



WOODIe Project

First Coordination Meeting

Bucharest, Romanian American Foundation Venue
Gina Patrichi Street, no 6
3 October 2019 – 4 October 2019

3 October 2019

Unito: Laura Scomparin, Valeria Ferraris and Sergio Foà
Amapola: Eleonora Guidi
Crpe: Catalina Meirosu
Uni Maribor: Jan Stajanko
Uni Angers: Anthony Taillefait
Vicesse: Norbert Leonhardmair

The afternoon meeting is dedicated to present the new additional staff members (UniTo: Emanuela Andreis and Emma McEvoy; CRPE: Bianca Petre; UA: Christina Koumpli) and to discuss in details the changes in the timeline of the project.

Partners agree that the new timeline that foresees the comparative report by the end of January and the gathering of the all the information on implementation and case studies by the end of November is more feasible and also essential to allow Amapola to carry out on solid basis the impact assessment. However, it is crucial to respect these deadlines.

4 October 2019

Unito: Laura Scomparin, Valeria Ferraris and Sergio Foà
Amapola: Eleonora Guidi and Pina DE Angelis;
Crpe: Alexandru Damian, Catalina Meirosu
Uni Maribor: Jan Stajanko
Uni Angers: Anthony Taillefait
Vicesse: Norbert Leonhardmair

Morning (09:00 – 13:00)

▪ WP2: Research and implementation assessment (Unito)

- Activities scheduled and new activities carried out

Laura summarised the activities carried out and concluded and the deliverables already uploaded in the participant portal. The graphic design will be uploaded soon after checking with the project officer if the visual identity is respected. The French partner had the opportunity to interview the Directive rapporteur and they will share the interview in French and in English (in G drive). Sergio summarised the main point of the WB Directive and of the policy framework on OD.

- Discussion on case studies

Laura introduces the discussion on the national research. Each partner will present briefly the main points of the legal framework and the work carried out for the case studies.

Jan starts presenting the Slovenian case. Jan reminds that the cases have been chosen according the given criteria of: a) the inclusion of three different kinds of entities from the public (or private, if not possible public) sector (entities of different nature, with different organisational structure, powers and competences); b) at least one municipality. Slovenia did not have problems in matching the criteria. Three are the cases selected: the Municipality of Maribor, the University Medical Centre Maribor and the University of Maribor. The Slovenian team has already completed the reports.

Alexandru presents Estonia and Romania legal and policy framework. Some information on implementation of WB in Estonia have been gathered by a 2016 report on WB cited in the Recent Coe Report. For Romania, a survey has been sent to 26 municipalities and 6 ministries.

Valeria presents the Italian case. Italy has analysed the report from ANAC at national level and has completed one case study (CSI, an ICT consortium in Turin). There are already some results on the current implementation and its shortcomings and strengths. The case of municipality of Milan needs to be completed together with Municipality of Turin. In order to increase the comparability, the Italian team will consider adding a health organisation and/or a medium size public university.

Antony presents the situation in France, where a quite comprehensive legal framework exists. The French team has carried out several interviews to analyse the implementation at national level and has focused its attention on the municipality of Paris and the Bretagne region.

Leonard present Austria, that highly differs from the other countries on open data, due to the lack of policy that encourage the publication of data. The case studies are on-going and regards the municipality of Vienna, the WB ICT system of the Financial Market Authority and of the private company OMV. Emma could not join the discussion but her slides on Ireland have been included in the powerpoint (attached to this minute as Annex I).

Unito will read the Slovenian reports and then will provide a common Toc for all partners with a remind on the work to be carried out and deadlines.

- Comparative report: ToC and main points

The Unito team has started working on the comparative part of the legal and policy framework. two comparative tables – one on WB and on OD) has been built to understand if the needed information were available for all partners. Partners will be contacted to complete the information if missing. On Whistleblowing, the proposal is to analyse the legal framework of the Member States on the following eight main points:

1. Reference legislation
2. Definition
3. Objective field of application
4. Organisational measures
5. Subjective field of application
6. Reporting channels
7. Duty of confidentiality
8. Protection measures; burden of proof and sanctions

The Member States legal framework will be compared to the Directive provision, without taking it as a benchmark but in order to understand how the legislation is going to change in the near future. As regards open data, the Toc is under construction. The Unito team is analysing the 3 key documents on PP (2017 Commission Communication: Making Public Procurement work in and for Europe; 2016 OECD: Preventing Corruption in Public Procurement; Digiwhist - Recommendations for the Implementation of Open Public Procurement Data) to build a term of reference to carry out the analysis.

Afternoon (14:30 - 17:30)

- **WP 2 e 3: Implementation and impact assessment methodology and realisation (Amapola)**

- Data from the reports: what is useful for the assessment;

Pina reminds partners the definition of impact evaluation (IE), its purposes and causal links between causes and effects. The focus of IE is on medium-long term effects. Examples of causal links existing between the adoption of legislation on WB and the rating of the Corruption Perception Index (cases of France and Italy).

Amapola has analyzed the reports of partners on WB and OD with the aim of identifying some common indicators that, if present, could be “predictive” of positive impacts of WB and OD measures. Pina and Eleonora then present two tables with a draft proposal of indicators for WB and OD asking partners’ opinions on the relevance, adequacy and completeness of indicators. Partners discuss also on the “weight” of each indicator according to their predictive relevance (out of 100). Amapola will revise the tables according to partners comments and proposals.

Finally, Amapola presents the impact questionnaire developed to better understand the vision and awareness of legislators while enact WB and OD policy in partner countries.

- First analysis on case studies

Case studies on the implementation are an important source to make amendments and adjustments to the model so it is crucial to collect all the relevant information and possibly in a comparable manner reducing existing differences among countries.

- Further steps

Amapola will make all the discussed changes to the tables with indicators and send them to partners asking them to try to fill them according to each country context. The impact questionnaire will also be sent to partners that have to send it back by the 11 october.

○

- **WP4: Development of the ICT tool for the impact assessment**

Due to time constraints, partners decided to postpone the discussion on WP4 in Vienna. Unito has confirmed that a person is being appointed to work on the tool.

- **WP5: Dissemination and communication**

- Dissemination plan

Valeria reminds that the dissemination plan has been upload in the participant portal and need to be updated in January.

- Deliverables: articles; comparative report /Conferences and presentations

The comparative report is due in January and in order to respect the deadline is essential that every partner will respect the internal deadlines for case studies. As already underlined, four articles need to be uploaded in the participant portal. One has been written on WB directive and is going to be published in European Papers. It would be better to choose articles that differ per country and issues. We could use the website to disseminate all the articles written no matter which ones are uploaded in the participant portal. It is important to use the website to disseminate information on upcoming conferences and events. So, every month/45 days one e-mail will remind to partners what has been done in term of dissemination and encourage to work on it.

- International final workshop
February 2012 in Turin. Partners start discussing it in the next meeting in Vienna.

- **WP 1: Project monitoring**

Eleonora presents the monitoring questionnaire and asks partners to fill it in before leaving. The questionnaire is attached to this minute as Annex 2.









**First coordination meeting
Bucharest
3 – 4 October 2019**




3 October 2019

State of art on staff new entries and timetable
(17:00 – 18:00)

Social Dinner, "Lacrimi si Sfinti", Şepcari Street,
no 16 **(19:00)**



New team members



UniTo: Emanuela Andreis

Emma McEvoy

CRPE: Bianca Petre

UA: Christina Koumpli



New timetable



- **Workpackage 1:** Management and Coordination of the Action
- **Workpackage 2:** Research and implementation assessment
- **Workpackage 3:** Impact assessment methodology and realisation
- **Workpackage 4:** Development of the ICT tool for the impact assessment
- **Workpackage 5:** Dissemination and communication

- [Go to the timeline](#)



4 October 2019
Morning (09:00 – 13:00)

WP2: Research and implementation assessment (Unito)

- Activities scheduled and new activities carried out
- Discussion on case studies
- Comparative report: ToC and main points



WP2 - Research and implementation assessment:
where are we now?



