



**NATIONAL INTEGRITY  
SYSTEM ASSESSMENT  
NORWAY**

# EXECUTIVE SUMMARY

## Summary

This is the first time a National Integrity System Assessment (NIS-study) has been carried out in Norway. The purpose of the study is to promote awareness of the risk of corruption, vulnerability and risk management within important institutions in society.

The NIS is founded on a methodology developed by Transparency International's secretariat in Berlin. In the study twelve key institutions and sectors are assessed (hereafter called pillars), on the basis of current legislation and practice. The assessments are based on a review of rules and regulations, document studies of available research and studies, as well as interviews with key representatives for the institutions and external experts.

The study provides a general description and assessment of how well the pillars function in accordance with the criteria and indicators set out in the NIS methodology. The aim is to identify the strong and weak aspects of the pillars from the perspective of combating corruption. Transparency and access, independence and systems for accountability are key concepts here.

## A well functioning integrity system, but...

The overall assessment is that Norway's integrity systems function well. All pillars achieve a total score of 82 or higher, which has to be considered as very good.

All in all Norway is considered to have a robust system of well-funded institutions that can carry out their work and act independently and autonomously. Furthermore, none of the assessed sectors can be said to be exposed to a lot of unwarranted pressure from outside actors.

The Norwegian corruption provisions are both wide and strict. They apply to both the private and public sectors, and activities at home and abroad.

However, even though the pillars score well or very well in terms of points, the study also uncovers weaknesses within most of the pillars. Some weaknesses are to be found in the legislation, while others are linked to practice. The extent and the severity of the weaknesses vary. The wide scope of the study has limited the potential of going into detail on some individual points. In some cases there will therefore be a need to undertake more targeted studies to obtain more thorough knowledge of *extent*, *causes* and which *measures* that may be relevant to deal with the weaknesses. The rest of the summary will mainly focus on some of the weaknesses that are indicated in the study. For a wider review of the individual pillar's strong and weak sides, the individual chapter is referred to. At the end of the summary Transparency International Norway offers some recommendations on further follow-up as to what should be done to strengthen the Norwegian Integrity System.

## Possibility for greater transparency and better access

The practice of transparency and good possibilities for access is important for preventing corruption and other adverse practices. This is particularly important within public bodies' decision making; there has to be transparency in public and private companies' financial

activities and transparency in politicians' and public officials' financial interests. The practice of openness and transparency also has a democratic aspect, and voters should know which assessments form the basis for the decisions and decision-making that political authorities and public administration make. The openness of the Norwegian society is often emphasised as a strength - which is correct to a large extent. The openness is expressed in part through the Freedom of Information Act, which states that: "Minutes, journals and similar registry for [public agencies] (...) are open to inspection unless otherwise stated in the law" and that anyone can request access. The study shows that this picture must be nuanced.

**Processing of cases in the public sector.** All processing of cases in the public sector shall be filed and recorded under the provisions of the Archive Act and its regulations. Which internal documents shall be recorded is partly at the discretion of the individual agency. Internal documents shall be recorded: "to the extent the agency finds it expedient". The Freedom of Information Act applies in principle to all public sectors, with some exceptions. One of the exceptions is publicly owned companies without employees. These companies administer large values (at the municipal level about NOK 25 billion) and are currently exempt from the Freedom of Information Act's rules and regulations.

The study finds clear evidence that the current practice of the Freedom of Information Act is inconsistent. Public access, as prescribed by law, is practised to varying degrees, and the media and others often experience difficulty getting access to case documents and the like from public bodies. The reasons appear to be complex. A complex legislation, for example, when it comes to the information covered by professional secrecy, combined with a fear of breaking confidentiality provisions (which may have consequences for the individual employees) often makes denial of access to be perceived as the simplest and least troublesome solution.

**Access to judgements.** <http://www.lovdata.no> – this website includes an updated version of the current Norwegian regulations. This is publicly available, but to gain full access to Lovdata sources, including all court decisions in the Courts of Appeal and the Supreme Court, a monthly subscription fee of NOK 785 is required.

**Activities of politicians and public managers.** Politicians are elected by the people and have thus acquired public offices to represent voters' interests. It is therefore important to be open about the positions, offices, receipt of large gifts and other financial interests that may influence politicians in their work. Members of the Storting (Parliament) must submit all their registered offices and financial interests in accordance with current financial regulations. This information is publicly available but the representatives are only obliged to report what interests they have in terms of income and other benefits. The size of the income and any other benefits they receive do not have to be reported. For members of the government, the same rules apply for registration of financial interests and offices as members of the Storting, but with an essential difference – the registration is voluntary.

