Index

Aarhus Convention 202
Aaronson, Susan Ariel 183–97
Abbott, K. 183
Abouharb, M. Rodwan 183–97
abuse of office 116–17, 119–20
accountability
   accountability, lack of, MENA region 134, 135, 136–7
   US Government Accountability Office (GAO) 42–3, 44, 45–6, 50–52
see also transparency
Adly, A. 132, 133, 134
administration
   administrative law, growing influence of (France) 98–102
   Code of Good Administrative Behaviour, Europe 210
   commitment evidence, European agencies 255–6
   culture of good management, need for, European agencies 265
   investigations, Anti-Fraud Office (OLAF) role 291
irregularities and bribes, multilateral development banks 219–22
public administration corruption categories, Turkey 167–8
public contracts, law and administrative cultures, interplay between 85–7, 109–12
public contracts and resistance to change 87, 111–12
Adonis, A. 88
African Development Bank
   Lesotho Highlands Water Project (LHWP) 219–20, 229, 231, 232, 234
   sanctions system 238, 245
   African Union Convention on Preventing and Combating Corruption 203
   agencies, mismanagement of European
      see European agencies, mismanagement of
   Aguilar, M. 232
   Aita, S. 127
   Algan, Y. 68, 80
   ALTER-EU (Alliance for Lobbying Transparency and Ethics Regulation), Europe 276, 284–5
   Ancel, F. 60
   appeals
      intervention appeals and friendly relations with elected officials, France 74–5, 79–80
      multilateral development banks, sanctions procedures 225, 226, 227, 230
      World Bank, Sanctions Procedures 238
      WTO, due process requirement, WTO 187–8, 190, 193
      see also debarment; sanctions
   Arap, I. 177
   Arellano, D. 4, 6
   Argentina, Yacyretá Hydroelectric Project 218–19, 231, 232–3, 234
   Arrowsmith, S. 105
   Asian Development Bank
      Integrity Principles and Guidelines 240
      obstructive practice and Procurement Guidelines 242
   Padma Multipurpose Bridge Project 221–2, 229, 232
   sanctions system 238, 245
Corruption and conflicts of interest

assets
declarations 136, 147–8
frozen, MENA region 131–2
Auby, Jean-Bernard xiv–xxv
audit mechanisms 92–3, 209–10, 283
see also budget management; financial management
Australia
anti-corruption institutions 204
Public Service Act and Public Service Values and Code of Conduct 146

Bacchetta, M. 185, 191
Bailey, S. 89
Bangladesh, Padma Multipurpose Bridge Project 221–2, 229, 232
banking, multilateral development banks see multilateral development banks, corruption investment in funded projects
Barthélemy, J. 55, 65
Baytemir, E. 167
Behncke, N. 123
Bell, J 86, 90, 92
Benedetti, Mariangela 215–35
Benoit, J. 96, 97, 98
Bergougnous, G. 60, 64
Blake, R. 223
Boré, L. 65
Boudin, A. 76
Breen, Emmanuel xiv–xxv
Breslin, B. 104
bribery
administrative irregularities and bribes, multilateral development banks 219–22
Bribery Act, United Kingdom see United Kingdom, corruption and conflicts of interest, Bribery Act legal definition, Europe, Anti-Fraud Office (OLAF) 292
Brochet, J. 74
budget management
Budgetary Control Committee, Europe 277–9
CEPOL (European Police College) 256–8, 263, 264
European Parliament 277–8
see also audit mechanisms; financial management
Bueb, J.-P. 96
Busuioc, M. 254
Cahuc, P. 68, 80
Caiden, G. 151
Cambodia, WTO accession protocols 191
Camerer, M. 187
Canada
conflicts of interest and financial disclosure 37
lobbying of development bank 116
Public Servants Disclosure Protection Act 204
Values and Ethic Code for the Public Service 146
Cassese, S. 212, 213
Cassia, P. 98
CEPOL (European Police College) 256–8, 263, 264
Chang, E. 69
Charnovitz, S. 188
Chêne, M. 127
Chiche, J. 70
China, WTO accession protocols 191, 192, 194, 204
Chiti, Edoardo 253–71
Cibinic, J. 40
citizens
empowerment spillover, WTO 188–90
judgments of elected officials, factors influencing, France 70–71
perception of corruption, Europe 288–9, 294
see also public interest concerns
civil service
anti-corruption regulations, Turkey see Turkey, legal regulations for the prevention of corruption of civil servants
Civil Service Management Code, United Kingdom 165
Index

and exclusivity principle, France 140–41, 143–5, 148, 149

civil society involvement 206, 210
see also NGOs
civil/continental law see France, civil/
continental law use in conflicts of
interest cases
Clémençon, J. 132
clientelism, France 76, 79–80
code of conduct
Anticorruption Code of Conduct, Germany 204
Code of Conduct for Commissioners, Europe 284–5
Public service act and Public Service
Values and Code of Conduct, Australia 146
see also ethical standards
Collins-Williams, T. 185
common law 141, 142–3
compliance
integrity rules, national
administrations versus global
regimes 204–5, 208–9
OECD Anti-Bribery Convention
compliance 102–7, 156, 157, 158, 160
UN Convention against Corruption
compliance 160–62, 205–6, 300–301
conflicts of interest definitions
European Staff Regulations 292–3
OECD 32, 58, 116, 248, 261, 284
public officers 30–32, 35–6
see also corruption and conflicts of
interest, differences and comparisons
continental law see France, civil/
continental law use in conflicts of
interest cases
control mechanisms, national
administrations versus global
regimes 205–6, 209–10
corruption
active and passive 54, 57, 103, 157–8, 292
legal definition 291–2

prevention see prevention of
corruption
corruption and conflicts of interest,
differences and comparisons 3–11
business and politics overlap 5–6
conflicts of interest, interpretation of
6–7
corporatist body agreements 9
individual and public roles 3–4, 6–7
legal punishment and institutional
sanctions, need for 6, 7–8
neutral adjudicators, case for 8–9
public interest concerns 7
separation of powers 3
transparency and information access
8
see also conflicts of interest
definitions
Corruption Perceptions Index,
Transparency International 44, 128, 200
Craig, P. 254
criminal law 58–9, 61, 96–7, 104–5,
107–9
Curtin, D. 254
Daley, B. 4
D’Alterio, Elisa 198–214
Daoud, E. 105
Darroch, F. 220
Davies, M. 113, 120
De Michele, R. 3, 6
debarment
Debarment Agreement, multilateral
development banks 229–30, 234
transparency of decisions,
multilateral development banks
231–2
World Bank, Sanctions Procedures
243–6
see also appeals; sanctions
Degoffe, V. 98
della Porta, D. 68
Delmas-Marty, M. 236
delzangles, Hubert 15–29
demmke, C. 123
dercks, L. 286–7
Corruption and conflicts of interest

