

# Building Integrity in Defence

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**Why is Corruption in Defence an Important Issue for Members of Parliaments?**

In most countries, people tend to trust their armed forces. Public surveys typically indicate that the military is one of the most respected institutions in society, enjoying more public confidence than the media, the private sector, political parties or parliament, and outranked only by religious bodies and non-governmental organisations. However, various studies rate defence as one of the most corrupt areas of government activity, alongside extractive industries and big infrastructure projects (see for example Transparency International, “Global Corruption Barometer 2010”).

Efforts to build and maintain integrity in the defence establishment are important to Members of Parliaments in all countries for several reasons.

### Box 1. Definitions and Concepts

**Integrity** means meeting one’s responsibilities honestly and competently. A process has integrity if it works as it is intended to and fits into the larger system of which it is a part. An organisation has integrity if its activities are conducted with the proper accountability and competence, without any diversion of resources to dishonest, private ends. Integrity is usually measured through audits and surveys.

**Corruption** is the abuse of an entrusted office for private gain. Corruption in the defence sector may take many forms, including kickbacks and bribes, non-competitive contracts, manipulation of soldier payrolls, misuse of budgets, and the use of military resources to generate off-budget profits.

**Conflict of interest** occurs when an official has personal or private interests that result in him/her putting these before his/her statutory duties. Some countries define a conflict of interest as present, but also future advantages, an official might gain from a current procurement contract, for example, when the official starts working for, or receives other benefits from, a defence supplier for a determined period after having stopped working for the government.

**The theory of rational behavior in economic crime** makes it possible to examine corruption as the result of rational choices made by individuals, after having evaluated potential personal rewards obtained from breaking the law, against the likelihood of apprehension, conviction and the severity of punishment they might get. According to this approach, there are two factors deterring corruption: the “moral burden”, determined by culture and individual ethics; and the “expected punishment”, determined by legislation.



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This Parliamentary Brief provides practitioners with a concise introduction in to the main concepts, strategies, and good practices in building integrity and dealing with corruption risks in the defence establishment.

First, defence sector corruption extorts a high price from other sectors of public life. It diverts funds from the national budget, preventing their investment in education, healthcare, innovation and development.

Second, it undermines national defence capacity, reducing the operational effectiveness of the military. This affects the safety of soldiers, training and combat conditions, and has a highly negative impact on troop morale. A corrupt defence sector can contribute massively to the criminalisation of the country's economy and politics, thus becoming a security threat in itself. The lack of integrity in the defence sector allows organised crime, terrorist groups, foreign intelligence agencies, and obscure business interests to acquire national information, know-how, dangerous materials and weapons technology.

Defence sector corruption also undermines public confidence in the state. It leads to a loss of public trust in the military, ultimately detracting from a nation's defence readiness and prestige.

### Box 2. Aftermath of Defence Corruption Scandals in Bulgaria

Public respect for the military in Bulgaria was damaged by repeated corruption scandals. 2009 saw investigations of top defence leaders, which led to several charges for abuse of power and corruption. Public pressure following these revelations led to dramatic cuts in the defence budget and a collapse in prestige and morale of the military. However, the reforms undertaken in response to this situation rapidly transformed the Bulgarian defence and security sector, the country being now a lead nation in NATO's Building Integrity Trust Fund.

Building integrity and reducing corruption are two sides of the same coin. An emphasis on integrity, however, is a more positive and pro-active approach.

## Why is the Defence Sector Prone to Corruption?

In many countries the defence establishment is the biggest state employer, whereby the armed forces are the central piece in a system that comprises separate education, health, justice institutions, and a significant logistical and administrative infrastructure.

**Defence budgets** are often among the largest components of public spending. Their share of the national budget ranges from 2-3% in Austria, Belgium, and Hungary, to 4.5% in France, Germany, and Greece, to 16-18% in Russia, India, and the U.S.A. Defence spending often represents a significant percentage not only of a country's budget, but also of its GDP, ranging from 1% in Japan to 4.5% in the USA and Russia and even 9% in Saudi Arabia.

Table 1: Military Expenditure as Percentage of GDP

Country	Military Expenditure (2013)
Albania	1.5%
Bosnia-Herzegovina	1.4%
Bulgaria	1.5%
Croatia	1.7%
Macedonia, FYR	1.4%
Moldova	0.3%
Montenegro	1.9%
Romania	1.3%
Serbia	2.2%
Slovenia	1.2%

Source: World Bank <http://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS>

The potential reward from an act of corruption depends upon several factors:

- the volume of resources under the control of the public official involved,
- the discretionary power at his/her disposal,
- the level of transparency and accountability to which the defence sector is exposed.

In the defence sector, these factors combine themselves in a manner that increases the potential reward of a corrupt act: substantial resources plus circumstances such as the need for "secrecy", "urgency", or "the national interest", can limit the decision making process to a small circle and drastically reduce its transparency and accountability.

**Secrecy** in order to "protect national security interests" is the first and worst enemy of transparency in defence. It often prevents any possibility of meaningful external scrutiny. In defence procurement, it can limit the number of potential bidders (or even lead to single-source procurement), thus preventing competition, and paving the way for price and contract manipulation by suppliers.

