

**Contribution of Transparency International to the European Commission's DG Home Affairs Public Consultation:** Debate on the future of Home Affairs policies: An open and safe Europe – what next?

## **EU ANTI-CORRUPTION – MUCH REMAINS TO BE DONE:**

### **TACKLING THE IMPLEMENTATION GAP IN, ACROSS AND BEYOND THE UNION**

In the past 5 years, the EU has taken several measures in the field of anti-corruption, ranging from EU legislation to policies and strategies.<sup>1</sup> Yet Europe is far from being corruption-free and many future challenges to European security lie ahead. **The prevention of and fight against corruption should remain a priority for the EU in 2015-2019 because:**

- Corruption poses a security threat, undermining the rule of law and good governance
- Corruption leads to the misuse of EU resources harming the EU's budget
- Corruption violates citizens' fundamental freedoms, inhibiting good governance and integrity
- Corruption, foreign bribery and illicit financial flows undermine the EU's credibility as a global player

To tackle the continues problem of corruption, the Transparency International EU Office (*hereinafter* "TI-EU") strongly recommends the EU to strengthen its anti-corruption framework building on the Stockholm Programme efforts to foster and reinvigorate progress in the fight against corruption in, across and beyond the 28 EU member states, in order to create a lasting, secure and just Union under the new five-year programme (2015-2019).

### **I. Corruption in the EU - state of affairs**

TI-EU has welcomed the EU's initiatives to address organised crime and corruption that have culminated in the adoption of the "[Stockholm Programme](#)" in 2009, the new [anti-corruption package](#) in 2010, and the official recognition of corruption as one of the serious EU crimes (Art. 83 (1) TFEU). The last years have also seen new and necessary legislative EU-proposals in the field of money-laundering, procurement and anti-fraud measures in European cohesion policy as well as proposals for the setting up of new bodies in charge of protecting the EU's budget.<sup>2</sup> **Yet, progress in the fight against corruption in the EU has come to a halt** in some of the most important areas and new challenges have emerged. For example:

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<sup>1</sup> Cf. Section I.

<sup>2</sup> All proposals still require the approval of EU member states in 2014.

- Corruption crimes still continue to go unpunished too often. [TI research](#) (2010) has shown that impunity at national level for corruption-related offences is a matter of significant concern across the Union. Referrals of investigated corruption cases from the EU-level to national authorities rarely lead to effective and timely prosecutions either. Still, including cross-border corruption in the legislative proposal is not (yet) part of the current considerations around the European Public Prosecutor's mandate.
- [UN Convention Against Corruption Progress Report](#) 2013 (Transparency International) indicates that there are serious delays in the implementation and even ratification of EU members states' international obligations arising from the only comprehensive, international instrument on corruption.
- Institutionally, the mandate of the European Parliament's [Special Committee on Organised Crime, Corruption and Money-laundering](#) (CRIM) has come to an end with no apparent political will to renew it. This comes at a time, when [Europol's findings](#) in 2013 speak of an estimated 3,600 organised crime groups active in the Union that are also becoming more flexible and adaptive as a consequence of Europe's economic crisis and the subsequent shift in criminal markets.

**Citizens perceive corruption to be a persistent feature of their lives** in and beyond the Union:

- [Corruption Perception Index 2013](#) (Transparency International) demonstrates that corruption is believed to be a problem in old and in new EU member states alike and no country scores perfectly.<sup>3</sup>
- [Global Corruption Barometer](#) 2013 (Transparency International) found that over half of respondents in the region believed that corruption had increased in the preceding two years – a figure that rises to more than two-thirds in crisis-hit countries such as Cyprus, Portugal and Spain.
- [Special Eurobarometer survey](#) 2012 (European Commission) on European citizen's attitudes shows that three out of every four EU citizens see corruption as a major problem in their country; almost half of all Europeans believe that the level of corruption has increased in the last three years.
- [12<sup>th</sup> Global Fraud Survey](#) (Ernst & Young) illustrates that approximately 40% of European business executives surveyed believe that bribery and corruption have gotten worse as a result of the economic downturn.

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<sup>3</sup> Corruption is perceived to have worsened especially in crisis-hit countries, such as Cyprus that has dropped 2 positions down.

2013 was also the year of major corruption scandals that have erupted across the EU. France, the Croatia, the Czech Republic, Slovenia and Spain experienced cases of high-level corruption, ranging from fraud and money-laundering allegations of high-level politicians to large-scale trans-national corruption cases and of abuse of party finances. [Romania](#) has granted immunity to politicians for corruption. Public demand for anti-corruption reform is also growing in EU accession countries and its partners in the European Neighbourhood, as shown during the Arab Spring and more recently in [Ukraine](#) and [Turkey](#).

### **Corruption also comes at a high price for citizens:**

- [Special Eurobarometer survey](#) 2012 (European Commission) outlines that the economic costs incurred by corruption in the EU are estimated to amount to EUR 120 billion per year, equalling one percent of the EU's GDP and approximately as much as the EU's annual budget.
- [European National Integrity Systems study](#) 2012 (Transparency International) on corruption in Europe highlighted corruption risks hotspots cross-cutting in most member states. Influence peddling as well as abuse of formalised processes, such as lobbying and political party donations are, for example, key problems damaging the trust of citizens in democracy.
- [Global Corruption Barometer](#) 2013 (Transparency International) survey shows that even in one of the world's most advanced economies, one in ten citizens have paid a bribe. In Lithuania, which held the last rotating EU presidency until December 2013, one in four of those surveyed have paid a bribe for access to basic services such as health and education.