Dero-Bugny, D. 63
Didier, W. 56

Discharge procedure 258, 262, 263–4, 277, 278–9, 283
disclosure
as conflict mitigation technique 118, 119
financial disclosure 37, 47
information disclosure 121
preventive versus disclosure laws 114–15
and private-capacity interests, MENA region 126–7
Public Servants Disclosure Protection Act, Canada 204
secret information, banning of
disclosure of, Turkey 171
Voluntary Disclosure Program, World Bank 242

Doig, A. 91
Douence, J. 94
Drabek, Z. 185, 191
Drouot, G. 94, 96
Dubin, L. 62
Dubois, P. 231, 236
due process requirement
United States 142
WTO 187–8, 190, 193

Earle, A. 220
Egypt, conflicts of interest management
see under Middle East and North Africa (MENA) region, executive level, conflicts of interest management
election campaigning restrictions, Europe 19
embezzlement
Europe, Anti-Fraud Office (OLAF) role 291–2
Turkey, civil service 170, 173
employment
policy considerations for conflicts of interest legislation 121
regulatory authorities, incompatibilities with other employment 19, 20

‘revolving door’ phenomenon see
‘revolving door’ phenomenon
ethical standards
Committee on Standards in Public Life (CSPL), United Kingdom 162–3
Council of Ethics for Public Service (CEPS), Turkey 168–9, 171, 177–9
Ethical Conduct for Government Officers and Employees, United States 146
Ethics in Government Act, United States 47, 54
European Parliament, ethics code, lack of 283
‘For a New Public Ethic’ report, France 139–40
good practices and professional ethics, France 64–6
lobbying and professional ethics, Europe 64
policy considerations 123
programme recommendation, Europe 286–7
public contracts (England) 86–7, 91–4, 102–3, 108
State Commission propositions and creation of new public ethic, France 147–9
training in, United States 122
see also code of conduct
Eurojust 254
Europe
Agency for the Cooperation of Energy Regulators (ACER) 27, 28
Aviation Safety Agency 27
Charter of Fundamental Rights 288
Code of Good Administrative Behaviour 210
ethical legislation increase leads to more convictions 123
independent regulatory authorities, creation of 16
integrity acts addressing national systems 202–3, 204, 209, 210
integrity acts within regime 207, 208–9
lobbying practices 62–3, 64
Procurement Directive 41, 95, 104–5, 107–9, 280–81

see also individual countries

Europe, anti-corruption policy 288–302
citizens’ perception of corruption 288–9, 294
Council of Europe’s Group of States against Corruption (GRECO) 204, 205, 300
European Commission’s Investigation and Disciplinary Office (IDOC) role 299
international initiatives, involvement with 300–301
and United Nations Convention against Corruption (UNCAC) 160–62, 205–6, 300–301
‘zero tolerance’ policy for institutional misconduct 289

Europe, anti-corruption policy,
Anti-Fraud Office (OLAF) role 289, 290–99
administrative investigations 291
anti-corruption investigations 294–5
bribery, legal definition 292
case studies 294–6
corruption, legal definition 291–2
embezzlement 291–2
European agencies’ mismanagement, lack of involvement in 264
European Public Prosecutor’s Office (EPPO), establishment of 288–9
Fraud Notification System (FNS) 297, 299
investigative powers and recommendations 296–9
judicial proceedings 298
national authorities’ role 295–7, 298
public procurement rules and national regulations 293–4
reform process 298–9
reputation and recognition 299
Staff Regulations definition of conflicts of interest 292–3

successful investigations, examples of 295
Technical Assistance to the Commonwealth of Independent States (TACIS) programme case 295

Europe, conflicts of interest regulation 272–87
actual/apparent/potential conflicts of interest, differences between 272–3
ALTER-EU (Alliance for Lobbying Transparency and Ethics Regulation), Dodgy Data report 276, 284–5
Budgetary Control Committee 277–9
cash-for-influence scandal and European Parliament 283
Code of Conduct for Commissioners and post term-of office activities 284–5
commercial influence as integral part of policy-making 273–4
ethics programme recommendation 286–7
European Court of Auditors (ECA) 283
European Medicines Agency discharge 277, 278–9, 283
European Parliament, ethics code, lack of 283
Financial Regulation 263, 277–80
legislative footprint reports recommendation 287
lobbying 273–6, 286
procurement process 41, 95, 104–5, 107–9, 280–81
public and private sectors, relationship between 277–9
regulation density comparison 281–6
regulatory agencies 277–9
resources, EU officials command over 279–81
‘revolving door’ phenomenon, dealing with 284–5
Staff Regulations 282–3, 284
transparency and lobby groups 275–6
Corruption and conflicts of interest