Two other elements that apply to members of the Storting are the absence of written eligibility rules and of a lobby register. Current practice is that the representatives may choose to withdraw from a case if they consider themselves to be incompetent. It is widely

accepted that a representative who has previously dealt with a case, is not considered to be incompetent. But according to the sources for this study, there is little doubt that there are examples of the unfortunate mixing of roles when parliamentary committees deal with cases, although it is assumed that this occurs on a small scale.

The study points out that the public has an interest in obtaining knowledge of who the members of the Storting meet and which issues they discuss.

At the municipal level, there is a registry where one can search for the offices and financial interests of the elected officials, board members and employees of a municipality. The register is voluntary in two senses. It is first up to the individual municipality, municipal corporation, to decide whether it will have a register. Secondly, it is up to each local politician, employee and board members if they want to declare their interests.

**Independence of the courts.** In assessing the independence of the courts the study points to some critical conditions. For instance questions may be raised as to the independence of judges who are temporarily employed. This independence may be put to the test in that consideration to his/her own position could affect the judge's decisions. This applies to both deputy judges and acting judges.

To ensure that confidence in the courts is upheld, it is important that recruitment processes are open and that there are equal opportunities for all. A number of acting judges are employed in today's courts. For short-term appointments (less than six months), there is no requirement that the position be advertised, and often this is not done in practice. On the appointment of judges the Appointments Council makes a reasoned recommendation of three qualified applicants in order of priority that is sent to the Ministry of Justice for further processing. The recommendation itself is public, but the rationale for the ranking is exempt from public disclosure. The study raised the question whether the rationale for the recommendation should be publicly available.

**Companies' foreign operations.** At present there are limited requirements for Norwegian companies to give details on the financial status of their foreign subsidiaries, better known as country-by-country reporting. One consequence of this is that Norwegian companies that wish to, can avoid transparency in large parts of their operations by establishing subsidiaries in secret destinations (also called tax havens) – that is states where foreign individuals and companies are afforded ample opportunities to conceal information about their own activities and are able to bypass a number of national and international rules. Closed corporate structures make it possible to conceal from the authorities large funds derived from corruption, tax evasion and capital flight. This is a problem in all countries, but it is most serious for poor countries' potentials for development and for combating poverty.

### **Investigation and application of the law**

Many people take part in the fight against corruption, but ultimately it is the police and prosecutors who decide whether a case should be investigated and possibly brought before the courts. It is essential that police and prosecutors have the capacity to prosecute

cases that arouse suspicion. This is particularly important in corruption cases, which are often very difficult to detect and where investigative work is demanding.

The financial allocations to the police have increased markedly in recent years. Furthermore, practice shows that the police and prosecutors can pursue corruption cases involving small financial amounts. On the other hand, the study finds evidence that police and prosecutors do not have sufficient resources to investigate financial crime, including corruption. One indication – reports that the police districts' financial crime teams have to put cases aside because of lack of resources, even if there are clear suspicions of corruption. Other indications are the recruitment problems for *Økokrim* (The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime) and the financial crime teams, *inter alia*, as a consequence of higher salaries being offered by control agencies and private investigation companies. The Auditor General's evaluation (2008) of the authorities' efforts to combat financial crime concluded among other things, that police and prosecutors constitute a bottleneck in the follow up of reported cases. The study does not specify whether the resource problems associated with investigating financial crime are due to the priorities of the police and prosecuting authorities or whether they are due to the level of total resource allocation (or both).

Another factor that may affect the investigation of corruption cases is today's leniency deal on breaches of the Competition Act, which involves a kind of amnesty if the company makes a report on itself. *Økokrim* has an informal agreement with the Competition Authority not to proceed with an investigation of cartel cases under consideration by the Competition Authority and where leniency may be appropriate. If an entity, which is applying to the Competition Authority for leniency in competition offences is also involved in other forms of financial crime, such as corruption, it is difficult for *Økokrim* to initiate investigation. The study points out that the legal situation in this area appears to be problematic.

