REVOLUTION DELAYED

THE IMPACT OF OPEN DATA ON THE FIGHT AGAINST CORRUPTION
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Corruption remains one of the biggest challenges for all societies, as it puts public money into private pockets, and cheats on market rules, becoming every day more sophisticated, organised, and transnational. To date, no effective anti-corruption strategy exists, and increasing transparency is argued to be “the best way to fight corruption”. European Countries are moving to levels of transparency inconceivable until recent years, with significant differences in the legal frameworks, the political commitment, the public investments, and the civic engagement between Countries.

European citizens have limited rights to openness (proactive data disclosure), since existing Open Data provisions are driven by the judgement and discretion of public authorities themselves. Furthermore, public bodies cannot enforce openness on non-compliant bodies or audit and review data management policies.

The civil society and its organisations must play a role in monitoring public expenditures, but Open Data demand is largely immature, driven by small, active, and engaged communities of expert developers that play a leading propelling role, not only asking the opening of quality data, but also in re-using and combining it. The interest in Open Data for anti-corruption by law enforcement agencies, investigative journalists, citizens, and private sector, is in general scarce.

The number of Open Data Initiatives is growing, but the research has found no evident impact on detecting corruption, despite their potential as tools for flagging grey or suspicious areas, in particular in the initiatives monitoring local administrations. There are no Open Data initiatives that report corruption re-using Open Data.

The impact of Open Data in revealing misbehaviours has been assessed using a selection of 26 cases of alleged corruption, conflicts of interest or perceived misuse of power and public funds, insider fraud, and lobbying in four EU Countries. The most frequent forms of corruption detected are conflict of interests or misuse of public funds (54%), followed by bribery in the 42% of cases, insider fraud (15%) and lobbying in the 8% of cases. In most of the cases, law enforcement agents (42%) and investigative journalists (31%) have played a leading role in the disclosure of illegal activities, followed by citizens (15%), Civil Society Organisations (8%), and private companies (4%). Open Data was used as primary source of information in 12% of the cases, but Public Sector information was relevant in half of the cases.

No one has been convicted for corruption on the basis of Open Data, and no stolen assets have been recovered on the basis of Open Data.

Causes can be found in the nature of crime, the information disclosed, and the analytical skills necessary to detect corruption. To date, there is no robust methodology to measure the impact of openness on the prevention of corruption.

According to the information collected, the contribution that Open Data has made to tackling corruption differs dramatically when considering whether the corrupt behaviour is illegal or not, but seems to date very limited. The project has identified those datasets that should be part of an “early warning information system” of various forms of corruption, but Open Data reuse requires other sources of information and analytical skills.

There are a lot of promising aspects: access of Open Data facilitates civic scrutiny, reduces information asymmetry on which corruption practices may be grounded, increases political commitment, public sector’s accountability and behavioural change, facilitate comparability of public sector performances, and contributes to shift in participatory mechanisms.

The main drivers to unlock the potential of Open Data are: the opening of data on beneficial owners and register of interests, supported by adequate right of information - on the supply side, and the growth of civic engagement, open data communities and digital skills by anti-corruption institutions on the demand side.
FOREWORD

In the recent years, the demand for Open Data picked up stream among stakeholders to increasing transparency and accountability of the Public Sector. Governments are supporting Open Data supply, to achieve social and economic benefits, return on investments, and political consensus.

While it is self-evident that Open Data contributes to greater transparency – as it makes data more available and easy to use by the public and governments, its impact on fighting corruption largely depends on the ability to analyse it and develop initiatives that trigger both social accountability mechanisms, and government responsiveness against illicit or inappropriate behaviours.

To date, Open Data Revolution against corruption is delayed. The impact of Open Data on the prevention and repression of corruption, and on the development of anti-corruption tools, appears to be limited, and the return on investments not yet forthcoming. Evidence remains anecdotal, and a better understanding on the mechanisms and dynamics of using Open Data against corruption is needed.

The overall objective of this exploratory study is to provide evidence on the results achieved by Open Data, and recommendations for the European Commission and Member States’ authorities, for the implementation of effective anti-corruption strategies based on transparency and openness, to unlock the potential impact of “Open Data revolution” against Corruption.

The project has explored the legal framework and the status of implementation of Open Data policies in four EU Countries – Italy, United Kingdom, Spain, and Austria. TACOD project has searched for evidence on Open Data role on law enforcement cooperation, anti-corruption initiatives, public campaigns, and investigative journalism against corruption.

RiSSC – Research Centre on Security and Crime (Italy), the University of Oxford and the University of Nottingham (United Kingdom), Transparency International (Italy and United Kingdom), the Institute for Conflict Resolution (Austria), and Blomeyer&Sanz (Spain), have carried out the research between January 2014 and February 2015, under an agreement with the European Commission – DH Migration and Home Affairs.

The project has been coordinated by RiSSC, with the support of a European Working Group of Experts, chaired by prof. Richard Rose, and an external evaluator, Mr. Andrea Menapace, and it has benefited from the contribution of many experts, activists, representatives of Institutions in the four Countries.

I wish to thank the European Commission, the researchers, all the experts and all the staff members of the Consortium for their contribution to this project. A special thank to Valentina and Mara for their precious support.

Lorenzo Segato
Director RiSSC

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01 World Wide Web Foundation, Open Data Barometer Global Report, 2nd ed.
02 The Country Reports, prepared by national research teams, are available here: www.tacod.eu/project and www.rissc.it
INTRODUCTION

1.1 CORRUPTION IN THE EU
1.2 EXPECTATIONS ON OPEN DATA
1.3 THE TACOD PROJECT
1.1 CORRUPTION IN THE EU

Corruption remains one of the biggest challenges for all societies, including European societies. Although the nature and scope of corruption may differ from one EU State to another, it harms the EU as a whole by lowering investment levels, hampering the fair operation of the Internal Market and reducing public finances. The economic costs incurred by corruption in the EU possibly amount to EUR 120 billion per year. This is one percent of the EU GDP, representing only a little less than the annual budget of the EU. 03

Bribery is a crime that affects more than 1.6 billion people around the world every year, with the annual cost estimated by the World Bank to be USD 1 trillion. In Europe, the high perception of corruption clashes with citizens’ and businesses’ experience, with a spread of trust in the Institutions that cost more than corruption itself, estimated in EUR 120 billions per year.

More than three quarters of European citizens agree that corruption is widespread in their home country, and that bribery and the use of connections is often the easiest way of obtaining public services. More than half of Europeans believe that bribery and the abuse of power for personal gain are widespread among political parties (59%) and politicians at national, regional or local level (56%).

A quarter of Europeans (26%) think that it is acceptable to do a favour in return for something that they want from the public administration or public services. A quarter of Europeans (26%), compared with 29% in 2011, agree they are personally affected by corruption in their daily lives. 05

Four out of ten European companies consider corruption to be an obstacle for doing business. 06

Around one in eight Europeans (12%) say that they personally know someone who takes or has taken bribes, although only 4% say they have been asked or expected to pay a bribe for services received. Only half of all Europeans (51%) think they know where to report corruption should they experience or witness it.

All EU Countries criminalise corruption, including regulations as well as the implementation of relevant international conventions to which Countries are party, although many loopholes exists on conflict of interests, political party financing, and lobbying.

The EC anti-corruption Report places Italy and Spain in the group of Member States with high perception and structural problems of corruption in relevant State pillars; 07 and Austria and UK among Countries with lower perception and sectoral problems of corruption. 08 The clustering is in line with the TI’s 2014 Corruption Perceptions Index, where Italy and Spain score lower and Austria and UK scoring high. 09

06 2013 Special Eurobarometer 397, and 2013 Flash Eurobarometer 374. The Eurobarometer survey measures public opinion in the European Union about a variety of issues relevant to public policy, including the issue of corruption.
07 Notably in terms of spread of corruption, relevance of connections for getting public services, growth of corruption and impact on daily life.
08 The Commission highlights problems on the integrity of elected and public officials, political parties' funding, transparency of public procurement, corruption and spending at local and regional level. For these countries “corruption remains a serious challenge”.
09 The European Commission highlights – inter alia – problems of foreign bribery in vulnerable industries, control of the banking sector, transparency in out-of-court settlements in corruption cases, resources to specialised prosecutors for processing corruption cases, cap donations to political parties, and limits on electoral campaign spending.
10 Italy scores 43 (+0 on 2013, +1 on 2012) and ranks 69/175; Spain scores 60 (+1 on 2013, -5 on 2012) and ranks 37/175; Austria scores 72 (+3 on 2013, +3 on 2012) and ranks 23/175; United Kingdom scores 78 (+2 on 2013, +4 on 2012) and ranks 14/175. Source: http://www.transparency.org/cpi2014.
Open Data is data that is accessible, machine-readable, and re-usable. It includes scientific data, corporate data about the activities of companies, or data published by government, while it should not include personal data. Within government Open Data, some is about the public, for example on health trends or crime rates, some is intended to facilitate economic activity, e.g. data about transport connections, some other is data about the activities of the government itself, such as information about public spending on goods and services, or about the salaries of public officials. This latter type of data is usually associated with efforts to improve the accountability of government and where transparency is often seen as an important anti-corruption tool.

Expectations on Open Data benefits are huge: $3 trillion could be generated globally through the enhanced use of Open Data, of which $1.1 trillion by the United States and $900 billion by Europe. McKinsey calculated benefits of increased efficiency, development of new products and services, and consumer surplus (cost savings, convenience, better-quality products). A case study analysing the economic impact of the Ordinance Survey Open Data initiative in the UK estimated a net increase of £13 million to £28.5 million in UK GDP in 2016 as well as a similar increase in GNP.

Deloitte has argued that the release of public sector information has the potential to generate significant economic value through stimulating innovation, addressing market failures, facilitating new ways of working and creating network effects arising from users who generate new insights and cross-fertilisation of ideas, helping with the creation of new markets. One of the benefits of Open Data includes citizens’ engagement and a more transparent and accountable Public Sector.

The global movement to make government “open by default” has found solid ground through the Open Government Partnership, the G8 Open Data Charter, the 2015-2016 G20 Anti-Corruption Plan, and the UN Open Data Revolution.

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1.2 EXPECTATIONS ON OPEN DATA

“Data is the 21st century’s new raw material. Its value is in holding governments to account; in driving choice and improvements in public services; and in inspiring innovation and enterprise that spurs social and economic growth.”

