of multinational corporations (MNCs) in large EU economies also results in regular scandals and suspicions regarding white collar crime and private sector corruption. This rarely discussed topic relates to political parties that are dependent on corporations for their financing. All too often, arguments favouring MNC investments, because those are supposedly 'in the national interest', hide the reality of clientelistic relationships between transnational big business and national political elite. Differing taxation levels (of VAT or excise taxes) also lead to differing outcomes in organised crime markets. Thus, in countries such as Germany and the UK, higher excise taxes on cigarettes boost the market share of contraband cigarettes as well as corruption risks stemming from criminal networks engaged in the production or smuggling of the latter.
- Economic structures and the relative share of certain business sectors in overall MS economies also condition gray economic activities. Thus, tourism, construction, and transportation are characterised by high levels of grey or illegal economic activity, which naturally attracts criminal entrepreneurs who tend to utilize corrupt practices. In this manner, higher levels of gray economic activity are associated with higher corruption. Specific socio-economic developments may affect the dynamics of certain organised crime markets. For instance, growth in night-time industries may lead to correspondingly higher levels of drug use (e.g. marijuana, cocaine, synthetic drugs, etc) as well as an expansion of markets for sex services.

Social and demographic factors

The social and cultural factors are probably most difficult to capture and study, especially through quantitative methods. Although the case studies make some references to the role of family, ethnic, or social structures and norms, these issues do not lend themselves to the methods and short time-frames of the present study. Yet, these factors should never be discounted or overlooked.

- Family-and-friends social networks in South and Eastern Europe may become the basis of criminals' influence over police, local authorities, magistrates (interviews and CS-BG, CS-EL, CS-IT, PT, RO).
- Worsening *demographic situations* are another significant socio-economic factor. *Migration flows* play a crucial role not only in EU-17, which is targeted by inflows *immigrants*, but also in EU-10E, which is often temporary point for immigrants who wish to relocate to the West.
- In EU-17 MS, immigrant communities have formed a sort of 'parallel universe', or a 'safety zone' for criminal organisations. In countries like Belgium, France, Greece, Italy, the Netherlands, Spain and the UK, organised crime networks that are mainly ethnic-based have emerged. Some of these are transnational in character and have operations in Africa,

Asia, the Balkans, Latin America and the former Soviet Union. They organise their trans-border activities basing their 'headquarters' in highly corrupt countries. At the same time, since the cost of bribing public officials in low-corruption countries is high, and the risks involved are prohibitive, only 'expendable' lower-level foot-soldiers would operate.

- An interesting development has been observed in certain Northern European countries (FI, SE, DK) that traditionally have been characterized by low levels of organised criminal activity. There, immigrant communities have formed crime markets, while at the same time the social acceptance of corrupt practices in these (largely isolated) communities has lead to increased corruption pressures on public officials in the recipient countries. (FI, BG)
- In various EU countries, local organised crime has started playing the role of intermediary between immigrant criminal groups and public institutions (IT, UK). In countries that have traditions of separatist movements, former terrorist organizations have assumed a similar role (ES, UK).

ORGANISED CRIME, CORRUPTION AND PUBLIC BODIES

Political Corruption & Organized Crime

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

Interviewees from all Member States discussed the existence of political corruption in their country. Their views correlated with public perceptions that political and administrative corruption usually is perceived as most common and most problematic. Politicians much more rarely associate with low-level criminals involved in activities related to illegal markets, such as drugs or prostitution, than, for example, police or customs officers. The higher the sophistication and complexity of the crimes and their seeming 'cleanliness', the higher the likelihood of association between criminals and politicians is. The range of corrupt relations starts from association with businessmen involved in excise tax fraud (smuggling of cigarettes, alcohol and oil), gambling and money laundering, and extends to connections with respected corporations involved in multi-million euro fraud schemes, rigged public procurement contracts, illegal party financing, etc.

The prevalent patterns of political/criminal links is determined both by the nature of organised crime & by the nature of political culture & the political system in a Member State. If & when criminals manage to extend their criminal activities from illegal (eg. drugs) into any legal markets, & acquire a respected public face, their ability to corrupt politicians increases. The "legitimate" face of a criminal provides him/her with the legitimacy to meet openly with public officials, to donate to their political campaigns, or use his/her economic clout to support political parties. Whenever one observes direct links of politicians & criminals involved in illegal markets, the latter also have acquired significant legitimate economic power, which allows them to also use corruption to commit more sophisticated 'white-collar' crimes.

In EU-10E, where many criminals started their careers during the chaotic period of privatisation fraud and cross-border smuggling of consumer or excisable goods in the 1990s, they managed to transform themselves into significant economic actors (locally or nationally) in a position to influence politics directly. In Italy and Southern France, local criminal elites have a long history of collusion with local politics, while being involved in extortion, drugs smuggling, waste management fraud, and bank robberies.

Yet in recent decades their involvement in 'white-collar' crimes, such as EU funds fraud, public contract rigging, and real-estate fraud has allowed them to transform their relationship to politicians into a more socially acceptable form. Furthermore, there is a well pronounced tendency in EU-10E for political instability and frequent change of governments. Unlike EU-17, the countries of the former Soviet bloc experienced a series of restructurings of their political parties and the electorates that support them. Due to the lack of a well-functioning system of financing of political parties, both old parties from the beginning of the transition and newly emerged parties have resorted to funds provided by "gray sector" and criminal businesses (CS-BG). Large and legitimate companies have no incentive to offer financial support unless they expect some special privileges in return.