**Urgency** in meeting operational and other defence requirements allows for the simplification of procedures or even waiving of the rules – avoiding tender requirements for openness and competitiveness. The need to meet "urgent" requirements, especially when combined with references to secrecy, creates scope for non-transparent and arbitrary decisions, allowing suppliers to dramatically overcharge.

**Populist** slogans may also cover corrupt practices. The call to "buy national" defence products and services out of "concern for the people and their jobs", are often used to justify non-transparent, non-competitive contracts, which are conducive to paybacks in a variety of ways. This may lead to inferior products and services being procured at a higher cost. In addition, policies favouring domestic suppliers make it difficult to attract foreign direct investment and new technology, meaning fewer competitors, and a more fertile ground for corruption.

## What Should a Member of Parliament Know about Defence Spending Categories?

Defence spending usually falls under four categories:

- personnel management
- operations and maintenance
- procurement and construction
- research and development

Each of these categories has its own set of corruption risks and challenges to anti-corruption efforts.

Albania (2011)		Bosnia-Herzegovina (2010)	
Personnel:	68.33%	Personnel:	79.32%
Operations:	17.16%	Operations:	19.29%
Procurement:	14.51%	Procurement:	1.39%
Bulgaria (2010)		Croatia (2011)	
Personnel:	53.86%	Personnel:	62.82%
Operations:	27.86%	Operations:	20.12%
Procurement:	18.20%	Procurement:	17.06%
R & D:	0.08%		
Macedonia, FYR (2010)		Moldova (2010)	
Personnel:	70.52%	Personnel:	74.61%
Operations:	18.58%	Operations:	24.41%
Procurement:	10.90%	Procurement:	0.10%
Montenegro (2010)		Romania (2011)	
Personnel:	69.99%	Personnel:	71.06%
Operations:	23.52%	Operations:	15.63%
Procurement:	6.48%	Procurement:	13.14%
		R & D:	0.16%
Serbia (2011)		Slovenia (2011)	
Personnel:	71.76%	Personnel:	8.15%
Operations:	22.10%	Operations:	1.45%
Procurement:	6.08%	Procurement:	10.18%
R & D:	0.06%	R&D:	0.20%

Source: United Nations Report on Military Expenditures (<https://milex.un.org/>)

Personnel costs represent by far the largest portion of defence spending in Southeast European countries. This makes it a key area of integrity-building efforts.

### Corruption Risks in Personnel Management

Corruption in personnel management systems may take the form of extortion, theft, bribery, or the propagation of networks favouring corrupt practices. It can be occasioned by any personnel decision that does not follow a strict application of regulations or policy. Examples may include:

- conscription avoidance schemes (involving networks of corrupt officials, doctors, and instructors at recruitment centres)

- unmerited acceptance into entry-level officer training programmes
- unjustified promotions and assignments of posts
- preferential treatment in decisions on foreign postings (for example, for training assignments or participation in peacekeeping operations)
- unjustified advantages in the distribution of pay and benefits (housing, food, medical care, uniforms, time off)

Ensuring transparency in personnel management is complicated by several factors. Whereas recruitment and assignments are diffused across the entire system, reporting is hierarchical, via chain-of-command. The organisational divide between operational units and central staff, combined with the unwritten norms and traditions at the heart of military culture, create strong disincentives for whistleblowers. This makes collecting accurate information a challenging task.

### What Can a Member of Parliament do about Personnel Management?

- Ensure a clear framework governing the legal status of the armed forces, conditions for recruitment, education and career development, respect for human rights and working conditions
- Formally approve or endorse senior appointments through Parliament
- Ask questions and request reports from the Ministry of Defence on the personnel policy and its implementation
- Request information and consult with the Ombudsman office on complaints received from within the Armed Forces regarding abuses, discrimination and misadministration in personnel management
- Consider the creation of a specialised institution dedicated to safeguarding the rights of the armed forces, such as the Parliamentary Military Commissioner in Germany or Bosnia and Herzegovina

### Corruption Risks in Operations & Maintenance

Operations & Maintenance absorb on average 20% of a country's defence spending. This covers such items as, the training of forces in peacetime, their preparation for operational deployment, the conduct of joint exercises, and international peace-building missions.

Decisions regarding **national participation in peace operations** tend to be made at short notice. Often, related procurement procedures are simplified, avoiding competitive processes. Cost considerations are frequently sidelined by inter-operability requirements and concerns about soldiers'

safety. Often, personnel are selected for deployment on the basis of unclear and non-transparent procedures.

Remuneration for international deployments is several times higher than a normal salary. This can lead to lobbying, bribery, and influence-trading within the defence establishment, as troops and officers attempt to secure postings abroad. In the case of peacekeeping deployments, some experts recommend deploying standing organisational units instead of contingents assembled for a specific mission, because such units would only need minimal additional assets and training to fulfil mission requirements.

Defence operations increasingly rely on the private sector in three main ways:

1. **Outsourcing**, when organisational activities are contracted out to vendors or suppliers who specialise in these activities.
2. **Privatisation**, when current government property, equipment, and facilities are sold to the private sector.
3. **Public-private partnerships (PPP)** when the private sector invests in defence projects or operations, sharing resources, expertise, risks and rewards in a joint venture with a state partner.