11 Rt Hon Francis Maude, Minister for the UK Cabinet Office.
The TACOD project explores the impact of Open Data in anti-corruption policies. Although the definition of Open Data is very precise, the project considers Open Data and other Public Sector Information as referring to both proactive publication and reactive publication, for instance in response to Freedom of Information request.

Open Data is assumed to reduce corruption in two main ways. First, by providing more evidence that increase the rate of detection of corruption. Second, by increasing accountability of individuals that will deter corruption, so that fewer cases of corruption occur.

Corruption is defined as the abuse of public power for private gain, but Open Data sometimes reveals practices which are not necessarily illegal, but may be regarded as improper or shameful, and that this also represents an important form of regulatory power. Open Data may reveal contentious practices and help to build trust in and integrity of public institutions.

Increasing transparency (the disclosure of public sector information) – is argued to be “the best way to fight corruption”. This is not always true. Bauhr and Grimes (2013) found that transparency only reduces corruption if it improves accountability; this is in line with Klitgaard’s (1991) model of corruption control. Heald (2012) has found that some types of data are relevant for countering corruption while others are not. Worthy (2013), argues that the impact of Open Data depends very much on the way in which it is used by intermediaries, such as the media, civil society and parliament (in its oversight function).

The findings of the exploratory assessment of the impact of Open Data on anti-corruption in four different EU Countries (first Chapter), lies on the research of the legal framework and its level of implementation, on users’ perception and opinion, and on evidence from case studies and Open Data initiatives in Austria, Italy, Spain and United Kingdom. A compendium of the national studies can be found in the second Chapter. The impact of Open Data on Corruption is analysed in the third Chapter, with the potential drivers and obstacles for unlocking its potential. The last Chapter contains recommendations to the European Commissions and to the four Member States.
THE MAIN FINDINGS

2.1 REVOLUTION DELAYED
2.2 UNDERSTANDING COMPLEXITY AND ITS LIMITS
2.3 BEYOND TECHNOLOGY
2.4 ECOSYSTEM APPROACH AND CITIZEN-LED ACCOUNTABILITY
2.5 OPENNESS CONTESTED
2.6 TARGETED TRANSPARENCY AND OPEN DATA AS “EARLY WARNING MECHANISM”
2.7 BRIDGING THE GAP BETWEEN COMMUNITIES OF PRACTICE
2.8 THE DETERRENT EFFECT OF SHAME
2.9 ONE SIZE DOESN’T FIT ALL
2.10 IN THE NAME OF A FEW
2.1 REVOLUTION DELAYED

Openness and transparency have reached inconceivable progresses in Europe insofar, but the Open Data revolution on corruption is yet forthcoming. Open Data itself is not sufficient to spot corruption, but needs to be placed in an environment where intermediaries analyse information and provide narrative and explanation, citizens are aware and monitor their representatives, and the public sector is held accountable for its actions. Today, the Open Data ecosystem is still immature in many EU Countries, and it appears evident that lots of obstacles still threaten the new era of openness and civic engagement on integrity. Evidence of positive impact of Open Data is balanced by negative consequences of openness – e.g. the trade-off with privacy and confidentiality rights, and further unpredictable effects that bring both benefits and challenges to the public sector and the civil society need to be accounted for.

Sometimes corruption seems to be winning, involving civil servants, elected officials and private companies – both profit and not for profit – in illicit agreements almost everywhere. When public money flows, appetites growth. The opportunity offered by the supply of Open Data and of public sector information in any format, pushed by a realistic and aware demand by the public, looks promising.

More and more information is progressively released, increasing an asset whose value has to be exploited yet,
both for investigations (detection) – and for shedding light on names and money involved in public decisions that are less than absolutely clear (prevention).

This requires also a mature and accountable public. The media, and the civil society organisations and intermediaries, hold a great responsibility in leading this revolution, driving the public opinion where they want to put more light, and the ethical issues and the consequences of a misuse of openness can be devastating.

2.2 UNDERSTANDING COMPLEXITY AND ITS LIMITS

When decision making processes involve discretionary powers – politicians and elected officials – transparency rules mostly fail to guarantee the accountability of legislative actors, because the actors tend to implement them strategically, that is, to redirect them toward more beneficial effects.

The actors might comply with the transparency rules, evade them (realist conventional wisdom), ignore them (organized-hypocrisy theory) or convert them to their own advantage. Empirical studies show a relative failure of transparency rules, partly because actors enjoy a high degree of discretion in the enforcement of rules, in part because actors tend to implement the rules but exploit their ambiguities to their own advantage. Even if increased control by external actors (such as national parliaments) could increase transparency and accountability, making transparent a process that is intrinsically based on discretionary power amounts to “squaring the circle”.15

2.3 BEYOND TECHNOLOGY

The ability to understand where money has come from, how it’s used, and to whom it goes, is vital to a huge range of social goals, such as improving service delivery, combating corruption, protecting the environment and monitoring political influence. Technology and Open Data can provide powerful tools to trace financial flows, between areas such as contracts, payments, revenues and budgets, between individuals and organisations and between countries. But technology and data are rarely enough to bring change on its own – tools need to be nested in broader approaches that account for the realities of power. And progress often needs shared approaches and collaboration with new allies.

Even when relevant information is available, greater transparency does not necessarily lead to more responsible governance. Having better tools to tackle the problem does not substitute the need for the willingness and ability to take action.

The data gathered in the four Countries confirms the positive effect of Open Data, in terms of increased political commitment to open government as a way to improve public service delivery. Indexing initiatives around Open Data at international level, and the Open Government Partnership have also helped developing a huge amount of data on the overall performance of a wide number of governments.

Despite growing attention to openness and transparency, and the potential for citizen engagement ensured by technology, huge challenges remain when focusing on cost and benefit trade-off for government officials to engage in corruption. Evidence that greater transparency

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in the form of Open Data has increased the risk of criminal behaviour is limited and inconclusive to date, this remaining an emerging issue.

2.4 **ECOSYSTEM APPROACH AND CITIZEN-LED ACCOUNTABILITY**

As Spain and Italy cases confirm, legislative effort aiming to introduce new tools like Open Data do not necessarily lead to substantial changes in the behaviours of public officials and businesses. New laws must be supported by strong political commitment, and relevant investments, to lead to greater impact and concrete results.

Despite the impressive growth of tools now available, transparency and accountability initiatives in society and within the state have little impact on Open Data ecosystem. The challenges faced by the Open Data policies are inherently part of – and largely dependant on - the state-society relations, involving power relationships between and among different actors both in the state and society. The research confirms the need for moving away from tool-driven projects towards a better understanding of the politics of accountability complex dynamics at play in the context of the problems they are trying to solve. There is an increasing interest now in ‘accountability ecosystems’ rather than just the individual actors and institutions. This should translate into a more politically-informed approaches to anti-corruption both from society and the state.

Without unpacking power relations in specific contexts, and the willingness to explore the interaction between actors, institutions, and mechanisms (formal and informal) that are relevant to anti-corruption, the impact of citizen-led and/or tool-driven policies remain limited. For instance, more data on corporations and beneficial ownership and information sharing is needed to understand power relations and lobbying strategies. This is also crucial to avoid that private companies and public officials can talk about transparency publicly while increasing their efforts on finding weaknesses in the transparency legislation of the countries they operates in.

2.5 **OPENNESS CONTESTED**

There is an increasingly intense debate among leading practitioners around the issue of open government and privacy. The outcomes of the debate are unclear to date, but it will definitely shape the future of Open Data. The current legal framework is generally inadequate – as it does not take sufficiently into account the implication of the digital revolution—and often vague. Privacy is a fundamental right and often clashes with the Open Data principles. Austria grants extensive data protection rights, including to legal entities, while access to information remains very limited. The United Kingdom, meanwhile, has put a strong emphasis on transparency and access to information. There is no individual right to data yet, however it could be considered part of the right of access to information, an inherent part of freedom of expression. This does mean that the right to privacy needs to be balanced with other fundamental rights, and vice-versa.

What it is urgently needed, are uniform criteria to check if parties are harmed by the release of data, and if the public interest is more important than that party’s rights. Solutions should necessarily take into account the diversity of national contexts whose definition of privacy varies significantly. There is no necessary conflict between Open Data and privacy. However the definition of Open Data as “data freely available for all” does not help add clarity to the debate.
The urgent need for policy interventions is quite evident in the calls for greater transparency around beneficial owners of companies, access to the names of lobbyists attending meetings with public officials, access to details of policy-makers, access to data on public spending.

### 2.6 TARGETED TRANSPARENCY AND OPEN DATA AS “EARLY WARNING MECHANISM”

The Open Data movement has largely advocated for data to be open, regardless the public relevance of datasets, with the aim of being able to “map everything” and then look at it retrospectively in search of patterns of misbehaviour or under-performance by public officials or authorities. What would be worth exploring for anti-corruption purpose would be targeting information about specific government departments and related activities whose relevance is higher in terms of preventing and detecting corruption. If applied to these kinds of information, Open Data can be effective as anti-corruption tool, as information contained in specific dataset brings to early warning mechanism, detecting grey areas or morally questionable behaviour of public officials. The research findings highlights those datasets that should be part of an “early warning information system” to be use in anti-corruption.

A wide access to information, which includes unofficial data disclosed through investigative journalism, whistleblowing or leaking, can spot the light on suspicious cases of misbehaviours or maladministration, the detection of criminal patterns of corruption requires much

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<th>THEMES AND TYPES OF DATASETS RELATING TO CORRUPT BEHAVIOUR</th>
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<td><strong>APPOINTMENTS DATA</strong></td>
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<td>Appointments data</td>
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<td>Gifts and hospitality register data</td>
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<td>Registers of interests</td>
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<td>Salary data, staff roles and responsibilities</td>
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<td><strong>LOBBYING MEETINGS DATA</strong></td>
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<td>Lobbying meetings data</td>
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<td>Lobbyist register</td>
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<td>Minutes of official meetings</td>
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<td>Political donations</td>
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<td>Public consultations, submissions and conclusions</td>
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<td><strong>ALLOWANCES AND EXPENSES DATA</strong></td>
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<td>Allowances and expenses data</td>
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<td>Open contracting data</td>
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<td>Financial statements (projects), budgets and variance reports</td>
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<td>Performance information on services</td>
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<td>Public spending records</td>
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Source: Tacod
more than Open Data alone. Law enforcement agencies have the resources and capacities to investigate whether bring to criminal liability of the civil servants, but also FOI requests, Public Audits or Parliamentary scrutinies can help disclosing corruption.