Our interviewees pointed out that much more motivated to make donations to political parties are companies from the gray zone, as they would be able later on to ask for some form of protection or assistance. The consequence is that 'suspicious contacts' are periodically elevated to political scandals, leading to a new cycle of disturbances and a new wave of searching for political financing (BG, HU, PL, RO). In countries where the banking systems were under a special regime (or where such a regime existed before but has now been cancelled) like Austria, Cyprus and Luxembourg, the state policy allows entrepreneurs who have been linked to white-collar crime, or even outright criminal businessmen, to use the financial system and invest in these countries. Usually, politicians turn out to be the middlemen assisting foreign gray entrepreneurs (AU, PL, RO, BG).

Modes of association

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

Direct participation

When individuals with criminal past or presently involved in criminal activities enter into politics, then one can speak of corruption of the political process. Direct participation of

criminals in politics is uncommon, and is rarely their preferred method of exerting influence. On the one hand, direct electoral participation inevitably would put them in the limelight. On the other hand, though, it could provide them with **legitimacy, ability to influence the criminal justice process and the redistribution of economic resources**.

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

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

Modes of corruption

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

- **Direct – bribes and favours/‘pantouflage’** are probably the most obvious ways. At the highest level, direct bribes were mostly dismissed, especially by EU-17 respondents. Exchanges of favours or trading in influence were deemed as much more common. The practice of ‘pantouflage’ in France is common, whereby after their term expires, officials responsible for public tenders would receive a job at a company for which a contract has been secured. Culturally the exchange of favours could differ: ‘arranging’ jobs/promotions for relatives is probably more common for southern/EU-10E MS.
- **Elite networks.** They exist throughout the EU. They may be built on different principles: family ties (mostly in southern Europe), classmates, club members, etc. Various forms of mediated corruption take place through these networks. Entrepreneurs can win a public tender, or legislation favouring their business may be passed, just because they belong to the right social network. The ‘favour’ may be returned after a long time. Favours may be balanced: i.e. obvious preferences to a single company, or respectively a single politician, are avoided. The most precious capital in this type of social networks is trust. In smaller countries, networks tend to have a smaller number of members and fewer power centres. Interviews revealed that in the former socialist countries agreements between businessmen and politicians are more direct, and their confidence in each other is significantly lower.
- **The political investor:** is probably the most common – long term support (financial or other) for political parties, and if needed through illegal political donations are most common (CS-IT, CS-BG).
- **The vote provider:** in areas where organised crime or white-collar criminals have influence

over a significant number of voters, or could influence voters as employers, this type of 'corrupt exchange' is used (CS-BG, CS-IT, CS-FR).

- **"Insistent lobbying"** ("eindringlicher Lobbyismus") is another common form it takes. PR companies support the interests of certain politicians. These companies are paid by certain industries (DE).
- **Threatening/blackmailing** politicians has also been observed, particularly at the local level. (IT) Some cases were reported, where local politicians are offered a prostitute or a large bribe. Following this the criminals collect evidence of the misbehaviour of the politician, and use it for blackmail him/her (IT, DE). A similar tactic is used for other public officials.

Factors for political corruption

In individual countries there could be specific local circumstances that are conducive to corrupt practices, but generally the interviews and the case studies have outlined the following:

- **Cultural factors/public perceptions:** public perception that corruption (or at least certain forms) is "normal" plays a major role, especially on the local level. The re-election of leaders (e.g. Silvio Berlusconi) who are under investigation is probably the most notable example, although at the local level similar cases have been observed elsewhere as well (EL).
- **Patron-client systems:** in these, an exchange system of favours and patronage is considered common and acceptable. The lack of distance between politicians and businessmen is normal. Political parties are expected to have 'circles' of companies that fund their political campaigns, and receive reciprocal favours once the politicians are elected (CS-BG).
- **A history and prevalence of secret societies:** one factor that facilitates corruption that some interviewees mentioned, as well as shown in the case studies, is the existence of 'secret' societies, like Masonic lodges. These societies provide an opportunity for politicians to meet in private with businessmen or criminal entrepreneurs (CS-FR, MT). In some countries, elite private clubs with restricted memberships play a similar role (UK).
- **Class differentiation:** the formation of elites in EU-17 is a process universities, and neighbourhoods. These elites create networks of political, economic, and judicial that facilitate above all white-collar.³¹ In EU-10E, a similar informal network is formed by members of former communist elite (or their children). These include not only functionaries/civil servants, but also members of law-enforcement and security services. Cases of political corruption networks were provided in several countries (DE, RO, BG).
- **Public perceptions:** OC figures may be perceived as cultural heroes or "men of honour" (local level). Criminals (particularly white-collar ones) may manage to build a public image that manipulates public opinion (control over media facilitates this) (IT).
- **High-level corruption:** as corruption spreads from the elite downwards to other social groups, impunity seems to increase its multiplying effect. This process causes increasing familiarisation with and tolerance for unorthodox practices, even among those who benefit very little from their own corrupt practices (PT).
- **Local vs. national level:** local politicians and administrators, as explained above, are more vulnerable. These actors are geographically closer to organised criminal groups; they operate in the same social environment and therefore are subject to the pressures that such groups

exert. At the local level, however, corrupt exchanges ‘offered’ by organised criminals to politicians are accompanied by an implicit degree of intimidation which determines the outcome of the proposal made (PT).