The study also points to the adverse consequences of corruption being punishable under the criminal law and at the same time being met with sanctions under the Act on Public Procurement. It appears that the threshold for imposing corporate penalties is high, because (of the consequences) of being excluded as a supplier to the public.

## Prevention

Laws and regulations are important elements of a national integrity system, but are alone not sufficient. Institutions consist of individuals: managers and employees, politicians and officials. Prerequisites for efficient and robust institutions are employees, managers and officers with sound ethical common sense. Furthermore, there should be room to voice criticism and it should be possible to report on matters that seem suspicious. Findings in this study suggest that there is a need to improve the opportunities to promote such criticism.

Norway's whistleblowing provisions are wide-ranging, and we have come further than many other countries in regulating the protection of whistleblowers. However, there is still room for improvements in that businesses and executives ease conditions for whistleblowing in the workplace. Reports about employees who do not dare to speak out

about unacceptable circumstances in their own workplace, are an indication that things could be improved.

One explanation for the current situation could be a lack of knowledge among some managers about the balance between freedom of speech (constitutional law) and the employee's duty of confidentiality. The attitudes of some managers may also be an explanation. Awareness of the whistleblowing provisions, including the employer's duty to facilitate conditions for notification, seems to be too low in both the public and private sectors.

After the provisions on whistleblowing came into force in 2007, they have been the subject of much discussion, and practice can be improved. Opinion is divided whether the regulations should be adjusted. Protection of the whistleblower could be enhanced by removing the requirement that the employee's procedure should be prudent, which could lower the threshold for whistleblowing externally. Sceptics believe other considerations argue against such changes. From a corruption prevention perspective, it is important to have a robust protection of whistleblowers.

Norwegian journalists and the media have played a key role in the revelation of several corruption cases in recent years. The same applies to disclosures of corruption-related cases and corrupting behavior among public officials and other key actors. The media have a low threshold when it comes to keeping a watchful eye on politicians and others on suspicion of adverse conditions, while the threshold is higher when it comes to directing a critical focus on their own profession. The media plays an important role in setting the agenda for public debate. Which cases make headlines and great media coverage, and on what basis? And more importantly: Which issues do *not* get attention in the media? The study refers to criticism that has been raised against Norwegian media for not engaging in serious press criticism of each other.

Reporting of suspicious transactions is an important aid to government efforts to combat financial crime. The study reproduces the figures from *Økokrim*, which suggest that lawyers, auditors, brokers and accountants underreport suspicious transactions. Possible explanations for this may be lack of knowledge about the rules, attitudes and inadequate understanding of their role.

The regulation of parliamentary representatives' activities (Integrity Mechanisms - Law) is the only individual indicator that is given 25 points, which is very low. The parliamentary pension case from 2009, where former members of the Storting were paid a substantial parliamentary pension while they had other paid work, and media stories in 2010 in which it appeared that some ministers had kept gifts from official visits for private use, are examples of where elected officials have exercised poor judgment. The cases also show that awareness of one's own role and work attitudes are important within the political sphere. On the other hand, the conditions are to some extent balanced by a critical and investigative press that uncovers adverse matters in the Storting and within parliamentary representatives' activities. As an extension of this, it is worth noting that corruption appears to receive limited attention among the political parties. To increase awareness of

the themes and topics related to them, the study pointed out that the political parties should also take the initiative and engage with these issues.

In the study some control systems also came under scrutiny. For several of the institutions the arrangement can be described as a "control of their own." One example is the Special Unit for Police Affairs investigating cases where there are questions as to whether the police or prosecutors have committed criminal acts. The unit consists mainly of former police officers. If the unit considers that there is no basis for investigation, the case is sent to the police for ordinary appeal if it is deemed appropriate. Another example is the Supervisory Committee of Judges consisting of two judges from the Supreme Court, Courts of Appeal or the District Courts, an attorney and two members who are representatives of the public. If one wishes to appeal the decision of the Supervisory Committee, the appeal is dealt with in the district courts. A third example is the media's own professional committee (PFU), which consists of seven permanent members where the press is represented by two editors and two reporters, while the last three members are external representatives. These examples show that there is reason to question whether the bodies are sufficiently independent. These are difficult balancing acts between the need for professional expertise and the need for distance to the one / those to be controlled.

## Recommendations

This study identifies both strengths and weaknesses of the Norwegian Integrity System. On this basis, Transparency International Norway (TI-N) will present some recommendations that could help strengthen the Norwegian Integrity System. TI-N will work to ensure that these recommendations are followed up.