These arrangements offer considerable opportunities to improve the efficiency of defence forces. However, in the absence of strong ethical leadership, institutions and oversight, they can open avenues for illegal acts such as bribery. This can occur alongside legal lobbying activities by private companies meant to encourage political and bureaucratic processes to choose sourcing options that favour private interests to the detriment of the defence establishment.

### Box 3. Warning Signs for Corruption in Privatisation

- Parliament subject to undue influence by the private sector, often through inadequate campaign finance laws
- Low transparency of public administration - inadequate public access to information on privatisation strategy, policy and decision making
- No accountability systems and controls for the politicians and officials involved in privatisation programmes
- Absence of criminal, civil, and disciplinary sanctions against politicians and officials who have been implicated in or suspected of corrupt behaviour, or who are obviously subjected to a conflict of interest
- No opportunity for employees and citizens to submit complaints, either confidentially or anonymously, against corrupt officials or processes
- No mandatory public disclosure of assets, income, and potential conflicts of interest by politicians and public officials involved in privatisation decisions
- Weak media, subordinated to political interests

The use of contractors – in particular, the rise of private military companies – in operational deployment, peace-keeping, and stabilisation campaigns, is also a prime concern in this area. There is frequently a lack of transparency in bidding, creating scope for favouritism, misappropriation, nepotism, bribery and corruption.

So far, there is no international system for evaluating, registering, or licensing private contractors and defining or upholding professional performance standards. However, small steps have been taken for the development of such a system. *The Montreux Document on Private Military and Security Companies* of 2008 breaks new ground in defining how international law applies to the activities of private military and security companies. *The International Code of Conduct for Private Security Service Providers (ICoC)*, is a multi-stakeholder initiative that aims to both clarify international standards for the private security industry operating in complex environments, as well as to improve oversight and accountability of these companies.

### What Can a Member of Parliament do about Operations & Maintenance?

- Ensure that there are procedures in place addressing corruption issues for both peacetime and conflict
- Encourage the Defence Ministry to create guidelines and oversight mechanisms at the field level
- Identify all possible corruption issues that can arise and ensure that all members of the defence establishment are made aware of acceptable norms of behaviour in such situations
- Review all accelerated procurement processes for peace support operations or emergency situations, to prevent the misuse of these circumstances for corrupt purposes
- Monitor accounting practices for revenues obtained from selling surplus assets and property – which organisation receives the revenues, and what can they be used for?

## Corruption Risks in Defence Procurement

Defence procurement refers to two distinct processes:

1. Acquiring new defence capabilities through introduction of more advanced weapon systems.
2. Maintaining existing capabilities through the provision of spare parts, fuel, logistic services, etc.

Defence procurement is a process highly prone to corruption, for several reasons. Given the large size of the defence establishment, even the procurement of simple products (such as food, fuel, uniforms) involves large amounts of money. When it comes to the procurement of highly advanced and specialised technologies the number

of potential providers tends to be limited. In addition, national security considerations can limit alternative procurement options, giving inordinate power to suppliers to influence negotiations and contracts. It is also difficult to directly link defence needs to procurement as statistics about costs can be hard to obtain, incomplete or non-existent.

Corruption in defence procurement originates either with a bidder (offering an illegal payment to influence the outcome, i.e. bribery) or a public official (demanding a payment to influence the outcome, i.e. extortion). In order to reduce corruption in defence procurement, initiatives to enhance the integrity of the process have to address the conduct of participating organisations, the behaviour of individuals involved and the decision-making process.

### 1. The Integrity of Participating Organisations

It is important to aim at building integrity on both sides of a procurement contract – both the demand and supply dimensions. On the demand-side, within the Ministry of Defence and military establishment, clear delineation of competencies is essential – especially regarding decision-making authority and oversight responsibilities.

#### Box 4. Building the Integrity of Participating Organisations

##### Defence Integrity Pacts

In the 1990s, Transparency International developed the Integrity Pact as a tool governments can use to combat corruption at the tendering and contract stage of procurement. The Integrity Pact is a contract that binds bidders and buyers to non-bribery pledges for a specific procurement. Furthermore, it restricts government officials and close relatives from obtaining work at bidding firms for a set period after the bid has been submitted; they also require the disclosure of details of agents and intermediaries. To ensure transparency of such pacts an independent monitor or a monitoring team is appointed, which is then provided with full access to all meetings and documents.

15 countries around the world have applied such pacts to major defence procurement contracts, including Croatia, India, Poland, and the United Kingdom.

##### USA Defence Industry Initiative

The major defence companies in the USA formed the Defence Industry Initiative (DII), wherein each signatory agrees to complete a detailed annual questionnaire relating to their ethics programs and practices. The results of this questionnaire are then compiled and published in an annual DII Public Accountability Report. All companies members of DII have codes of conduct, ethics departments, whistle blower hotlines, and ethics training programmes for staff.

On the supply-side, the defence industry has faced in recent years numerous corruption scandals which have weakened public confidence in defence contractors. A company may pay to be included in the list of qualified bidders or to restrict the number of competitors. Those who make such payoffs expect not only to win the contract, but also to obtain future subsidies, monopoly benefits, and loose regulations in their favour.

Often, suppliers are expected to take the lead in rooting out opportunities for corruption that they can fall prey to.

