

The Transparency International Corruption Perceptions Index 2019 – any progress in the fight against corruption?

RECOMMENDATIONS FOR INTERNATIONAL COMPANIES ON THE IMPLEMENTATION OF THE NEW EDITION OF THE WORLD'S LEADING CORRUPTION BAROMETER IN THEIR COMPLIANCE MANAGEMENT SYSTEMS

Executive Summary

- On 23 January 2020 Transparency International ("TI") published the latest Corruption Perceptions Index ("CPI") for the year 2019, once again covering 180 countries in the meanwhile 25th edition.¹
- As in the previous year, New Zealand and Denmark lead the Top Ten (each with 87 of 100 points) closely followed by Finland, Singapore, Sweden, Switzerland, Norway and the Netherlands. After the 11th place last year, Germany moved back up into the Top Ten with the same TI CPI score (80 points) on a par with Luxembourg and now in front of Canada (77). This reflects the inadequate implementation of anti-corruption laws in Canada as demonstrated by the prominent SNC-Lavalin scandal.²
- The G7 countries performed poorly in general. The US dropped by one place and three points with now 69 points, its lowest score in eight years. France (69 points) and the UK (77) also scored fewer points than last year.
- The EU as a whole scored well with an average of 66 points. However, the transnational or "exported" corruption of European companies must not be lost sight of as becomes apparent in the bribes paid by the Swedish telecommunications group Ericsson in China (41), Djibouti (30), Kuwait (40), Indonesia (40) and Vietnam (37 points).³ End of last year Ericsson surfaced as the second-largest FCPA case worldwide with a fine of 1.06 billion US dollars.
- The ranking of the BRICS countries did not change. Germany's most important foreign trade partner in 2017 and 2018⁴ China improved slightly from 39 to 41 points and climbed a full seven ranks to 80th place but remained in the midfield of the BRICS behind South Africa (from 73rd to 70th place, 44 points) and level with India (stagnating at 41 points, slipping two ranks to 80th place). Behind China came Brazil (in 106th place with a weak 35 points) and Russia rising from 138th to 137th place with 38 points.
- The Bottom Ten form Libya (18 points), North Korea (17), Venezuela (16), Equatorial Guinea (16), Sudan (16), Afghanistan (16), Yemen (15), Syria (13), South Sudan (12) and Somalia (9). Four out of the ten weakest countries are from the MENA region (Middle East and North Africa).⁵
- The world average this year as in the last two TI CPI editions amounted again to low 43 points. More than two thirds of the countries in the TI CPI scored less than 50 points.

¹ TI CPI 2019, available at:

<https://www.transparency.org/cpi2019?/news/feature/cpi-2019>.

² The Montréal-based engineering & construction conglomerate SNC-Lavalin Inc. is under World Bank Group Compliance Monitorship since 2013 and i. a. said to have paid 48 million US dollars in bribes to public officials in Libya during the period from 2001 to 2011, see: <https://www.reuters.com/article/us-snc-lavalin-court/canadas-snc-lavalin-unit-pleads-guilty-to-fraud-charge-in-libya-case-idUSKBN1YM1VQ>.

³ See: <https://www.ft.com/content/d026b9c0-1876-11ea-8d73-6303645ac406>.

⁴ Federal Statistical Office, ranking of trading partners in foreign trade, from 01.11.2019: <https://www.destatis.de/DE/Themen/Wirtschaft/Aussenhandel/handelspartner-jahr.html>.

⁵ Libya, Sudan, Yemen and Syria.



- Once again, the CPI data analysis displays a clear chain of causation between perceived corruption, the instability of democratic institutions⁶ and the influence of money on political power.
- These current findings must be operationally implemented into compliance management systems ("CMS") of internationally operating companies.

TI CPI Background

The NGO TI (founded in Germany in 1994 and headquartered in Berlin) published the Corruption Perceptions Index (CPI) in its 25th edition on 23 January 2020.

The TI CPI measures the **subjectively perceived** tendency towards corruption in politics and public administration in a particular country as observed in many expert interviews.

The index is based on point values whereby the maximum value of 100 points indicates no tendency to corruption and 0 points, on the contrary, reveals a tendency to corruption that is perceived as very high. Countries with particularly low scores are exposed on the TI CPI world map in a corresponding deep red color so that the TI CPI at first glance obtains the character of a global "heat map". What becomes obvious at first sight is that the world is rather glowing in red than in yellow.