- **Political cycles and corruption:** one feature that is revealed when analysing corruption-related scandals in Member States for which case studies were carried out is that in recent decades many governments have won elections run on anti-corruption platforms. In France (1995), Greece (2004), and Bulgaria (2009) changes of government were accompanied by a number of revelations of past corrupt practices, followed by law-suits initiated by the newly elected governments exposing their predecessors’ offences. There were a few effects of this campaign-like approach:
 - on the one hand, public perceptions that ‘corruption is increasing’ are easily reinforced when there are law-suits or media publicity exposing corrupt deals;
 - corruption schemes are abandoned as public attention focuses on them;
 - corruption networks and schemes readjust to the new realities, and changes in the environment rarely disrupt them. Businesses usually hedge their bets and corrupt all major parties (PT). As providing outright support is usually possible only with respect to one party, the hedging process takes place by maintaining relations via intermediaries or other businesses.
- **Linking administrative and political corruption:** in EU-10E, there is a fusion of bureaucratic and political corruption. For many interviewees administrative corruption is simply an aspect or outgrowth of political corruption. The politicization of the public administration could be considered as an indicator of political corruption. In most EU-10E countries, and in Greece, the govt. bureaucracy is politically dependent. With changes in the ruling political party, the higher echelons of the administration (e.g. heads of directorates, key agencies, or even police departments) are regularly replaced with more loyal individuals (CZ, BG, EL). Administrative corruption exists also as a separate phenomenon, as the section on customs corruption well illustrates.
- **The main focus on administrative corruption that was brought up by interviewees, related to the construction sector** (CZ, SE, NL, UK, IT, MT, EE, AU, PT), especially particularly in relation to public infrastructure projects (SI, LT, CZ, IT, EL). Other types of administrative corruption, related to certain criminal markets (the sex industry, or smuggling of consumer goods) are further discussed in the chapter on illegal markets and corruption.

Police Corruption

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

Corruption and the Internal Affairs units

There is a variety of approaches and structures dealing with corruption in the police. At one end of the spectrum is the proactive approach adopted in the UK (very similar to the US

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

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

Effectiveness of public institutions

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

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

Policies for decreasing of corruption pressure over police

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

Intermediaries

The operation of intermediaries is dependent on the level of corruption in police and the investigative units in each country. In EU-10E, Greece, as well as Corsica, intermediaries work

fairly openly. Some of them may even become public figures and hold political positions. Criminal bosses, when confronted by the police, do not hesitate to demonstrate their access to intermediaries (BG, RO, EL, IT). In EU-17, with its developed procedures and structures for the control of police behaviour, intermediaries operate in more subtle ways, taking special measure to remain unidentified (UK, FR, DE).

- *Clientelist networks* exist in countries with high levels of police corruption (IT, EL, PO, CY, BG, RO, PO, HU) and are not typical for the countries with lower levels. These clientelistic networks reach beyond institutional boundaries and hierarchical levels. A network may unite tens or even hundreds of participants, including active or former police officers, investigators, magistrates, businessmen and politicians. Access to clientelistic network by criminal organizations gives them opportunities to influence the overall process, instead of dealing with a couple of intermediaries.
- *Former police officers or special services employees* are the most widespread type of intermediaries.
- *Private detective agencies and private investigators (PI)*: These are usually experts from economic intelligence companies (UK, FR). These individuals often have connections with the police, or with companies that the police uses to track suspects
- *Attorneys* have a significant competitive advantage over all other intermediaries – they can provide services through the whole institutional chain, starting with police and going all the way to prosecutors and even judges (BG, PO). Furthermore, in some of the old Member States, attorneys are middlemen for organised criminal structures consisting of immigrants (ES, UK, AU, DE). Unlike local criminal groups that have some kind of direct access to law-enforcement officers, immigrants typically lack any access and have to rely on intermediaries.
- *Criminal informants*: investigations of cases of police corruption have shown that police and informants often take advantage of each other.
- *Family – relatives*: These are the most widespread intermediaries in Southern and EU-10E countries, but are also used in countries where friends and relatives are not a primary resource (UK, NL, DE). These intermediaries are particularly useful in small towns.
- *Girl-friends and prostitutes*: – this type of intermediaries are sometimes used to discredit police officers or investigators. A prostitute is sent to an officer working on a certain case, and then the officer is blackmailed with pictures or video recordings (FR, UK).

The complexity of police corruption is difficult to be fully captured, and local and institutional specificities often impede such efforts...It also shows how absence of active corruption (in terms of exchange of bribes and personal profit) is substituted by a complex system of communal and institutional relations that have a similar effect.

Judicial Corruption

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

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

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

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

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

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

- Judges or prosecutors could also serve as ‘advisors’ to criminal groups. In the cases quoted they were not directly involved with the prosecution or trial of criminal groups. Nevertheless, being familiar with the operations of police or prosecutorial staff, they could provide advice as to how to avoid being detected by the police, or to undermine an ongoing investigation. In either case, large sums of money were paid, showing the value that some criminals see in this type of service (SP/NL).
- **Rigging the public contracts bidding process: In addition to subverting** the criminal justice process, in many countries organised crime or criminal companies have been involved in abuses of public funds. Administrative courts that oversee the handling of public tenders could become corruption targets. In some countries (BG, RO, BE, PL) the lack of clear rules as to the role of administrative courts has led courts not only to decide on the legality of administrative procedures of public tenders, but also to interpret whether a contract is ‘in the public benefit’. Without the need for an underlying financial or other expert analysis, judges in some Member States (BG) have abused their powers, clearly as a result of being influenced either directly by one of the parties involved or by corrupt politicians.

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

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

Corruption networks and their operation

Social scientists have often described the judiciary as a social class in its own, a ‘caste’ with a special status: based on the requirement for special education, using a special language and rituals often going back centuries. Lower level organised crime figures typically have no direct access to informal networks within the judiciary. As a result, corruption is fairly difficult and it requires intermediaries or specific circumstances that allow them to carry out a corrupt exchange. Higher level and white-collar criminals might have more direct access, though. There are various corruption-facilitating informal networks in which a magistrate might participate. These informal networks might intertwine. The most common networks used by criminals to corrupt members of the judiciary are described below:

- **Direct access networks:**

- **Small communities: whether it concerns a town or a small island**

(e.g. Cyprus, Malta, or Corsica) local elites establish networks, where representatives of the judiciary, businesses, law-enforcement, and politicians know each other. Insofar as white-collar criminals or traditional organised criminals are able to accumulate sufficient economic power to become part of these local elites, they inevitably gain access to local members of the judiciary.

