



Final Workshop report

Title of Workshop: Lessons learned from the EU Anti-Corruption Policy

Moderator (Name and Institution): **Wolfgang Hetzer**, European Commission, Anti-Fraud Unit (OLAF)

Rapporteur (Name and position, Institution): **Natalia Graur**, Transparency International-Secretariat

Panellists:

- Marc-Arno Hartwig**, European Commission, Justice, Liberty, Security
- Joanna Beczala**, European Commission, Justice, Liberty, Security
- Alina Mungiu-Pippidi**, Hertie School of Governance
- Patrick Moulette**, OECD, Head of Anti-Corruption Division
- Monica Macovei**, UK Consultant to the Prime Minister of the Former Yugoslavian Republic of Macedonia
- Martin Kreutner**, Network for Anti-Corruption Agencies in the EU
- Ian Harden**, Secretary-General of the EU Ombudsman Office
- Meglana Plugchieva**, Deputy Prime Minister, Bulgaria

Summary (300 words)

The Special Session concluded that the fight against corruption in the EU is more important than ever because corruption in the EU undermines good governance, rule of law and fundamental rights. It leads to the misallocation or misuse of EU resources, harms the private sector and distorts the EU internal market.

The EU should do more in the fight against corruption because EU citizens' trust in public institutions at every political level (i.e. national, local and regional) is very low. Various high profile corruption scandals in some of the EU Member States' public and private sectors underscore the need for anti-corruption measures to be made a priority.

The European Commission presented the Eurobarometer survey on the attitudes of Europeans towards corruption (released on 30 October 2008), which revealed that overall, corruption in the EU Member States is perceived to be widespread with three out of four citizens expressing the view that it is a major problem in their country.

Special attention was given to the fight against corruption in Romania and Bulgaria because the European Commission continued special monitoring after the countries joined the EU due to concerns pertaining to corruption, organised crime and rule of law. According to Transparency International's Corruption Perception Index 2008, Bulgaria and Romania rank at the bottom of the EU Member States.

Summary of presentations (300 words per panellist)

Presentation: Marc-Arno Hartwig and Joanna Beczala

- The European Commission negated the question if *EU citizens are satisfied with the EU anti-corruption policy*. According to the latest European Commission Eurobarometer¹

¹ For the results and the content of the survey see:
http://ec.europa.eu/public_opinion/archives/ebs/ebs_291_en.pdf



survey on the attitudes of Europeans towards corruption (released on 30 October 2008), corruption in the EU Member States is perceived by its citizens to be widespread with three out of four citizens expressing the view that it is a major problem in their country. Among all 27 EU Member States, Greece followed by Portugal and Hungary is the one where most citizens answered that corruption is a major problem!

- The second question addressed by the European Commission was related to *what the EU can effectively do about corruption?* It was said that the EU has several anti-corruption instruments (i.e. 1995 Convention on Protection of the European Communities' Financial Interests; 1997 Convention on the Fight against Corruption involving officials of the European Communities or officials of MS of the EU; 2003 Council Decision on combating corruption in the private sector, and the 2008 Council Decision on European Anti-Corruption network adopted).
- The EU Treaty prescribes that it is the Member States (not the European Commission) that have the competence and responsibility to fight corruption in their countries (under the third EU pillar). According to the European Commission, the EU can only coordinate, contribute to and fund necessary anti-corruption actions. In this context, the conclusion was that the basic structure is in place and that there is no need for new or additional instruments.
- However, EU Member States should transpose and implement the existing anti-corruption policies and instruments at national levels more efficiently. The EU on the other hand needs to strengthen its review of the transposition of EU instruments at Member State level, to improve anti-corruption policies through more transparency and involve civil society.
- The anti-corruption watchdog, **Transparency International (Brussels Office)**, highlighted the alarming results of the Eurobarometer (presented by the Commission) as well as this year's Transparency International Corruption Perception Index (CPI)². The broad decline of EU Member State's CPI scores and the high profile scandals in the public as well as private sectors in some EU Member States point to the fact that anti-corruption measures should be made a priority in the EU.
- **Transparency International (Brussels Office)** further asked about concrete steps by the European Commission to respond to EU citizen's concerns about corruption in these Surveys. In addition, what are the Commission's concrete plans for the implementation of the United Nations Convention Against Corruption (UNCAC) which was ratified by the EU as well as a majority of the EU Member States recently. Finally, despite the EU's lack of competence in the fight against corruption (under the third pillar), is it not possible to send a political signal to the EU Member States and thereby to demonstrate the political will necessary to fight corruption in the EU.