### 2. Individual Integrity

No measures against procurement-related corruption will be effective if individuals involved in the process lack integrity. To reduce the risk of corruption at the level of individuals, countries use both “hard” and “soft” measures.

*Hard measures* can be used to criminalise conflicts of interest and acts of bribery. These can cover the period of the actual procurement, but also the past and future. For example, measures can be taken to restrict conflicts of interest resulting from the prior involvement of government officials or military officers with defence contractors, or potential involvement with the private sector after retirement from government or military service.

*Soft measures* usually take the form of Codes of Conduct applied by both government institutions and defence suppliers on their staff.

#### Box 5. Individual Integrity in Poland

All senior officers, and junior officers serving in a finance or logistics unit, are obliged to fill in assets disclosure forms. The completed forms are not public, and they are controlled by the Military Police. Those who have participated in procurement processes in the last three years of their military service cannot take up a job in a defence company.

Whistle-blower protection lies somewhere between the hard and soft approaches described above. It is designed to encourage people who know about corrupt behaviour to report it to the authorities.

### Box 6. Good Practices in Whistle-Blower Protection

Norway has adopted specific legislation on the protection of whistle-blowers. This gives all employees in the private and public sector the right to bring to the attention of authorities suspected misconduct in their organisation, on the condition that the employee follows an “appropriate procedure”. The law prohibits “retaliation” - understood as any unfavourable treatment that is a direct consequence of, and a reaction to, the notification submitted by the employee. Any bad faith in the whistle-blower’s motives will not hinder lawful reporting as long as the disclosure is in the public interest. An employee who “signals” that he/she will submit a notification (for example by copying documents or threatening action unless the unlawful practice is changed) is also protected against retaliation. If there is any kind of retaliation against the “whistle-blower” following his/her disclosure, the compensation awarded can be unlimited.

The law in **Romania** is one of the rare European laws on the matter to propose a definition of the term “whistle-blower”. “A ‘whistle-blower’ is an individual who reveals violation of laws in public institutions made by persons with public powers or executives from these institutions”. This definition must be read in conjunction with that of “whistle-blowing in the public interest”, which is defined as reporting, in good faith, any deed infringing upon the law, the professional ethical standards or the principles of good administration, efficiency, efficacy, economy and transparency.

Regulations in the **USA** make ethics programmes, training, reporting, and whistle-blower protection mandatory for all defence contractors. Protection covers all contractor employees who disclose information to government officials with regard to waste or mismanagement, danger to public health or safety, or legal violations related to the defence contract. An employee may not be discharged, downgraded, or otherwise discriminated against as a reprisal for disclosing information concerning contract-related violations to the government. All contractors are obliged to inform their employees in writing of these federal whistle-blower rights and protections. Similar reporting requirements also apply to government employees; any case of reporting may be done by mail, online, or phone and can be anonymous and non-traceable if the reporting person wishes so.

### 3. The Integrity of the Decision-Making Process

Regulations have to provide for a clear causal link between defence policy and procurement, taking in consideration budgetary fiscal restraints. Acquisition requirements must be carefully prioritised in order to assemble an overall defence programme that is as comprehensive and balanced as possible. Close examination of competing requirements and value for money analysis are essential.

### What Can a Member of Parliament Ask in the Three Stages of the Procurement Decision-Making Process?

#### 1. Preparatory Stage

- Are there publicly available defence policy documents that provide clear guidelines for defence modernisation?
- Are procurement decisions based on a rigorous and transparent risk assessment?
- Are operational and technical requirements developed from actual operational needs?
- Is the volume of the acquisition plan justified by real needs?
- Which quantitative and qualitative parameters are available for the assessment of technical requirements?
- Have potential suppliers (including national companies) been notified about forthcoming acquisitions?
- Is the acquisition plan prepared for buying capability systems or isolated items only?
- Are funds secured for the entire life of the project? Are maintenance costs included?
- Are unplanned purchases justified by urgent operational needs?

#### 2. Tender and Negotiation Stage

- Is the tender process competitive? If not, is single source procurement (or limited tender) justified?
- Are there accurate and objective criteria for the evaluation of offers?
- Is the comparison of the bids of different suppliers based on life-cycle costs, or only on up-front costs?
- Is the tender documentation clear and objective?
- How is a conflict of interests prevented? Do officials participating in the process have any relationship with the potential bidders that can be regarded as a conflict of interest? Have they signed a declaration confirming no conflict of interest? If so, how has this been verified?
- Are any “agents” or “intermediaries” used during the procurement cycle? How is their integrity assured?

#### 3. Implementation Stage

- Does the acquisition contract assure the rights of the Ministry of Defence?
- Is the contract implemented as it was signed?
- Are the amendments to the contract occurring only in well-defined and justified situations?
- Are there any objective quality tests available?

## Corruption Risks in Offset Arrangements

Offsets are a major corruption risk, even in the most developed countries. Offsets are designed to compensate local stakeholders for the purchase of equipment or services from a foreign contractor. They are frequently an integral part of international defence contracts, and in some countries legislation requires offset arrangements for contracts above a certain value.

Offset commitments can encompass a wide variety of activities such as co-production, production under license, marketing and exporting assistance, subcontracting, training, technology transfer, financing or foreign investment.