- **Social networks: formed around Masonic lodges (CS-FR, CS-IT, MT) or local political networks (CS-ES),** members of the judiciary could have the opportunity to come in direct contact with crime figures, in secretive settings away from public view. In countries where religion plays a significant role, even a church could serve as a network (EL, NL).

- **Personal and family networks: personal and family networks play** a certain role in all Member States. In countries where extended families or nepotism are more common place, these networks feature much more prominently in corruption scandals (CS-EL, PL, BG). Schools (particularly elite ones) also provide an immediate network, especially in cases involving white-collar criminals. Spouses, particularly working as lawyers (or within other branches of the judiciary), could serve as intermediaries in accepting bribes (CS-FR) or in taking advantage of the network of corrupt judges to which the other spouse is a member (CS-BG).

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

- **Political networks: although judiciaries in the EU are generally** politically independent, in reality specific circumstances in some Member States undermine this independence. Such circumstances could relate to whether judges can move between a judicial and political career, or whether judicial oversight bodies are partially elected by parliaments, or the prosecution is responsible to the Minister of Justice. Depending on which of these apply in particular cases, situations could arise whereby judges establish and often become dependent on their relationships with politicians. These networks could then be activated when a corrupt politician needs to influence or simply to act as an intermediary between a prosecutor or a judge, and criminals. In some Member States, there is a clear ideological divide between judges that are considered to be close to the right or left of centre parties (ES, IT).

- **Professional networks: lawyers across the EU are considered to** be the most direct intermediaries in judicial corruption (CS-EL, CS-BG, CS-FR, SL). This is understandable as they usually have the same educational and social background, and in many cases the same professional background (e.g. they may have been former prosecutors or judges). Litigation departments of top law firms in many countries try to attract people with such backgrounds. In some of the cases described (CS-BG), this is purposely done with the intention of being able to influence judicial decisions. In other countries (UK, SP, NL, BG) interviewees described a number of well-known criminal defence lawyers or law-firms as having the access or means to influence investigations.

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

Vulnerability factors and corruption mechanisms

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

- **Salary levels:** interviewees have pointed to salary levels as an explanation as to why corruption is more (PL, SP) or less likely (UK). Often, members of the judiciary compare salaries with neighbouring countries (ES) or civil servants.
- **Plata o plomo:** the threat of violence is also a factor that makes judges vulnerable to corruption, particularly in smaller towns, or in areas with significant mafia or terrorist presence where the threat of violence is very credible (CS-ES, CS-FR, CS-IT).
- **Blackmail:** judges and prosecutors might also be offered a very substantial initial bribe, or lured into using prostitutes or drugs (CSFR, BG, DE, NL). They would then be blackmailed into committing further corrupt acts, on the threat that their previous corrupt acts or corrupt behaviour would be exposed.
- **Political influence is closely connected to the problem of political corruption:** i.e. political influence is more prominent in countries where political corruption (at the national rather than at the local level) exists (ES, BE, EL, CS-BG, CS-FR). Typically such influence occurs at a higher level involving higher-level politicians, higher level magistrates, and the criminal elite (especially white-collar criminals).
- Whether a politician acts as an intermediary to facilitate a bribe, or tries to pressure a magistrate and lobby for a favourable decision on behalf of a criminal, the politician is in a position that could potentially influence the magistrate’s long-term career:
- **For judges the potential threat stems from the fact that in many countries** High Court judges or Supreme Judicial bodies are appointed or nominated by parliaments, or by the executive.
- **For prosecutors the threat is even more imminent: the political dependence** of the prosecution (DE, ES), particularly in countries where the Minister of Justice is also Prosecutor General (e.g. FR, PL) was highlighted by many interviewees. Members of the judiciary in some Member States (CS-FR, IT) have accused governments of trying to limit the independence of the prosecution by implementing legislative reforms that bring it under direct political control. The Chief Prosecutor could be very clearly favourable to the party that is currently in power and influence the decisions taken at lower levels. Lower level prosecutors not related to the ruling party might, under such circumstances, try to keep a low profile (ES).