Transparency Register, Inter-Institutional Agreement 275–6, 286–7
WHO/mobile phone lobbying case 276–7
Europe, Council of Europe GRECO membership 204, 205, 300
integrity acts addressing national systems 202, 204
integrity acts within regime 207
Europe, regulatory authorities and conflicts of interest 15–29
conflicts of interest within regulatory authorities 17–23
election campaigning restrictions 19
incompatibilities with commissioners’ future positions 21–3
incompatibilities connected to commissioners’ assets 20–21
incompatibilities with elected offices 17–19
incompatibilities with other employment 19–20
Independent Regulatory Agencies, origins of 15
private sector secondment 20
regulated markets, close association with 15
regulatory capture theory 16
‘revolving door’ phenomenon 21–3
Europe, regulatory authorities and conflicts of interest, new aspects 24–9
creation of regulatory authorities 26–9
European Convention of Human Rights (ECHR), impartiality issues 24–6
independence of regulatory authorities 28–9
national rules, strength of 28, 29
politicialisation of Commission 29
European agencies, mismanagement of 253–71
administration commitment evidence 255–6
administrative culture of good management, need for 265
Anti-Fraud Agency (OLAF), lack of involvement of 264
Bánáti affair (European Food Safety Authority (EFSA) and International Life Sciences Institute (ILSI)) 258–9, 260–61, 262, 263, 264, 265, 266, 267, 270
CEPOL (European Police College) and budget implementation 256–8, 263, 264
discharge procedure oversight and institutional reform 258, 262, 263–4
European agencies’ definition 254
European Environment Agency (EEA) conflicts of interest allegations 259–61, 262, 264, 266, 270
European Medicines Agency (EMA) conflicts of interest allegations 259, 260–61, 262, 264, 266, 270
Evaluation of decentralised EU agencies in 2009 report 255–6
Financial Regulation breaches 263, 277–80
future research 271
human resources 257, 258
institutional reform response 265–8
internal organization concerns 267–8
judicial review 264
legal framework, shortcomings of existing 263–5
Ombudsman 260, 264, 270
private actors, limited involvement of 264–5, 268
‘revolving doors’ and conflicts of interest 258–62, 263, 264, 265, 266, 267
Santer Commission resignation 253
European Bank for Reconstruction and Development (EBRD), Sanctions Procedures 245
European Commission
Code of Conduct for Commissioners and post term-of-office activities
284–5
incompatibilities with commissioners’ future positions and ‘revolving door’ phenomenon 21–3
incompatibilities connected to commissioners’ assets 20–21
politicisation of 29
European Commission’s Investigation and Disciplinary Office (IDOC) role 299
European Convention of Human Rights (ECHR), impartiality issues 24–6
European Court of Auditors (ECA) 283
European Court of First Instance, Camos Grau v. Commission 281
European Court of Human Rights (ECHR)
Engel and Others v. the Netherlands 24
Imbrioscia v. Suisse 24
Procola 26
European Court of Justice, RTT 16
European Development Fund, Lesotho Highlands Water Project (LHWP) 219–20, 229, 231, 232, 234
European Environment Agency (EEA), conflicts of interest allegations 259–61, 262, 264, 266, 270
European Food Safety Authority (EFSA) and International Life Sciences Institute (ILSI), Bánáti affair 258–9, 260–61, 262, 263, 264, 265, 266, 267, 270
European Investment Bank 234
European Medicines Agency (EMA) conflicts of interest allegations 259, 260–61, 262, 264, 266, 270 discharge 277, 278–9, 283
European Network and Information Security Agency 267
European Parliament
Budgetary Control Committee 277–8 ethics code, lack of 283
Transparency Register 275, 276, 287
European Police College (CEPOL) and budget implementation 256–8, 263, 264
European Public Prosecutor’s Office (EPPO), establishment of 288–9
European Union Court of First Instance, Zavvos v. Commission 27
Europol 254
Evans, J. 89, 90
exclusivity principle, civil service, France 140–41, 143–5, 148, 149
Faccio, M. 5
Fages, F. 63
Fariello, F. 217, 232, 245
favoritism, tolerance of, France 78–83
financial management
Financial Action Task Force integrity indicators 200, 202, 208
financial disclosure, public officers 37
financial privileges, MENA region 133–4, 136–7
Financial Regulation, Europe 263, 277–80
policy considerations for conflicts of interest legislation 116
Turkey, legal regulations for the prevention of corruption of civil servants 174
see also audit mechanisms; budget management
Fisman, R. 5
Folliot-Lalliot, Laurence 236–49
Fontana, A. 115
France
conflicts of interest within regulatory authorities, incompatibilities with other employment 19, 20
Conseil d’Etat 24, 61, 98, 139
Cour de cassation 24, 25, 26, 97–8, 110–11
Criminal Code 22, 57, 61, 97–8, 100, 106–7, 139–40
Dehaene 147
Didier 24
Dubus 24–5
ECHR impartiality clause and conflicts of interest 24–6
Energy Code 19
energy commissioners (CRE) and incompatibilities with elected offices 17–18
House ethics committee 60
illegal acquiring of interest 54
Karachi 107
Lambda 61
Le Cun 24
Loi Sapin statute see under public contracts, integrity in English and French
Posts and Electronic Communications Code and incompatibility with national elected office 18
public contracts, integrity in see public contracts, integrity in English and French
Regulatory Authority for Electronic Communications and Post (ARCEP) 25–6
‘revolving door’phenomenon 22
Sauvé Commission 99–101, 108
SNC Campenon Bernard 25
Urba scandal 89
France, civil/continental law use in conflicts of interest cases, management of conflicts of interest 145–9
asset declaration forms, call for 147–8
judicial public service rules, extension to public service rules 148, 149
logic of exclusion to logic of conciliation transition 146–7
public officer withdrawal procedure proposition 148
State Commission propositions and creation of new public ethic 147–9
voluntary public policies, development of 145–6
France, integrity breaches 67–84
citizens’ judgments of elected officials, factors influencing 70–71
duplicity and lying 72
political corruption and minority civic culture 68–83
political scandals, limited fallout from 69–70
Woerth-Bettencourt affair 68
France, integrity breaches, corruption conception
clientelism 76, 79–80
concerned pragmatists 82–3
consensual disapproval 71–4
consensual disapproval, justification for political practices in defense of the common good 75
consensual tolerance 74–5
context-dependency 75–8
denunciatory pessimists 81–2
disapproving realists 83
diverse manifestations of corruption 72
friendly relations with elected officials and intervention appeals 74–5, 79–80
instrumentalization of political processes 76–7, 79, 81, 83
lack of sincerity on part of elected official 73
misappropriation of public funds 73
political practices in which private and public interests are confounded 77
private corruption 77
private interests, elected officials’ dependence on 73–4
tolerance of favoritism and distrust in institutions 78–83
tolerant optimists 82
France, lobbying, future prospects and conflicts of interest 53–66
Central Service for Prevention of Corruption (CSPC) 57, 58
criminal statutes 58–9, 61
influence peddling 54, 56–7, 59, 61
dependence of lack of 56–7
lobbying and corruption, distinction between 54–5
national sovereignty, perceived threats to 63
professional lobbyists and legal violations 57
regulation deficiency 56–9
regulation inefficiency of criminal law 58–9
‘revolving door’ phenomenon 58–9, 60–61
soft law 64
France, lobbying, future prospects and conflicts of interest, public institutions, confidence in 59–66
appearances, importance of 60–64
good practices, codes of conduct and professional ethics 64–6
lobbying intervention 62
reinforced legal obligation, lack of 62–3
transparencies and legitimate lobbying 61–4
fraud
European ant-corruption policy see European anti-corruption policy
Anti-Fraud Office (OLAF) role
Fraud and Corruption Guidelines, World Bank 237, 239
Serious Fraud Office (SFO), Director involvement (England) 105–6
Serious Fraud Office (SFO) responsibilities, United Kingdom 150–51
Garrigues, J. 88
Genckaya, O. 178
Georgia, WTO accession protocols 191
Gerardin, D. 254
Germany
Anticorruption Code of Conduct 204
conflicts of interest within regulatory authorities 18, 21
Giran, J. 101
Global Integrity (GI) 128–9, 199–200, 205
Gohon, J. 95
good governance policies 190–93, 195–6, 234
Goodyear, R. 153
Gordon, Daniel I. 39–52
GRECO (Council of Europe’s Group of States against Corruption) 204, 205, 300
Groenleer, M. 254
Guglielmi, G. 58
Hafner-Burton, E. 188
Hall, C. 218
Hassan, A. 128
Heidenheimer, A. 68
Hernández, J.-C. 18
Hine, D. 163
Hollander, C. 162
Horder, J. 159
Hostetler, C. 232
Houillon, Grégory 53–66
Huddleston, M. 122
human resources 223, 257, 258
Hunter, J. 222
Hüther, J. 198
IFI Task Force (International Financial Institutions Anti-Corruption Task Force) 224
illegal acquiring of interest 54, 58–9, 61
IMF see International Monetary Fund indicator systems
as control mechanism 205
Doing Business indicators, World Bank 200
Financial Action Task Force integrity indicators 200, 202, 208
influence peddling, France 54, 56–7, 59, 61
information access
European Network and Information Security Agency 267
policy considerations 121
Right to Information Act (Law no. 4982), Turkey 176–7
secret information, banning of disclosure of, Turkey 171
see also transparency
Inman, P. 133
institutions
dischARGE PROCEDURE oversIGHT AND institutional reform, European agencies 258, 262, 263–4
institutional reform response, European agencies 265–8
legal punishment and institutional sanctions, need for 6, 7–8
public, confidence in, France see France, lobbying, future prospects and conflicts of interest, public institutions, confidence in
tolerance of favoritism and distrust in institutions, France 78–83
‘zero tolerance’ policy for institutional misconduct, Europe 289
instrumentalization of political processes, France 76–7, 79, 81, 83
integrity breaches, France see France, integrity breaches
global see national administrations versus global regimes, and global integrity protection, federal procurement system, United States see United States, federal procurement system, integrity protection