2.7 BRIDGING THE GAP BETWEEN COMMUNITIES OF PRACTICE

Open Data bridges different practitioner communities—those focusing on transparency, open government, access to information, civic technology and privacy. Their advocacy agenda is not a unified one and approaches differ. Some embrace a more politically-informed ‘ecosystem approach’, other often follow a narrower more tech-driven approach, developing and applying tools that provides greater access to government information. Open government tends to serve as a unified agenda but practitioners still have different priorities or goals, engendering tensions among the different theories of change behind their efforts. There are increasing calls for a more integrated approach. Understanding and addressing these differences and tensions is the starting point for understanding how and where to draw the red line between the spheres of personal and public when it comes to data.

A medium-long term perspective is still lacking, as many community-driven initiatives suffer for lack of ideas and resources to maintaining momentum and public interest after the start-up phase. The gap between the civil society and the law enforcement is evident, although they both aim at fighting corruption in any form.

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**DIFFERENCES BETWEEN FOI AND OPEN DATA**

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<th>FOI</th>
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<tr>
<td>Information has to be requested</td>
<td>Information is already available</td>
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<td>Information is privately shared</td>
<td>Information is publicly shared</td>
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<tr>
<td>Its information might have limited application</td>
<td>Its information offer unlimited application</td>
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<tr>
<td>Information might not be re-usable</td>
<td>Information is re-usable</td>
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<tr>
<td>Scope of requested material</td>
<td>Data touch upon every field</td>
</tr>
<tr>
<td>Exemptions limit its applicability</td>
<td>Whatever can be published, should be published (in accordance with data protection and IP laws)</td>
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Source: Tacod

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16 In some cases, also information requested through FOI is publicly shared. For example, FOI websites through which people can file requests with a government agency usually also make the response public to everybody. The US is currently testing the “release to one, release to all” principle, meaning that responses to FOI requests are published online for everybody to see (http://sunlightfoundation.com/blog/2015/07/13/pilotprogramwillpublicizeallfoirequestsonline/).
2.8 THE DETERRENT EFFECT OF SHAME

Uncovering stories on corruption or unethical behaviours of politicians and other civil servants, using Open Data and other PSI, obtained by official or unofficial means, brings the highest impact on the public opinion. The case studies show a prompt reaction to the scandals revealed by the media: Governments and institutions reject illicit or unethical behaviours, and often existing legislation is consequently amended, following public demand for more transparency and integrity. Companies or individuals charged with misbehaviours adopt white-washing initiatives if the scandal can shadow their reputation, as this is just important as the expertise and services they deliver. The whole theme of open government sometimes is accused to be by exploited by politicians only for gaining consensus.17 There is a general lack of interest on how and why control mechanisms - always in place - did not work. This is another field of study that needs to be further explored.

The increasing amount of accessible information (e.g. the list of beneficiaries of contracts and grants) through Open Data can contribute to the Shaming Impact. Information with a sufficient level of granularity provides a wide range of users - CSOs, single individuals and the media - with the possibility to raise the voice and to name the subject involved in ambiguous situations.

2.9 ONE SIZE DOESN’T FIT ALL

Open Data seems to have greater potential at local level, where the cross-checking between public spending, real beneficiaries and local politicians is easier. There is a lot of small and medium sized contracts at local level that can be sole sourced and don’t have to be tendered that can be easily used to generate illicit income.

Small communities facilitate the widespread of information about people, their social networks and their habits. But the capacity of armchair auditors to monitor how the money are spent in local administrations, is limited because most of datasets (and investments) are released at national level and lacks the granularity and the detail useful for investigation.

The public commitment to transparency, that constitutes the basis of international indexes and rankings of openness, rarely accounts for the local level, focussing on those macro datasets that ensure the best evaluation. Hence, local Open Data are not a priority for Central Governments, and often left to the good will of mayors. In Austria, voluntary disclosure of data at the municipality level - mainly by larger cities – currently represents the frontier of openness, while public commitments to more openness on the federal level have yet to result in significant improvements.

Open Datasets can be appealing for companies and organisations with high analytical skills, and for the media where investigative journalism is weak, as it is easier describing Open Data initiatives rather than starting investigations. But for small organisations and local communities, transparency obligations often represent only an administrative burden.

On the other side, large procurement contracts should be more transparent. Big contracts, especially in crucial sectors such as the defence, the healthcare, the public infrastructures, are often touched by suspect or complaint. The transparency of such contracts remains insufficient in the decision phase at political level, where lobbying and conflict of interests can poison the process, while is higher - but late - in the awarding and execution phase. Even

there, the complexity of the contacts (e.g. subcontracts, direct award, accelerated procedures, large consortium, presence of intermediaries), and the interests of the politics should require the maximum and prompt publication of all informations.

TED - Tenders Electronic Daily of the European Commission - can become a powerful source of information for understanding illicit schemes across Europe and in Countries where openness of information is scarce. TED data should be more accurate and available under an open license, as bulk download and in formats that allow for easy reuse of the data.

2.10 IN THE NAME OF A FEW

Very few citizens access and re-use Open Data directly from the sources: the research confirms the role of intermediaries in “translating data availability into social change activity”. Civil society organisations committed to promoting fundamental rights or to fighting corruption, and individual experts/firms with technical capacities, can drive both the demand and the supply of PSI. In Italy, an OGP-awarded initiative is almost unknown. Understanding the different kinds of intermediaries, their plans and their sources of funding is needed to avoid potential conflicts of interest or public opinion capture. Governments tend to engage and cooperate with digital champions, developers and CSOs in particular in less digitally developed countries. Public openness and engagement with the civil society are to be encouraged if this doesn’t hamper the integrity and independence of the latter. Funding issues of big CSOs or even small Open Data Initiatives can become crucial, and remaining one of the few stakeholders of the institutions or of private donors somehow vital.

18 According to the survey conducted for the TACOD project in Italy (3762 respondents), only 5% has heard about the initiative, and less than 1% usually visited the website.
THE (R)EVOLUTION OF OPEN DATA

3.1 THE SUPPLY OF OPEN DATA
3.2 THE DEMAND FOR OPEN DATA
3.3 THE USE OF OPEN DATA FOR ANTI-CORRUPTION
3.1 **THE SUPPLY OF OPEN DATA**

European Countries are moving to levels of transparency and openness inconceivable until recent years, these goals being now steadily included in the EU and Governments’ agendas. National Parliaments have adopted new laws on Access to Information,19 Public Sector Information, Privacy, Intellectual Property Rights, Transparency, and Open Data, also to transpose recent EU Directives. The existing legal frameworks apparently grants the European Citizens and organisations with the possibility to access Public Sector Information (PSI) in their Country and across Europe, but the harmonisation, standardisation, and enforcement mechanisms of national legislations remain open issues. As shown in the next image, the Countries analysed present significant differences in the legislation’s readiness for Open Data, with United Kingdom playing a leading role, aside US, in the world and in Europe, and Italy with a backward ecosystem.

Across Europe, the legislative progresses leave space for improving “laws in practice”. Several indicators of openness have been developed in recent years, which can be used to assess the implementation of Countries’ Open Data programmes:

- The Open Knowledge Foundation annually publishes the Global Open Data Index, which observes the efficiency of opening data in different fields.
- The Global Right to Information Rating, by Access Info Europe and the Centre for Law and Democracy, assesses the strength of legal frameworks for the right to information around the world.

- The Open Data Barometer of the World Wide Web foundation aims to uncover the true prevalence and impact of Open Data initiatives around the world.

UK has the best performance in all three indexes, ranking first in the two openness indexes (Global Open Data Index and Open Data Barometer) and 29th in the Right to Information Ranking. Austria scores higher than Italy and Spain, with the exception of the Global Right to Information, where it performs worst among 101 Countries.

The performance of the Countries ignores many key issues relevant for anti-corruption: for instance, the disclosure of important datasets, the transparency in public procurement on the local level, the absence of national strategies and coordination with local initiatives, the differences in data formats at transnational level, the

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19 See the Country reports for a more detailed analysis of the current legislations and ongoing reforms that are in place in all four Countries. To date, only United Kingdom has a Freedom of Information Act, while Italy and Spain have either right to information and transparency laws.
attitude (or resistance) of parts of the public sector in opening or providing information, the limited powers to enforce openness. Austria’s constitution contains a confidentiality provision for public sector employees – although an amendment to remove it is currently considered by Parliament – while in Italy most of the public administrations opens data only to comply with the law, providing the minimum set of data required by transparency duties. This is in line with the State Silence study of 2013, where answers of the Public Sector to public access request were not satisfactory in the 77% of the cases. In UK, Open Data policies are currently found in many different laws, and some are not enshrined in legislation at all.

In practice, European citizens have limited rights to proactive data disclosure, and Open Data provisions are driven by the judgement and discretion of public authorities themselves. Furthermore, public bodies cannot enforce openness on non-compliant bodies or audit and review data management policies. Anti-corruption initiatives can benefit from Open Data when completed by other information on the public sector and private companies, which can be accessed only if the access to information is fully in place.