- **Political influence does not need to be direct, but could trickle** down from the top of the judiciary towards the magistrates who need to be corrupted. The hierarchical nature of prosecutorial systems allows politicians to pressure lower-level prosecutors by using their influence on the prosecutor general or on judges at various levels (CS-BG, PL).
- **Self-censorship: in countries where the political dependence of a judiciary** official's career is clear, magistrates or prosecutors simply try to avoid politically sensitive cases by not starting or delaying them. Highprofile cases where criminals are known donors of political parties, are immediately considered as high-risk cases by magistrates (BE).
- **Weak control systems (RO & CZ) and lack of transparency (CZ)** to the public or to other actors in the criminal justice system were pointed out as factors conducive to higher levels of judicial corruption (BE, RO). Further to this, lack of media scrutiny – due to the fact the media, including local media, is often controlled by individuals or companies involved in criminal activities (PL, FR, IT).
- **Legislative loopholes: Corrupt judges and prosecutors often take** advantage of and apply 'extreme' interpretations of penal procedural codes. For instance, in Romania the concept of 'social danger' is quite vague, leaving to judges a lot of discretion which they often abuse (RO). In Bulgaria, corrupt judges often purposely ignore discretion powers, which allows defence lawyers to protract trials abusing procedural details: frequently changing of defence lawyers, and non-appearance of witnesses, defendants, or lawyers for supposedly 'health' reasons.
- **Cultural setting: the cultural and social factors that make members** of the judiciary vulnerable to corruption or make society sensitive to judicial corruption are the most complex. In areas with significant **mafia influence the social setting and informal** networks allow for pressures to be exerted on judges (IT, CS-FR). Tourist coastal areas (CS-ES, BG) and border areas (PL, BG) with significant concentration of criminal activities (e.g. Costa del Sol, external Eastern EU borders), as well as local communities dependent on illegal economic activity, create similar pressures.
- **Favours: The cultural concept of 'favour' takes on a different** meaning in some Member States where it is an accepted and even expected way of working. As one interviewee stated, "You ask them a favour basically. This works with anything and anybody, it doesn't necessarily have to relate to organised crime" (EL).
- **Nepotistic relations and family pressures are stronger in some** Member States than others. Small towns could serve as catalyser to corruption, as informal relations and favours are considered socially acceptable (ES, PL, BG, EL). In many Northern European countries, where such values are not tolerated, small towns could even have a reverse effect.
- **Public tolerance: In some Member States alleged corruption does** not upset public opinion too much, and the judges are kept in their posts until a sentence is issued (SP, FR).
- **Judges vs. Prosecutors: Overall, the perception of interviewees was** that prosecutors were more vulnerable to corruption than judges (DE, NL, ES, BG, SE, BE, CZ, EE). Nevertheless, in some countries, interviewees stated either that both were either is equally targeted, or that judges were more often targeted (SL, DE, SP, EL, RO, PL, IT, EE). A number of factors could explain these differences:

- **Proximity and frequency: Criminals' first contact is with the police** and prosecutors. Judges come last. Therefore, there are a lot more attempts to influence prosecutors on their part. The need for corrupting the judiciary, particularly judges, is much more haphazard in nature.
- **Intermediaries: In some countries, intermediaries to corrupt prosecutors** are easier to find: a traditional career path for many investigators or prosecutors is to become defence lawyers (BG, PL, EL, IT). As a result they have a more direct access to corrupting prosecutors than judges.
- **Transparency: The outcome of the work of a judge is generally** more public and scrutinised by oversight bodies and the media than those of a prosecutor. It is difficult for the judge to dismiss clear evidence presented in court; a misinterpretation or discontinuation of a trial would be too visible.
- **Independence: across the EU, prosecutors and judges enjoy varying** degrees of independence from politicians: from the prosecution being directly under the Minister of Justice, to having Supreme Judicial oversight bodies being elected by Parliament, or appointed by the President.

Role: In some countries, the role of 'investigative judges' (e.g. France, Spain) makes them are much more exposed to corruption pressures than prosecutors are, so the latter are a less frequent target.

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

ORGANISED CRIME, CORRUPTION, AND THE PRIVATE SECTOR

Unlike data on public sector corruption, information on corruption in the private sector is not systematically collected in EU Member States... International surveys by private fraud investigation firms like Kroll, the Control Risks Group, PWC, Ernst & Young (see section 2.8 above), represent potentially the most systematic collection of information on the phenomenon of private sector corruption. However, their focus is much broader, and

unfortunately none of them has been analysed from the exclusive point of view of corruption. Some surveys, like the periodic PWC Global Economic Crime Survey, have adequate data to conduct such analysis with an EU focus, since about 3,000 base companies participated in 2007, when the survey was last published. The interviewees contacted for the present report were primarily private fraud investigators (leading domestic or international law firms, auditing firms, or fraud investigation firms). Corruption related to organised crime constitutes only a small part of fraud in the experience of interviewees.. **The dearth of empirical knowledge is also explained with the fact that fraud, especially when involves a corrupt employee, is underreported by companies even if detected. Most companies try to protect their public image and prefer to deal with it internally....**

Scope of Private Sector Corruption

Corruption within private companies is usually referred to (especially by fraud investigators) as ‘internal fraud’. As the present study focuses on how criminals outside the firm use corruption, the present report focuses solely on cases **of internal fraud but acting in collusion with a fraudster outside the company. The following lay outside the scope of the report:**

- **Cases when criminals establish Legitimate Business Structures (LBS)** (OCTA 2007, p.1-13) which they run as front companies to their criminal operations or use them to engage in criminal behaviour, or
- **Cases when criminals abuse companies which are oblivious to their** criminal intentions. The study focused solely on cases when criminals corrupt managers or employees (but not the owners) of legitimate companies. Another issue that was considered to lie outside the study’s scope was the corruption of foreign offices of EU headquartered companies.

Corruption objectives

There are three main reasons why criminals might corrupt an employee of a private company:

- to facilitate their criminal activities;
- to launder profits from other crimes;
- to facilitate the commitment of a crime against the company itself.

Facilitating Criminal Activities

TABLE 15. PRIVATE SECTOR CORRUPTION RELATED TO PROCUREMENT, TRAFFICKING OR SALE OF ILLEGAL COMMODITIES (DRUGS, STOLEN VEHICLES, ILLEGAL CIGARETTES OR ALCOHOL, COUNTERFEIT PRODUCTS)

Criminal activity	Corruption practice
Production/procurement of illegal goods	Managers of cigarette/alcohol distributing companies could be corrupted into selling quantities clearly understanding that they would be re-exported as contraband.
	Cigarette factory managers could be corrupted into organising ‘second shift production’ in which additional quantities are produced for the illegal market. The production of brand clothing or medicine is exposed to same risks.
	Car dealership sale staff could be bribed into providing ‘spare’ keys to facilitate the theft of vehicles.
	Store staff of major retail stores could collude with organised retail theft gangs to facilitate or even engage in the theft of store inventory.