Offsets support the development of national industry and can help bring a country's balance of trade into equilibrium. They often offer government an opportunity to ease opposition, on the part of national producers and the general public, to major defence spending. The choice of what is needed, or even whether something is needed, can be influenced by "incentives" offered under the offset clauses.

Defence purchases are rarely a simple economic transaction. They often have an international political dimension whereby the purchasing nation is hoping to deepen political relations with the supplying nation. They are also large enough to have an impact on the domestic political agenda – the offer of defence suppliers to provide investment, job creation, or special goods and services within a certain country, region, or city can influence local politics in favour of the purchase. These can make otherwise unattractive products appear politically attractive.

### Box 7. Offsets in the Middle East and Asia

Offset clauses are not just limited to investment in the country's defence sector. Saudi Arabia's defence contracts with the UK included offsets obliging the British companies to develop a sugar processing complex, a pharmaceutical plant, and commercial computer training facilities within the country. Malaysia's offsets contracts have seen the development of its higher education sector through investments in universities, while Kuwait has used offsets to develop small and medium enterprises in the civilian sector.

Governments often also place "multipliers" on offsets as a measure to incentivise investment in priority fields. For example, if a multiplier value is kept at 3, it means a foreign company can claim credits up to three times of its actual offset investment. So, if the Ministry of Defence urgently requires a specific technology for producing tank armour, a multiplier of 4 could be placed on that technology. That would give a vendor who provides technology worth \$20

million an offset credit of \$80 million. It has been reported, though, that such clauses can be used by vendors to minimise their actual offset investments in the country. For example, a major defence contractor from the U.S., despite having \$10 billion of nominal obligations in one of its markets in the Persian Gulf, only needed \$1 billion to fulfill its obligations, through the use of multipliers. Another example comes from South Africa, where a Swedish defence supplier received more than \$200m in offset credits just for spending \$3m on upgrading swimming pools in Port Elizabeth and marketing the town to Swedish tourists.

In order to prevent misuse of multipliers to reduce or misdirect offset obligations, many countries place limits or conditions on multiplier values. In India, the maximum multiplier of 3 is allowed only when a foreign company provides a listed technology without any restriction on its volume of production and sales, including exports.

Table 3. Offset Policies

Country	Minimum Contract Amount for Offsets	Minimum Offset Rates	Multipliers
Austria	EUR 726,000	100%	Up to 10x
Belgium	EUR 11 million	100%	Not specified
Bulgaria	EUR 5 million	110%	1x to 3x
Czech Republic	CZK 500 million	100%	None
Denmark	DKK 25 million	100%	Not specified
Greece	EUR 10 million	80% to 120%	1x to 10x
Hungary	EUR 3.5 million	100%	Up to 15x
Lithuania	EUR 1.5 million	100%	1x to 5x
Netherlands	EUR 5 million	100%	1x to 5x
Norway	EUR 5.5 million	100%	1x to 5x
Poland	EUR 5 million	100%	2x to 5x
Romania	EUR 3 million	80%	Up to 5x
Slovenia	EUR 500,000	100%	1x to 7x
Sweden	EUR 10 million	100%	-
Switzerland	CHF 15 million	100%	2x to 3x

The use of offsets has grown substantially in the recent past, as suppliers have understood the power of such clauses in influencing procurement deals. The average value of offset arrangements represented 49% of procurement contract value in 1995, but grew to 103% in 2005. For example, Lockheed Martin, one of the largest defence contractors, has US\$ 19 billion of offset obligations across 12 countries.

Offset arrangements are often commitments that are not finalised until after the award of the contract. They can then take years to be fully implemented. Owing to this time delay, and the concomitant lessening of political and media scrutiny, there is scope for making opaque deals and returning favours to those that helped win the contract.

### What Can a Member of Parliament Ask about Offsets?

- Is there a national strategy setting out the purpose of offsets?
- Which government agencies are involved in handling offsets?
- Are offset negotiations initiated before or after the award of the contract?
- Are there time limits and performance standards for offset deals, and penalties for non-compliance?
- Are the multipliers in line with national defence and national economic priorities?
- Who benefits from the offset policy within the country: specific sectors, companies, or individuals?
- Are the multipliers substantially higher in one or more sectors than others? Will this provide a window for vendors to reduce actual offset spending in the country?
- Is there an audit process or due-diligence requirements on vendors?
- Do the MoD and vendors have a Code of Conduct in place, specifically dealing with offsets?
- At what stage can foreign vendors claim offset credits in exchange for transfer of technology and equipment?
- Has the MoD asked the vendor to put up performance bonds, which have to go on the balance-sheet? (Such bonds, which decrease with time upon fulfilment of contract obligations, can promote transparency and prevent corruption.)

### Corruption Risks in Defence Conversion

Parliamentary and public scrutiny of defence is often focused on the procurement of new weapon systems or construction projects, especially high-value contracts. However, less conspicuous defence acquisitions can also hide opportunities for corruption, such as the selloff of redundant weapon systems, equipment, or infrastructure. Several components of defence conversion programmes can raise integrity challenges: for example, the conversion of military bases and facilities, the disposal or destruction of surplus military equipment weapons and stockpiles, and the restructuring of military industries.