## **II. Recommendations: key issues for EU action (2015-2019)**

To follow-up on previous political commitments and recommendations made by different EU institutions and to prompt effective change in practice, TI-EU recommends that the EU ensures now that anti-corruption legislation and ongoing legislative proposals are implemented and enforced across the board in the 28 EU member states.

Further, TI considers the following areas of concern to call for further action, in which:

- the European Council should adopt **strategic guidelines to set the EU's long-term, future objectives** in the area of Freedom, Security and Justice<sup>4</sup>, and more specifically with view to anti-corruption measures,
- the European Commission should develop and adopt a **new multi-annual programme defining concrete anti-corruption actions** to achieve these objectives until 2019
- EU member states should demonstrate political will in the Council and at home.

The Union, including the member state level, needs to move forward especially with regard to the following areas:

#### **No impunity for the corrupt in the EU:**

- Effective prosecution of **corruption cases, including those with a cross-border dimension**, by an enhanced police and law enforcement cooperation and coordinated investigation and prosecution effort through a newly established and robust European Public Prosecution Office;
- More efficient **information sharing between investigative and prosecution** pools across Europe (letter rogatory or formal requests of judicial assistance in practice and procedure)
- Standardised set of indicators to measure and compare **performance of preventive and repressive anti-corruption bodies** across Europe to inform the policy debate through hard data
- **Enhance national judicial procedures** through the gathering of comparable data on court appeals as well as libel and defamation practice and procedure
- Improved and consistent enforcement of **anti-bribery legislation**;
- Protection of **whistleblowers** who make corruption known to the authorities or, where no alternatives exist, to the public.

#### **Joint anti-corruption efforts between the EU and member states:**

- Continued **EU monitoring of national efforts** and systemic corruption risks identified in member states to track progress in the Union over time and encourage and support governments to include anti-corruption action in all relevant national policy programmes;
- **Best practice exchange** among the 28 EU member states for mutual learning about successes and failures in tackling corruption

<sup>4</sup> According to Art. 68 TFEU, which could take shape in the form of short conclusions setting the scene, similar to the 1999 Tampere conclusions

### Openness and integrity of EU democratic life:

- The widest possible **access to information**, including a proactive approach to making information and documents held by EU institutions and bodies public by default;
- Transparent and ethical **lobbying** through mandatory lobby registers and legislative footprints;
- **Parliamentary integrity** safeguarded by accountability towards their constituents<sup>5</sup> and mandatory codes of conduct for parliamentarians, clear conflict of interest regulations, revolving door restrictions and rules on disclosure of interests, assets and income;
- Robust and transparent **public contracting** (including at municipality level) with strong corruption safeguards as well as accessible and open data information on contracts awarded and public money spent;
- Clean **political party financing** with transparent and limited private donations, and effective oversight mechanisms.

### A corruption-free EU private sector:

- High legal standards of **corporate transparency** covering both financial and non-financial information relevant to anti-corruption efforts to encourage more socially responsible behaviour of private entities;
- More transparent and accountable governance of the **EU financial sector** to avoid undue influence and regulatory capture.

### A global focus on the fight against corruption:

- An EU **foreign policy** towards partner countries and in international fora such as the United Nations and the G8/G20 that continuously promotes action against corruption;
- Prevention of **flows of dirty money** acquired through corrupt practices inside and outside the EU through a robust EU anti-money laundering regime (including transparency of beneficial ownership of companies) as well as the facilitation of stolen assets recovery and repatriation to their country of origin;
- **EU assistance to third countries** (enlargement, neighbourhood and developing world) should be protected from corruption and support anti-corruption reforms.

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<sup>5</sup> Krambia-Kapardis, M., Perception of political corruption as a function of legislation, Journal of Financial Crime (09/2014), 21(1):44-55

## **About Transparency International**

Transparency International (TI) is the global civil society organisation (non-governmental organisation) leading the fight against corruption. Through more than 95 chapters worldwide (i.e. in almost every EU member state and accession candidate and potential candidate country) and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption and works with partners in government, business and civil society to develop and implement effective measures to tackle it.

The Transparency International EU Office is part of the global civil society organisation of TI leading the fight against corruption. TI-EU engages in open, transparent and regular dialogue on a diverse range of corruption issues with a clear reference to the implied costs of corruption and risks to good governance, the rule of law and citizens' fundamental freedoms that the EU has agreed to respect. At the same time, we urge policy-makers, business, academia, civil society and citizens to participate actively in the fight against corruption.

*"Transparency International is a non-governmental organisation that promotes transparency in the EU decision-making process. We therefore assume that contributions to stakeholder consultations will be dealt with in a transparent and open manner. To achieve this goal, we recommend that all contributions such as this one should be made public in the final communication or attached to the final communication in a 'legislative footprint' (record of expert contributions)."*