Inter-American Development Bank (IDB)
obstructive practice and Procurement Guidelines 242
Sanctions Procedures, debarment 245
Yacyretá Hydroelectric Project 218–19, 231, 232–3, 234
intergovernmental organizations and integrity acts, national administrations versus global regimes, and global integrity 201–4, 206–8
International Association of Anti-corruption Authorities 202
International Financial Institutions Anti-Corruption Task Force (IFI Task Force) 224
international initiatives, involvement with, Europe 300–301
International Life Sciences Institute (ILSI) and European Food Safety Authority (EFSA), Bánáti affair 258–9, 260–61, 262, 263, 264, 265, 266, 267, 270
international and local public contracts, distinguishing between 87–90
International Monetary Fund (IMF) Debarment Agreement 234
external audit system 210
integrity acts addressing national systems 202, 205
integrity acts within regime 207, 210
international regimes versus national administrations see national administrations versus global regimes, and global integrity investigation phase
administrative investigations, Europe 291
anti-corruption investigations, Europe 294–5
bidding process and investigation procedures, World Bank 241–2, 243–4
and enforcement functions, separation of, multilateral development banks 230–31
European Anti-Fraud Office (OLAF) role 295, 296–9
European Commission’s Investigation and Disciplinary Office (IDOC) role 299
multilateral development banks, sanctions procedures 227–8, 232
‘permission to investigate’ authority, Turkey 172, 173
Islamic Development Bank Debarment Agreement 236–7
Padma Multipurpose Bridge Project 221–2, 229, 232
Italy anti-corruption institutions 204
cabinet members’ conflicts of interest 36, 37
conflicts of interest within regulatory authorities 20
election campaigning restrictions 19
energy commissioners and incompatibilities with elected offices 17–18
‘revolving door’ phenomenon 22
Japan International Cooperation Agency, Padma Multipurpose Bridge Project 221–2, 229, 232
Jean-Pierre, D. 56
Jenks, C. 212
Johnston, M. 79
Jordan, WTO accession protocols 191–2
judicial proceedings; regulation see also legislation judicial proceedings and auditing, public contracts (England) 92–3
European Anti-Fraud Office (OLAF) role 298
judicial review, Europe 264
public service rules, France 148, 149 see also legislation

Kadan, O. 285
Kang, D. 5
Kaufmann, D. 187–8
Kaya, C. 177
Kaye, R. 3, 4, 162, 163, 164
Kelsen, H. 55
Kerns, P. 117
Khaja, A. 5
Kingsbury, B. 213
Kochan, N. 153
Koktas, A. 176
Lager, J. 96
Lane, W. 191
Lang, C. 231
Lanoszka, A. 190
Lascoumes, Pierre 67–84, 96
Laurent, B. 64
Le Hay, V. 80
Lecrique, J.-M. 71
Lederman, D. 184

