

SPAIN

1. What anti-corruption mechanisms exist for the public sector in your country?

a) *Legislation proscribing corrupt activities and establishing sanctions*

The *Penal Code* (Articles 404 to 445).

For central government employees, Chapter 8 of the *Ley de Funcionarios Civiles del Estado (Government Service Act)*, in the 1964 version, sets out the sanctions. The *Ley de Incompatibilidades (Incompatibility Act, No.53 of 26 December 1984)* applies to other public employees.

Separate regulations apply for the autonomous communities.

b) *Other anti-corruption regulations or orders*

The *Ley de Contratos de las Administraciones Públicas (Public Contracts Act)* and the *General Budget Act*, for central government, and relevant legislation by the autonomous communities.

c) *Oversight by the legislature or parliament (directly or through scrutiny committees)*

Parliamentary questions and oversight committees.

d) *Investigation systems or bodies with powers to investigate corrupt activity*

No.

e) *Supreme financial audit authority*

For central government, an agency coming under the Economic Affairs and Finance Ministry, the *Intervención General de la Administración del Estado*, monitors all financial dealings of branches of central government. The Board of Audit, which reports to Parliament, is the supreme financial audit authority with powers covering economic management in central government and the public sector.

There are similar bodies in each autonomous community.

f) *Ombudsman*

No. [See answer to *Question 1 (g).*]

g) *Bodies to enforce sanctions and prosecute corrupt activity, e.g. specialised prosecutors, investigators, courts, tribunals, etc.*

For central government, the Inspección General de la Administración del Estado, a directorate-general in the Public Administration Ministry, is responsible for setting the general criteria for inspection programmes covering individual ministries and performing the duties prescribed in the *Incompatibility Act*. Each ministry has an inspection unit, ranking as a subdirector-general, with powers to inspect management and recommend sanctions.

Penalties for offences under the *Penal Code* are imposed by the law courts.

The Board of Audit has audit jurisdiction for accounts to be rendered by any person collecting, handling, administering, safekeeping or using public funds or property.

The people's defender is a high commissioner appointed by both houses of Parliament to safeguard the rights set out in Title I of the Constitution, and accordingly supervises the activity of the public administration. He deals with complaints by individual citizens, makes recommendations, and gives an annual report to Parliament.

h) *Human resources management procedures intended to prevent corruption*

The *Incompatibility Act* (No.53 of 26 December 1984), covering public employees, defines activities which are incompatible with government service. For top-level posts, separate incompatibility legislation sets stricter conditions.

i) *Financial management controls intended to prevent or deter corrupt practices*

The *General Budget Act* provides that all dealings giving rise to financial rights are subject to inspection by the Intervención General de la Administración del Estado, either before or after they occur.

j) *Organisational management policies, systems and controls intended to minimise opportunities for corrupt activity*

The various *Incompatibility Acts*, the *Public Contracts Act* and investigations by ministerial inspection units.

k) *Transparency mechanisms (e.g. independent public scrutiny, systems for declaring or reporting potential conflicting interests or corrupt activity)*

Article 35 of Act No. 30 of 26 November 1992, dealing with the legal regime of the public administration and common administrative procedure, prescribes that citizens are entitled, among other things, to be informed at any time of the status of procedures in which they have an interest, to know the identity of the authorities and public employees responsible for the procedures, and to have access to public administration records as prescribed under the Constitution and Spanish law.

l) Guidance and training for public officials or politicians (e.g. codes of conduct, ethics awareness training)

Ethics courses are being provided for government officials at all levels, covering principles of ethics, ethics and law, occupational ethics, principles of public ethics, the constitutional significance of public service, analysis of public conduct, ethics and efficiency, ethics in public organisations, service to citizens, use of public resources, public interest and private interests, ethics and administrative organisation, ethical values and administrative culture, and the role of training.

m) Other measures intended to control, detect or deter corruption.

Concern with ethical training does not start at civil service college; it is present throughout the education system. This is the most effective measure against corruption.

2. Which anti-corruption mechanisms are regarded as most effective (in terms of implementation and impact)?

So far the emphasis has been on stepping up investigative and disciplinary measures to counter corruption. Training and awareness courses have been launched only recently, and their effectiveness has not been evaluated.

3. Is the effectiveness of these mechanisms formally evaluated? If so, what evaluation methods are used?

There are no mechanisms for evaluating the measures put into effect.

4. What if any new actions against corruption in the public sector is your country currently considering?

The Public Service Rules and Regulations are currently being redrafted, and the possibility of including a code of ethics is under examination. Legal reforms are also under way to make administration action more transparent, by amendments to the *Administrative Procedure Act*.

5. Is there an official awareness or a policy position on the part of your government about which areas are of most concern in terms of corrupt or questionable activities involving the public sector?

The present government attaches priority to countering the corrupt activities which have recently stained political life in Spain. This has been illustrated in the initial measures introduced when it took power, to ensure greater control and transparency in the work of the executive.