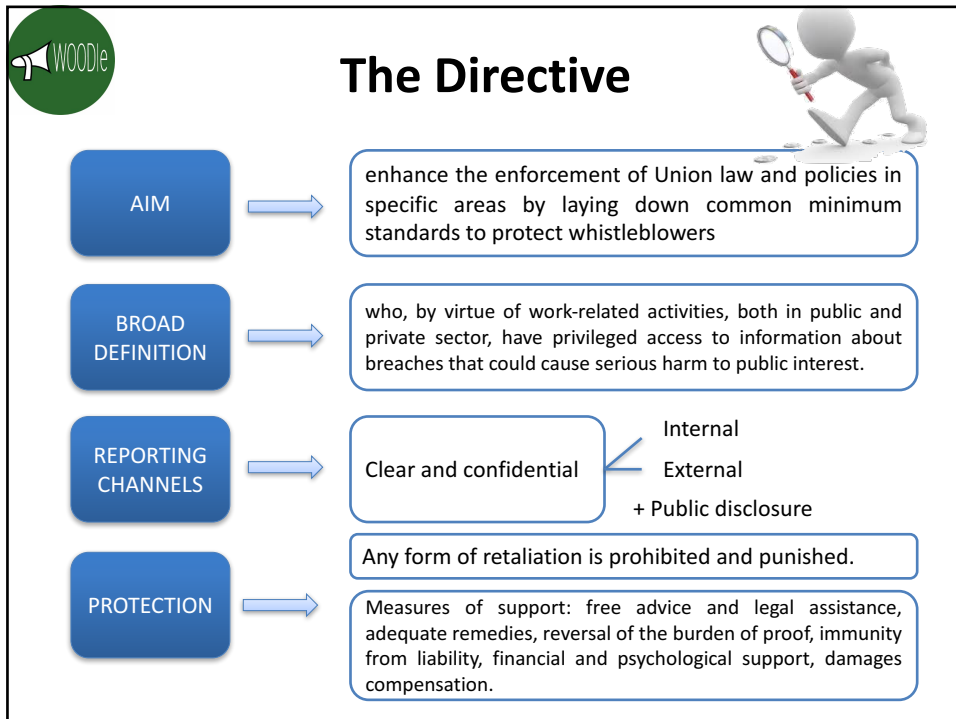
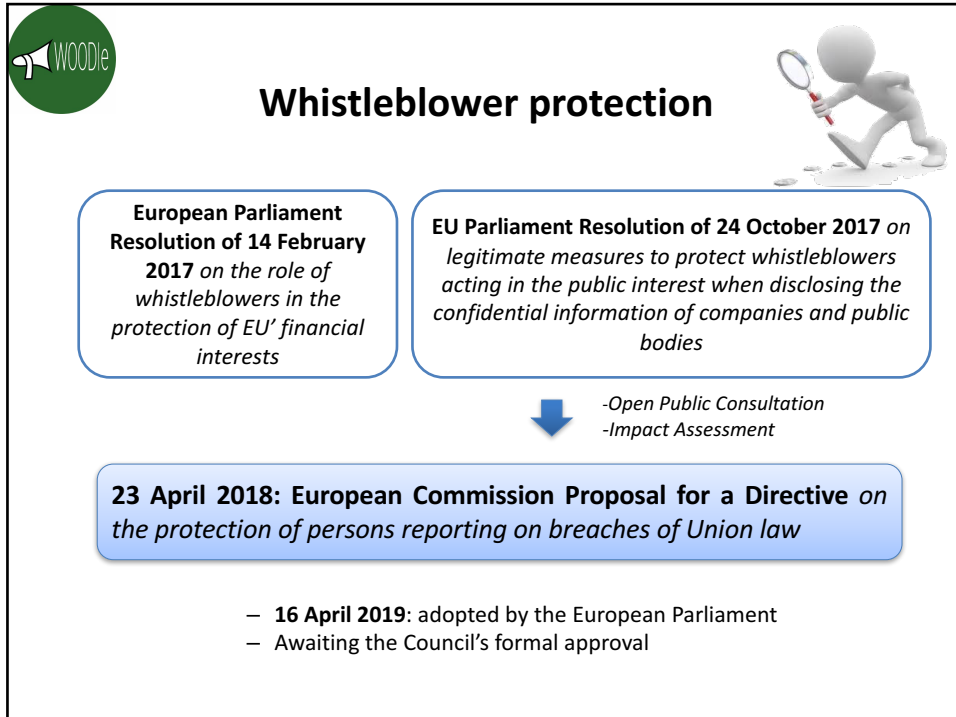
1) Desk research on EU initiatives

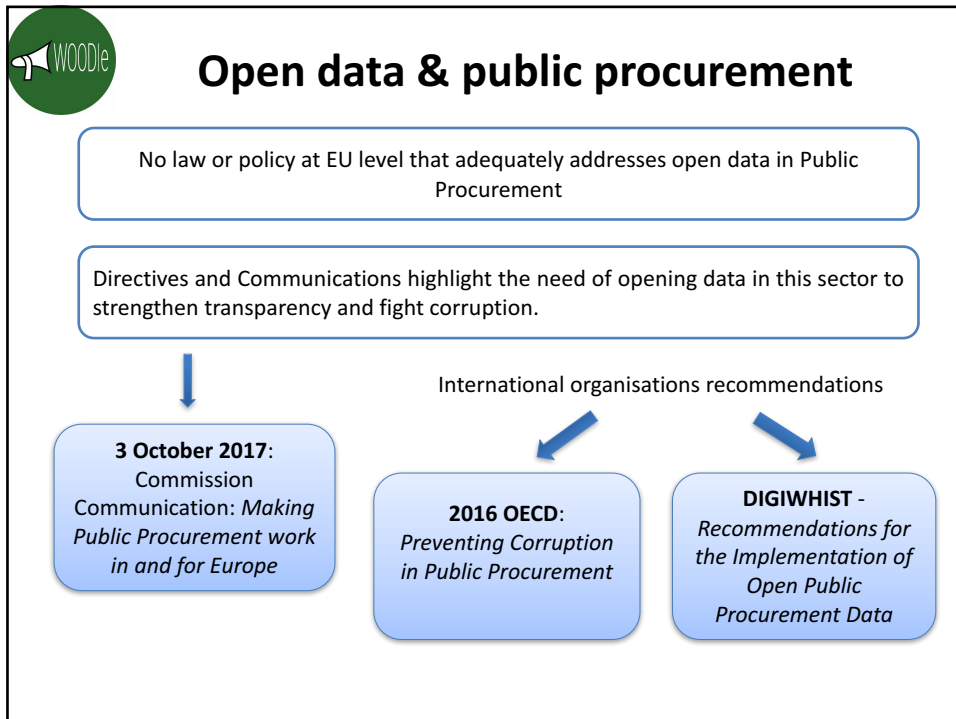
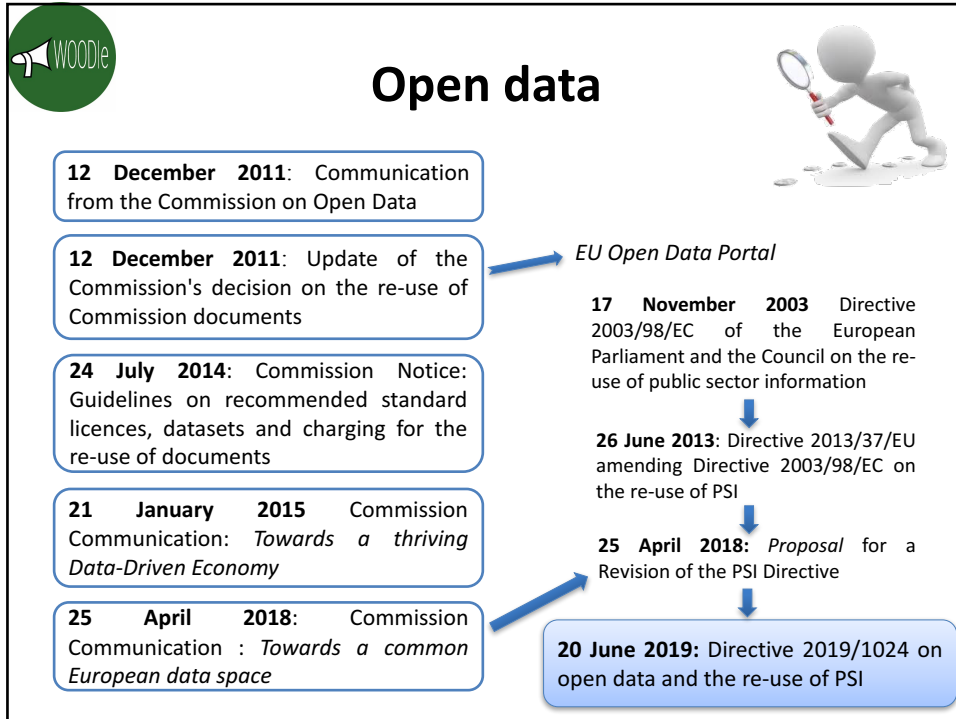
functional to the analysis of the implementation of national laws and policies and to orient the impact assessment