Index

Jean-Bernard Auby, Emmanuel Breen and Thomas Perroud – 9781781009352
Downloaded from Elgar Online at 05/13/2019 01:41:03PM via free access
see also judicial proceedings; regulation
Leigh, I. 92
Leroy, A. 217, 232
Lesotho Highlands Water Project (LHWP) 219–20, 229, 231, 232, 234
Levey, S. 124
Ley, J. 118
Lindroos, A. 213
Lins Ribeiro, G. 219
lobbying
ban, United Kingdom 163–4
and corruption, distinction between 54–5
Europe, conflicts of interest regulation 273–6, 286
European practices 62–3, 64
France see France, lobbying, future prospects and conflicts of interest
policy considerations 116–17
pro-business lobbying organizations’ objections, United Kingdom 157
regulation, United States 56, 62–3, 116–17
Lombard, M. 20
Loughlin, M. 88
Madir, J. 224, 233, 245
Maillé, A. 96
management
budget see budget management
Civil Service Management Code, United Kingdom 165
financial see financial management
French civil/continental law see France, civil/continental law use in conflicts of interest cases, management of conflicts of interest
MENA region see Middle East and North Africa (MENA) region, executive level, conflicts of interest management
mismanagement of European agencies see European agencies, mismanagement of
Public Financial Management and Control (Law no. 5018), Turkey 174
and structural differences 225–7, 233
Mancuso, M. 68
Mandelson, P. 185
Mansfield, E. 185
Marcou, G. 94
Marique, Yseult 85–112
market and investment restrictions, MENA region 134
Martel, L. 117
Mattarella, Bernardo Giorgio 30–38
Mauro, P. 184
Médard, J. 88
Mehling, M. 213
Mekki, M. 62
MENA see Middle East and North Africa (MENA) region
Mendieta, M. 163
Mény, Y. 61, 62, 68, 83, 89
Messick, Richard E. 113–23
Meyer, J.-M. 131
Mian, A. 5
Middle East and North Africa (MENA) region, executive level, conflicts of interest management 124–38
Arab Spring protests 124–5, 128
asset declarations, accessibility of 136
case studies 130–34
corrupt practices, scale and mechanisms, Tunisia and Egypt 131–3
Corruption Perceptions Index (CPI), Tunisia and Egypt 128
corruption prevention theories and conflicts of interest regulation 126–7, 135
elitist political power 127–8, 135
financial privileges 133–4, 136–7
frozen assets 131–2
future management suggestions 135–7
ineffective provisions, Egypt 131
ineffective provisions, Tunisia 130–31
market and investment restrictions 134
political power, extent of 127, 133
private-capacity interests and disclosure requirements 126–7
privatization abuses 133
regulation assessment, need for 128–9
socio-political and economic effects 133–4, 136–7
stakeholders and NGOs, need for inclusion of key 136–7
transparency and accountability, lack of 134, 135, 136–7
misappropriation of public funds, France 73
Mittard, E. 99
Moret-Baily, J. 100
Moser, Carolyn 124–38
multilateral banks, World Bank, Sanctions Procedures 244–6
multilateral development banks, corruption investment in funded projects 215–35
adjudication phase 228–9
administrative irregularities and bribes 219–22
bank functions 216–17
case studies 218–22
contracts gained through corrupt practices 218–19
corruption risk 215–16, 217
Debarment Agreement 229–30, 234
good governance policy 234
human resources level 223
Lesotho Highlands Water Project (LHWP) 219–20, 229, 231, 232, 234
national institutions, need for cooperation from 234
Padma Multipurpose Bridge Project 221–2, 229, 232
Yacyretá Hydroelectric Project 218–19, 231, 232–3, 234
multilateral development banks, corruption investment in funded projects, sanctions procedures 224–7
appeal phase 225, 226, 227, 230
blacklisting to reduce fragmentation risk 231, 235
common aspects 227–30
corruption risk 215–16, 217
debatement decisions 231
sanction types 229
strengths and shortcomings 230–33
transparency of debarment decisions 231–2
Mungiu Pippidi, A. 127–8, 136
national administrations
European Anti-Fraud Office (OLAF) role 295–7, 298
governing improvement (policy anchoring), WTO 183–4, 185–6
international and local public contracts, distinguishing 87–90
national institutions, need for cooperation from, and multilateral development banks 234
national regulation, strength of, Europe 28, 29
public contracts, local government powers (England) 88–9, 93–4
public contracts, local government powers (France) 98, 101
national administrations versus global regimes, and global integrity
198–214
assessment and review mechanisms
205–6
civil society involvement 206, 210
control mechanisms 205–6, 209–10
indicator systems as control mechanism 205
integrity as measurable concept 200
integrity rules, compliance with
204–5, 208–9
intergovernmental organizations and integrity acts 201–4
intergovernmental organizations and integrity acts within global regime 206–8
internal audit mechanisms 209–10
judicial review 206, 209
NGOs, private organisms and international networks 203, 208
normative framework 200–204, 206–8
public sector integrity 199–200
soft law 203–4
ultra-state schemes 206–10

Neale, A. 285
Neild, R. 68
Nelson, R. 216
Nepal, WTO accession protocols 191
nepotism, policy considerations 116
NGOs
inclusion, need for, MENA region 136–7
international networks and global integrity 203, 208
see also civil society involvement
Nicholls, C. 103
Noguellou, R. 62
North American Agreement for Labour Cooperation 203
Nowlan, A. 231, 236

OECD
Anti-Bribery Convention 102–7, 156, 157, 158, 160

conflicts of interest definition 32, 58, 116, 248, 261, 284
Development Assistance Committee (DAC) initiative 247–8
illegal acquiring of interest 58–9, 61
integrity acts addressing national systems 201, 204, 205
integrity acts within regime 207, 210
Methodology for Assessing Procurement System (MAPS)
248–9
Network on Development Evaluation 210
Public Sector Integrity 199, 201
traffic of influence 59
Okuyucu-Ergun, G. 167
OLAF see Europe, anti-corruption policy, Anti-Fraud Office (OLAF) role
Oliver, D. 91
Ombudsman, European agencies, mismanagement of 260, 264, 270
Open Government Partnership (OGP) Independent Reporting Mechanism
210
integrity and transparency 199–200, 204
Oral, B. 179
Organization of American States Inter-American Convention against Corruption 203
Ostry, S. 188
Padideh, A. 184–5
Pancrazi, G. 95
Paraguay, Yacyretá Hydroelectric Project 218–19, 231, 232–3, 234
Paris, Timothée 139–49
Parsons, S. 92
Peele, G. 3, 4, 162, 163, 164
Pena, E. 218
penalties
public officers, conflicts of interest 35, 37–8
see also sanctions
Perroud, Thomas xiv–xxv
Peters, A. 125, 135
Index