- **Mandatory registering of elected members' offices and financial interests**  
Today the position is that registering is only mandatory for members of the Storting (Parliament). It should also be mandatory for ministers and municipal politicians. There should be full transparency on which activities they participate in and any financial benefits they receive and the size of these.
- **Increase transparency within public authorities and administration**  
The study uncovers weaknesses in the possibility for access to public authorities and administration, both in the legislation and in practice. The exemption clauses in the present Public Administration Act and the requirements for recordkeeping are largely characterised by discretion. Two specific recommendations, which will help strengthen transparency within public authorities and administrations are proposed.
  1. **Remove the exemption clause for government companies without employees**  
There are a number of public companies without employees, which together administer billions of kroner on behalf of the community. There should be the same right of access to these companies' accounts and other documents as there is to those of other government agencies.

## **2. Better practising of the Public Administration and the Freedom of Information Acts**

When employees within the public administration contravene the provisions on confidentiality there may be legal consequences, while this to a lesser extent seems to be the case in breaches of the Archive and Freedom of Information Acts. As part of the coming evaluation of the public administration act, an assessment should be made as to whether sanctions can contribute to a better practising of and adherence to the act's intentions. An assessment should also be made as to whether new rules on the archiving of internal documents should be prepared. Furthermore, the authorities and the public administration should ensure that measures for capacity building of employees responsible for archives are implemented, as well as ensure that continuous efforts are made to raise awareness amongst their employees of the importance of the public's access to political authorities and public administration.

- **Rules on conflicts of interest and a lobby register for the parliamentary representatives**

There are no written rules regarding conflict of interest for parliamentary representatives, and there is reason to believe that undesirable mixing of roles occurs at the Storting, be it to a limited extent. Therefore rules, or guidelines, should be introduced to provide the representatives with some formal instructions on how questions of impartiality should be assessed. Who meets the parliamentary representatives in the Storting and which matters are being discussed are of interest to the public. Therefore the Storting should adopt an arrangement in which it is recorded who the representatives meet, who they represent and which matters are being discussed. The register should be accessible to the public.

- **The independence of the courts – the use of temporary judges**

The use of temporary judges is considerable, and should be limited. Where an appointment nonetheless is necessary, such positions should be advertised.

- **Provide more resources to fight financial crime**

The study has uncovered indications that the police have to put cases aside, even when there are clear suspicions of financial crime. This is not a satisfactory situation. It should be a goal that the police's financial crime team and *Økokrim* (The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime) be given sufficient means to investigate such cases.

- **Better agreement between corporate penalties and tender refusal in the public sector**

The government should evaluate the present situation with regards to the implementation of the tender refusal in the procurement regulations and the threshold for imposing corporate penalties. The authorities should therefore, in agreement with *Økokrim* and *Konkurransetilsynet* (The Competition Authority), consider what could be done to establish a more coherent and consistent practice in this field. In this connection an assessment should also be made as to whether

new rules are needed concerning the re-establishment of a company which has been penalised for corruption, as a supplier to the public.

- **Further strengthening of the whistle-blowing institution**

The present legislation on whistle-blowing protection came into force in 2007. There is still a need for dissemination of knowledge in this area, both in the public and the private sectors. This also includes information on public staff's right to bring forward criticism in the public domain. A removal of the requirement for justification would further strengthen the protection. The authorities and employers in the public and private sectors must work to raise the awareness of their own leaders concerning their employees' right to bring forth criticism of their own workplace and their own work into the public domain. Furthermore, employers have a duty to examine the conditions that are under notification.

- **Increased awareness on ST-reporting (suspicious transactions) to *Økokrim***

There appears to be considerable under-reporting of suspicious transactions (ST-reports) to *Økokrim* from lawyers, auditors, brokers and accountants. It is therefore important that all these sectors strive for more awareness of which role and which responsibility the individual, manager and the sector in general have for reporting suspicious transactions.

- **Better reporting on companies' foreign activities (LLR – Land-for-land rapportering)**

The Storting should introduce reporting standards for companies on a country-for-country basis. The government should be an active agent internationally to make other countries introduce better LLR systems. The reporting standards should have a wide scope in order to be an effective instrument in the fight against corruption, tax evasion and to prevent capital outflows.