Presentation: Alina Mungiu-Pippidi:

- From an academic perspective, the Hertie School of Governance, presented on the questions *whether EU instruments are sufficient to prevent and fight corruption in the EU was addressed and on the difference between anti-corruption instruments and policies in "older" and "newer" EU Member States.*
- According to the Professor, empirical research in the newer EU Member States shows that right after accession EU funds were cut, civil service agencies are being dismantled,

² For more information about TI CPI 2008 see:

http://www.transparency.org/policy_research/surveys_indices/cpi



anti-corruption fighters got under siege and anti-corruption efforts were watered down or stopped. It was highlighted that anti-corruption reforms during the EU pre-accession process have only little sustainable impact and the reforms halt or decrease after accession.

- Although it is difficult to measure corruption, there are a few useful indicators. For example, the ‘Governance and Freedom scores’ by Freedom House serves this purpose. In 2007, they showed vividly that there was no progress happening in EU Member States after EU accession, Estonia being an exception to this argument. Another indicator is the World Bank’s “Rule of Law”, which again showed that other than Estonia no EU Member State made significant improvements in the area of good governance after accession. On a more positive note the existing literature shows that in EU Member States where there is a Freedom of Information law, it is likely to have a better score on governance.
- While the problem of misuse of EU funds is serious, a much greater risk is attached to the general distribution of these funds in a partial manner, either due to politicization or cronyism. According to the panellist, the EU anti-fraud unit, OLAF, is not equipped to understand such challenges, being based on the assumptions of the perfect functioning of rule of law and of impartial bureaucracy. In many of the EU candidate and potential candidate countries, however, and in some ‘newer’ Member States (such as Romania and Bulgaria, but not only) these assumptions are not still met.
- It is further argued by the panellist that signals from the European Commission matter greatly for the domestic support of local politicians, and for the encouragement of certain reforms. Therefore it is quite important that these signals reflect the reality accurately. Inviting Croatia to wrap up negotiations on top of a season of high-profile corruption related crimes send confusing signals both to the Croatian anti-corruption civil society and to other accession countries which did not receive similar invitations.
- **Transparency International Latvia** raised the point that backlashes in the fight against corruption in newer EU Member States such as Latvia do not receive enough attention by EU stakeholders in Brussels. According to the anti-corruption watchdog organisation in Latvia, after a country joins the EU, the European Commission gives up its role as driver for reforms, especially anti-corruption reforms. The lack of monitoring leads to backlashes.
- In replying to a question raised by **Munir Podumjak (President, Partnership for Social Development, Croatia)** that EU candidate countries, like Croatia, are not mentioned in the given discourse, Ms. Mungiu-Pippidi emphasized that Croatia is a special case and should definitely be the beneficiary of the lessons learned. Although Croatia and other countries from the Western Balkans are not more corrupt than Romania and Bulgaria, they will be asked to do more. And it is right that EU should set certain levels and standards to be achieved, but it should not show the given candidate countries how to achieve the respective standards.

Presentation: Patrick Moulette

- The OECD presentation was twofold. Firstly, it addressed how the OECD can reinforce the EU anti-corruption policies. The peer review mechanism is helpful in providing good reports and recommendations to the reviewed countries, which lead to changes in the legislation of countries. In addition to that, some of the issues were identified (such as effective investigation, whistleblower protection and liability of legal persons), which could be of interest to EU. The monitoring work done is important for raising awareness. Secondly the panellist elaborated on the EU initiatives which could reinforce the OECD anti-bribery instruments. Some of these are Eurojust, European Arrest Warrant and the EU Directive.