Pharr, S. 69
Pierre, E. 60
policy considerations for conflicts of interest legislation 113–23
abuse of office 116–17, 119–20
appearances and representation 121
applicant disclosure 119
bright line rules, recommended 120–21
conflict mitigation techniques 118–19
country size, effects of 115
disclosure as conflict mitigation technique 118, 119
divestiture as conflict mitigation technique 118
employment considerations 121
ethical legislation increase leads to more convictions 123
financial conflict 116
gifts and gratuities 121
information disclosure 121
legal implementation and advance ruling procedures 122–3
lobbying 116–17
misuse of office 120–21
nepotism 116
payment for public service 117
political bias considerations 115
preventive versus disclosure laws 114–15
private gain from public office 117
prohibited ownership interests 122
public trust levels, effects of 115
recusal as conflict mitigation technique 118
regulation agencies, creation of 117–18
rules versus standards 119–23
undue influence 116
see also legislation; regulation
political influence
bias considerations 115
funding opportunities, France 89
MENA region 127, 133
Pope, J. 217
Posner, R. 16
Prebissy-Schnall, C. 96
prevention of corruption
Central Service for Prevention of Corruption (CSPC), France 57, 58
country-level procurement reforms, World Bank 247–9
Middle East and North Africa (MENA) region 126–7, 135
public officers and dishonest decisions, prevention of 33
Turkey see Turkey, legal regulations for the prevention of corruption of civil servants
private sector
corruption, France 77
gain from public office, policy considerations 117
limited involvement of, European agencies 264–5, 268
private interests, elected officials’ dependence on, France 73–4
privatization abuses, MENA region 133
public contracts and public–private relationships 86, 110–11
public and private sectors, relationship between, Europe 277–9
secondment, Europe 20
procurement process
Europe, conflicts of interest regulation 280–81
and expertise levels, Europe 281
Loi Sapin statute, France, public procurement and delegations, distinction between 94–5
Procurement Directive, Europe 41, 95, 104–5, 107–9, 280–81
rules and national regulations, European Anti-Fraud Office (OLAF) role 293–4
Turkey, legal regulations for the prevention of corruption of civil servants 174–6
Corruption and conflicts of interest

United States see United States, federal procurement system, integrity protection
public contracts, integrity in English and French 85–112
administrative cultures and resistance to change 87, 111–12
administrative law, growing influence of (France) 98–102
audit mechanisms, importance of 92–3
BAE-Al Yamamah case (England) 102–3, 105–6, 159
criminal law and EU Procurement Directive, problems with (France) 107–9
criminal law (France) 86, 94–102, 108–9
criminal law and public procurement law, complementarity between (England) 104–5
criminal offence in public office (England) 92, 93–4, 103–4
cumul des mandats (multiple office holding, France) 90
decentralization (France) 89–90
domestic norms and institutions 90–102
ethical framework (English law) 86–7, 91–4, 102–3, 108
and EU Procurement Directive 95, 104–5, 107–9
external drivers, resistance to 102–9
favoritisme (France) 97, 98, 104
impartiality, call for (France) 99–100
international and local public contracts, distinguishing between 87–90
judiciary and auditing, interaction between (England) 92–3
law and administrative cultures, interplay between 85–7, 109–12
local government powers (England) 88–9, 93–4
local government powers (France) 98, 101
local–central relationships 86
Loi Sapin statute (France), criminal legislation on corruption 96–7, 109
Loi Sapin statute (France), implementation commissions (MIEM and SCLC) 95–7, 108
Loi Sapin statute (France), public procurement and delegations, distinction between 94–5
norms and factual situations, interplay between 86–7
OECD Anti-Bribery Convention, influence on Bribery Act (England) 102–6
OECD Anti-Bribery Convention, influence on Criminal code (France) 106–7
political funding opportunities (France) 89
Porter v. Magill (England) 92–3
principles for standards in public life (England) 91–2
prise illégale d’intérêt (illegal taking of benefit, France) 96–7, 98, 104
private corporations in international agendas 88
Public Contracts Regulations (England) and EU Procurement Directive 104–5
public–private relationships 86, 110–11
Sauvé Commission (France) 99–101, 108
Serious Fraud Office (SFO), Director involvement (England) 105–6
soft law (England) 90–91
Standards Board for England, abolition of 93
whistleblowing, opposition to (France) 107
see also World Bank, public contracts and policies against corruption and conflicts of interests
public ethics see ethical standards
public interest concerns 77
Index

Committee on Standards in Public Life (CSPL), United Kingdom

see United Kingdom, corruption and conflicts of interest,
Committee on Standards in Public Life (CSPL)