Report on EU initiatives on open data and whistleblowing
Factsheet on EU initiatives on open data and whistleblowing

[WOODIE-WEBSITE](#)







WP2 - Research and implementation assessment: *where are we now?*



2) Research on the legal framework

Each country partner and two individual researchers for Ireland (Unito) and Estonia (Crpe) carried out the background research in their own country



7 x 2 national reports as NEW DELIVERABLES



WP2 - Research and implementation assessment: *where are we now?*



2) Implementation at national level and Case studies

How the legal framework is implemented ?

Choice of 2/3 case studies: public administrations that have implemented WB legislation and OD



OPEN DATA AND WHISTLEBOWING IN SLOVENIA

- Legal framework
- The implementation of the law & research results



WB – legislation in Slovenia

- The Integrity and Prevention of Corruption Act (2010)
 - Extensive protection of *any* corruption whistleblowers who provide data *in good faith* (assistance, identity protection) – public and private sector.
 - Commission on Prevention of Corruption (after reporting to his superior).
 - Problems: a) When to contact media? b) No reward system. c) Partial solution.
- The Civil Servants Act
 - The *principle of non-harassment* prohibits any kind of retaliatory measures.
- The Employment Relationships Act
 - Prohibition of sexual and other harassment and bullying and protection of worker's dignity.
 - The contract cannot be terminated at the employer's discretion.
- The Witness Protection Act
 - Can extend to whistleblowers or their family members (even if not a witness).



WB -legislation in Slovenia

- The Mass Media Act
 - Journalists are not obliged to reveal their sources (except when stipulated by criminal legislation).
- The Criminal Procedure Act
 - Journalist as a witness (protected as a privileged witness since 2019).
 - Seizing of items relevant for criminal procedure from the journalist.
 - Investigation of electronic and related devices of the journalist.
 - Whistleblower as a witness (identity protection – in theory).
- The Criminal Code
 - Article 142 (Unjustified revelation of a professional secrecy)
 - Article 236 (Disclosure and unjustified acquisition of business secrecy)
 - Article 238 (Abuse of internal information)
 - Article 260 (Disclosure of classified information)



OD – legislation in Slovenia

- The Constitution Of Republic of Slovenia
 - Article 39: „*Everyone has the right to information of public nature*“ (exceptions provided by law).
- The Public Information Access Act
 - Public sector: entities of public law / public service contractors / business entities under prevailing influence of public law entities
 - Passive transparency: Request by *anyone* to access of information *held by the entity* and originating from its *field of work*. Problems: a) Potential/floating documents. b) Non-existing documents. c) Only raw data.
 - Access has to be denied if the request refers to information for which legislation requires the protection of a confidential source!



OD– legislation in Slovenia

- Proactive transparency:
 - Catalogue of public information
 - Other information to be disclosed on the WWW
 - Public finances: information on balance and payment transactions: www.erar.si
 - Public procurement, concessions and public-private partnerships: www.enarocanje.si
 - Re-use of public information - National open data portal of public sector: www.podatki.gov.si
- Authority to control: *Information Commissioner* if data is not disclosed
- The Mass Media Act
- The Public Procurement Act
- The Integrity and Prevention of Corruption Act



Case study

- Yearly reports analysed:
 - Information Commissioner 2016, 2017, 2018
 - Commission on Prevention of Corruption 2016, 2017, 2018 (*in progress*)
- Methods used for individual case study:
 - Written request to access information of public nature (email)
 - Phone conversations to clarify certain ambiguities
- Public sector entities contacted:
 - Municipalities (Ljubljana, Maribor, Kranj, **Koper**, **Celje**)
 - University Medical Centre Maribor (institution under public law)
 - University of Maribor (institution under public law)



Case study results – OD

- Average duration of the Commission proceedings: 32 days
- Steady growth in number of Commission proceedings
- Almost no minor offence proceedings by the Commission

- No special legal acts, merely internal guidelines on:
 - Communication with Media 1/3
 - Website regulation 1/3
- Catalogues of public information adequate
- Lack of internal regulation regarding uploading of data to the WWW



Case study results – WB

- No special legal acts, merely internal guidelines on:
 - Protection against mobbing 2/3
 - Internal reporting of corruption/whistleblowing 1/3
 - Professional secrecy and information security 1/3
- Number of internal corruption reports:
 - Municipality of Maribor: 1 („nothing was proven“)
 - University Medical Centre Maribor: 0
 - University of Maribor: 0
- Comments:
 - Almost no internal regulation and no training regarding whistleblowing.
 - Lack of activity in the field of whistleblowing.
 - The stigma of „the traitor“.



OPEN DATA AND WHISTLEBOWING IN ESTONIA

- Legal framework
- The implementation of the law & research results



OD- Legal framework

- Distinct legislation for publishing, reusing and accessing open data;
- Key document: the Estonian Public Information Act - authorizes the publication of open data at all institutional levels;
- Holders of information:
 - state institutions and local government authorities;
 - legal persons in public law;
 - legal persons in private law and natural persons, if they perform public duties;
 - others: undertakings with a dominant position in the market or special rights & sole traders, non-profit associations, foundations and companies.



Research results- OD

- Access to public information and reuse of open data is free of charge;
- All holders of information are required to ensure access and disclosure to the information;
- Any person can request the information and it needs to be addressed within **5 working days** by the relevant institution;
- The holders of information are obliged to either disclose the information on a website, either add a link to a webpage through which the information can be accessed;



Research results - OD

- Requirements for standardized data, no legal obligation;
- GDPR - the public use of such information can be restricted if giving it for public use would significantly breach the inviolability of the private life of the person;
- Any individual can request data either **in written form or verbal** + a couple of requirements applicable to requests for information;
- 2 types of procedures for offering access to public data
 1. disclosing all public data that it holds;
 2. complying with a request for information.



