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**COMMISSION STAFF WORKING PAPER**

[...]

*Accompanying document to the*

**Draft  
COMMISSION DECISION**

**on establishing an EU anti-corruption reporting mechanism for periodic assessment  
("EU Anti-Corruption Report")**

**SUMMARY OF THE IMPACT ASSESSMENT**

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### **1. PROBLEM DEFINITION**

The impact assessment identified 3 interrelated problems linked to corruption in the Union that need to be addressed through appropriate policy action:

- (a) *High levels of corruption in some EU Member States and significant harm associated with it*

Although the scale of corruption varies substantially among Member States, there are no corruption-free zones in the EU today. About 5% of the EU respondents to the 2010 Transparency International's Global Corruption Barometer (GCB)<sup>1</sup> admitted to have paid a bribe. The average score for the EU-27 in Corruption Perception Index (CPI)<sup>2</sup> ranged from 6.23 (in 2000) to 6.30 (in 2010) of the maximum 10 (least corrupt). The main CPI findings are confirmed by World Bank's world wide governance indicators<sup>3</sup>. Perception indicators have their limitations, but over time they may offer a fair reflection of the effectiveness of fighting corruption in a country.

The annual cost of corruption was estimated to more than 5% of global GDP (2.6 trillion USD)<sup>4</sup>. No comprehensive estimates of the costs of corruption in the EU are available. For the purpose of this impact assessment, it was estimated that the costs of corruption in the EU amount to 1% of EU GDP (i.e. about 120 billion euro per year).

- (b) *Lack of a common approach amongst Member States to the implementation of anti-corruption tools*

The EU anti-corruption legislation is unevenly transposed (e.g. Council Framework Decision 2003/568/JHA on combating corruption in the private sector<sup>5</sup>). There is considerable difference in the EU-27 among substantive criminal laws and the level of their enforcement. Some Member States have not ratified the main international anti-corruption instruments<sup>6</sup>. In addition, implementation of these instruments is uneven across the Union. Consequently, persons engaged in corrupt practices operating cross-border can benefit from the fragmentation of the legal framework.

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<sup>1</sup> The GCB explores general public attitudes towards corruption and experiences of bribery across the world.

See [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb](http://www.transparency.org/policy_research/surveys_indices/gcb)

<sup>2</sup> Transparency International's CPI ranks countries according to the perception of corruption in the public sector from 0 (most corrupt) to 10 (very clean).

See: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results)

<sup>3</sup> <http://info.worldbank.org/governance/wgi/worldmap.asp>

<sup>4</sup> International Chamber of Commerce, Transparency International, UN Global Compact, World Economic Forum, Clean Business is Good Business, 2009.

<sup>5</sup> Implementation Report issued in 2007–COM(2007)328 final. A second updated implementation Report is issued with this anti-corruption initiative.

<sup>6</sup> The Council of Europe's Civil and Criminal Law Conventions on Corruption; the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the United Nation's Convention against Corruption.

- (c) *Low confidence of EU citizens in public institutions and in the fair functioning of the market due to corruption*

78% of European citizens responding to the 2009 Eurobarometer<sup>7</sup> on the attitude of Europeans towards corruption considered corruption a major problem in their country. Transparency International, in its 2009 CPI report, confirmed the wide-spread perception that corruption in the financial system was partly to blame for the global economic crisis.

*The baseline scenario* shows how the identified problems are likely to evolve without additional intervention. Given the nature of the problems, it is reasonable to assume that, with no action at EU level, the negative impacts on licit economies would persist.

## 2. ANALYSIS OF SUBSIDIARITY

The EU has the right to act in this field (Articles 67 and 83 of the Treaty on the Functioning of the European Union). The Stockholm Programme recognises corruption as a trans-national threat that challenges EU internal security and requires a clear comprehensive response.

There is a need for action at EU level, since the problems associated with corruption cannot be adequately solved by Member States alone. Corruption is a serious crime with a cross-border dimension. Given the alleged role of corruption in the financial crisis, a sustainable recovery of the EU economy also requires a reduction of corruption.

There are high expectations of the European citizens towards action at EU level<sup>8</sup>. Enhancing fight against corruption is also relevant for policy areas where large amounts of EU resources are involved. *The EU is therefore better placed to act as a catalyst* for boosting the anti-corruption policy of the EU and Member States.

## 3. WHAT ARE THE OBJECTIVES?

### General, specific and operational objectives

The overall long term objective is the reduction of corruption levels in the EU-27. The general, specific and operational objectives are set out hereafter:

Problems identified	General objectives	Specific objectives	Operational objectives
Problem 1: High levels of corruption in some EU Member States and significant harm associated with it	a) To reduce corruption opportunities across the EU  b) To reduce the harmful economic, social and political effects of corruption	To reduce instances of corruption across the EU  To increase effectiveness of anti-corruption measures by fostering political will for action against corruption  To reduce the effects of	To provide and disseminate valid and reliable periodical data on levels of corruption in EU Member States  To produce and disseminate at EU level valid and reliable information on the performance of anti-corruption measures

<sup>7</sup> [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_325\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_325_en.pdf)

<sup>8</sup> As shown by the public consultations in preparation of the Stockholm Programme and the anti-corruption initiative.

