

# Corruption in Germany – How to deal with a lack of moral and ethics?

# Overview:

1. Dilemma of Definitions
2. Legal Framework for the prevention of corruption
3. Measurement of Corruption
4. Corruption in Germany
5. Outlook: Integrity Management

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# 1. Dilemma of Definitions

## Etymology:

lat. *corrumpere* – to mar, bribe, destroy

## Meaning:

dishonest or fraudulent conduct by those in power,  
typically involving bribery

# 1. Dilemma of Definitions

Definition by the German Federal Criminal Police Office  
Bundeskriminalamt, *short: BKA*)

*"Abuse of a public office, a function in the economy or a political mandate (...) to obtain an advantage for oneself or a third party with admission or the expectation of occurrence of harm or inconvenience to the public (...) or a company"*

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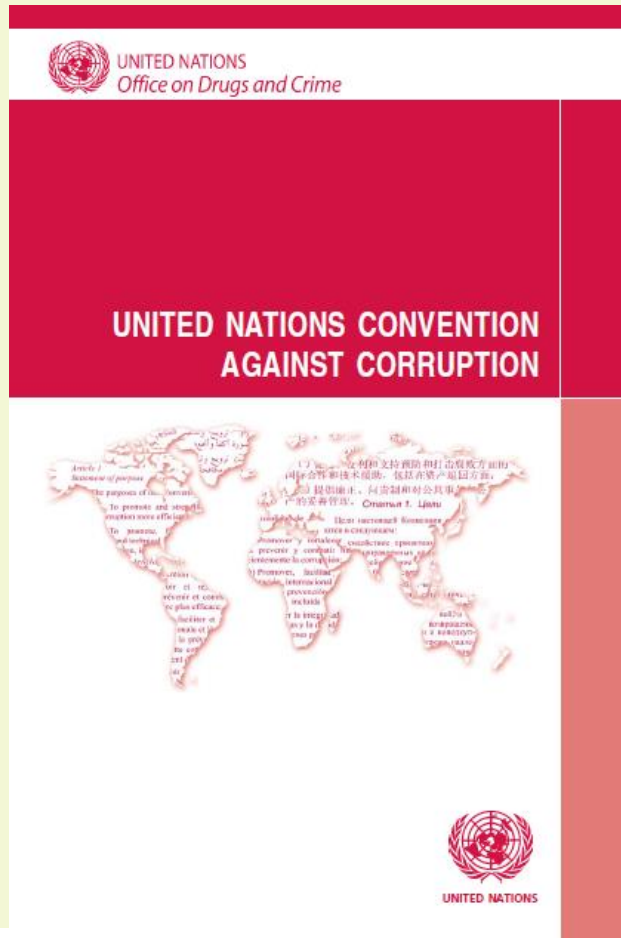
5. Outlook: Integrity Management

## 2. Legal Framework – OECD (1999)



- Acknowledgement of a lack of moral and ethics in international business transactions
- Proposing legally binding measures against corruption of foreign public officials in international business transactions
- Against tax deductibility of foreign bribes
- Supporting mutual legal assistance in criminal investigations
- Adopted by the 34 members of the OECD (incl. Germany) plus Argentina, Brazil, Bulgaria, Colombia, Russia, and South Africa

## 2. Legal Framework – UNCAC (2003)



### • Convention highlights

- Prevention
- Criminalization
- International Cooperation
- Asset Recovery

• **Member Status:** Signed: 140  
Ratified: 167

• Germany has signed but **not yet ratified** the convention!



## 2. Legal Framework – Council of Europe (1999)



COUNCIL OF EUROPE  
CONSEIL DE L'EUROPE



Council of Europe anti-  
Corruption Group *GRECO*

### Criminal Law Convention on Corruption (ETS No. 173)

- Legislative and other measures to establish criminal offences under domestic law
- Monitoring body is the Group of States against Corruption (GRECO) in a supporting function
- Germany has signed but **not yet ratified** the convention!