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### GLOBAL OPEN DATA INDEX
**Percentile score, 2014**

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<thead>
<tr>
<th>Rank</th>
<th>Country</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>UK</td>
<td>97</td>
</tr>
<tr>
<td>2.</td>
<td>Denmark</td>
<td>83</td>
</tr>
<tr>
<td>3.</td>
<td>France</td>
<td>80</td>
</tr>
<tr>
<td>4.</td>
<td>Finland</td>
<td>73</td>
</tr>
<tr>
<td>5.</td>
<td>Australia</td>
<td>72</td>
</tr>
<tr>
<td>22.</td>
<td>Austria</td>
<td>59</td>
</tr>
<tr>
<td>25.</td>
<td>Italy</td>
<td>55</td>
</tr>
<tr>
<td>31.</td>
<td>Spain</td>
<td>52</td>
</tr>
<tr>
<td>38.</td>
<td>Oman</td>
<td>49</td>
</tr>
<tr>
<td>45.</td>
<td>Sierra Leone</td>
<td>48</td>
</tr>
<tr>
<td>95.</td>
<td>Haiti</td>
<td>40</td>
</tr>
<tr>
<td>100.</td>
<td>Mali</td>
<td>37</td>
</tr>
<tr>
<td>97.</td>
<td>Guinea</td>
<td>37</td>
</tr>
</tbody>
</table>

Source: Open Knowledge

### RIGHT TO INFORMATION RANKING
**Rank and total RTI rating, 2014**

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country</th>
<th>RTI Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Serbia</td>
<td>135</td>
</tr>
<tr>
<td>2.</td>
<td>Slovenia</td>
<td>129</td>
</tr>
<tr>
<td>3.</td>
<td>India</td>
<td>128</td>
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<tr>
<td>4.</td>
<td>Liberia</td>
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<tr>
<td>5.</td>
<td>El Salvador</td>
<td>122</td>
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<tr>
<td>29.</td>
<td>UK</td>
<td>99</td>
</tr>
<tr>
<td>69.</td>
<td>Spain</td>
<td>73</td>
</tr>
<tr>
<td>96.</td>
<td>Italy</td>
<td>57</td>
</tr>
<tr>
<td>97.</td>
<td>Jordan</td>
<td>53</td>
</tr>
<tr>
<td>98.</td>
<td>Germany</td>
<td>52</td>
</tr>
<tr>
<td>99.</td>
<td>Tajikistan</td>
<td>49</td>
</tr>
<tr>
<td>100.</td>
<td>Liechtenstein</td>
<td>39</td>
</tr>
<tr>
<td>101.</td>
<td>Austria</td>
<td>37</td>
</tr>
</tbody>
</table>

Source: Global Right to Information

### OPENNESS RANKING
**ODB percentile score, 2014**

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>UK</td>
<td>100</td>
</tr>
<tr>
<td>2.</td>
<td>US</td>
<td>92.66</td>
</tr>
<tr>
<td>3.</td>
<td>Sweden</td>
<td>83.7</td>
</tr>
<tr>
<td>4.</td>
<td>France</td>
<td>80.21</td>
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<tr>
<td>5.</td>
<td>New Zealand</td>
<td>80.01</td>
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<td>13.</td>
<td>Spain</td>
<td>58.89</td>
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<tr>
<td>15.</td>
<td>Austria</td>
<td>58.52</td>
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<td>22.</td>
<td>Italy</td>
<td>50.58</td>
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<td>82.</td>
<td>Yemen</td>
<td>5.8</td>
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<tr>
<td>83.</td>
<td>Cameroon</td>
<td>3.77</td>
</tr>
<tr>
<td>84.</td>
<td>Mali</td>
<td>3.3</td>
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<tr>
<td>85.</td>
<td>Haiti</td>
<td>1.19</td>
</tr>
<tr>
<td>83.</td>
<td>Burma</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Open Data Barometer 2014

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20 State Silence, a field test on 300 public access requests carried out by Diritto di sapere in 2013.
3.2 **The Demand for Open Data**

If the supply of Open Data in Europe is fragmented, the demand side presents similar problems and, in general, is less developed than expected. The potential for Open Data to be useful as a tool for detecting and preventing corruption can only be realised if there is significant demand for Open Data, backed by search and analytical skills which allow the extraction of appropriate meanings. The ‘demand side’ does not only comprise members of the public, but involves other users of Open Data, including law enforcement agencies and audit bodies. However, the open government movement puts considerable emphasis on the need for public engagement if the full benefits of improved accountability are to be realised.

In Europe, Open Data demand is driven by small, active, and engaged communities of expert developers that play a leading propelling role, not only asking the opening of quality data, but also in re-using and combining it. This elite often evaluates the public sector on its degree of openness, and publicly urges it to Open Data they are interested in.

Law Enforcement investigators do not belong to these communities, nor the dialogue is particularly active, but the gap between the two groups should to be reduced. Open Data may constrain criminals seeking to carry out that behaviour, and disclosure obligations to meet Open Data reporting requirements may force those individuals to lie. For illegal activities, investigators rely on covert techniques to build a criminal case against the suspects, with Open Data playing a supportive role at best. This limits the need for Law Enforcement Agencies (LEAs) to develop skills for the reuse of Open Data. However, many LEAs officials appreciate Public Sector Information as a free, quick, and “discrete” investigative tool to check criminal information.

Investigative journalists ground their storytelling or enquiry activities mainly on undisclosed information and first-hand testimonies, thus their demand for opening data is minor as they use other sources of information. It is highly likely that the unofficial disclosure routes remain important in tackling criminal corruption, because offenders are unlikely to officially report data that may implicate them in criminal wrong doing, but in general Open Data helps journalists making their job faster and safer. The media can drive public opinion, and hold parliamentarians and public officials to account for their conduct. Particularly in the UK, this may explain the high number of cases exposed in this manner and the high motivation of investigative journalists to detect these cases.

The demand by citizens to get and use Open Data is limited, due to lack of interest or by scarce capacities. In Italy, only...
7% of citizens use online databases as source of information, 12% have used Open Data, mainly to monitor politicians (60% of them), while 74% have never requested access to a public document. On the other hand, citizens interested in corruption show semantic confusion and misinterpretation around the notion of Open Data, and its reuse is not widespread. In general, the idea is that Open Data contributes to transparency, but the direct citizens’ participation is low, almost null in reusing Open Data.

The private sector seems not interested in demanding data – or disclosing information – for anti-corruption purposes, while exploitation of Open Data by criminals – e.g. for identity theft or privacy violation – is an emerging issue, although the threat seems still minimal.

**STAKEHOLDERS’ OPINION**

Information on the demand side of Open Data is scarce. Two surveys of Open Data users and average internet users carried out for the TACOD project in UK and Italy show that:

- Citizens use Open Data more than Access to Information in both countries, regardless the different legal frameworks. Almost nine in ten respondents have used Open Data in UK, and seven in ten in Italy, about 30% have filed a request of information (26% in Italy, 34% in UK).
- Familiarity with Open Data confirms the distances across EU Countries: UK is a High-capacity Country while Italy falls within Emerging and advancing Countries. In UK, 85% of respondents are familiar or very familiar with Open Data, 68% would know how to find an Open Database if required. Respondents in UK indicate that they are equally familiar with Freedom of Information. In Italy, 20% have a good or very good knowledge of Open Data, while 20% have never used Open Data because of lack of interest.

- Countries show divergent situation of Open Data literacy: none of the respondents in UK stated they were unaware of Open Data, in Italy the 17% have no knowledge at all, and another 44% know a little about Open Data.
- Familiarity does not mean common understanding on Open Data. In UK, no one thinks that the Government should open up as much data as possible, and there is a strong consensus that Open Data should always be free of charge (78%). But, less than 10% are satisfied with the current legal framework that governs Open Data, and 67% believe that further actions are required in order for the public to become aware of the existence and use of Open Data.
- In UK, the main reason of accessing Open Data is for work-related issues (65.6%) compared to finding a specific piece of information (19.8%) and an interest or hobby (14.5%).
- In Italy, 40% of respondents state that they feel poorly informed about bad administration, waste of public money, influence peddling and corruption, but the main sources of information are the digital and traditional newspapers (53%), blogs and social networks (24%) TV programmes (16%).
- In UK, expectations on the potential of Open Data on PS integrity is very high: the use of Open Data is higher for transparency and accountability (4.31) and health services (4.31), rather than developing of new technologies (4.21), fostering entrepreneurship (4.15), transportation (4.40), crime and fraud prevention (4.04). In Italy, the main Open Data initiatives are almost unknown (only 30% have heard about them), and only a minimal part of citizens use them (from 1 to 10%).

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21 Results of the survey conducted in Italy by RISSC among the readers of an online newspaper: 3750 questionnaires, highly educated people, frequent use of internet, interested in corruption.
22 Two research teams have conducted different surveys in their own country. All the questions are relevant for the research, and some of them can be compared. Respondents in UK were accessed by disseminating the questionnaire via relevant Open Data websites (e.g., OpenCorporates.com) and disseminated via social media, namely Twitter and Facebook. Respondents in Italy were accessed by disseminating the questionnaire via the online version of a national newspaper (namely Ilfattoquotidiano.it). Survey responses were collected for one calendar month, the questionnaire was anonymous and no personal data was gathered.
23 According to the definitions adopted in the Open Data Barometer.
The definition of Open Data:
Open Data includes information that is available online, in the form of databases, regarding Government spending (e.g. contracts and tenders), Government budgets (e.g. staff pay data), the environment (e.g. CO2 emissions), crime mapping (e.g. criminal activity hotspots), health services (e.g. disease and hospital statistics), education (e.g. national exam results), business and the economy (e.g. trade statistics), quality of transportation (e.g. bus timetables and punctuality records) and more.

24 The definition of Open Data:
TACOD SURVEY IN ITALY

Have you ever used Open Data?
- No, because I do not have the skills to use it: 12%
- No, because I am not interested: 21%
- Yes: 67%

How would you define your knowledge about the Open Data issue?
- No knowledge: 5%
- Low: 17%
- Fair: 44%
- Good: 20%
- Very deep: 15%

Have you ever made a request for access to public administration information in the last three years?
- Yes: 74%
- No: 26%

Have you ever participated in any of these anti-corruption activities in the last three years?
- None of these: 7%
- I have participated in anti-corruption campaigns: 47%
- I have been active in anti-corruption associations: 40%
- I have reported corruption cases to public authorities: 8%

What are the main sources that you use for being informed about bad administration, public waste, influence peddling and corruption?
- Digital newspapers: 40%
- Blogs and social networking sites: 24%
- Television programmes: 16%
- Newspapers: 13%
- Online databases: 7%

Do you know these initiatives?

80
Confiscati Bene
Monithon
Open Expo
Open Parlamento
Partecipa.gov.it

60

40

20

0

Yes, I normally visit their website
Yes, I hear about it
No

In cooperation with Il Fatto Quotidiano www.ilfattoquotidiano.it
3.3 THE USE OF OPEN DATA FOR ANTI-CORRUPTION

OPEN DATA IN ANTI-CORRUPTION INITIATIVES

Data intermediaries play a critical role in stimulating civic engagement through the transformation of raw data into meaningful information, that might potentially form the basis of an investigation into alleged corruption. Numbers of data intermediaries are coming into existence, increasing the scrutiny of contract transparency which in turn can be instrumental in reducing corruption in public procurement and the misuse of public funds. Many Open Data intermediaries operate in the UK to develop Open Data Initiatives (ODI).\(^2\)

Many successful ODI nowadays show difficulties in maintaining public interest after the initial success of the start-up phase. In Austria and Italy, the lack of independent sources of financing and close links of some actors with the public administration – which is likely reinforced by the lack of other resources being available for such projects – pose risks to the independence and sustainability of civil society Open Data initiatives.

