



## Corruption and Human Rights

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Corruption can lead to and/or cause Human Rights violations. The potential disruption caused by corruption to Human Rights has been laid bare in a number of areas such as the independence of the judiciary, freedom of expression of journalists and whistleblowers, freedom of assembly, detention facilities, social rights, discrimination in the enjoyment of basic rights, and the trafficking of human beings. These links have been brought to light by Council of Europe human rights bodies, not least by the European Court of Human Rights.

### European Convention on Human Rights

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There are several areas where violations of fundamental rights contained in the European Convention on Human Rights can be connected with corruption. In a number of rulings of the European Court of Human Rights corruption runs in the background, such as in some cases dealing with judicial independence, freedom of speech and protection of journalists/whistleblowers, freedom of assembly, and the funding of political parties. The Court has not yet pronounced on all possible areas where corruption could come into play, but it is easy to imagine that these could include issues where there is already well-established case law, such as unlawful deprivation of property or the right to an impartial tribunal, or even beyond, such as the right to free elections or the right to education. Protecting and promoting Human Rights and preventing and combating corruption go hand-in-hand – this would apply for instance to persons who stand accused of corruption and who fully enjoy the rights enshrined in the ECHR, including the right to fair trial.

Guaranteeing the independence of the judiciary is crucial to prevent justice from being swayed in ways that serve political or other interests (e.g.

government and parliament members' personal interests and corporate interests). The independence of judges is a prerequisite for fair and just trials as enshrined in the Convention. The Court has underlined the principle of irremovability of judges as a key element of judicial independence: decisions connected to the dismissal or suspension of judges should be dealt with by an authority independent from the influence of the executive and legislative powers (*Baka v. Hungary, Paluda v. Slovakia*). The independence of the judiciary from the executive and legislative powers is one of the foundations of the Rule of Law. GRECO has looked into corruption prevention in respect of the judiciary in its fourth evaluation round and has also underlined the need to guarantee proper independence of judges as a way to avoid undue political influence on the judiciary which can lead to biased, corrupt judgments serving other interests than the public interest.

Freedom of expression is crucial where it concerns journalists seeking to shed light on corruption facts and the public is entitled to receiving information on corruption suspicions involving public – including political – figures. This is a cornerstone of any democratic society where trust in those in charge of public affairs is a central component. It is therefore vital that journalists are not stopped from blowing the whistle by reason of the corruption cases they plan to reveal. Corruption can lead to an erosion of freedom of expression and more globally our democracies. The Court has held that suspicions about the implication of officials in bribery is a question of general interest on which the press must report any information in its possession, and that officials are subject to wider limits of acceptable criticism in that respect (*Kasabova v. Bulgaria; Rywin v. Poland*). Linked to the freedom of expression that journalists investigating corruption should enjoy, they should also benefit from protection when there is a real and immediate risk to their lives, and effective investigations should be led into their disappearance and death (*Gongadze v. Ukraine*). GRECO has underlined the importance of the role played by whistleblowers in bringing to light cases of grand corruption involving political decision-makers.

Political party funding is another area where corruption is a potential risk. While parties benefit from the right of association enshrined in

the Convention, the Court has acknowledged the necessity of supervising political parties' financial activities for purposes of accountability and transparency, which guarantee public confidence in the democratic political process. However, this should never be used as a political tool and, to prevent this, the impact of rules and sanctions should be clear (*Cumhuriyet Halk Partisi v Turkey*). GRECO has examined the issue of party funding as part of its third evaluation round and emphasised the need for a clear framework to guarantee transparency.

### **Torture and ill-treatment in detention**

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Law enforcement and prison facilities are areas where corrupt practices have been witnessed on a regular basis. This comes out for instance from a number of reports published by the European Committee for the Prevention of Torture (CPT).

The CPT has reported in respect of several countries on prisoners having to pay money in exchange for improving their basic living conditions. The reasons for such situations developing can be explained differently depending on the time and place, but in some instances the very low prison staff remuneration has been presented as an incentive for them to seek ways of complementing their wages. The dire state of detention facilities, where prisoners are not provided with basic necessities, is of course another factor favouring such petty corruption.

With regards to law enforcement, the CPT has reported that in certain cases payments were made in exchange for dropping or reducing charges. This is also an area of relevance to GRECO which has started looking into corruption prevention in law enforcement agencies within the framework of the ongoing fifth round of evaluation.

### **Access to social rights**

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The enjoyment of social rights, which constitute some of the most basic human rights at the centre of people's daily lives such as health and social protection, can be adversely affected by corruption.

Corruption steeped in prejudices against certain sections of society can affect access to

fundamental social rights. The European Commission against Racism and Intolerance (ECRI) has reported that corruption in certain cases has led to discrimination against minority groups such as the Roma, asylum-seekers and refugees. Areas in which this is prevalent are the health care system, where bribes have to be paid for basic health services, as well as administrative services.

According to the European Committee on Social Rights, there are several areas where corruption could be potentially linked to poor enjoyment of social rights. The most significant area brought to light is the health sector. Several countries have been identified as having significant problems with corruption leading to social rights violations in the health sector. By way of example, this may lead people to having to pay bribes for certain medical procedures. Corrupt practices can also affect other areas such as the enjoyment of access to public housing or schools.

### **Human Trafficking**

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Corruption can facilitate human trafficking in a number of ways, which range from the delivery of visas or other official documents, border guards turning a blind eye during checks or the police not raiding suspected places where victims are being held.

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has come across several cases, during its country monitoring, where government officials, notably police staff, have been bribed or suspected of having been bribed by traffickers to look the other way. In connection with this issue, GRECO will be dealing with corruption prevention in respect of law enforcement agencies, including border guards, as part of its ongoing fifth evaluation round.



Group of States against Corruption  
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