		<p>corruption on competition and the fair functioning of the internal market</p> <p>To reduce the proportion of citizens indicating that they paid 'bribes' for public services</p>	<p>To provide improved surveys on the payment of bribes for public services</p>
<p>Problem 2: Lack of a common approach amongst Member States to the implementation of anti-corruption tools</p>	<p>c) To improve the effectiveness of the EU and international legal frameworks</p> <p>d) To increase the application of successful approaches to reducing corruption with particular emphasis on transnational learning within the EU</p>	<p>To improve the implementation of the EU acquis and international instruments in the area of the fight against corruption</p> <p>To promote the identified best practices</p> <p>To increase the resources deployed on implementation of anti-corruption measures</p>	<p>To provide more extensive and timely information on the transposition and implementation of EU and international anti-corruption legislation</p> <p>To support international cooperation and exchanges of know how in the prevention of and fight against corruption.</p> <p>To increase the number of peer learning activities in the EU concerning anti-corruption.</p>
<p>Problem 3: Low confidence of EU citizens in public institutions and in the fair functioning of the market</p>	<p>e) To increase confidence of EU citizens in public institutions and in the fair functioning of the internal market</p>	<p>To increase awareness of EU citizens of EU anti-corruption efforts</p> <p>To increase perceived credibility of anti-corruption policies in the EU</p>	<p>To publicise and make accessible the findings of periodical reviews of corruption in the EU.</p>

#### 4. WHAT ARE THE POLICY OPTIONS?

##### 4.1. Option (1): Status Quo / no new EU action

This option implies no new EU initiatives. However, it would include existing and anticipated activities.

##### 4.2. Option (2): The EU accession to Council of Europe Group of States against Corruption (GRECO)

This option foresees accession of the EU to GRECO along with three additional elements: a) comparative reports compiled from the existing GRECO country reports; b) follow up of certain outstanding recommendations and c) tailor-made additional evaluation rounds for the EU-27. The third element would require the amendment of the GRECO legal framework.

##### 4.3. Option (3): Periodical EU Anti-Corruption Report

This option would include a periodical reporting on anti-corruption efforts across the EU, based on information available through existing mechanisms (GRECO, OECD, UNCAC) and inputs from civil society, independent experts, researchers and other stakeholders. The Report, managed by the Commission and published every two years, would identify **EU trends** and comprise a **thematic analysis** and **country fiches** with tailor-made recommendations for Member States. An independent expert group would be established to assist the Commission in assessing Member States' performances, making recommendations, identifying best practices and EU trends, proposing appropriate EU measures and defining

benchmarks/indicators. A network of local research correspondents would be set up to brief the Commission on a permanent basis on corruption related developments in each Member State. A mutual learning programme would be created to identify best practices and shortcomings, raise awareness or provide specialized training.

#### **4.4. Option (4): The use of EU legislation**

This option foresees approximation of legislation on prevention, prosecution and punishment of corruption offences. It would include a common criminal law definition of corruption and common standards for: remedies for victims and whistleblowers; collection of evidence; coordination of prosecutions; aspects of judicial cooperation in criminal matters under the mutual recognition instruments. It would also foresee legislation on measurement of corruption and production of statistics.