public and private sectors, relationship between, Europe 277–9

see also citizens

public officer withdrawal procedure proposition, France 148

public officers, conflicts of interest 30–38

checks and penalties 35, 37–8

conflicting goals 33

conflicts of interest definition 30–32, 35–6, 37

conflicts of interest, static nature 31–2, 36

dishonest decisions, prevention of 33

disqualification of officer involved 33–4, 35, 37

financial disclosure 37

protection of weak interest 33

regulatory scope 32, 36–7

remedies 33–5, 37–8

removal of conflicts of interest 33, 35, 37

training and consultation needs 34

transparency requirement 34, 35, 37

public procurement see procurement process

public sector integrity 199–200

regulation, United Kingdom 162–5

public service payment, United States 117

Puddington, A. 137

Qa-Qin, J. 191

Quiriny, B. 99

Radenac, M. 95

Rayner, H. 90

Reed, Q. 119, 127, 136

regulation agencies, creation of, United States 118

agencies, Europe 277–9

assessment, need for, MENA region 128–9

authorities, Europe see Europe, regulatory authorities and conflicts of interest

authorities, incompatibilities with other employment 19, 20

conflicts of interest, United Kingdom 37

conflicts of interest, United States 36–7

conflicts of interest within regulatory authorities, Germany 18, 21

deficiency, lobbying, France 56–9

density comparison, Europe 281–6

implementation, decentralization of, United States 40–41

independent authorities, creation of, Europe 16

scope, public officers 32, 36–7

see also policy considerations for conflicts of interest legislation

resources, EU officials command over 279–81

Revaillion, M. 185

‘revolving door’ phenomenon

Europe, conflicts of interest regulation 21–3, 284–5

European agencies, mismanagement of 258–62, 263, 264, 265, 266, 267

France 58–9, 60–61

United States, federal procurement system 48–9

see also employment

Richer, L. 95, 96

Richter, J. 135

Rose, Cecily 103, 104, 150–66

Rose-Ackerman, Susan 3–11, 216

Rouvilleois, F. 54, 63

Rundquist, B. 69

Russia, WTO accession protocols 191
Corruption and conflicts of interest

Sabin, P. 5
Saleh, H. 131, 134
Salzedo, S. 162
Sampford, C. 200
Sanchez, M. 212, 213
sanctions
multilateral development banks see multilateral development banks, corruption investment in funded projects, sanctions procedures
Sanctions Procedures, World Bank see World Bank, public contracts and policies against corruption and conflicts of interests, Sanctions Procedures
Sanctions Procedures, European Bank for Reconstruction and Development (EBRD) 245 see also appeals; debarment; penalties
Sands, J. 122
Saudi Arabia, WTO accession protocols 191
Sauvé, J. 65, 99–100, 108
Scelle, G. 55
Schefer, K. 184
Seibt, S. 132–3
Seiler, N. 224, 233, 245
September 11 and anti-bribery law changes, United Kingdom 155–6
Shah, A. 198, 222
Simmons, B. 188
Skladany, M. 184
Snowberg, E. 4
soft law
France 64
national administrations versus global regimes, and global integrity 203–4
United Kingdom 90–91, 160
South Africa, Lesotho Highlands Water Project (LHWP) 219–20, 229, 231, 232, 234
Spain
National Commission for the Securities Market 20
regulatory authorities,
incompatibilities connected to commissioners’ assets 20–21
regulatory authorities,
incompatibilities with elected offices 18
‘revolving door’ phenomenon 22–3
Staff Regulations, Europe 282–3, 284
Stark, A. 4, 6
Steffens, L. 69
Stewart, R. 212, 213
Stigler, G. 16
Stubb, A. 63
Suchod, M. 64
Sultan, A. 132
Szarek-Mason, Patrycja 288–302
Tang, M.-K. 185, 190
Tansug, Çagla 167–80
Technical Assistance to the Commonwealth of Independent States (TACIS) programme case 295
Terneyre, P. 94
Thompson, D. 8
Thornburgh, D. 227, 232
Trade Policy Review Mechanism (TPRM), naming and shaming process 195
transparency
access to information requirement, WTO 187, 189, 192–3, 194
debarment decisions, multilateral development banks 231–2
emphasis on, United States 41–3
lack of, MENA region 134, 135, 136–7
and legitimate lobbying, France 61–4
and lobby groups, Europe 275–6
public officers’ requirement 34, 35, 37
public procurement, Turkey 174–6
see also accountability; information access
Transparency International
conflicts of interest definition 151–2
Index

Corruption Perceptions Index 44, 128, 200
Global Corruption Barometer 205, 208
integrity and transparency 199–200
Transparency Register, European Parliament 275–6, 286–7
Treakle, K. 218
Truchet, D. 100
Tunisia, conflicts of interest management see under Middle East and North Africa (MENA) region, executive level, conflicts of interest management
Turkey, legal regulations for the prevention of corruption of civil servants 167–80
administration corruption categories 167–8
Council of Ethics for Public Service (CEPS) 168–9, 171, 177–9
crimes of torture, exclusion of 173
Declaration of Assets, Fight against Bribery and Corruption (Law no. 3628) 169–70, 173
embezzlement 170, 173
financial management 174
gift receipt prohibition 168–9
legal regulations 169–77
‘permission to investigate’ authority 172, 173
prohibited activities for state employees 168–9
property declarations 169–70
prosecution of public servants and other public employees 171–3
Public Financial Management and Control (Law no. 5018) 174
Public Procurement (Law no. 4734) 174–6
Right to Information Act (Law no. 4982) 176–7
secret information, banning of disclosure of 171
State Employees Law (Law no. 657) 168–9
transparency in public procurement 174–6
Trial of Employees and Other Public Officials (Law no. 4483) 171–3
Turton, A. 220

UN
Convention against Corruption (UNCAC) 160–62, 205–6, 300–301
external audit system 210
integrity acts addressing national systems 201, 204, 210–12
integrity acts within regime 206–7, 208, 210
Oil for Food scandal 208
undue influence, policy considerations 116
United Kingdom
BAE-Al Yamamah case 102–3, 105–6, 159
commissioners’ assets, incompatibilities connected to 20, 21
Corner House case 105–6, 159, 232–3
Dines 142
elected offices, incompatibilities with 18
Gas and Electricity Market Authority (GEMA) 18, 19, 21
Greater London Authority 37
Nolan Commission 91
Ofcom 18, 20
Ofgem 19
Porter v. Magill 92–3
Poulson scandal 88–9
Prevention of Corruption Act 88–9, 154, 156, 158
procedural due process clause 142
public contracts, integrity in English see public contracts, integrity in English and French
regulation of conflicts of interest 37
regulatory authorities, incompatibilities with other employment 19, 20
Serious Fraud Office (SFO), Director involvement (England) 105–6
Standards Board for England, abolition of 93
United Kingdom, corruption and conflicts of interest 150–66
Anti-terrorism, Crime and Security Act 156, 158
Corruption Bill draft 156–7
corruption and conflicts of interest, relationship between 150–52
corruption and conflicts of interest as separate issues 152
Nolan Report 154–5
OECD Anti-Bribery Convention compliance 102–7, 156, 157, 158, 160
Prevention of Corruption Act 88–9, 154, 156, 158
public sector regulation 162–5
Redcliffe-Maud Committee on Local Government Rules of Conduct 153
September 11 and anti-bribery law changes 155–6
Serious Fraud Office (SFO) responsibilities 105–6, 150–51
soft law 160
Transparency International, conflicts of interest definition 151–2
UN Convention against Corruption compliance 160–62, 205–6, 300–301
United Kingdom, corruption and conflicts of interest, Bribery Act 102–6
Attorney General’s consent, exclusion of 158–9
bribery committed abroad, extension of jurisdiction 159
commercialization of bribery focus 157–8
and conflicts of interest 153–62
conflicts of interest guidance 160
conflicts of interest, previous reform efforts 153–7
contours and accompanying guidance 157–62
foreign public official, offence of bribing 158
guidance accompanying 159–62
intelligence officers, special provisions for 159
pro-business lobbying organizations’ objections 157
United Kingdom, corruption and conflicts of interest, Committee on Standards in Public Life (CSPL) cash-for-questions affair 153–5
Civil Service Management Code 165
ethical standards 162–3
House of Commons and Register of Members’ Financial Interest 164
Ministerial Code 164–5
paid advocacy or lobbying ban 163–4
public ethics and conflicts of interest in public agenda 162–3
Seven Principles of Public Life 155, 163–5
United States
conflicts of interest and financial disclosure 37
*Crandon v. U.S.* 117
Ethical Conduct for Government Officers and Employees 146
ethical legislation increase leads to more convictions 123
ethics principles and standards, training in 122
federal regulatory agencies 9
Federal Trade Commission (FTC) 15
*Goldberg* 142
Independent Regulatory Agencies, origins of 15
lobbying regulation 56, 62–3, 116–17
Office for Congressional Ethics 38
Office of Government Ethics (OGE) 122
procedural due process clause 142
public service payment 117
regulation agencies, creation of 118
regulation of conflicts of interest 36–7
*U.S. v. Biaggi* 116–17
United States, federal procurement system, integrity protection 39–52
agency exemptions 40
Index