TABLE 15. PRIVATE SECTOR CORRUPTION RELATED TO PROCUREMENT, TRAFFICKING OR SALE OF ILLEGAL COMMODITIES (DRUGS, STOLEN VEHICLES, ILLEGAL CIGARETTES OR ALCOHOL, COUNTERFEIT PRODUCTS)

Trafficking of illegal goods	Drivers or managers with transport companies including international bus, truck companies, airline staff could be paid off to transport any illegal commodity (drugs, cigarettes), including illegal migrants or prostitutes.
	Security staff at sea-ports and air-ports (often operated by private companies) could be bribed to 'look the other way', or to be actively engaged in transporting the illegal commodity. The staff at such facilities is also knowledgeable of the operation details of customs and border posts, and could be bribed into providing such information.
	Service staff (airport luggage staff, or sea-port cargo operators) could be bribed into facilitating smuggling.
Distribution of illegal goods	Club bouncers of private security firms could be bribed into allowing drug dealers inside clubs, or allowing the distribution of drugs inside clubs.
	Used-car dealerships – sale staff could be bribed into selling stolen vehicles. Similarly, parking lots or car mechanic shops could be used as temporary storage facilities or sales outlets for stolen vehicles.
	Entertainment industry (bar or restaurant) staff or store sales staff could be corrupted into selling contraband cigarettes or alcohol, or even drugs. This type of activity very rarely goes on without the venue manager's knowledge.
	Distribution of illegally smuggled oil. ⁵³ Although the majority of smuggled oil is distributed through smaller outlets that are willing to collude, corruption scheme could penetrate and ensure the sale even through established brands, where gas-station managers/employees are corrupt.
	Small 24-hour stores could be used to distribute stolen or illegal goods.
	Luxury-brand retail sales or management staff could be corrupted into distributing counterfeit brand goods.

Money Laundering

The anti-money laundering systems of EU Member States mandate the cooperation of private sector more than any other law-enforcement area: notaries, financial institutions (banks, investment funds, brokerage houses, insurance companies, pension funds), wholesalers, lawyers, accountants, real-estate companies, sports-clubs, and high-value dealers (e.g. of cars or jewellery).⁵⁴ Companies in these industries could be potentially used as money laundering vehicles. Consequently, corruption could play a role in preventing them from carrying out their obligation to report suspicious activities that may involve money laundering. Interviewees shared a number of examples of corruption of employees in such companies.

While some money-laundering schemes require complicity from the entire company, in other schemes the complicity of only some corrupt employees suffices. Interviewees mentioned the financial, the gambling, and the real estate sectors, as the primary targets of corruption. Few of the interviewees were familiar with particular corruption cases. Representatives of financial intelligence units (FIUs) were not interviewed as part of this study.

Financial sector

Interviewees found that corrupting bank employees not to report financial transaction related to money laundering was a fairly rare phenomenon. Bank collusion or insufficiently effective anti-money laundering measures were far more often the reason for successful

money laundering schemes (SE, NL, MT, CZ). Launderers come up with schemes whereby bank complicity is difficult to prove or not needed: using off-shore companies, shell companies, trusts and foundations.⁵⁵ Some interviewees outlined that money exchange offices (SE, CZ) are targeted as government oversight is much weaker (SE, AU). Small locally owned banks were identified as more frequent targets, because they usually have less internal controls than big international banks (SE). A 2008 survey found that 12.5% of financial industry companies worldwide (higher than any other industry) reported to have suffered from money-laundering in the preceding three years (Kroll 2009, p.9).

Real estate

The second most often mentioned sector in which criminals use corruption or have investment interests was real-estate, especially related to tourism & the night-time economy (CZ, RO, IR, NL, BG, SI, FR, MT, DE, AU, PT, BE, PL, SE, ES). The purpose of acquiring real estate is two-fold: first, to launder the proceeds of crimes already committed, and secondly to acquire cash-intensive businesses (bars, restaurants, retail-outlets & entertainment venues) that would allow continuous money laundering of criminal proceeds in the future. Corruption could be used only in the process of acquisition or disposal of real estate.

The types of companies involved in real-estate deals (particularly commercial real estate) could vary widely, and potential for corruption or collusion exists when dealing with any of them. A study on money laundering in the US commercial real estate market found that property management companies, real estate investment companies, and realty companies were the top ones involved in money laundering schemes. Other businesses, such as construction companies, title companies, mortgage or loan brokers, and real estate agents were also involved but on a much smaller scale (FCEN58 2006). In the residential market, corruption targets are different, as the builder/developer, escrow companies, or real estate companies, and title companies were much more often implicated (FCEN 2008).

Gambling

The gambling industry was mentioned as one of the sectors most often targeted by organised crime. Many interviewees stated that criminals either use corruption to penetrate legal gambling establishments (IT, BE) or that there are suspicions of criminals themselves being involved in the gambling business (CZ, DK, NL, PT)....

Some money-laundering schemes do not require the complicity of casino staff, while for others only high-level complicity or corruption of several employees is needed. Most casinos and gaming facilities have very sophisticated monitoring and surveillance systems that exclude the possibility of certain money laundering schemes unless the casino management or company is itself involved.

Professional Services

The previous chapters (on judicial, customs, and police corruption) already outlined the **intermediary role of corruptors that lawyers play. The professional services industry, in particular law-firms**, accounting firms, and trust and company service providers (TCSPs) might play an important role in facilitating money laundering and white-collar crime.