Local initiatives of Open Data reuse are growing, and show greater impact on public administrations. The scarce capacities and resources of local communities and citizens to use Open Data hinder the potential of information, but these limits are balanced by easier opportunities to grab evidence of public malfeasance or waste of public money. Open Data Initiatives have the merit to offer data and tools (i.e. info-graphics, monitoring reports) useful to explore public administration work, and to control the use of public money. Therefore they might facilitate the identification of signs of corruption, such as bad administration, waste of money, concentration of awarded work to some companies, work delay, variants in public work, etc.

The most important Open Data initiatives analysed – regardless their promoters, resources, and goals – have shown no evident impact on detecting corruption, despite their potential as tools for flagging grey or suspicious areas. In Italy, most of these initiatives suffer of scarce citizens' engagement. Some 80% of respondents stated they were unaware of the most recent and relevant initiatives for transparency, integrity and accountability: only 20% of citizens has heard about OpenExpo - a public driven initiative of transparency ad hoc developed following corruption scandals in the Universal Exhibition 2015 in Milan - and 3% visits the website, and the situation is even worst for Confiscati bene (13% and 3%), and Monithon (only 5% and 1%). These figures confirm the failure of anti-bribery capacity of Open Data initiatives.

Explanations are multiple: Open Data shows only formal aspects (usually correct in corruption schemes), lacks of sufficient granularity, misses relevant datasets, is not linked with other information that could help detecting anomalies, does not make up for analytical competences necessary to detect corruption (e.g. on budget, tendering procedures, control mechanisms), does not ensure the completeness and freshness of information. Furthermore, corruption is hidden by nature, its schemes become more and more sophisticated, causes and effects are remote, and often is mixed with other crimes on which Open Data cannot put the light on.

The preventive capacity of these initiatives – by enlightening Public Sector activities and expenditures, that might refrain civil servants to accept bribes for the fear of being detected – remains unknown.

\(^2\) The analysis of relevant Open Data Initiatives can be found in the Country Reports.
For the Universal Exhibition 2015 in Milan, Expo 2015\textsuperscript{27} awarded many tenders without public competitions, motivating this procedure by the delays in the construction of the site, regardless the protests of higher risks of corruption. Investigations\textsuperscript{28} confirmed allegations of crime association, corruption, bid rigging, disclosure and use of public office’ secrets to many civil servants and top executives. According to Prosecutors’ allegations, one top manager favoured company X in a large construction contract (“Water Ways”, above 50 Mln €) in exchange of taking company Y in the consortium, and a consultancy jobs for his son from this latter company.

Before the police investigation, a member of the City Council had requested the access to the documents related the awarding procedures related to “Water ways”, but he was not able to detect neither corruption nor irregular acts nor anomalies, because the tender procedures were formally correct. Also the police analysed many Public Sector Information published in the Expo2015 website, but evidence of corruption come from traditional means of investigation.\textsuperscript{29}

Red flags of corruption practices that could be identified were: the scarce justification of the necessity to make non-competitive or restricted procedures, company concentration, excessive cost reduction and variants during the execution of the work, and delays in delivering the work.

**Openexpo**

In July 2014, following the corruption allegations involving Expo 2015, and the requests from the civil society for more transparency, the OpenExpo Initiative was launched.\textsuperscript{30} OpenExpo aims to provide detailed information through Open Data on the progress of the event organization and the construction sites. The ultimate goal is not only preventing and detecting corruption practices, but also introducing cultural changes in the organization of the Universal Exposition through the promotion of transparency.

Despite its ambitions, evidence shows that no analysis or reuse of data offered by Open Expo has revealed anomalies, and the interest of the public – including the civic hackers – is low: Expathon, an hackaton on the Open Expo data, faced a very low participation.

\textsuperscript{27} Expo 2015 s.p.a. is the public company constituted in 2008 following the Milan’s awarding of the Universal Exhibition of 2015. The company is composed by the Ministry of Economy, Lombardy Region, Milan municipality and Milan Province.

\textsuperscript{28} Four main investigations involve the EXPO, three are relevant for this research. The first investigation started on the ground of the denunciation of a company, which was excluded by the competition of a tender. The second investigations started during an inquiry on the infiltration of the ‘Ndrangheta in health public tenders. And the third investigation started from information collected during the interrogations of people involved in the second investigation.

\textsuperscript{29} Namely searches, confessions, wiretapping and phonestapping.

\textsuperscript{30} Two years before the scandals, the same project was launched yet not implemented, since the public company Expo 2015 did not give the necessary data to the association in charge with the realization of the project, Open polis, that had already constructed the platform. Source: www.wired.it/attualita/politica/2014/05/14/open-expo-trasparenza-corruzione/
THE ROLE OF OPEN DATA IN CORRUPTION AFFAIRS

The role of Open Data in revealing misbehaviours has been assessed using a selection of 26 cases of alleged corruption, conflicts of interest or perceived misuse of power and public funds, insider fraud, and lobbying, that have been revealed to the public of the four countries. The cases have regional or national relevance, the following table summarizes the following information:

- the type of alleged corruption involved
- eventual red flags of corruption
- charges and/or court decision
- who uncovered the case
- the role of intermediaries
- the sources of information, official or not

In most of the cases, law enforcement agents (42%) and investigative journalists (31%) have played a leading role in the disclosure of illegal activities, as they can entail dedicated resources to uncover corruption. Quite often, inquiry activities are sequential, as relevant affairs receive large media coverage, or LEAs start investigation after the uncovering of a case by the media, and have ended up in allegation of corruption (62%) or are expected so (15%). With only one exception, the Courts have confirmed the accusation of the public prosecutor offices. Professional investigators are followed by citizens (15%), Civil Society Organisations (8%), and private companies (4%). Also in these cases, large media coverage have increased the impact of the scandals in the public opinion, pushing the Governments to make – or announce – structural reforms, also legislative.

The conflict of interests or misuse of public funds are the most frequent forms of corruption detected (54%), followed by bribery in the 42% of cases, insider fraud (15%) and lobbying in the 8% of cases. Open Data was used as primary source of information in 12% of the cases, one of which ended up without the discharge from corruption, but Public Sector INFORMATION was relevant in half of the cases. In countries where transparency is less developed (Austria, Italy and Spain), access to information requests and whistleblowing are the most common forms of disclosure. However, it is possible that whistleblowing accounts for an even higher proportion of disclosures even in more open Countries, as it can be the trigger which precedes a police investigation or public audits. Furthermore, whistleblowers also often provide hints, documents, evidence and information to journalists, enabling them to break a story.

The cases suggest that the contribution that Open Data so far has made to tackling corruption differs dramatically when considering whether the corrupt behaviour is illegal or not. Law enforcement agencies have specific powers to access to any kind of information, and don’t need to rely on published or released data. Journalists have their sources of information, but make use PSI for starting their analysis or confirm their hypotheses. Citizens and Civil Society organisations make use of their rights to access to information, while unofficial sources seem to be less relevant in Countries with highest levels of transparency. The relevance of Open Data in uncovering cases of corruption seems to date very limited.

SEE NEXT PAGE:

31 The table summarizes the case studies described in the TACOD Country Reports, divided per Country (AT:Austria, IT: Italy, ES: Spain, UK: United Kingdom). With reference to the sources of disclosure, answer “NO” includes all the cases in which there is no evidence that the source was not relevant or used in uncovering the affair, even if the source has been used in the progress of investigations. With reference to the prosecution phase, answer “-” indicates ongoing investigation or trial phases.

32 Categories: citizen, CSO, media, developer, elected official, private company, law enforcement agency (LEA).
### CASE STUDIES WITH SUSPECT OF CORRUPTION AND RELEVANCE OF INFORMATION

<table>
<thead>
<tr>
<th>Affair</th>
<th>Allegation</th>
<th>Red Flags of Corruption</th>
<th>Charge With Corruption</th>
<th>Sentence of Corruption</th>
<th>Who Uncovered</th>
<th>CSOs or Journalist Investigation</th>
<th>Open Data</th>
<th>Public Sector Information Access to Request</th>
<th>Public Audit/ Public Scrutiny Leaked Information Whistleblowing</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT 1 Insider Fraud</td>
<td>Tender award to a more expensive bidder</td>
<td>YES</td>
<td>NO</td>
<td>Media</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>AT 2 Conflict of Interests or Improper Use of Public Funds</td>
<td>Tailored tender requirements</td>
<td>NO</td>
<td>NO</td>
<td>Citizen</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>AT 3 Insider Fraud, Bribery</td>
<td>Bid reopened</td>
<td>-</td>
<td>-</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
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<td>none</td>
<td>YES</td>
<td>YES</td>
<td>Media</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
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<tr>
<td>AT 5 Conflict of Interests or Improper Use of Public Funds</td>
<td>Contract with a foreign lobbyist</td>
<td>YES</td>
<td>-</td>
<td>Media</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>AT 6 Lobbying</td>
<td>High costs for PR services</td>
<td>-</td>
<td>-</td>
<td>Citizen</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>AT 7 Conflict of Interests or Improper Use of Public Funds</td>
<td>High costs for PR services</td>
<td>NO</td>
<td>NO</td>
<td>Media</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>IT 1 Bribery</td>
<td>Restricted tender</td>
<td>YES</td>
<td>YES</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>IT 2 Bribery, Conflict of Interests or Improper Use of Public Funds</td>
<td>Accelerated tender procedures</td>
<td>YES</td>
<td>YES</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>IT 3 Bribery, Conflict of Interests or Improper Use of Public Funds</td>
<td>Contract splitting, high discretionary powers in tendering procedure of bid's evaluation</td>
<td>YES</td>
<td>-</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>IT 4 Conflict of Interests or Improper Use of Public Funds</td>
<td>Abuse of consultancy</td>
<td>-</td>
<td>-</td>
<td>Media</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>IT 5 Bribery, Conflict of Interests or Improper Use of Public Funds</td>
<td>Unjustified replacement of an officer</td>
<td>YES</td>
<td>-</td>
<td>Media</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>IT 6 Insider Fraud, Bribery</td>
<td>Restricted tender procedure</td>
<td>YES</td>
<td>-</td>
<td>CSO</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>IT 7 Bribery, Conflict of Interests or Improper Use of Public Funds</td>
<td>Conflicting decisions by public offices</td>
<td>YES</td>
<td>-</td>
<td>Citizen</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>IT 8 Conflict of Interests or Improper Use of Public Funds</td>
<td>High level of infiltration of organised crime</td>
<td>NO</td>
<td>NO</td>
<td>Media</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>ES 1 Bribery</td>
<td>Contracts with non profit organisation</td>
<td>-</td>
<td>-</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>ES 2 Conflict of Interests or Improper Use of Public Funds</td>
<td>Inadequate control mechanism</td>
<td>NO</td>
<td>NO</td>
<td>LEA</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>ES 3 Bribery, Conflict of Interests or Improper Use of Public Funds</td>
<td>Political party financing</td>
<td>YES</td>
<td>-</td>
<td>LEA</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>UK 1 Bribery</td>
<td>International contracting with Country with high CPI</td>
<td>YES</td>
<td>YES</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
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<td>UK 2 Bribery</td>
<td>Continuation of a contract</td>
<td>YES</td>
<td>YES</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
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<tr>
<td>UK 4 Insider Fraud</td>
<td></td>
<td>YES</td>
<td>YES</td>
<td>LEA</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
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<td>UK 5 Insider Fraud</td>
<td></td>
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<td>LEA</td>
<td>NO</td>
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<tr>
<td>UK 6 Conflict of Interest or Improper Use of Public Funds</td>
<td>Planning and development project</td>
<td>YES</td>
<td>YES</td>
<td>Citizen</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
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<td>UK 7 Conflict of Interest or Improper Use of Public Funds</td>
<td></td>
<td>NO</td>
<td>NO</td>
<td>Private company</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>UK 8 Lobbying</td>
<td>Delay in publication of documents</td>
<td>NO</td>
<td>NO</td>
<td>Media</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
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<td>UK 9 Conflict of Interest or Improper Use of Public Funds</td>
<td>Energy sector</td>
<td>YES</td>
<td>YES</td>
<td>CSO</td>
<td>YES</td>
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Source: RiSSC elaboration
THE IMPACT OF OPEN DATA ON CORRUPTION
The impact of Open Data is complex, unpredictable, and “more political than the rhetoric around Open Data indicates”.