## 2. Legal Framework – German Criminal Code (Strafgesetzbuch, short: StGB)

Corruption is a statutory offence in the German Criminal Code differentiating:

- § 331 StGB Taking Bribes (from Public officials)
- § 333 StGB Giving Bribes (to Public officials)
- § 108b StGB Bribing Voters
- § 108e StGB Bribing Delegates

## 2. Legal Framework – German Criminal Code (Strafgesetzbuch, short: StGB)

### § 299 StGB                      Taking and giving bribes in commercial practice

- (1) Whosoever as an employee or agent of a business, demands, allows himself **to be promised or accepts a benefit** for himself or another in a business transaction as consideration for according an unfair preference to another in the competitive purchase of goods or commercial services shall be **liable to imprisonment not exceeding three years or a fine.**
  
- (2) Whosoever for competitive purposes **offers, promises or grants an employee or agent of a business a benefit** for himself or for a third person in a business transaction as consideration for such employee's or agent's according him or another an unfair preference in the purchase of goods or commercial services shall incur the **same penalty.**
  
- (3) Subsections (1) and (2) above shall also apply to acts **in competition abroad.**

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### 3. Measurement of Corruption

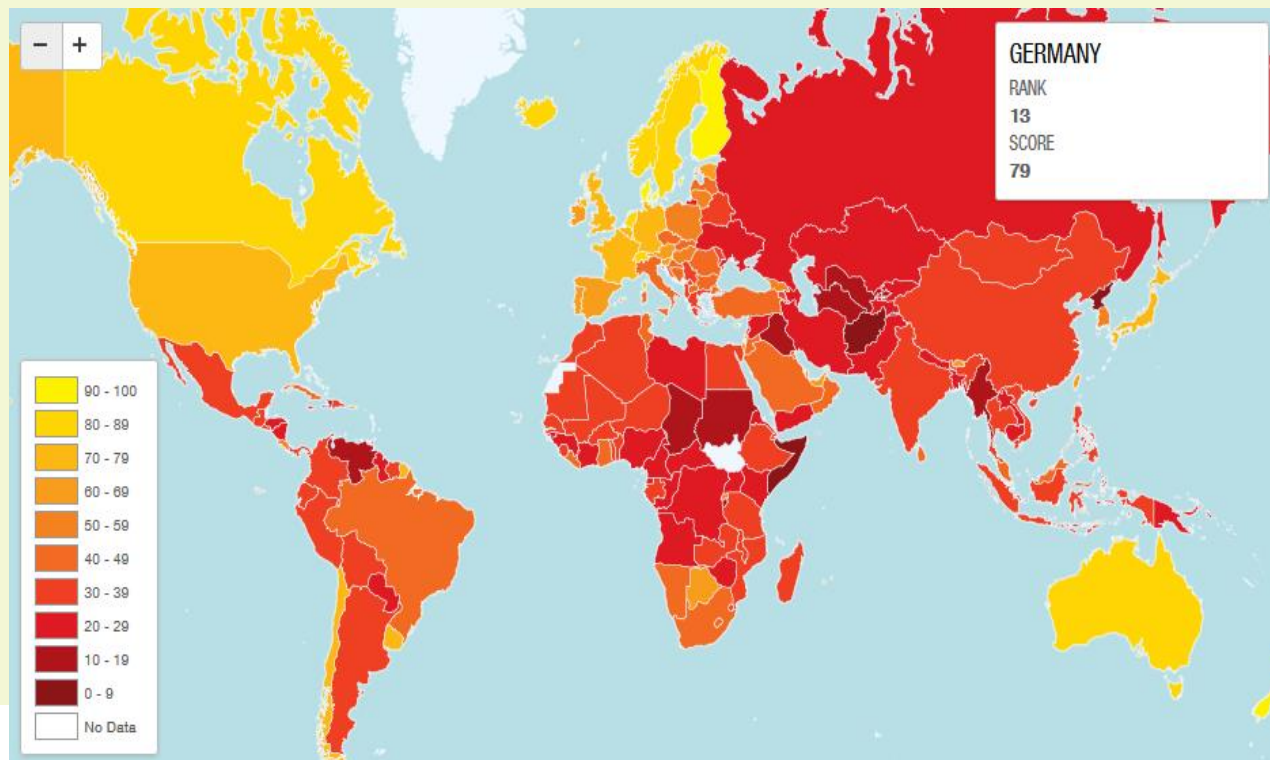
There are several surveys covering indices measuring corruption.

Transparency International:

- Corruption Perception Index (CPI)
- Global Corruption Barometer
- Bribe Payers Index (BPI)

### 3. Measurement of Corruption - Corruption Perceptions Index 2012 (Transparency International)

*Experts perceived levels of public sector corruption in 176 countries and territories around the world.*



### 3. Measurement of Corruption - Global Corruption Barometer 2013 (Transparency International)

*People's direct experience with corruption in the main institutions in their country measured in 107 countries worldwide.*

Germans perceive the following three institutions as most corrupt or extremely corrupt:

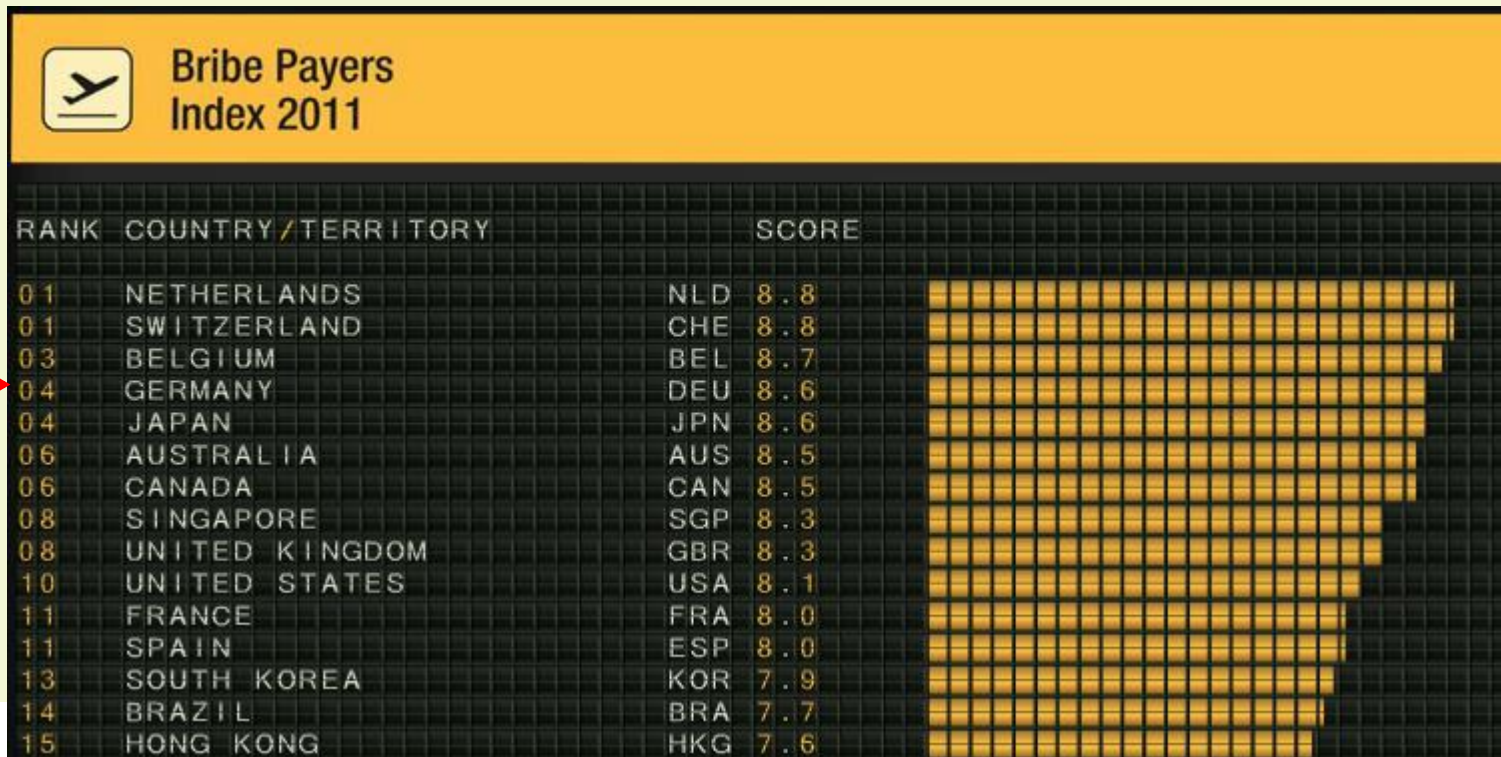
- Political Parties (65% of the German respondents)
- Media (54% of the German respondents)
- Business (61% of the German respondents)



Results for Germany

### 3. Measurement of Corruption – Bribe Payers Index 2011 (Transparency International)

*Business executives perception of likelihood of companies from these countries to pay bribes abroad.*