In the majority of cases, the role of such professionals is collusive rather than corrupt (particularly when they are sole entrepreneurs). On occasions, though, when such professionals are employed at a large law or accounting firm, they might act against the established principle and rules of their company. The interviews showed that in the majority of cases, the professional services firms or individual professionals (lawyers, accountants, etc) that engage as intermediaries of corruption are of a specific type. The firms are usually smaller, and specialized in corruption brokerage.

The case of Arthur Andersen and Enron is one of the well known ones. Even though only some Arthur Andersen partners were involved in the Enron fraud, the US court decided to hold the entire company responsible, which eventually led to its demise. **Lawyers in international law firms face similar dilemmas when in the course of legal due diligence of important clients they come across contracts that could raise suspicions of money laundering. Again such decisions are usually taken at the partner level, thus blurring the line between collusion and corruption.**

Organised crime groups or individual criminals tend to seek out the services of professionals to benefit from their expertise in setting up companies that criminals then use for illicit purposes. Criminals may seek advice from trust and company service providers (TCSPs) who might collude in setting up corporate vehicles (off-shore companies, foundations, or trusts) that would be then used in money laundering or fraud schemes (FATF 2006).

Certain professional services, like real-estate surveyors and evaluators could be instrumental in **real-estate fraud schemes**. The overvaluation of real-estate property by corrupt evaluators and surveyors is key to successful mortgage loan fraud schemes.

In all of the above categories it is very **difficult to determine professional services' degree of awareness of or involvement in the illicit purposes underlying their client's activities**. These range from some firms (or professionals) unknowingly facilitating illicit activities and others having greater knowledge of their clients' illicit purposes (FATF 2007, p.5). The line between **'complicity' and 'corruption' is blurred and is a matter of interpretation**. Therefore, if one were to provide an accurate account of corrupt behavior of such professionals in all possible, this would be redundant with the description of the various detailed money-laundering or white-collar schemes in publications such as FATF 2006, where their roles are outlined in detail.

Notaries can abuse their position by helping shield criminal activities and their proceeds. The corrupt activities of notaries include transactions on the property market, the establishment of legal entities. In one case, 'a notary linked his name and account to an advanced fee fraud. As a result, a swindler was able to persuade investors to transfer huge sums of money to account (Nelen and Lankhorst 2008, 139). **Notaries (but more often law-firms) could act as fronts to criminal companies**, allowing these for instance to use their address as an official one (ES).

Various **(court) experts** usually, used by the defence or courts to provide expert assessment on evidence, are also susceptible to corruption. **The particular issue of corruption of health professionals is discussed in a separate section, because although they are sometimes based in private companies, on many occasion they are public-sector employees.**

Corruption and Criminal Markets

This chapter aims to provide a different dimension of organised criminals' use of corruption. While the previous chapters focus on institutions, here the analysis focuses on the how corruption facilitates particular 'organized criminal activities' that often involve multiple public institutions and private sector participants. The proposed analysis focuses on "illegal markets," not simply on "criminal activities," for two reasons:

- It allows for easier measurements and comparisons of 'organized crime' across countries;
- It is broad enough to include all actors and aspects of corruption, not solely higher levels of structured criminal organisations; This approach provides a more comprehensive understanding of 'petty' and 'grand' corruption, which are often inextricably linked in the operation of illegal markets.

Prostitution and Trafficking of Human Beings for Sexual Exploitation

This section should be afforded particular attention in relation to child sex abuse as there is highly likely a correlation between sexually abusive parents, and those involved in sexual exploitation of other children. Lawyers, judges, psico-social teams, etc. who are in any way covering-up or turning a blind-eye to sexual abuse of children by a parent, are sending a message to said parent that child sex-abuse is acceptable, putting other children in the community at risk of molestation, kidnapping, &/or trafficking.

The link between prostitution and trafficking in human beings for sexual exploitation (abbreviated as THB) can be elucidated by the large demand for sexual services across the EU, prostitution's large profits and the relatively low-risk operation of people smuggling. Historical, geographic, and specific prostitution market contexts in Member States affect corruption pressure related to THB and prostitution.

Historic and geographic contexts

In the former communist countries – EU-10E, the prostitution market re-emerged after the democratic changes of the early 1990s. The transition to market economies that followed resulted in high levels of unemployment and marginalisation of many vulnerable groups, leading to a surge in the number of women involved in prostitution domestically and, above all, internationally.⁶⁴ At the same time, the low standards of living created a relatively limited prostitution market. These countervailing factors, coupled with the demand for sexual services in EU-17 and the larger profits earned from prostitution abroad, lead to a substantial number of women being trafficked for the purpose of sexual exploitation to wealthier Member States.

The most common activities within THB or trans-national prostitution networks are:

- Recruitment and procurement;
- Smuggling and transport;
- Counterfeiting of identity and travel documents;
- Provision, management and control of safe houses;
- Pimping;
- Operation of premises where victims are exploited or prostitutes work: bars, nightclubs, brothel factories, hotels, cabarets;
- Collection, delivery and distribution of the profits of trafficking;
- Money laundering and the management of assets and proceeds of crime (Europol, p.6).

Judicial corruption

The judiciary, particularly the courts, is much less targeted by organized crime than the police or politicians. The objectives criminal organizations pursue to corrupt the judiciary to facilitate prostitution or human trafficking follows the same models for the corrupt protection of other illegal activities – focusing on avoiding investigation, influencing the trial, obtaining lower sentences, etc.

Judicial corruption is often linked to political corruption. In some “politically sensitive cases” involving members of the political elite, magistrates may obstruct or refrain from investigations. Interviews reveal that blackmail involving prostitutes is a common technique to corrupt judges and prosecutors (BG, CS-FR, DE, NL). Under threat of exposure, judges and prosecutor are then blackmailed into committing further corrupt acts.