Over the last years, there has been a “very limited expansion of transparency and accountability impacts”, Open Data initiatives “often produce outputs rather than outcomes and impacts”, [...] and “the economic growing returns on Open Data is not yet forthcoming”.

Open Data is too recent to provide strong evidence of the capacity to detect corruption, and this potential is null if not accompanied by relevant resources – human, technical, economic and analytical – public support and public sector accountability.

A number of interviewees underlined that the deterrence function of transparency is likely, although invisible and inscrutable. Again, this function is weakened in Countries where the lack of political accountability and penal and social impunity related to corruption, reduces the so called “reputation effect” and also electoral punishment.

This confirms that there’s a lot to do in the political and cultural environment to unlock the potential of Open Data for anti-corruption.

Not all the information released as Open Data are relevant to detect corruption, a crime that in general occurs without any evident violation of the formal rules, and not all the forms of corruption can be detected through open data.

Research findings underline the importance of intermediaries – investigative journalists in particular – beyond information and data disclosed, in tackling corruption. Data is only useful as a tool within an effective system of intermediaries and analysts to contribute to anti-corruption outcomes.

However, Open Data is a growing asset of information, and the public will probably learn how to use it. This requires resources, and this underlines the relevance of a better coordination among different initiatives at national and international level, and the issue of funding private non commercial initiatives of reuse of data.

The TACOD map conceptualises the findings of the TACOD project, in a tentative to provide elements to the debate for unlocking the potential of Open Data against corruption. On its left, the map illustrates how the TACOD project has approached the issue of Open Data, and a snapshot of its main findings, clustered in positive, negative and double faced impacts. On its right, the map indicates the future path and drivers and obstacles to account for in the supply and demand of Open Data for detecting and preventing corruption in Europe.

A more exhaustive list of impacts identified during the project, classified in the four main categories of analysis (law, practice, demand and supply), is inside the map.

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THE IMPACT OF OPEN DATA

THE PROBLEM
CORRUPTION

How can corruption be reduced or prevented?

THE GOAL

Reduce corruption with the use of transparency and Open Data

PREVENTION POLICIES

Explore the real impact of Open Data by means of prevention and detection of corruption

RESEARCH

Develop new prevention strategies

THE PROJECT

TACOD

The project aims to understand how Open Data affects transparency with the goal of reducing and preventing corruption

RESEARCH

THE IMPACT OF OPEN DATA IN THE FIGHT AGAINST CORRUPTION

EVALUATION OF CURRENT IMPACTS

POSITIVE IMPACT

- Increased political commitment on opening PS information
- Increased comparability of public sector activities
- Cheaper, faster and safer investigative activities
- Requests for new legislation, in particular FOIA and Data Act

NEUTRAL IMPACT

- Focus on detection more than prevention of corruption
- Empowered elite of infomediaries rather than the citizens
- Easier control at smaller rather than intensive-capital level
- High expectation on "default" effectiveness of transparency

NEGATIVE IMPACT

- Information critical to fight corruption is hard to get
- Proportionality, privacy and confidentiality concerns
- Increased risks of criminal abuses of open data
- No evidence of primary role of open data in judicial cases of corruption

THE GOAL

OPEN DATA INITIATIVES

PRACTICES PREVENTION AND DETECTION

THE LAW
Focus on detection more than prevention of corruption
Empowered elite of infomediaries rather than the citizens
Lack of resources for Open Data Initiatives
Digital skills by anti-corruption experts (and vice-versa)
Critical masses of potential civic watchdogs

THE IMPACT
OF OPEN DATA

THE FINDINGS
EU STRATEGY

Toward a common strategy to unlock and support the potential of Open data and reduce corruption

OPEN DATA SUPPLY

THE LAW

OPEN DATA INITIATIVES

PRACTICES

OPEN DATA READINESS

PREVENTION AND DETECTION

IMPACT OF OPEN DATA

THE GOAL RESEARCH

THE PROJECT

TACOD

The project aims to understand how Open Data affects transparency with the goal of reducing and preventing corruption

HOW TO INCREASE IMPACTS

DRIVERS

OPEN DATA SUPPLY
- More Open and free sources of information
- Growing political commitment on Open Governance
- Open dialogue with CSOs and intermediaries

OPEN DATA DEMAND
- Digital skills by anti-corruption experts (and vice-versa)
- Critical masses of potential civic watchdogs
- Smarter coordination between Open data initiatives

OBSTACLES

OPEN DATA SUPPLY
- Granularity and general limits of Open Data
- Harmonisation of Open Data laws and policies
- Anti-corruption relevance of the information released

OPEN DATA DEMAND
- Limits in the access to information
- Gap between Open Data and anti-corruption groups
- Lack of resources for Open Data Initiatives
UNLOCKING THE POTENTIAL OF OPEN DATA

5.1 PUSHING OPEN DATA TOWARDS A EUROPEAN ANTI-CORRUPTION STRATEGY

5.2 MAKING GOVERNANCE BETTER THROUGH OPEN DATA

PROF. RICHARD ROSE

5.3 COUNTRY POLICY RECOMMENDATIONS
5.1 PUSHING OPEN DATA TOWARDS A EUROPEAN ANTI-CORRUPTION STRATEGY

A more integrated approach, combining bottom-up and top-down strategy, is required to overcome barriers and remove obstacles for taking advantage of Open Data as anti-corruption tool. TACOD findings reveals that two main changes need to happen, firstly at organizational level and secondly at policy level.

STRATEGY FIRST, TECHNOLOGY LATER

Open Data is just a promising technology but it needs to be use wisely and effectively to produce not only outputs but concrete results and tangible impact. Intra-government coordination and interstate cooperation, combined with the best policy and technology tools can help achieve greater impact in anti-corruption efforts. High-level political leadership is therefore key to any progress toward a more effective anti-corruption strategy at EU level. The EU Commission should therefore take a leading role for Europe, to make sure that high-level political leadership and commitment to open up government remains strong, especially in time of economic crisis when widespread corruption is considered one of the main causes for stagnant economies and lack of opportunities for younger generations.

SMART TRANSPARENCY

The EU Commission should design a strategy to makes “smart transparency” the most effective anti-corruption tool in the hands of governments, law enforcement agencies, and CSOs. Keeping in mind that corruption is widespread and must be fought at any level and with no vagueness, smart transparency could define:

- What information is most relevant for anti-corruption purposes, and force its digital, reliable, complete, timely and accurate publication across Europe.
- A randomised and on site control mechanism that check the trustfulness and quality of information released, with a sanctioning system for non compliance.
- The rights of access and openness of different datasets for ensuring protection of privacy and confidentiality rights.
- The duties for companies to be cleaner: a due diligence system could be required for Companies doing businesses outside Europe.
- Incentives or rewarding mechanisms, and adequate protection systems, for those who contributes to detect corruption.

EMPOWERING GOVERNMENT REFORMERS

Once the political leadership gives civil servants the mandate to ‘open up their own government’, it takes mid-level government reformers to move things forward in their own national bureaucracies. However committed and prepared, mid-level officials may lack resources, capacity or the right incentives to deliver results. It is therefore important that the EU Commission could develop its own initiatives and urges Member States to empower and support civil servants with technical expertise, peer-to-peer knowledge sharing and learning opportunities to improve their ability to take advantage of data, both at the analytic and at the strategic level. This means the ability to find, understand and incorporate data publication and use in their practice.
**WIDER CIVIL SOCIETY ENGAGEMENT**

Civil Society actors remain key players in any ‘accountability ecosystem’ as they can provide information and expertise, demand more accountability and trigger policy actions and reforms. They must be more responsible about their priorities of openness, their influence on the public opinion, and they also should be more open about their source of funding. **EU Commission should urge member states to promote effective mechanisms for genuine public consultation with a wide range of actors, and for ensuring transparent mechanisms of financial support to the civil society organisations.** Setting up a proper legal framework to ensure the informational rights of individuals remains the cornerstone of any innovative anti-corruption policy.