Research results - OD

- Most of the public bodies in Estonia publish non-financial & financial (more common) data sets, not always following the recommendations provided by the authorities;
- National open data portal <https://opendata.riik.ee/en/>;
- Portal is under construction, the available number of data-sets is limited;
- Public spending in Estonia: high level of transparency, all public authorities are obliged to disclose their budgets and financial reports;
- Online portal - Estonian information gateway www.eesti.ee - access to public electronic services and reusable information;



Research results - OD

- A number of authorities control the compliance with the Public Information Act:
 - Data Protection Inspectorate (main body);
 - Estonian Information System's Authority;
 - Statistics Estonia.
- Sanctions: a person's access to information is restricted
 - the right to contest the restriction; a holder of public information fails to timely answer to the requests for information - a warning at first, followed by a sanction and legal actions against the holder.



WB - Legal framework

- No clear framework of regulations/legal clarity focused on whistleblowing;
- No protection for whistleblowers in the private sector;
- Few normative acts indirectly targeting whistleblowers – e.g. the Anti-corruption Act (ACA);
- ACA - applies to public officials who report corruption regarding other public officials; bans the concealment of corrupt acts & grants confidentiality and protection against retaliation;
- Other legal acts: the Employment Contracts Act, the Equal Treatment Act & the Civil Service Act.



WB - Research results

- Protection to **public** sector whistleblowers – the ACA applies to public officials;
- Although the Employment Contract Act forbids unfair dismissal in the **private** sector, it is unclear whether protection on whistleblowing could be invoked;
- Debates on improving whistleblower protection in the Estonian medical sector - an increasing risk of corruption;
- Specific reporting channels - yet to be implemented;
- However, the ACA includes provisions concerning the notification of incidents of corruption – except for media or NGOs;



WB - Research results

- ACA - the confidentiality of the notification shall be ensured. Information about the notification may be disclosed only with the written consent of the notifier;
- No protection for public officials who report misconduct other than corruption –
- CoE report*
 - 40 interviews with whistleblowers;
 - All remained anonymous - strong concerns of negative consequences;
 - 1 in 5 whistleblowers lost their job, acc. to the report

**The protection of whistleblowers. Challenges and opportunities for local and regional government,* <https://rm.coe.int/the-protection-of-whistleblowers-challenges-and-opportunities-for-loca/16809312bd>



WB - Research results

- No clear sanctions for retaliation against public sector whistleblowers;
- No institution dealing with whistleblowing & no public policy/monitoring strategy - the cases and their outcomes remain unknown;
- Coe Report:

Around 80% of the cases were investigated and **only 30%** resulted in certain disciplinary measures .

**The protection of whistleblowers. Challenges and opportunities for local and regional government,* <https://rm.coe.int/the-protection-of-whistleblowers-challenges-and-opportunities-for-loca/16809312bd>



OPEN DATA AND WHISTLEBOWING IN ROMANIA

- Legal framework
- The implementation of the law & research results



OD - Legal framework

- Clear legal framework and distinct legislation;
- **Law no.109/2007** on the reuse of information in public institutions (as amended and supplemented by Law no.29/2015) – the conditions for the publication and reuse of existing information in public institutions;
- **Law no. 544/2001.** - this law confers any person the right to obtain information about the activity of any public authority or institution;
- The **Emergency Ordinance no. 41/2016** on the establishment of simplification measures at the central public administration level.



Research results - OD

- Most public bodies publish the relevant data sets on their own websites;
- Public institutions are obliged to provide conditions easing the access to available documents;
- Public institutions must also publish the documents on the governmental data portal **www.data.gov.ro**;
- The public authorities need to provide an answer within 20 working days. In the case of highly complex requests, the deadline may be extended by a further 20 working days;



Research results - OD

- Public institutions must publish their data sets on their own website (if any) or publish them offline;
- Both formats of the datasets and metadata should, as far as possible, comply with formal open standards, but there is no legal obligation to standardize the data;
- Romania also regulates the categories of sensitive data (personal data) and special regime data that cannot be published as open data;
- Institutional transparency by increasing the availability of open public data made available by public authorities is also one of the specific objectives of the National Anti-Corruption Strategy;



Research results - OD

- For the period 2012-2015, over 885,120 requests were registered at the level of the central administration, with 839,878 responses provided;
- Most of the datasets are scan documents, un-editable, and do not fit into the general framework of easily accessible open data;
- The national portal only encompasses a low number of data sets;
- The financial reports of the bodies that fall under the obligation to disclose public data are the most common datasets published on websites and data.gov.ro.;



Research results - OD

- The General Secretariat of the Government ensures the coordination of the process of opening public data and administers the national portal data.gov.ro;
- Non disclosure or partially disclosures of public data are subject to sanctions;
- The evaluation report of the National Anti Corruption Strategy 2012-2015 reveals 1271 sanctions in the mention period for breaching the provisions of institutional transparency.



WB - Legal framework

- **Law no. 571/2004** on the protection of personnel in public authorities, public institutions and other units reporting violations of the law



WB - Research results

- The law applies to the public authorities and institutions;
- The whistleblower may be:
 - a) civil servant;
 - b) contract staff;
 - c) personnel working under special statutes, doctors, teachers, police officers, court clerks, priests, etc.
- The report of violations of the law to:
 - a) the hierarchical superior of the person who has breached the legal provisions;
 - b) the head of the public authority, the public institution or the budgetary unit of the person who violated the legal provisions;
 - c) disciplinary commissions or other similar bodies within the public authority, the public institution of which the person who violated the law belongs;
 - d) judicial bodies;
 - e) bodies responsible for the establishment and investigation of conflicts of interest and incompatibilities;
 - f) parliamentary committees;
 - g) media;
 - h) professional, trade union or employers' organizations;
 - i) non-governmental organizations.



WB - Research results

- The discipline commission or other similar body will ensure the protection of the whistleblower, hiding his identity;
- The protection of whistleblowers can be ensured in two directions: administrative and legal;
- The implementation of the whistleblowers policy in the public institutions in Romania is subject of the National Anticorruption Strategy.



WB - Research results

- In *the National Anticorruption Strategy 2016-2020*:
 - The provisions on whistleblowing are very little or unknown at the level of the local public administrations;
 - At the OECD ministerial conference in March 2016, Romania committed to continuing efforts to combat corruption and to promoting a better protection of whistleblowers.



Work in progress: conducting a survey

- Targeted respondents:
 - 26 Romanian city halls (selected according to various population sizes);
 - 6 Romanian line ministries.
- Questions about the implementation of whistleblower policy at institutional level, thematic training sessions for employees (if any), record of whistleblowers' complaints in the last 4 years, protection offered to whistleblowers, etc.
- Questions about their data publication policy and methodology, data format, degree of transparency, etc.



WHISTLEBLOWING AND OPEN DATA IN ITALY

- Legal framework
- The implementation of the law & research results



Legal framework

WB

Law 190/2012, then amended in 2014. Law 179/2017 introduces specific protection for the private sector.

+ explanatory note from Cofindustria

+ soft law acts by ANAC

OD (for transparency)

2005 Digital administration code defines OD

Legislative decree 36/2006 regulates the re-use

Law 190/2012 + Legislative decree 33/2013



Implementation in Italy

Research at national level

- ANAC whistleblower reports
- Transparency international reports (ALAC + WB PA)
- Centro Hermes (Global leaks platform)
- Open data?

Main points

1. From 2015 the number of reports is increasing
2. The number of IT platforms for reporting is increasing (even if they all come from Global Leaks platform)
3. What is reported: public procurement with some illegality + Bad administration practices
4. Anonymous reports are frequent but they are decreasing
5. Board to evaluate the reports; training; changes after the reports
6. The legal obligation was definitely a push factor for the IT platform
7. In 2019 the first sanction for retaliation
8. How many case law started from WB reports?