Organised crime uses social, professional and political networks to influence the judiciary. The case study of Bulgaria reveals that prosecutors are involved in sub-networks of large local businessmen, local MPs, judges, mayors, city council members, law enforcement officers that act in concert in exercising or protecting organised crime activities, including THB.

Private sector corruption

Human trafficking activities in EU Member States have been facilitated by the involvement of law firms/legal consultants and work-abroad agencies. Advice provided by lawyers on marriage of convenience serves an important function in trafficking of women (NL).

- Lawyers can serve as intermediaries between criminal groups and magistrates for the settlement of cases related to THB.
- Work–abroad/ travel agencies serve to recruit victims of trafficking through advertisements of unrealistic job offers.
- Transport companies (particularly bus companies) could transport prostitutes, trafficking victims and earnings between source and destination countries. Bus drivers are usually easy corruption targets (BG).

Drugs

The drug market continues to be one of the most significant source of income for organised crime (Europol 2005). the EU’s market for cannabis, cocaine, heroin, and amphetamine type substances (ATS) is estimated at between 55 and 100 billion EUR on the consumption level.

The cocaine market

EU countries consume about 250 tonnes out of the annual global output of about 800-1,000 tonnes of pure cocaine hydrochloride (UNODC 2008a). In the EU, about 100 tonnes of cocaine are seized annually, around half (49 .6 tonnes) in Spain. The demand for cocaine continues to grow in many Member States, and especially in Spain and the UK (RAND 2009).

The heroin market

UNODC has estimated that 135 tonnes of heroin are supplied annually to the EU. According to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), there have not been signs in recent years that point to a significant decrease of the market after the slowdown in

the beginning of the century (Europol 2006). UNODC estimates that the size of the market exceeds €22 billion. RAND's estimates between €5 billion and €14 billion, depending on the purity level assumed (RAND Europe 2009, UNODC 2008, UNODC 2008a).

By a wide margin, most of the heroin that enters the EU originates from the opium poppy fields in Afghanistan. The Netherlands and, to a lesser degree, Belgium, play an important role in the secondary distribution of heroin across the EU. For instance, the Netherlands and Belgium supply most of the heroin destined for the United Kingdom. In addition, France, Germany and Spain have observed over the years that a considerable part of the heroin seized in their countries is being supplied via the Netherlands and Belgium (Europol 2006). Turkish criminal networks with ties to Afghanistan and the Netherlands, Belgium, France, Germany and the UK dominate the trade.

Amphetamine-type substances

After cannabis, the most commonly used drugs in the European Union are synthetic drugs, either amphetamine or ecstasy (EMCDDA). From the start of the decade, the amphetamine market has experienced a serious decline in the EU due to the change in the subcultures of young consumers. Unlike other drugs, local production largely supplies the amphetamine market.

In the EU, approximately 70-90 illicit production facilities are dismantled annually (Europol 2007). The largest numbers have been detected in the Netherlands (47). Other facilities have been seized in Belgium, Hungary, and Poland. Smaller-scale synthetic drug production facilities have been reported by Austria, Denmark, Estonia, Germany and Lithuania (Europol 2007). Reports reveal that the Dutch and, to a lesser extent, Belgian OC groups still dominate the major production of synthetic drugs (Europol 2009).

Cannabis market

The cannabis market is the largest illicit drug market in the EU: between € 6.1 billion and € 28.5 billion (RAND 2009), or between 1165 and 5424 tons. Despite the significant criminal incomes generated in the cannabis market, most Member States pay fairly limited attention to this market, because the associated social and criminal harms are considered to be low.

One specific characteristic of this market is that significant part of the cannabis sold is produced within the EU, and therefore much of trafficking is intra-regional. Much like with other drug markets, criminal networks are involved within all aspects of the cannabis market: production, trafficking wholesale, and retail distribution. In addition to EU based production, criminal networks traffic significant amounts of cannabis resin into the EU (mostly from Morocco via Spain and towards the Netherlands for further distribution (Eurpopol 2009). The cannabis market generates different types of corruption pressure towards the police and customs, depending on the:

- national policies towards the legality of cannabis (e.g. the Netherlands)
- the size of the market (some countries, like the Czech Republic or Spain, have very high levels of consumption)
- the policies of tolerance towards consumption (e.g. Spain or Italy practically do not investigate retail distribution).

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Free, downloadable copies of *Family in Crisis* (May–present) Newsletters are posted on <http://worldpulse.com/node/71182> and are as follows:

- January's newsletter featured Amnesty International's report *What Specialized Justice?*
- December's newsletter featured the United Nations Secretary General's report *Advancement of Women: In-depth Study on All Forms of Violence Against Women*
- November's newsletter featured Save the Children report - *The Spanish Justice System Confronted with Sexual Abuse Within the Family*
- October's newsletter featured *The Emperor's New Clothes* – Domestic Violence, International Divorce, and a State's Obligation to Protect under International Law
- September's newsletter *Hague Convention Domestic Violence Project*
- August's Newsletter featured important works by Barry Goldstein, Dr. Mo Hannah and Elizabeth Liu
- July's Newsletter featured the documentary *Now Way Out But One* by Garland Waller and Barry Nolan
- June's Newsletter featured [Safe Kids International](#) & [Damon's List](#)
- May's Newsletter covering the *Battered Mother's Custody Conference* (BMCC), *Mothers of Lost Children* (MOLC) White House Demonstration, and *National Safe Child Coalition* (NSCC) lobbying efforts on Capitol Hill.

If you should have any questions about these issues or my on-going lobbying work (all posted on my [World Pulse Journal](http://WorldPulseJournal))

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