The military is, in many countries, a large owner of property, infrastructure, industry facilities and surplus equipment. Commercial interests can find these military assets highly attractive. For example, private companies can attempt to influence the decision-making process so that valuable assets are labelled to be “unnecessary” for future defence needs, or valued below market price before being sold off or exchanged. Barter and exchange of such defence assets present even a higher corruption risk than procurement.

On the other hand, defence ministries are also often subjected to intense public pressure and (legal and illegal) lobbying

by states, cities, localities, and special business interests to prevent base closings or property transfers that might entail the loss of revenues and jobs – even when those assets or activities are no longer necessary for national security and represent a drain on the defence budget.

Outsourcing of specific services, such as ensuring the security of storage areas, destruction of surplus weapon systems, equipment, and ammunition, can lead to contract and tender manipulation or negotiations with a single company. Both sides may have an interest to prolong the contract as long as possible, thus delaying the destruction of surpluses. As with other defence contracts, the corruption risk in these deals decreases with the implementation of open tenders and transparent, competitive procedures with clearly formulated requirements.

### What Can a Member of Parliament Ask about Defence Conversion?

- Does the Ministry of Defence have an official long-term plan or strategy for conversion, outsourcing and privatisation?
- How does this affect current and future operational requirements of the defence and security sector?
- Are there clear rules on conflict of interest for both governmental and non-governmental staff involved in the process?
- Is there a code of conduct for companies and individuals involved in procurement transactions?
- Have the personnel involved in the negotiations been vetted? Are they obliged, at regular intervals, to publicly disclose their income, assets, and any potential conflicts of interest?
- Is there a mechanism through which individuals involved in the process may report suspicions or knowledge of corrupt behaviour, with whistle-blower protection?

In some countries, the defence establishment is an economic actor, using its resources (personnel and assets) in profit-generating activities, to generate revenue for the military, independently of the state budget. The risks involved in such cases are two-fold. Firstly, the professionalism of the armed forces can be compromised if its resources and personnel are diverted towards the private sector. In the process, the military can become more interested in generating profits than providing security to the state and its citizens. Secondly, this can reduce the accountability of the armed forces. Having established an independent means of financing itself, the military can detach itself from civilian control, which in turn can generate risks for its overall role in society.



## Who Has a Role to Play in Building Integrity?

**Parliament plays a key role** in reducing corruption. Parliament must provide a strong legal foundation for defence and security activity. Laws must be proscriptive, require transparency and be prohibitive, defining illegal acts and demanding accountability. Parliament must also ensure transparency and accountability in defence budgeting and acquisitions, through yearly debate and approval of defence budgets, frequent questions and interpellations, inquiry committees and monitoring of current activities of budget and defence committees.

### Box 8. Good Practices in Parliamentary Oversight

**Netherlands:** All procurement decisions exceeding 25 million Euros have to pass through Parliament. Parliament can not only oppose or amend the final procurement decision, but can influence decisions at every phase of the acquisition process. For projects exceeding 100 million Euros, there is even more detailed and frequent reporting to Parliament.

**Bulgaria:** In 2009, the Minister of Defence proposed amendments to the Bulgarian Law on Defence and Armed Forces, which limited his own authority in defence procurement. According to these amendments, the Minister may decide on acquisitions of up to 25 million Euros, but for acquisitions between 25 and 50 million Euros, the Minister needs prior authorisation from the Cabinet, and for acquisitions above 50 million Euros, the Cabinet must get prior Parliamentary approval.

**Germany and Poland:** Important procurement contracts have to be submitted for the approval of Parliament's defence committee, for contracts of a value exceeding 25 million Euros in Germany, and 28 million Euros in Poland.

Defence budget oversight is mainly exercised through standing parliamentary committees for defence and security. They must have the **authority, capacity, and willingness** to:

- Examine line-by-line the yearly defence budget
- Hold hearings or inquiries at which ministers, senior bureaucrats, or military officials can be summoned to testify
- Request documents and reports from the executive
- Examine reports on budgetary spending and request competent authorities to perform audits
- Examine petitions and complaints from military personnel and civilians
- Visit and inspect bases and other premises, including troops deployed abroad.

Investigative tools are important, but the best remedies for dealing with corruption are clear and transparent procedures, supported by qualified and motivated staff, capable of incisive analysis. Engaging with allies in the

media, civil society and academia is becoming more important as they can provide access to alternative sources of information and policy proposals.

**The Ministry of Defence is normally expected to take the lead** in combating corruption in the defence sector. To play this role, it needs to have in place effective internal control mechanisms, supported by a mandate for prevention and enforcement, and by easily applicable administrative sanctions to correct malpractice.

In addition, the Ministry needs to ensure that the following norms and structures are in place:

- Clarity and transparency on defence objectives – roles, missions, tasks of the armed forces
- Plans and decisions on resource allocation linked to defence outputs defined by policy, over the mid-term (5 years)
- A centralised personnel management system, with promotions, transfers and major assignments being subject to oversight by a top-level review board of senior military and civil servants
- Close oversight and review of acquisition, maintenance, and service contracts
- Cadre of professional, civilian experts within the MOD, trained in defence management and public administration
- Mechanisms for identifying and preventing conflict of interest
- Measures to protect junior personnel from being pressured into joining corruption pyramids, where a portion of their earnings pass to senior officials

The primary goal of the executive should be to create a working environment where corruption is not seen by actors as a necessary act, either out of personal need or as a result organisational culture. Improving the capabilities and the professionalism of the defence establishment should enable defence officials to work effectively without corruption.