## 5. ASSESSMENT OF IMPACTS

Options	Impact on general objectives	Economic impacts	Social impacts	EU added value	Overall assessment of feasibility	Value for money
Option 1: Status quo / no new EU action	No impact on the general objectives	No economic impacts	No social impacts and no added value on fundamental rights.	N/A	Likely to receive Member States' support.  Not consistent with Stockholm Programme.  Possibly lead to a more vulnerable position of Member States and the EU to deal with corruption.	Very limited costs at EU level.  Limited impact in terms of efficiency. Rather poor value for money.
Option 2: EU accession to GRECO	Positive medium impacts on reduction of corruption opportunities and successful approaches. Low impact on reducing the harm associated with corruption and effectiveness of legal frameworks.	Rather limited economic impact.  Limited indirect positive effects on productivity, and investments. Beneficial to competition in the internal market.	Limited effects on quality/availability of public sector jobs and private sector opportunities.  Limited indirect positive effects on fundamental rights.	Better streamline mutual benefits of GRECO expertise and EU political influence.  Limitations of GRECO evaluation system.	Amendments to GRECO's procedural framework needed. Compared to baseline scenario: stronger focus on anti-corruption at national and EU level; potential to better compare progress in EU-27.  Weaknesses of GRECO's evaluation system.  No EU solution responding to EU citizens' concerns.	Estimated costs for EU: 2.1 million euro per year (and only 450,000 euros per year for only two elements of this option chosen).  Financial costs outweighed by impacts, but not to a considerable extent.
Option 3: Periodical EU anti-corruption report	Fairly high positive impacts on all objectives.	Relatively high economic return (peer pressure exerted by the periodical reporting and mutual learning system).  Indirect positive effects on competition.  Periodical reports could also act as early warning systems at EU level.	Indirect positive effects on equal access to essential services, job opportunities in public sector, observance of fundamental rights.	May foster political will, domestic debates and public engagement to prompt results against corruption in EU-27.	No particular institutional or practical feasibility issues. Likely that some Member States would show resistance.  Minimum effects expected: comparative information on corruption and progress in reducing corruption level in the EU-27.	Estimated costs for the EU: 4.295 million euro per year.  The relatively high economic return and the high impacts estimated on the general objectives would outweigh the anticipated financial costs.
Option 4: Use EU legislation	Medium positive impacts on 4 of the 5 general objectives. Low impact on the successful approaches to reducing corruption.	Relatively low economic return against the estimated costs of corruption.  Indirect positive effects on competition.	Some improvements in equal access to essential services and to quality public sector jobs.  Indirect positive effects on fundamental rights.	Some added value in long term, but less likely to influence political will in the EU-27.	It would facilitate the application of the mutual recognition principle and establish a common definition of corruption in the EU.  Blocking issues: political constraints and legal complexities.	Estimated costs for the EU: 2.5 million euro per year.  Good value for money, but only in a long-term perspective.

## 6. HOW DO THE POLICY OPTIONS COMPARE?

All policy options provide a good benefit versus costs return because the scale of costs of corruption is so large, thus even small decreases will readily offset the costs of successful interventions. It was assumed that the policy options would be able to reduce at most 5% of the estimated corruption costs of 1% of EU GDP.

Under **Policy Option 1**, anti-corruption activities would continue to have a low public profile. The associated costs of corruption would continue to be enormous.

**Policy Option 2** has potential to have stronger effects than the status quo. Of the three elements under this policy option, only two (i.e. comparative reports and follow-up of outstanding recommendations) would pose no feasibility issues. The third element (i.e. tailor-made evaluations) is less likely to materialize, since it would require amendments to GRECO's procedures and evaluation methodology.

Under **Policy Option 3**, the periodical evaluation has potential to raise the profile of anti-corruption measures, provide insights on their effectiveness and communicate key lessons. The credibility of indicators of corruption and the reliability of comparisons between EU countries would be significantly increased compared to the status quo. Compared to option 2, it would provide the opportunity for involvement of civil society and for the scale, nature and remedies for corruption to be properly articulated. The economic, social and political impacts are anticipated to be greater than the other policy options

Under **Policy option 4**, whilst a common definition of corruption and approximation of criminal law have merits, the impact on the general objective would be small, notably as regards prompting additional political will in Member States to fight corruption. The legislation on the measurement and production of statistics, although useful, would in isolation have little impact and take a considerable period to accrue.

**The preferred policy option** would be build around option 3, combined with the first two elements of option 2 (accession to GRECO with comparative analysis based on exiting country reports and follow-up of outstanding recommendations). Policy option 4 has also clear advantages and it may be considered in the longer run. The preferred option has the best chance to generate political will among Member States. Peer-pressure would help overcoming resistance to increased transparency and accountability. It would also allow a better credibility of indicators of corruption and comparisons across the EU to identify the appropriate policy measures at Union level. This option has potential to prompt a more effective implementation of the international and European legal framework. The EU's participation in GRECO would create better synergies between both mechanisms. Any duplication would be avoided and the EU Anti-corruption Report would help improve GRECO methodologies. The cumulated financial costs for the EU budget of the two policy options are estimated at maximum .4.745 million euro per year. These costs would be outweighed by the economic benefits which would be in average of 3.6 billion euro per year.

## 7. MONITORING AND EVALUATION

The implementation of the preferred option should be subject to future monitoring and evaluation. Potential indicators are: EU's CPI ranking, national anti-corruption strategies,

proportion of citizens who admitted having paid ‘bribes’, instances of new anti-corruption policies/practices, number of peer learning activities sponsored by the Commission, levels of awareness, time taken to transpose and implement legislation, perceptions of transparency. GRECO's outstanding recommendations on the Member States will be picked up by the EU reporting mechanism.

Regular evaluations should be carried out on the effectiveness of the preferred policy option, with the first evaluation after the publication of two EU Anti-corruption Reports. The Commission will then publish evaluation reports every 5 years. Based on the findings, the Commission should consider any further amendment to or other possible developments of the reporting mechanism.

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