Implementation in Italy – Case studies

3 case studies chosen

1. CSI
2. Municipality (Milan, Turin, Catania)
3. ASL (Bologna)
4. University



Implementation in Italy – WB

- The aim is to protect the WB and not to discover corruption. The WB law is effective in protecting the person.
- No. of reports higher to ANAC than to the specific PA despite the lack of efficiency.
- Easy to detect inadequate/false allegation.
- In case of corruption → go to court
- It helps the proper functioning of the PA



Implementation in Italy – OPEN DATA FOR TRANSPARENCY

- None (a part from bidders) looks at the data.
- The duty to publish increases the attention of the PA in doing the things right, in working well



WHISTLEBLOWING AND OPEN DATA IN FRANCE

- Legal framework
- The implementation of the law & research results



FRANCE

*Dr. Christina Koumpli
Prof. Dr. Antony Taillefait*

- **Législation et réglementation françaises**

L. n° 2016-1691, 9 déc. 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique dite « loi Sapin II »

D. n° 2017-564, 1^{er} avr. 2017 relatif aux procédures de recueil des signalements émis par les lanceurs d'alerte au sein des personnes morales de droit public ou de droit privé

circul. n° NOR : CPAF1800656C, 19 juill. 2018 relative à la procédure de signalement émises par les agents publics

Législation sectorielle : santé, environnement, conflits d'intérêts

- **Résolution législative du Parlement européen du 16 avr. 2019 sur la proposition de directive du Parlement européen et du Conseil sur la protection des personnes dénonçant les infractions au droit de l'Union**



Lanceur d'alerte : définition

L. n° 2016-1691, 9 déc. 2016 (art. 6) : « Un lanceur d'alerte est une personne physique [salarié, agent public] qui révèle ou signale, de manière désintéressée et de bonne foi, un crime ou un délit, une violation grave et manifeste d'un engagement international régulièrement ratifié ou approuvé par la France, d'un acte unilatéral d'une organisation internationale pris sur le fondement d'un tel engagement, de la loi ou du règlement, ou une menace ou un préjudice graves pour l'intérêt général, dont elle a eu personnellement connaissance.

Les faits, informations ou documents, quel que soit leur forme ou leur support, couverts par le secret de la défense nationale, le secret médical ou le secret des relations entre un avocat et son client sont exclus du régime de l'alerte défini par le présent chapitre. »



L'alerte : principes

Dispositif hiérarchisé à trois canaux pour recueillir les signalements

1. un signalement interne est donc effectué auprès de l'employeur, du supérieur hiérarchique, direct ou indirect, ou du « référent alerte » que ceux-ci ont désigné
2. en principe en cas de non réponse dans un délai dit raisonnable, un signalement externe est effectué auprès des autorités, administrative (ministère ; défenseur des droits ; AAI ; par ex.) ou judiciaire, compétentes
3. presque en « désespoir de cause », le lanceur d'alerte divulgue au public le signalement en cas de défaut du traitement de l'alerte lors de l'étape précédente

Dispositif exceptionnel à deux canaux

En cas de danger grave et imminent ou en présence d'un risque de dommages irréversibles, le signalement peut être porté directement à la connaissance

Ayant respecté cette procédure graduée et ayant agi de « bonne foi et de manière désintéressée », l'informateur bénéficie d'une protection contre les réelles ou éventuelles représailles dont il peut ou pourrait faire l'objet.



Protection du lanceur d'alerte

- Les procédures mises en œuvre pour recueillir les signalements garantissent une stricte **confidentialité** de l'identité des auteurs du signalement, des personnes visées par celui-ci et des informations recueillies par l'ensemble des destinataires du signalement.
- Aucun travailleur ne peut être sanctionné ou faire l'objet d'une **mesure discriminatoire**, directe ou indirecte, pour avoir signalé une alerte dans le respect des articles 6 à 8 de la loi n° 2016-1691 du 9 décembre 2016
- N'est **pas pénalement responsable** la personne qui porte atteinte à un secret protégé par la loi [secret des affaires], dès lors que cette divulgation est nécessaire et proportionnée à la sauvegarde des intérêts en cause, qu'elle intervient dans le respect des procédures de signalement définies par la loi et que la personne répond aux critères de définition du lanceur d'alerte prévus à l'article 6 de la loi n° 2016-1691 du 9 décembre 2016
- **Réintégration**
- **Nouvelle incrimination** : Toute personne qui fait obstacle, de quelque façon que ce soit, à la transmission d'un signalement est punie d'un an d'emprisonnement et de 15 000 € d'amende.



Jurisprudence

- **TA Bordeaux, 30 avr. 2019, conseil départemental de la Gironde, req. n° 1704873 :**

Une aide-soignante, agent public, a pu signer une lettre ouverte adressée à plusieurs hautes autorités administratives et à des médias dénonçant des faits de mauvais traitements sur des personnes mineures et l'inertie du centre relevant de l'autorité du conseil départemental. L'urgence à faire cesser des faits délictueux nombreux autorisait l'intéressé à se prévaloir des dispositions de la « loi Sapin II » et à ne pas saisir son employeur avant de lancer son alerte. La sanction disciplinaire dont elle a fait l'objet était illégale et sa carrière a dû être reconstituée.

- **Conseil des Prud'hommes de Lyon, référé, 17 avril 2019**

Après avoir remis en cause la création par un EPIC d'une filiale en vue de faciliter la conclusion d'accords avec une société informatique nord-américaine au mépris des règles européennes relative à la commande publique, l'informateur a suivi la « procédure Sapin ». Sans réponse de sa hiérarchie, il a saisi le procureur de la République qui a ouvert une enquête préliminaire. Il a été écarté de son service et ses responsabilités lui ont été retirées par sa hiérarchie. Il a été ensuite licencié. Les juges lui reconnaissent la qualité de lanceur d'alerte, jugent nulle le licenciement et ordonnent le paiement de ses salaires non versés.



Effectivité du dispositif français entretiens

- Parlement européen : V. Rozière, députée et rapporteure sur le projet de directive
- Agence française anticorruption (AFA)
- Défenseurs des droits (Ombusman) : S. Ramondou
- Ville de Paris : référent déontologue : B. Carle
- Maison des lanceurs d'alerte Paris : M. Foegle
- Conseil régional de Bretagne : référent déontologue (G. Renard) et responsable des DATA marchés publics (M. Lascaud)
- Préfecture de la région de Bretagne : responsable marchés publics et déontologue (M. Villeneuve)



Résultats

- Intimidations :

arrêté 16 novembre 2018 relatif à la procédure de recueil des signalements émis par les lanceurs d'alerte au sein du ministère de l'intérieur

- Très peu d'alertes internes
- Contradictions entre le régime général et les régimes sectoriels : droit d'alerte et devoir d'alerte
- Data & whistleblowing



WHISTLEBLOWING AND OPEN DATA IN AUSTRIA

- Legal framework
- The implementation of the law & research results

Austrian legal framework

Open Government Data

- Austria has no Freedom of Information Act, as only country in Europe
- To protect administrative and government information from disclosure, Austria has the "Amtsgeheimnis" (official secret) at constitutional level (B-VG Art. 20 Abs. 3).
- According to the Global Right to Information Rating³⁰ Austria is ranked on position 123 of all 124 democratic countries in the world.
- Legally the right to information is restricted in all areas where the statutory confidentiality obligation holds (information Diligence Act/Auskunftspflichtgesetz §1). Further legal regulations are to be found in special laws as listed in the Information Diligence Act §631.
- Actions:
- The development of OGD in Austria has been strongly supported by civil society activities of IT professionals involved in OGD interest groups. Thereby a system has been developed which has received very little attention from public authorities so far. As of 29th May 2019, 1.143 entities (including 1078 local communities that reported via www.offenerhaushalt.at) have contributed data so far.
- A "Transparenzdatenbank" (TDBG - transparency database) has been legally implemented in 2012, but not everyone seems to be reporting and the access to files is still not provided by all regional councils and authorities.