### Box 9. Specialized Institutions in Fighting Corruption

In **Sierra Leone**, the Anti-Corruption Commission has taken aggressive steps to combat corruption in procurement and to protect whistle-blowers. Any breach of the code of conduct by a government official results in disciplinary action. A new anti-corruption law expanded the list of corruption offences from 9 to 22. Minimum thresholds for sentencing were also put into effect, to ensure that all offenders would be effectively punished. Trials by judge are now preferred over trials by jury, after analysis found that it was easier to bribe or influence a group of 12 civilians rather than a single judge. Whistle-blowers are protected under the law, provided a free telephone hotline, and are entitled to 10% of the money recovered from the perpetrators of corruption based upon the success of information, prosecution, and conviction.

**Ombuds-Institutions** are not always a primary instrument in fighting corruption. However, if properly designed, supported by strong political will and equipped with professional and motivated staff, they can play an effective role in implementing a national strategy for preventing and eradicating corruption.

Ombud-institutions have a variety of tools to address integrity in defence: investigations, reports, public speeches, parliamentary submissions, meetings with senior government managers. Their role has the following values and capabilities:

- All actors belonging to the defence establishment should have the right to communicate with the ombuds-institution about any problem created by decisions or performance of duties of the armed forces; in addition, every private citizen should have the right to appeal to the office on defence and security issues
- Owing to the independence of the ombuds-institution from the command hierarchy, it can provide an alternative channel of communication in the event someone knows or thinks that corruption is taking place
- An accessible and active ombuds-institution provides opportunities to deal with minor cases of corruption, usually left outside judiciary, administrative or military sanctions
- The potential to examine all defence decision-making processes systematically and at will is a permanent reminder to the establishment that their work is monitored from both the inside and outside, at all stages
- The ombuds-institution's easy access to classified documents and facilities can deter an interest in falsifying documents, evidence, and procedures that might facilitate corruption
- The capacity of the ombuds-person to make his/her work public and announce names of all political, military, or civilian officials engaged in corruption is a deterrent in terms of protecting career and honour

**Civil Society and the Media** have an indispensable role in reducing corruption. They can engage with governments, parliaments and the public in five main ways:

- Public education and awareness-raising – alerting the public to the crippling costs of corruption and mobilising support for building integrity initiatives
- Acting as catalysts and intermediaries for change and dialogue
- Providing a pool of expertise and knowledge
- Developing research and policy options
- Monitoring practice and acting as watchdogs on policy implementation

The media's role in building integrity is primarily related to exposing wrongdoing and misconduct. Independent media is an instrument of good governance, through its efforts to present accurate, balanced and timely information on issues of public interest, enabling citizens to make informed decisions on current issues.

#### **Box 10. Civil Society Experiences in Budget Analysis**

Since 2001, the Red de Seguridad y Defensa en América Latina (RESDAL), a Latin American non-governmental organisation composed of 300 academics and practitioners has worked extensively on security budgets.

RESDAL has developed a methodology that analyses the decision-making process driving the defence budget. It combines a defence policy framework, national legal dispositions, the role of the executive and legislative branches, internal and external controls and the actions of civil society actors. This methodology has already been applied to the national defence budgets of Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru and Venezuela.

The *Comparative Atlas of Defence in Latin America* presents the analysis of the defence budget in sixteen countries of Latin America. It compares figures arising from a comparative methodology, representing the first regional data source. This atlas is available online at <http://www.resdal.org/>

Overall, fighting corruption using a multi-faceted strategy combining political, social, and economic reforms and a diverse range of institutions is likely to be more successful than one-sided anti-corruption measures.

#### **What are the International Norms and Best Practices in Building Integrity in Defence?**

At the European Union level, there are initiatives designed to promote open competitive bidding through the use of the **European Bulletin Board (EBB) on Defence Contracts Opportunities** maintained by the **European Defence Agency**. This platform not only provides opportunities for inter-governmental cooperation and transparent defence procurement, but also has a series of detailed codes, rules, and procedures aimed at establishing norms and best practices among member-states.

**The NATO Building Integrity Initiative** was created out of discussions between NATO and Transparency International to support the wider international effort at reducing corruption risks. The Initiative is open to all NATO allies and partners in the Euro-Atlantic area, the Mediterranean, and the Gulf region, as well as other countries across the globe, including Afghanistan. Participation is on a voluntary basis, and the Initiative implementation is a responsibility of nations – national ownership and commitment being a pre-requisite. Activities aim to develop practical knowledge to help nations meet their international treaty obligations to the UN, OECD, and others. These activities include: integrity self-assessment tools, tailored training programmes, workshops, roundtables, publishing

guidelines and best practices, research and analysis. The involvement of Members of Parliament, parliamentary staffers and civil society is welcomed.