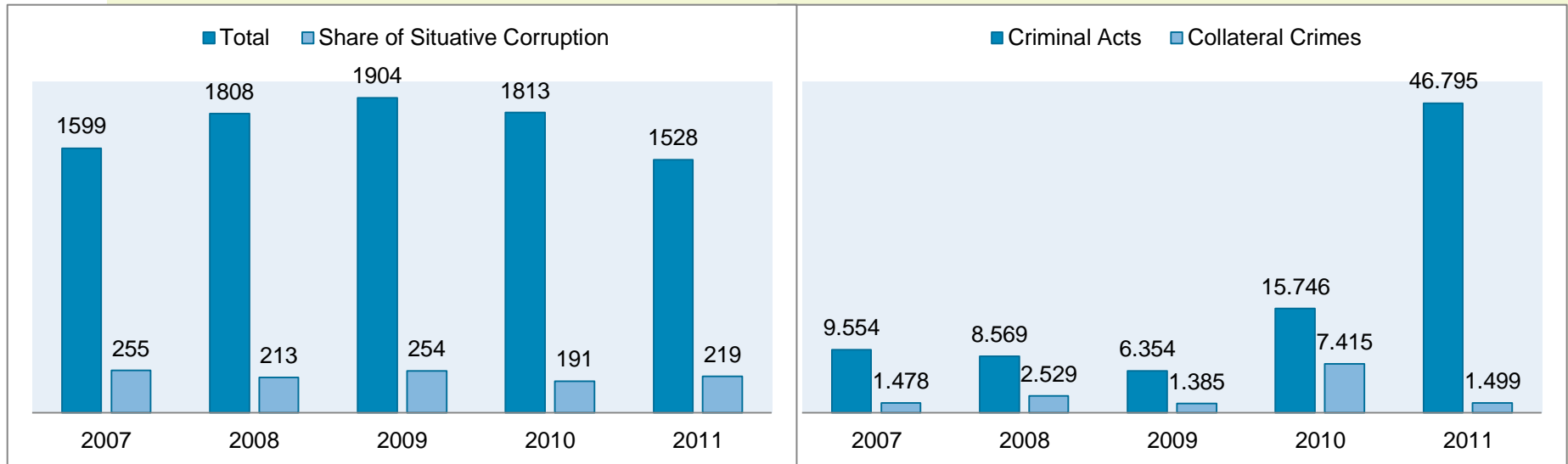
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## 4. Facts and Figures of the Federal Criminal Police Office

(*Bundeskriminalamt, short: BKA*)

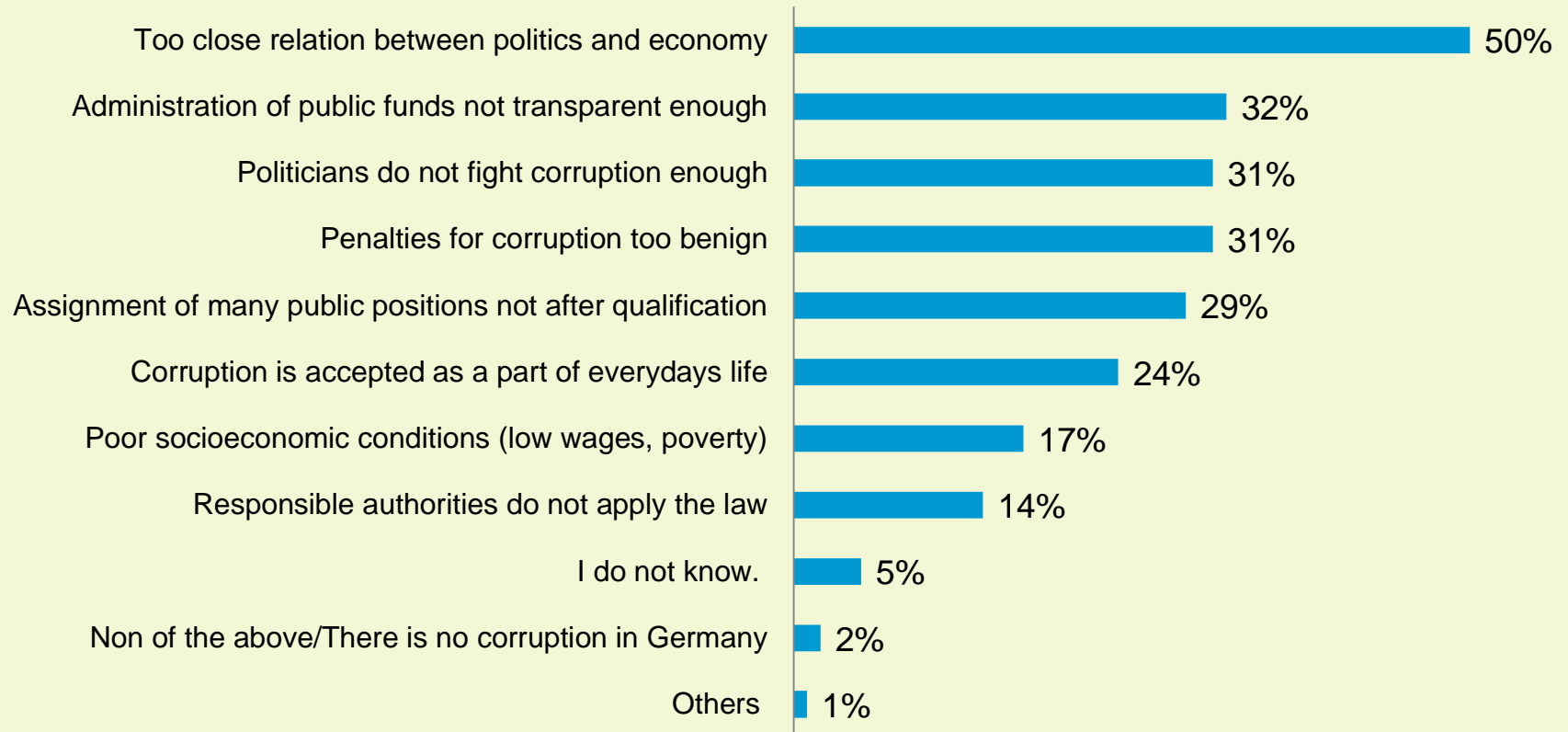
Development of corrupt criminal acts in Germany.