**ENHANCING THE OPEN DATA INFRASTRUCTURE**

When this cultural shift toward data (better access and use of it) and accountability (better responsiveness) is promoted, the EU Commission should play a coordination role to tackle the 3 key points that remain to be addressed to use Open Data as anti-corruption tool:

1. **Lack of accurate and relevant data:** citizens, anti-corruption campaigners and LEAs need updated and real-time relevant data. In particular initiatives to urge member states to release data and information on lobbying, beneficial ownership and corporations should be put in place.

2. **Licensing of the data:** EU standardisation efforts should be promote to overcome licensing issues in order to improve availability and use of data by stakeholders

3. **Ease of access to data:** appropriate legal framework to acknowledge the right to access to information and right to data should be promoted and encouraged at all level of government.

**5.2 MAKING GOVERNANCE BETTER THROUGH OPEN DATA**

by PROF. RICHARD ROSE

**IMPORTANCE OF OPEN DATA**

Governance is about the relationship between governors and governed in the delivery of public services. Citizens know from their own experience how they are treated by public officials. However, they do not know how public officials behave when officials arrive at decisions behind closed doors and the relevant files are closed. Open Data helps to level the playing field by giving citizens the right to know a lot about what officials are doing. Making transparent how public officials go about their activities, can help combat corruption by enabling both their superiors within government and those outside to monitor whether official actions meet both legal and normative standards (Bauhr and Grimes, 2012).

In the broadest sense, Open Data includes all forms of information relevant to government that is available to non-governmental as well as governmental actors. Open Data makes transparent whether public officials are conducting their activities in accord with bureaucratic procedures. Insofar as this is the case, then it helps to place governors above suspicion. Individuals who do not like a decision can challenge it on substantive grounds but not on grounds that impugn the government’s integrity. However, opening up data may also reveal or confirm suspicions of corruption in such forms as fraud, extortion, influence-peddling, nepotism, and rigging elections (UNDP, 2008; Varraich, 2014; Rose and Peiffer, 2015: 2ff; Johnston 2005:11).

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36 This part has written by Prof. Richard Rose, Centre for the Study of Public Policy - University of Strathclyde Glasgow, as chair of the Expert Working Group of the TACOD project. It draws on longer papers prepared for meetings of the RISSC Group in Oxford and Brussels, national reports and comments by expert Group members.
Corruption that involves the violation of a law is a crime that can be punished through the courts, while the violation of widely held ethical values is a cause for embarrassment or shame, even if it does not involve illegal acts. The distinction is illustrated by the results of a whistle-blower enabling journalists to report in detail expenses paid from the public purse to British MPs (see Heerde-Hudson, 2014). The revelation of expenses showed that the overwhelming majority of expense claims of British MPs were legal. Only one percent were indicted and convicted for fraudulently claiming money. However, 389 MPs repaid a portion of legally received expenses because they were publicly embarrassed or shamed by the subject of their claims. For example, one MP claimed as an expense having the moat around his country mansion cleaned. A number of MPs received expenses for buying and upgrading their London flat and then selling the upgraded flat at profits of tens of thousands of pounds. Being legally in the clear did not save MPs from political sanctions for their embarrassing or shameful activities. Dozens chose not to stand for re-election rather than be refused renomination by their constituency party or rejected by voters.

Open Data requirements can affect the behaviour of prudent public officials who do not want to be caught abusing their powers. Even economists are prepared to concede that people may take normative sanctions into account as well as threats of losing office and income (cf. Becker, 1968; Jacquet, 2015). Insofar as Open Data reduces corruption, it makes a contribution to the effectiveness of public services by getting rid of the distortions in the allocation of resources that corruption produces. Insofar as Open Data is part of a broad movement to make government transparent to its citizens, then it can have the further benefit of promoting democratic engagement of citizens with government.

**OPEN DATA STRENGTHENS ACCOUNTABILITY**

For Open Data to reduce corruption, there must be institutions that can hold public officials to account when it exposes actions that are illegal, shameful or both. All the political systems of EU member states have multiple institutions that may hold government to account. However, as the national TACOD reports show, in every member state there is an inadequate supply of member data.

Within government, accountability constitutionally rests with the prime minister and Cabinet. When a scandal breaks out, whatever form of corruption it involves, the standard reply of a Cabinet minister is to denounce what was done by a nominal agent and declare that he or she did not know what was going on. Because the disclosure of wrongdoing can make top-level politicians look bad, there is little demand from governors to open up to public scrutiny what is going on inside government and a tendency to cover up what is embarrassing or shameful. A major function of national parliaments is to hold the government of the day accountable for its actions. However, the partisan division of Parliament encourages discussions in which opposition parties have the incentive to maximize claims of unethical or even illegal behaviour while the government party seeks to defend its actions (cf. Michener, 2015). Partisanship also encourages the use of exaggerated rhetoric. For example, the publication of statistics showing a rise in unemployment may be described as a ‘crime’ by opponents. From a partisan perspective, Open Data does not provide evidence but ammunition.

Civil society institutions independent of government are of particular importance in using Open Data to stop unethical behaviour that uses Open Data to force public officials to defend actions that they would rather not talk about, such as showing favouritism to fellow party members, rich backers of the governing party or friends and relatives (Zyl, 2014). The press, broadcasting and electronic social media
can publicize information about activities that public officials would rather keep out of sight. Whistle-blowers are more likely to pass confidential information of corrupt behaviour to print media or Internet sites to publicize. Once evidence of corrupt behaviour is public, government prosecutors are under pressure to obtain court orders to search many files that are closed (cf. Lipman, 2012). Freedom of Information Acts give assiduous journalists some means of opening up government files. However, as TACOD’s national reports show, laws differ in the rights that journalists have to extract information and each gives government some power to withhold some information that is requested.

A previous TACOD study (2014) found that while many European citizens tend to be suspicious of the integrity of government, they do not make use of Open Data to put pressure on governors to change their behaviour. There are many reasons for this, ranging from indifference to politics, resigned acceptance of whatever government does to concern about retaliation if one acted as a whistle-blower. As voters (Schumpeter, 1952), individuals do have the power to hold their governors to account and recent years have seen the rise of protest parties attacking what governments do. However, corruption is neither a necessary nor a sufficient cause for citizens to turn to protest parties: Europe’s economic troubles offer another motive to vote against the government of the day.

RECOMMENDED TOOLS
From the perspective of democratic values, opening up data to give citizens full knowledge of government is an end in itself. It is more than that: it is also a tool that can be used to combat corruption by exposing activities that violate formal laws and shameful activities that violate informal norms. The five principles provide tools for making more data open. Insofar as opening up knowledge of what governments and governors do exposes illegal or inappropriate behaviour, the threat of criminal indictment or political shame can prevent or reduce corrupt or inappropriate behaviour.

Extend Open Data for procurement.
The award of large capital-intensive contracts involves decisions influencing upwards of 1 trillion Euros annually in EU member states. The EU has issued directives about how contracts should be awarded in the single Europe market. However, an evaluation by Transparency International (2012: 39) concluded that the complexity and detail of directives threatened to ‘hamper efficiency and value for money’. In turn, this reduced incentives for national governments to comply fully with EU conditions. As long as full details of the procurement process are open, there is scope for flexibility since firms seeking a contract can monitor the behaviour of their competitors and challenge inappropriate activities. Reporting requirements for “small” contracts, that is, those below €1mn, tend to be fewer and allow for more discretion in dealing with a recognised supplier. While such flexibility can be justified in some instances, it should not remove the requirement to publish on the Internet details of each stage in the negotiation of contracts. The TACOD study of Austria shows how thoroughly a national government can legislate in ways that reduce openness in contracting substantial sums of money that do not follow rules for open procurement.

Increase the availability of expenditure by local and regional governments for use in public audit.
Because geographical, social, and economic circumstances affecting the delivery of public services differ within a country, regional and local government agencies have a significant degree of discretion in how they spend large sums on such services as education and health care. This can make the unit cost of a service differ between local authorities. The comparative analysis
of local and regional spending on similar programmes and standard facilities such as buses and equipping hospitals, will show both a central tendency and identify outliers. While being an outlier is not necessarily proof of corruption, it is a trigger for a detailed audit of abnormal expenditure to identify reasons for such deviations. The causes may be within the law or be due to corruption, favouritism or managerial inefficiency.

Inasmuch as audit data is normally in machine-readable form, a law can require the data to be published for public scrutiny and civil society institutions can use it to put pressure on local and regional officials to justify why their spending is so much out of line with other parts of the country. The EU Horizon 2020 programme has funded a major programme, DIGIWHIST (the Digital Whistle-blower) to create tools that civil society organisations can use to download data bases of procurement information and user-friendly interactive analytic tools that can be used by civil society institutions to monitor large contracts and reduce corruption (www.epsiplatform.eu)

Increase openness about the revenue and assets of Members of Parliament and high-ranking government officials.

Citizens do not need detailed statistics to identify politicians who, by the cars they drive, where they live and the restaurants they frequent, have money far beyond that provided by their parliamentary salary. However, individual citizens have no means of verifying their suspicion of where the money comes from. Legislating a requirement that politicians file their tax returns with Parliament involves no extra work and Parliament has the facilities to make the data publicly available on its web site. MPs who fail to do so could be subject to suspension from office. A majority of countries do have some rules that ask Members of Parliament to provide information about their financial affairs and potential conflict of interest, but the information required varies in quantity and quality and ease of access is limited (Diankov et al., 2010). Even though European Union member states tend to be above the international average in the disclosures required of elected representatives, there are substantial gaps in the information required to meet the standards of Open Data. Politicians can voluntarily open up their financial affairs to public inspection. In the United States, presidential candidates are now expected to publish their most recent tax returns and audited statements of their family’s financial assets. The requirement is not statutory; however, once some candidates provide such information there is pressure on others to do so to avoid the suspicion that they have something embarrassing or worse to hide.

Empower citizens to control policy-relevant data about themselves through the Internet.

The great majority of ordinary citizens are not interested in monitoring government or taking positive action to prevent capital-intensive corruption that may affect their perceptions but not their daily lives. However, they do have an interest in how public officials deal with the various requests that they make to government each year. Public officials routinely create files about requests from individuals. Opening up the files that government offices maintain about individuals will give citizens electronic access to their personal records too.