### What Actions Can a Member of Parliament Initiate to Foster Integrity in Defence?

- Make the integrity of defence establishment an important subject in political discourse and legislative activity
- Request sound diagnosis of corruption and integrity issues – ideally from a diversity of institutions: ministries the national audit office, independent researchers
- Develop a defence integrity action plan
- Set clear standards of business conduct for state officials and for employees of private companies officers; request personnel training and a system for monitoring the implementation of integrity standards
- Amend laws to introduce sanctions for corruption that are effective, proportionate and dissuasive
- Use independent actors to monitor public procurements, for example, national audit offices and civil society organisations

**The South-Eastern Europe Defence Ministers (SEDM) Process** facilitated integrity building with Bulgaria as the lead nation, following extensive and successful reform efforts in Bulgaria. States participating in the SEDM's tailored Building Integrity Programme include Albania, Armenia, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, FYR Macedonia, Moldova, Montenegro, Serbia and Ukraine. As of 2014, Bosnia-Herzegovina, Bulgaria, Croatia, and Ukraine have already completed the Building Integrity Self-Assessment and Peer Review.

**The Council of Europe's Criminal Law Convention on Corruption** covers both active and passive bribery of domestic and foreign public officials, parliamentarians, members of parliamentary assemblies, civil servants, judges and officials of international courts, arbitrators and jurors.

### What Independent Resources are Available on Defence Integrity Standards and Practices?

Internationally accepted standards for budgeting transparency and tools to facilitate accountability in defence spending are available from various sources.

**Building Integrity and Reducing Corruption in Defence: A Compendium of Best Practices** – is a comprehensive introduction into concepts, policies, and strategic approaches to corruption risks in defence. The volume reviews corruption

risks and vulnerabilities, and discusses the roles of various national actors in fighting corruption and improving transparency in defence. Published by DCAF in 2010, the compendium is available on line in twelve languages. <http://dcaf.ch/Publications/Building-Integrity-and-Reducing-Corruption-in-Defence>

**Defence Companies Anti-Corruption Index** was released in October 2012 by Transparency International; it provides an analysis of what the 129 biggest defence companies around the world do (and fail to do) to prevent corruption. <http://companies.defenceindex.org/>

**Government Defence Anti-Corruption Index** published by Transparency International UK in 2013 is the first global analysis of corruption risks in defence establishments worldwide. It analyses measures undertaken to reduce corruption risks in 82 countries and shows, through detailed case studies, how parliaments can improve their oversight of defence. <http://government.defenceindex.org/>

**IMF Code of Good Practices on Fiscal Transparency** identifies principles and practices to help governments provide a clear picture of the structure and finances of government. The **IMF Manual on Fiscal Transparency** provides guidance on the Code's implementation and explains its practices in detail. <http://www.imf.org/external/np/fad/trans/code.htm>  
<http://www.imf.org/external/np/fad/trans/manual.htm>

**Integrity Self-Assessment Process** is developed within NATO Programme. It allows nations to assess the strength of their integrity systems in defence, based on two elements: a questionnaire to be completed by the nation, and a follow-up on-site visit by a NATO-led peer review team, who meet representatives of the nation to discuss the replies to the questionnaire. [http://www.nato.int/nato\\_static/assets/pdf/pdf\\_publications/1402\\_BI-Self-Assess-Quest\\_en.pdf](http://www.nato.int/nato_static/assets/pdf/pdf_publications/1402_BI-Self-Assess-Quest_en.pdf)

**Military Balance** is published by the International Institute for Strategic Studies (IISS) as an annual assessment of military capabilities and defence economics of 170 countries world-wide. It provides up-to-date information on defence budgets, procurement totals, equipment holdings and military deployments. <http://www.iiss.org/en/publications/military-s-balance>

**NATO Partnership Action Plan on Defence Institution-Building** expresses the commitment of allies and partners to develop effective and transparent financial, planning and resource-allocation procedures in the defence area, and also to develop effective, transparent and economically viable management of defence spending, taking into account macro-economic affordability and sustainability. <http://www.nato.int/docu/basicxt/b040607e.htm>

**OECD Best Practices for Budget Transparency** is a collection of good practices based on member countries' experiences, organised around the following themes: Budget reports; Specific disclosures; Integrity, control and accountability. <http://www.oecd.org/dataoecd/13/13/33657560.pdf>

**OSCE Code of Conduct on Politico-Military Aspects of Security**, adopted in 1994, recommends that defence allocations should not drain resources available for the overall development of the economy. It calls for legislative approval of defence expenditures, for transparency and public access to information related to the armed forces. [http://osce.org/documents/sg/1994/12/702\\_en.pdf](http://osce.org/documents/sg/1994/12/702_en.pdf)

**Stockholm International Peace Research Institute (SIPRI) Database** provides information on resources dedicated to the

military in different countries. Trends in military expenditures, arms production and transfers are presented annually in the SIPRI Yearbook, translated into a number of languages. <http://www.sipri.org/about/organization/researchprog/milap>

**United Nations Report on Military Expenditure** promotes worldwide transparency and mutual reductions in military expenditures. UN has introduced an annual standardized reporting of military expenditures since 1981, followed by guidelines and recommendations for objective information on military matters, including transparency of military expenditures. <http://www.un.org/disarmament/convarms/Milex/>

**“BI” – Integrity Self-Assessment Process** is developed within NATO BI Programme



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