appropriations provision ('earmark') 44–5
background and overview 39–43
‘best value’ contracting decisions 42–3
bid protest system 42, 45–6, 50–51
bribes and payoffs 44
Competition in Contracting Act 39
competition, transparency and accountability, emphasis on 41–3
contractors for services, reliance on 43
contractors and their employees and conflicts of interest 49–52
contractors and their employees and conflicts of interest, spin off components 51–2
corruption extent 43–52
Court of Federal Claims 45, 50, 52
Duncan Hunter National Defense Authorization Act 50
Ethics in Government Act 47, 54
Federal Acquisition Regulation (FAR) 39–40, 41, 42, 50–52
Foreign Corrupt Practices Act 44, 104
General Services Administration (GSA) 40–41
Government Accountability Office (GAO) 42–3, 44, 45–6, 50–52
Grey Advertising (GAO decision) 43
Hatch Act 48
Lockheed Martin Aeronautics Co. (GAO decision) 45–6
non-price evaluation criteria 42
North Wind (GAO decision) 45
organizational conflicts of interest (OCIs) 50–52
regulatory implementation, decentralization of 40–41
subjective tradeoff decisions 42–3
Transparency International’s Corruption Perceptions Index 44
Turner Const. Co. v. U.S. 52
United States, federal procurement system, integrity protection, federal employees and conflicts of interest 46–9
external entities, engagement with 48
financial disclosure requirements 47
gift restrictions 48
political activity restrictions 48
‘revolving door’ phenomenon 48–9
Ustun, G. 175
Vedel, G. 54
Vier, C. 100
Vietnam, WTO accession protocols 191
Vogl, F. 217
Voluntary Disclosure Program, World Bank 242
voluntary public policies, development of, France 145–6
Wade, M. 291
Warin, J. 104
Wei, S.-J. 185, 190
Wendler, F. 268
whistleblowing, opposition to, France 107
White, Simone 272–87
WHO/mobile phone lobbying case, Europe 276–7
Wolfensohn, J. 222
World Bank
anti-corruption strategy 222–3
Department of Institutional Integrity (INT) 223
Doing Business indicators 200
external audit system 210
integrity acts addressing national systems 201–2, 205, 208
integrity acts within regime 207, 209–10
internal audit mechanisms 209–10
Lesotho Highlands Water Project (LHWP) 219–20, 229, 231, 232, 234
Padma Multipurpose Bridge Project 221–2, 229, 232
Social Development Civil Society Fund 137
Yacyretá Hydroelectric Project 218–19, 231, 232–3, 234
World Bank, public contracts and policies against corruption and conflicts of interests 236–49
bidding process and investigation procedures 241–2, 243–4
Consultants Guidelines 239–41
Country Procurement Assessment Report (CPAR) 249
country-level procurement reforms and corruption prevention 247–9
Fraud and Corruption Guidelines 237, 239
Global Administrative Law 236–7
Governance and Anti-Corruption Action Plan (GAAP) 242
Institutional Integrity department (INT) 238, 242
obstructive practice and Procurement Guidelines 242
OECD Development Assistance Committee (DAC) initiative 247–8
OECD Methodology for Assessing Procurement System (MAPS) 248–9
offences listed in Guidelines 239–41
Siemens settlement case 244
Voluntary Disclosure Program 242
see also public contracts, integrity in English and French
World Bank, public contracts and policies against corruption and conflicts of interests, Sanctions Procedures 223, 225, 228, 238–9, 242–7
appeals 238
debarment 243–6
debarment, cross-debarment among Multilateral Development Banks (MDBs) 244–6
harmonization of procedures among Multilateral Development Banks (MDBs) 244–5
letter of reprimand 244
misprocurement targeting the borrower 246–7
negotiations and stay of proceedings 244
World Heritage Convention, Operational Guidelines 209
World Justice Project, Rule of Law Index 200
World Trade Organization (WTO) integrity acts addressing national systems 202, 204, 206
integrity acts within regime 207
World Trade Organization (WTO), and corruption and conflicts of interest 183–97
accession process and diffusion of good governance 190–93, 195–6
Annual Integrity Report 199
citizen empowerment spillover 188–90
due process requirement and appeals 187–8, 190, 193
evenhandedness (nondiscrimination) requirement 187, 189, 193, 194
good governance definition 184
improvement strategies 186–96
national governance improvement (policy anchoring) 183–4, 185–6
spillover effects 188–90
Trade Policy Review Mechanism (TPRM) 193–5, 202
Trade Policy Review Mechanism (TPRM), corruption issues and strengthening the rule of law 194–5
Trade Policy Review Mechanism (TPRM), naming and shaming process 195
transparency and access to information requirement 187, 189, 192–3, 194
Yilmaz, L. 177
Zahrnt, V. 193
Zamudio, L. 4, 6
Zimmerman, S. 245