Austrian case studies

Data collection

- Desk research
 - Primary data: web presentation of public administrations/private businesses, parliamentary requests
 - Secondary data: Studies (Transparency International, 2019))
- Interviews
 - Representatives of MOJ, MEPs
 - NGO: Forum Informationsfreiheit "FOI"
 - Requested/Planned: Municipality Perchtoldsdorf, FMA, OMV

Austrian case studies

Case study design

| | Open Government Data | Whistleblower Protection |
|----------------|--|--|
| Public sector | <p>“Transparent Municipality” (ranking of municipalities to publishing OGD and responsiveness to requests): City of Vienna, Municipality Perchtoldsdorf (public available data; interview planned).</p> <p>Cases gone wrong: 3 cases of improper public procurement procedures (MOI, BKA, MOD) demonstrating the needs and requirements for the WOODIE IT solution // Public available information</p> | <p>FMA: BMKS-System (public report on system and numbers)</p> <p>City of Vienna: Anti-corruption-hotline</p> <p><i>Both requested for interview on procedures and policies according to the questionnaire.</i></p> |
| Private sector | N/A | <p>OMV: public available whistle blowing system to be described</p> <p>Requested for interview on internal procedures.</p> |

Austrian case studies

Case study 1: OGD (public sector)

selection based on TI study “Transparent Municipality”

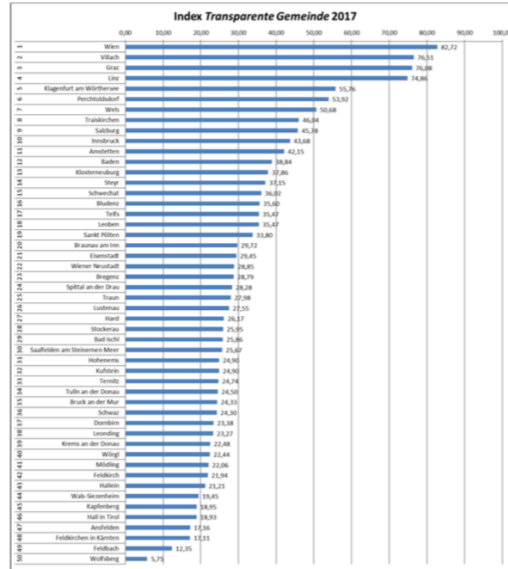
high population mcp analysed and ranked, according to

- proactive publication of OGD (accessibility, visibility)
- responsiveness to requests for information

dimensions: budget, committees, administration, public procurement, privatisation, grants/subsidies, human resources, social, public spaces, public enterprises/PPP

Municipality “Perchtoldsdorf” (14.960 inhabitants)

Austrian case studies



Austrian case studies



Austrian case studies

Case study 2: WBP (public sector)

WB ICT system of the Financial Market Authority

The screenshot shows the FMA (Österreichische Finanzmarktaufsicht) reporting portal. At the top, there is a language selector set to 'Deutsch'. Below this, there are two main columns of text. The left column contains a 'Meldung abgeben' button and a 'Login' button. The right column contains detailed information about reporting procedures, including sections for 'Sie haben Kenntnisse von Missständen oder Verstößen gegen Aufsichtsrecht', 'Hier können Sie uns Ihre Hinweise zu Banken, Versicherungen...', and 'Hinweisen in steuerrechtlichen Angelegenheiten (z.B. Meldungen zu „Schwarzarbeit“)'. A list of frequently asked questions is visible at the bottom left of the page content.



Austrian case studies

Case study 3: WBP (private sector)

WB ICT system of the OMV

Willkommen auf der Integrity Plattform

| | | |
|----------------------|---------------|----------|
| Eine Meldung abgeben | Frage stellen | Postfach |
|----------------------|---------------|----------|

Häufig gestellte Fragen

- [Warum ist die Integrity-Plattform notwendig?](#)
- [Welche Art von Vorfällen sollte ich melden?](#)
- [Kann ich Meldungen anonym abgeben und wie wird meine Anonymität gewahrt?](#)
- [Wie wird die Vertraulichkeit gewahrt, wenn ich mich entscheide, meine Identität offenzulegen?](#)
- [Was geschieht nach der Abgabe einer Meldung oder einer Frage?](#)
- [Warum brauche ich die Postfach-Funktion?](#)
- [Muss ich negative Konsequenzen fürchten, wenn ich einen Vorfall melde?](#)
- [Was geschieht, wenn sich der Inhalt einer Meldung im Nachhinein als falsch herausstellt?](#)
- [Wann erhalte ich eine Antwort auf meine Meldung oder Frage?](#)



Austrian case studies

Cases gone wrong

Case 1: Detention centre for asylum seekers

The tender released by the communal administration though was obviously tailored to one specific bidder, avoiding a competitive process among different offers. Upon request from the federal central audit authority the Ministry of Interior (MoI) could not provide satisfactory information about the bidding process of this procurement process.

Case 2: Kick-off event Austrian EU presidency

The one-day event was staged in the Alpine resort of Schladming with a budget of 2.7 Mio € including marketing activities. 1.4 Mio € were spent for PR agencies, 1.3 Mio € for advertising the event in different media. Upon request from an opposition MP the government offered only a very generic answer about the process of soliciting offers from agencies and the criteria for choosing among them.

Case 3: Funding of Security Think Tank

The Austrian MoD subsidized a Think Tank close to the populist party FPÖ with 200.000 € annually without any clear definition of what kind of services this grant would entail. There was no public call for tender, which would have been required by law.



WHISTLEBLOWING AND OPEN DATA IN IRELAND

- Legal framework
- The implementation of the law & research results



WB/ OD - Legal framework

- **Whistleblowing Legislation**
- Protected Disclosures Act 2014
- The Health Act 2004, as amended by the Health Act 2007
- The Protection for Persons Reporting Child Abuse Act 1998
- The Charities Act 2009
- **Open Data Legislation**
- Statutory Instrument No. 279/2005 - European Communities (Re-Use of Public Sector Information) Regulations 2005
- Statutory Instrument No. 103/2008 - European Communities (Re-Use of Public Sector Information) (Amendment) Regulations 2008
- Statutory Instrument No. 525/2015 - European Communities (Re-use of Public Sector Information) (Amendment) Regulations 2015
- Data Protection Act 2018
- Freedom of Information Act 2014
- Government supports; Open Data Strategy 2017 – 2022; Circular 12/2016: Licence for Re-Use of Public Sector Information



Implementation in Ireland

Interviews

- Health Service Executive
- Work Place Relations Commission
- Academia
- Semi-state bodies
- Private sector bodies

Common findings;

- General support for the Protected Disclosures Act 2014
- Incorrect reporting by public bodies, potentially inflating numbers of protected disclosures
- Although, there are a limited number of judgments (46 in total)
- Little appetite amongst private economic operators to adopt internal protected disclosures policies
- Key number of public bodies involved in the 'Open Data' movement
- Supported by academia
- Compliance with the new GDPR rules is questionable – appears high – but there are a limited number of judgments (only 6 recorded judgments in 2018)



Prior to 2014;

- Complex and fragmented legislative framework
- Poor whistle-blower protections evident in the Gardai Síochána, the Health Service, and in the Banking and Finance Sector