Number of lawsuits against corruption

Number of criminal acts convicted

## 4. Public Opinion: Reason for corruption in Germany



## 4. Case: Siemens AG – a company profile

### **Siemens AG at a glance:**

German multinational engineering and electronics company

Founded: 1947 by Werner von Siemens

Headquarters: Munich and Berlin

Employees: 410,000 worldwide (130,000 in Germany)

Total Sectors Profit: 7,543 billion € (9.5% of total sectors revenue)

The Siemens logo, consisting of the word "SIEMENS" in a bold, teal, sans-serif font, is displayed within a white rectangular box.

## 4. Case: Siemens AG – the corruption scandal

**November 15th, 2006:** Large-scale raid of the prosecution makes the corruption scandal at Siemens AG publicly known.

1999-2006

- 1.3 billion Euros of bribes were paid disguised as provision
- Appr. 300 employees have bribed business partners, governments and public authorities for years.
- Confidants were paid large sums to keep quiet

Total damage for Siemens: 1.6 billion Euros

Image damage inestimable!

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## 4. Case: Siemens AG – internal investigations

**November, 29th 2006:** Siemens decided to cooperate with German and US authorities

**December, 15th 2006:** Law firm *Debevoise und Plimpton* got the mandate to do the internal investigations within Siemens and to implement a working compliance system.

Procedure of the Investigation:

- 1750 interviews with employees and other involved persons
- 800 informal conversations
- 82 million files saved and screened electronically
- 14 million files screened personally
- 38 million financial transactions analysed
- 10 million bank statements examined

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## 4. Case: Siemens AG – a new compliance system

### THE SIEMENS COMPLIANCE SYSTEM



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## 5. Outlook – Integrity Management

	Causes of a shortfall of integrity	Damages caused by a short- fall of integrity	How to develop integrity?
<b>Organisational level</b> (companies, other organisations)	<ul style="list-style-type: none"> <li>• Intransparent organisational structures</li> <li>• Poor monitoring</li> <li>• Time deficiency for decision making</li> <li>• Doubtful incentives scheme</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of innovational strength</li> <li>• Deficit of quality, safety and efficiency</li> <li>• Dwindling organisational moral</li> <li>• Loss of confidence and reputation</li> <li>• Worst case: bankruptcy</li> </ul>	<ul style="list-style-type: none"> <li>• Transparency</li> <li>• Integrity-oriented HR – decisions, development, displacements</li> <li>• Ombudsman</li> <li>• Job rotation</li> <li>• Code of conduct</li> <li>• Ethics hotline</li> <li>• Whistleblower website</li> </ul>
<b>Personal level</b> (employees, executives, clients, citizens)	<ul style="list-style-type: none"> <li>• Avarice, luxurious lifestyle</li> <li>• Over-indebtedness</li> <li>• Problematic ancillary revenue</li> <li>• Opportunism</li> <li>• Demotivation</li> <li>• Carelessness</li> <li>• Deficit in communication, knowledge and sensibility</li> </ul>	<ul style="list-style-type: none"> <li>• Perpetrator: cover-up efforts, susceptible to blackmail, loss of reputation, sanctions</li> <li>• Victims: tax burden, frustration, loss of job, misfortunes, fatal casualties</li> </ul>	<ul style="list-style-type: none"> <li>• Development of sensibility, motivation and reasonable thinking</li> <li>• Knowledge acquisition</li> <li>• Ethical communication</li> <li>• Complaints („voice“)</li> <li>• Application for a transfer or quitting („exit“)</li> </ul>

Thank you for your kind attention!