The TI CPI 2019 is based on 13 data sources from 12 different institutions on the perception of the level of corruption in the public sector over the last two years.⁷

Despite initial criticism, the TI CPI has now developed into the undisputed international **de facto compliance standard** for the identification and ongoing assessment of geographical compliance risks in business operations

in a wide range of regions and countries over the past two decades.⁸

Key findings of the TI CPI 2019

The TI CPI 2019 particularly focuses on the **undue influence of money on political power** and the associated perception of corruption.

Countries at the bottom of the CPI are characterized by significant deficiencies in political integrity and a lack of social consensus against the abuse of public office and public resources. Higher rated countries appear to capitalize from more stable democratic institutions and a correspondingly lower susceptibility to corruption in the public sector.

Against this background, TI is also calling on Germany to tighten its criminal laws against active and passive bribery of elected officials and to make the rules on conflicts of interest of members of parliament and on transparency in party financing stricter.

TI Germany Chairman Hartmut Bäumer also repeats the call for a register of lobbyists which appears all the more urgent in light of the revealing Germany report of the Council of Europe's Group of States against Corruption (GRECO) of 12 August 2019.⁹

Germany's Top Ten come back is not attributed to any improvement in points - in 2019 as in 2018 Germany's TI CPI score remained at the same 80 points. It was only Canada's Top Ten fall out due to the protracted SNC-Lavalin compliance scandal that enabled Germany to ascend rather mechanically.

The global TI CPI average score is at a weak 43 points for the third year in a row. It is striking that 137 countries, i.e. the vast majority of the 180 countries reviewed, are

⁶ See GSK Update of 31.01.2019, available at: <https://www.gsk.de/wp-content/uploads/2019/01/GSK-Update-Der-neue-Transparency-International-Korruptionswahrnehmungsindex-2018-1.pdf>.

⁷ See: <https://www.transparency.de/cpi/cpi-2019/cpi-2019-verwendete-quellen/>.

⁸ See: GSK Update of 22. 02.2018: <https://www.gsk.de/de/news-presse/gsk-update-newsletter/gsk-update/d/gsk-update-der-neue-transparency-international-korruptionswahrnehmungsindex-2017-wo-steht-die-ko/>.

⁹ GRECO, Second Compliance Report Germany, 12 August 2019, GrecoRC4 (2019)17, available at: <https://rm.coe.int/grecoRC4-2019-17-final-eng-germany-2ndrc-public/168096b92c>.



making very little or no measurable progress in the fight against corruption.

Recommendations for companies

The findings from the current TI CPI must be implemented by companies in compliance risk analyses and compliance health checks – i.e. effectiveness checks of the internal CMS – as well as in Business Partner- or M&A compliance due diligences – i.e. checks of external intermediaries or corporate takeover targets.

However, a broad-brush utilization of the TI CPI alone is not a panacea for insufficient compliance measures.

The most recent Ericsson case – after Telia the second FCPA Top Ten case from Sweden, a country which according to the TI CPI has always been exemplary (this year placed 4th with 85 points) – illustrates clearly: the TI CPI does not fully reflect the "exported corruption" of companies from supposedly safe home states. Only companies that additionally reflect the countries in which services are actually to be rendered in their CMS – i.e. a TI CPI value of those countries in which business relationships actually become operational and bribery might take place – protect themselves from developing a false sense of security.

Furthermore, trends should be observed over several years. The examples from Canada and Brazil illustrate clearly that major corporate scandals such as SNC-Lavalin or Petrobras are reflected in the annual TI CPI sometimes only with a **considerable delay**. After all, let's wait and see what the Ericsson case will do to Sweden.

A robust CMS should also be calibrated with additional indices. These include the TI Bribe Payers Index (BPI)¹⁰ and the TRACE Matrix¹¹ as well as the Fund for Peace

Fragile States Index (FFP FSI),¹² the Global Slavery Index¹³ or the Basel Anti Money Laundering Index (AML Index).¹⁴

Today more than ever it is very worthwhile to consistently invest in continued compliance risk management in order to effectively and efficiently pursue compliance with a sense of proportion.

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¹⁰ TI Bribe Payers Index, 2011, available at: <https://www.transparency.org/research/bpi/overview>.

¹¹ TRACE Bribery Risk Matrix, 2019, available at: <https://www.traceinternational.org/trace-matrix>.

¹² FFP FSI, 2019, available at:

<https://fundforpeace.org/2019/04/10/fragile-states-index-2019>.

¹³ Minderoo Foundation, Walk Free Initiative, Global Slavery Index, 2019, available at: <https://www.globallslaveryindex.org/>.

¹⁴ Basel AML Index, 2019, available at:

<https://www.baselgovernance.org/basel-aml-index>.



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