Post 2014;

- Engaged response from public bodies
- Adoption of national policy
- Lack of protection for volunteers and students
- Burden of proof remains with the whistle-blower / Limits set on financial compensation

Reports

- Transparency International supports; Speak Up Report 2015 and 2017; Speak Up Safely Guide; Speak Up Helpline
- Publication of the Disclosures Tribunal Report 2017 (An Gardai Síochána) – the tribunal is ongoing and will continue into 2020



OD - Public Procurement

- Limited information available on the relationship between protected disclosures and public procurement
- Limited recording of wrong-doing in public contracts (by both parties)
- Operation of the Office of Government Procurement's 'Tender Advisory Service'
- Requirement to publish names of winning tenderers
- Requirement to inform unsuccessful bidders – offering information on the winning bidders' scores
- Lack of publishing on contract award notices – little incentive to do so



Comparative report TOC

Section 1 - Whistleblower

Legal framework to be compared vs. Directive provisions but without taking the Directive as a benchmark

1. Reference legislation
2. Definition
3. Objective field of application
4. Organisational measures
5. Subjective field of application
6. Reporting channels
7. Duty of confidentiality
8. Protection measures; burden of proof and sanctions
9. Conclusions



Comparative report TOC

Section 2 – Open data

Legal and policy framework vs. the aim to improve transparency (in public procurement)

Shall we consider the:

- 2017 Commission Communication: *Making Public Procurement work in and for Europe*
- 2016 OECD: *Preventing Corruption in Public Procurement*
- DIGIWHIST - *Recommendations for the Implementation of Open Public Procurement Data*
- *To build a term of reference that guide our Comparative Report*



Afternoon (14:30 - 17:30)

WP 2 e 3: Implementation and impact assessment methodology and realisation (Amapola)
 Data from the reports: what is useful for the assessment;
 First analysis on case studies
 Further steps

WP4: Development of the ICT tool for the impact assessment (Unito)
 The ICT tool
 The new activity on the web pages of Italian municipalities

WP5: Dissemination and communication (Unito)
 Dissemination plan
 Deliverables: articles; comparative report
 Conferences and presentations
 International final workshop

WP 1: Project monitoring (Amapola)
 Don't leave without filling the questionnaire!!!!



WP2 – Implementation assessment WP3 – Impact assessment

1. Recapture concepts from Maribor
2. What we have done / where we are
3. Next steps



1. From Maribor: Defining Impact Evaluation (IE)

Impact: positive and negative, primary and secondary long-term effects produced by an intervention, directly or indirectly, intended or unintended (OECD-DAC 2002).

The primary purpose of the **impact evaluation** is to determine whether a program or a policy has an impact (on a few key outcomes), and more specifically, to quantify how large that impact is.

2



The heart of IE: Link between causes and effects

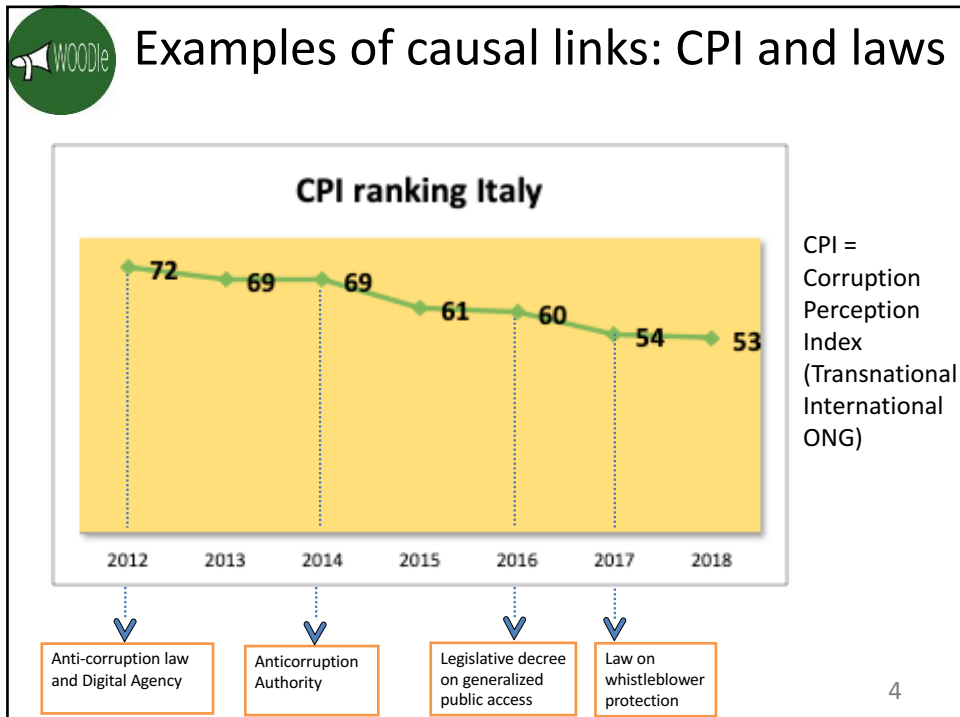
IE falls within a broader debate about Evidence Based Policy (EBP) which is based on the importance of demonstrating a link between 'causes' and 'effects' and the kinds of evidence that should inform policy-making.

Demonstrating causal links and explaining how these links work is at the heart of IE.

3

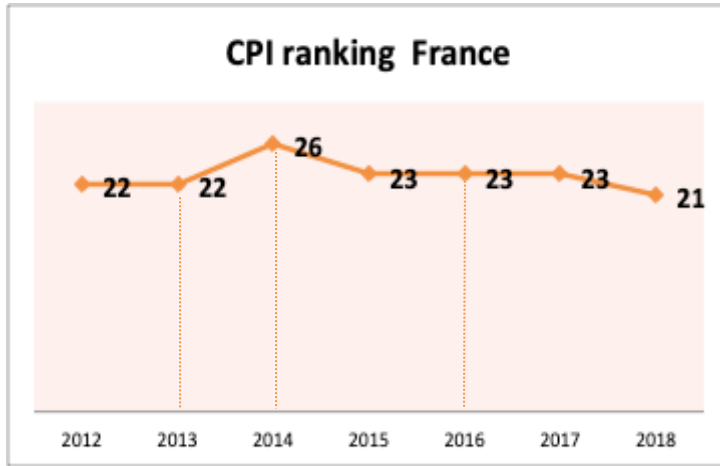
Evaluation plan- macro-actions:

- Analysis of the legislative system and first identification of the impact indicators;
- reconstruction of the legislator's theory of change (questionnaire)
- Analysis of the impact highlights of the considered measures through the comparison with the CPI Index – brain storming
- Preparation of the database for WB and OD case studies (NGT)
- consolidation of indicators and collection of further elements to understand the variables through the case studies
- Creation of the check list, based on the predictive indicators, to evaluate the implementation of the measures in the different public administrations.
- Testing of the check lists in the different types of public
- IT platform preparation and support for its use
- Data collection from the IT platform of the public administration ranking within the Woodie Corruption Index.