Estonia has pioneered measures that open up official records about individuals to their subjects. Each Estonian is assigned a unique identity number at birth and all residents over the age of 15 have electronic identity cards. Analogous to a credit card, an Estonian can use his or her identity card to obtain services free of charge such as health care or by pre-payment, such as tram tickets. The cards can also be used for voting. In addition to filing requests for services on line, Estonians can use these
facilities to locate government files about themselves. This makes it possible to determine whether their affairs are being dealt with impartially and expeditiously and to send reminders where there are delays or recommendations based on inadequate or incorrect information. The Estonian system is thus not only about preventing favouritism and corruption; it is also about securing the efficient and fair distribution of retail services to citizens (see e-Governance Academy, 2015).

**Replacing face-to-face contact with computers.**
Computerization can remove a necessary condition of bribery, personal contact between a citizen and a public official. By substituting interaction with a government website for a meeting with a public official, computerization eliminates the risk of bribery without eliminating the service. A computer service can register claims for a document such as the renewal of a driver’s license and satisfy it immediately without requiring a person to deal with any public official. Since web sites are accessible seven days a week, a web-based service can be more convenient for users and cost a public agency less to maintain.

Computerization can also eliminate discretion. A policeman flagging down a speeding motorist has a choice between issuing a ticket or accepting a “tip”, whereas computerized closed-circuit television systems can automatically record the license of a speeding car and create a record of a law violation. This information can be linked with a computer data base of car registrations and a speeding fine issued with no face-to-face contact between an official and the driver. Anti-crime television monitoring of streets and shops can be extended to public offices in order to create a record of what happens during encounters between citizens and public officials suspected of abusing their office.

**TRADEOFFS**
A review of the academic literature of open government concludes that ‘transparency in public affairs is superior to secrecy by almost any normative standard or moral perspective’ (Licht, 2014: 311). This judgement is affirmed by the European Union in its Maastricht Treaty annex on the right of access to information. Similarly, OECD (2000) recommends measures to promote the transparency that comes with Open Data to combat corruption. Transparency International (2012: 47) declares that access to information should be ‘free of charge or with reasonable fees’. However, open government is not the only principle that is relevant to government actions. Multiple principles create the possibility of conflicts in which claims to more open government are set against a government’s commitment to economic efficiency and individual rights of privacy. The outcome is determined by trade-offs in which, for example, some loss in privacy may be offset by gains in open government, but neither is pushed to the maximum.

The demand that data should be made available free is misleading, since even if no charge is made to those wanting access, there are substantial costs in creating and documenting guides to data bases that can be readily accessed by third parties that did not create them. There are capital costs in making access to data available by posting it on the web, for example, the design and implementation of information technology programmes for searching and retrieving specific data of interest to enquirers. If the information requested does not have a format suitable for web posting and must be catalogued by public employees, the time required to do so is an additional cost. While Transparency International accepts ‘reasonable fees’, the term is very elastic. While a government may consider it reasonable to charge the time devoted to preparing a file at the hourly rate of a
lawyer, since screening documents for their suitability for open dissemination is not an automatic process, the requester of information may consider that the charge should be based on the hourly wage of a clerical worker. Efficiency implies that the amount of effort and money spent in opening up data should be related to the extent of its use. In an era of big government, there is an enormous legacy of past files that may no longer be of current public interest. The extent to which records are readily accessible varies between government departments. Moreover, many files dealt with by more than one department are not electronically linked. Linkages are even fewer between central government departments, local authorities and public agencies concerned with such services as health. Government re-organisation and changes in computer systems with the advance of technology create additional barriers to the ready retrieval of information from the not so distant past. Turning older files into Open Data is a large-scale and complex task of implementation (see e.g. Florini, 2007). It is theoretically possible to make calculations of the assumed cash savings that Open Data can secure by reducing the costs of corruption. However, the number of assumptions involved and the absence of quantitative evidence to justify assumptions leaves statements about savings open to dispute.

Opening up public records not only reveals information about government but also about the individuals and organisations that deal with government. While individuals can be obligated to provide information to government for such purposes as calculating taxes, this is balanced by the government being obliged to respect the privacy of individuals and enterprises. In Sweden, Finland and Norway the complete tax returns of all individuals are posted on line for anyone to access. However, this principle is rejected by the great majority of European countries as an invasion of privacy. Critics have charged that it creates “tax porno”, in which individuals scrutinize the finances of neighbours or business competitors for reasons of personal advantage rather than public interest. When the Italian minister concerned with tax evasion authorised the website publication of tax details on leaving office in 2008, Beppe Grillo, founder of the Five-Star party, denounced this as providing the Mafia with a list of rich people who could be kidnapped and ransomed for large sums. The website was shut down by order of Italian privacy officials.

The principle of Open Data can only be met insofar as governors are willing to adopt measures to open up almost all their activities to public scrutiny. This requires not only the enactment of primary legislation but also allocating sufficient administrative and information technology resources so that nominally Open Data is also accessible in fact. The biggest trade-off of all is between the interests of individual politicians, parties and interest groups in avoiding opening up everything that they do to public scrutiny and the liberal democratic principle that citizens have a right to know what their governors are doing.
5.2 COUNTRY POLICY RECOMMENDATIONS

**AUSTRIA**
by Mathias Huter

- To strengthen the role of Open Data in anti-corruption efforts, Austria needs to establish a strong right to information in law and practice, ensure effective implementation, and promote a cultural change in the administrative towards openness.
- In order to address apparent corruption risks, the transparency of public finances and government spending has to be improved, including by pro-actively releasing data and contracts on public procurement, privatizations, grants and subsidies to legal entities.
- Frameworks to ensure the transparency of lobbying and party financing need to be strengthened so that they have the desired impact. In addition, the transparency of decision-making processes in all branches of government should be improved.
- The federal government should launch an inclusive process to develop an Open Data strategy and back its implementation with sufficient resources. Efforts to learn from the experiences of other countries, including about applying Open Data to address corruption risks, should be intensified. To ensure continuing progress, Austria should also join the Open Government Partnership.

**ITALY**
by Ombretta Ingrasci and Giorgio Fraschini

**Input on Law & Practice**
- Reform the current legislation on transparency for public administrations with different scale requirements based on the nature and size of the organisations
- Increase the quality of data and focus on datasets relevant for anti-corruption (e.g. tenders in the health sector)
- Set up a monitoring system which allows to detect, fix and sanction non-compliant bodies

**Input on Opinion and Impact**
- Increase transparency on public funding to non profit organisations, and on potential conflict of interests in Open Data Initiatives. Develop a strategy for bridging experts on Open Data with anti-corruption professionals
- Set up a clear anti-corruption strategy that defines also priorities in releasing PSI, subject to public scrutiny
- Encourage and support anti-corruption Open Data initiatives through transparent funding schemes
- Set up and promoting curricula for investigative journalism.
**SPAIN**
by Mike Beke

- A national Open Data strategy should be adopted that ensures coordination of central, regional, and local initiatives, and includes social and political interests
- The Law on Transparency should be fully implemented and amended, where possible, to introduce improvements
- Lobbying activities should be regulated
- Open Data as an anti-corruption tool should focus on:
  - Gathering and improving available information on corruption in the private sector, especially the financial and banking sector
  - Gathering and improving available information on corruption cases, sanctions and duration of the court cases
  - Researching the corruption networks surrounding urban planning and public procurement, including the mechanisms to reduce the risks
  - Evaluating the effects of political corruption scandals on the public attitude and institutional trust
- Training and capacity development should focus on Open Government and Open Data in order to allow civil servants and citizens to understand and use such tools.

**UNITED KINGDOM**
by Nick Maxwell and Liz David-Barrett

- Consider creating a legislative right to open data
- Ensure consistent formats and data structuring across the UK public sector
- Reduce the wide variability open data publication performance across local governments and among public services
- Empower a public sector authority to raise publication standards and consider how best to compel public authorities to improve their compliance.
AUSTRIA

By Constitution, Austria does not allow citizens effective access to public sector information, and provides extensive privacy protections to legal entities. A reform proposed by the government, will likely have limited impact in practice, as much of the information relevant to anti-corruption efforts would remain secret. Austria has an active open data community, but the impact of its anti-corruption efforts and initiatives is limited by a lack of resources. To strengthen the role of open data for anti-corruption efforts, Austria would have to establish a strong right to information in law and practice, increase the transparency of public finances, including by pro-actively releasing data on public procurement, grants and subsidies to legal entities, draft and implement an open data strategy that is backed by sufficient resources, and facilitate mechanisms that would provide funding and resources to open data and anti-corruption initiatives.

ITALY

Italy has recently adopted an anti-corruption law, that promotes the transparency of the public administration, but is missing a Freedom of Information Right, important datasets for anti-corruption are not open (corporate data, beneficial owners data, register of meetings, political no-profit bodies like foundations and associations), and the public sector shows some resistance in opening information. The “Southern Gap” is relevant also in opening data, transparency and accountability. In Italy the demand side of data is underdeveloped, driven by a very small, active, and engaged community of experts, that publicly urges it to open data they are interested in. Open Data Initiatives are not known by the public, and show difficulties in maintaining public interest after the start-up phase. Local initiatives of Open data reuse are growing, and show greater impact on public administrations.

Input on Law & Practice.
SPAIN

Spain has its open data legislative framework largely in place, but this does not ensure full and easy access to information. Due to recent corruption scandals, the economic crisis, and increasing popular distrust, anti-corruption legislation has taken place, increasing transparency through access but also proactive publicising of information. Despite this legislative framework, national strategies for anti-corruption and open data are lacking. Transparency on the central, regional and local level is improving. The country’s main challenge is the lack of national strategy in combination with various central, regional and local initiatives without strong coordination. The most relevant Open Datasets for anti-corruption are on government budget and spending, election results, company registers, legislation, political and public administration appointments. In Spain there is no record of lobbyists, no lobby reporting requirements or bodies monitoring and controlling such practices.

UNITED KINGDOM

The legal and policy framework for open data in the UK is created by a range of instruments set out in different laws, regulations and policy documents, that makes compliance with government commitments highly vulnerable to variation in political will. The government has created a set of institutions with responsibility for driving the open data agenda forward, but there remains considerable variation in the frequency and quality of key datasets disclosed. The government is insufficiently engaged in tracking the benefits of transparency. Civil Society Organisations are insufficient in number and skills to exploit fully the public data that is currently open and free source. Specific datasets valuable in addressing corruption are the Registers of interest and gifts & hospitality, performance information on services, minutes of official meetings.
Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of March 2015. Nevertheless, RiSSC cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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