Examples of causal links: CPI and laws



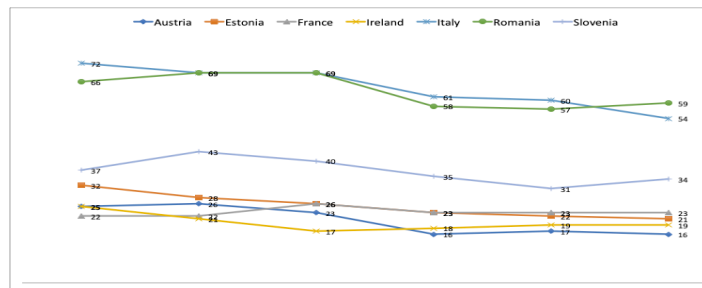
CPI = Corruption Perception Index (Transnational International ONG)

Law on the transparency of public life

General Data Administration

Act on transparency, fight against corruption, WB protection + Law for a digital republic

5



Before 2012

| | | | | | | | |
|----------|--|---------------------------------------|--|--|---|---|---------------------------------|
| Austria | | Public service law | | | | | |
| Estonia | Public information ACT | | Anti corruption act | | | | |
| France | Act against corruption | | Law on the transparency of public life | General Data administration | | Act on transparency, fight against corruption, WB protection. Law for a Digital Republic Ag.Fr. Anticorruption | |
| Ireland | | | | Protected Disclosures Act on whistleblower, Freedom of Information | | | |
| Italy | | Anti-corruption law Digital Agency | | Anticorruption Authority (ANAC) | | Legislative decree on generalized public access | Law on whistleblower protection |
| Romania | WB-law;anti-corruption law; National Anticor. Directorate; low OD | | | | General Secretariat of the Government for open data | | |
| Slovenia | Integrity and prevention corruption Act and WB and OD- Commission for prevention | | | | | | |



2. What we've done

Research review for evaluation

Review of partner legislative researches on WB and Open Data **from an evaluation perspective.**

Aim: To identify indicators which, if present, lead to the assumption that the WB and Open Data measures could be more likely to generate positive impacts.

6



Choosing indicators

3 characteristics:

- they are relevant to achieve the legislator's objectives with respect to the impacts that must be generated
- they are sensitive: i.e. their presence or absence determines the variation of the desired impacts
- they are predictive of the impact generation, i.e. their presence strengthens the possibility of creating impacts

7



Proposed indicators weight

The indicators are “clusters” and declined in multiple dimensions.

Each indicator has been given a **weight (out of 100) in relation to its predictive significance.**

Indicators and weight will be verified and validated by Woodie partners (*Nominal Group Technique*)


Case studies will help make integrations and adjustments to the model.

8




Whistleblower

| Indicators | what they indicate, what they measure, what they include | value of the predictive indicator |
|---|--|-----------------------------------|
| Law or policy commitments | The indicator measures legislative attention on the subject WB: Law dedicated to WB, More comprehensive Law or nothing | 30 |
| Process and/or means of implementation | The indicator measures the capacity of the legislator to provide procedures, service and tool to be compliant and appropriate to the needs of the WB user, such as the functionality of the IT platform. Level of protection and guarantees to WB, Channel of reporting; guideline; IT platform, Sanction measures, other | 35 |
| Actors involved and responsibilities | The indicator examines the planning of the actors and their responsibilities in managing the WB measure: National institution; decentralized actor, person responsible within each public administration | 20 |
| Resources allocation | The indicator examines whether and how the legislator has provided specific economic resources for the implementation of the measure | 5 |
| Other relevant information for the evaluation | The indicator examines whether and how the legislator verifies the application and the outcome of the WB measure | 10 |
| | Max score | 100 |



Open Data

| Indicators | what they indicate, what they measure, what they include | value of the predictive indicator |
|---|---|-----------------------------------|
| Law or policy commitments | The indicator measures legislative attention on the subject OD: specific law dedicated to open data, Policy based on other regulatory sources, nothing | 30 |
| Process and/or means of implementation | The indicator measures the capacity of the legislator to provide procedures, services and tools to be compliant and appropriate to the needs of OD users. Obligations on availability; obligations on disclosure on websites, obligations on data on PP; national database, national strategy for Open data | 40 |
| Actors involved and responsibilities | The indicator examines the planning of the actors and their responsibilities in managing the OD measure: National institution; decentralized actor, person responsible within each public administration | 15 |
| Resources allocation | The indicator examines whether and how the legislator has provided specific economic resources for the implementation of the measure | 5 |
| Other information for the implementation evaluation | The indicator examines whether and how the legislator verifies the application and the outcome of the Open Data measure | 10 |
| Max score | | 100 |



3. Next step the Woodie corruption index

Once the indicators and the weights will be validated and case studies analysed, the frame will be finalised and applied to each partner context.

For each partner a **Index for WB and Open data** will be calculated.

We have ambitiously called this index the Woodie Corruption Index.


11



“What gets measured, gets managed.”
Peter Drucker

(c) Digital Vision / Thinkstock

12



3. Next step

Co- design of the Theory of Change

With the support of partner, we try to design the ToC (Teory of Change) of the two measures in the different countries.

Tool: questionnaire

Why is this step important?

13



Deliverables:

- Methodological report on impact assessment
- IT tool for the testing



WP5: Dissemination and communication

Dissemination plan

[Go to Dissemination plan](#)



WP5: Dissemination and communication

Deliverables: 4 articles

Emanuela Andreis, *The Proposal for a Directive on Whistleblower Protection: Towards Common Minimum Standards Across the EU*, in [European papers](#), to be published



WP5: Dissemination and communication

Conferences and presentations

 **WP5: Dissemination and communication**

 **FINAL CONFERENCE**



JANUARY 2021, TURIN



 This project was funded by the European Union's Internal Security Fund — Police.

The content of this powerpoint represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.



WOODIE Project

INTERNAL PROJECT MONITORING QUESTIONNAIRE

PERIOD (months): February – September 2019

As agreed during the kickoff meeting, we would like to have your opinion on some topics in order to contribute to monitor the efficiency and effectiveness of the project and to improve the project management and communications tasks.

The questionnaire is composed by 3 sections.

Please rate the listed aspects in each section using a 5-point scale, where 1 is the lowest score (= not satisfactory at all) and 5 the highest (= completely satisfactory).

1. PROJECT MANAGEMENT

| ASPECT | (A) OVERALL RATING | (B) PROBLEMS, DIFFICULTIES ENCOUNTERED | (C) POSITIVE ASPECTS | (D) COMMENTS OR SUGGESTIONS FOR IMPROVEMENT |
|---|---|---|-----------------------------|--|
| Project management (i.e. scheduling, task assignment, deadline monitoring) | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |
| Project governance and administrative issues (i.e. decision-making, consultation and problem-solving) | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |

| ASPECT | (A) OVERALL RATING | (B) PROBLEMS, DIFFICULTIES ENCOUNTERED | (C) POSITIVE ASPECTS | (D) COMMENTS OR SUGGESTIONS FOR IMPROVEMENT |
|------------------------------|---|---|-----------------------------|--|
| Overall project work process | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |

2. PARTNERSHIP

| ASPECT | (A) OVERALL RATING | (B) PROBLEMS ENCOUNTERED | (C) POSITIVE ASPECTS | (D) ADDITIONAL COMMENTS OR SUGGESTIONS FOR IMPROVEMENT |
|---|---|---------------------------------|-----------------------------|---|
| Transnational coordination meetings (i.e format, scheduling, documentation) | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |
| Proactiveness and exchange among partners | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |

3. INTERNAL COMMUNICATION

| INTERNAL COMMUNICATION | (A) OVERALL RATING | (B) PROBLEMS ENCOUNTERED | (C) POSITIVE ASPECTS | (D) ADDITIONAL COMMENTS OR SUGGESTIONS FOR IMPROVEMENTS |
|---|---|--------------------------|----------------------|---|
| Communication from/to the project co-ordinator | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |
| Internal communication tools adopted (e-mail, G-drive; website) | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |
| Circulation of information within the partnership | ① not satisfactory at all ② ③ ④ ⑤ completely satisfactory | | | |

Please use this section if you wish to add further comments:



*This project was funded by the European Union's Internal Security Fund — Police
 The content of this document represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.*