- In reaction to the question of **Transparency International** about OECD sanctions in case of an EU Member State's non-compliance with the OECD Convention, the panellist responded that there is a sanctions mechanism in place. The most recent example is the sanctions applied because of the UK government's failure to enforce the ban on foreign bribery by its companies under the OECD Anti-Bribery Convention, to which the UK has been a party for nearly a decade.

Presentation: Monica Macovei

- The former Romanian Minister of Justice shared her experience in fighting corruption in the period of two years before Romania became an EU Member State. She stressed the fact that it was crucial for her work as Minister that she was independent of any political party. According to her, there was no balance between the EU pressure for reforms and progress in the fight against corruption before and after the accession. As example, she reminded the audience that Romania adopted the bankruptcy law before EU accession, which was suspended immediately after Romania became an EU Member State.
- With regards to Romania and Bulgaria, the panellist advised that the EU needs to apply harsher punishments for these backlashes. With regards to EU candidate countries, it is essential to ask them to change the dynamic of politics and to try to end what is called the "captive state".
- In general, it is vital that the EU evaluate the real results and level of implementation, and not only what is officially put on paper.
- In response to the question from **Transparency International Macedonia** about the role of the former Minister of Justice as UK-funded consultant in the former Yugoslavian Republic of Macedonia and the impact she perceives to have, Ms. Macovei emphasized that the budget for Anti-Corruption Plan was introduced and an Anti-Corruption Council of ministers was set up, which has the function to follow up with the implementation of the Anti-Corruption Plan.
- In response to a participant's question whether the European Commission considered the Anti-Corruption Public Prosecutor's Office (which was established in Romania during the time when Ms. Macovei was the Minister of Justice) successful, the panellist replied that it was indeed perceived to be a successful tool in the fight for eliminating corruption and was even recommended for implementation in other countries (Croatia).

Presentation: Ian Harden

- Although not many citizens complain about corruption, those that do come from either victims of corruption or whistleblowers and are mostly related to corruption in EU Member States.
- If the complaint refers to corruption in EU institutions, the complaint is directed to OLAF. It needs to be specified that the EU Ombudsman is not an Anti-Corruption body, but it rather investigates cases of EU maladministration.
- If the EU Ombudsman cannot investigate a complaint (as it is the case when the complaint concerns national, regional or local administrations in the Member States), he will transfer the case to a member of the European Network of Ombudsmen or advise the complainant to contact a member of the Network.
- The panellist recommends for all complainants to work with the national Ombudsman first, before approaching the EU level.
- The EU Ombudsman has the power to deal with matters on its own initiative, which means that if a complaint is made from citizens outside of the EU but covering EU related



matters, EU Ombudsman can react to it by taking on this complaint as its own initiative.

Presentation: Martin Kreutner

- The new network has a four pillar anti-corruption approach, which includes repression, education, prevention and cooperation.
- The operation of such a network is a challenge. The following factors make the start-up phase difficult: high number of EU anti-corruption agencies, 27 ministers of internal affairs, EU anti-corruption stakeholders (such as OLAF), variety of organisations, different standards, various levels of competence, a multitude of focal areas and jurisdiction.
- There are enough international legal instruments in the EU, but what is needed is enforcement and implementation. There are double standards, meaning that once a country gets into the EU, the pressure is off. However, corruption does not stop at the national border. Therefore all actors and stakeholders need to join forces to tackle the issue in a common effort.

Presentation: Meglena Plugchieva

- Reported about current situation (autumn 2008) in Bulgaria, especially about the steps which the Bulgarian government has taken lately to address corruption, organised crime and judicial reform. It is her intention to demonstrate that Bulgaria is not the 'black sheep' in the EU. According to her, it is not fair to highlight only the current situation and to compare Bulgaria with newer EU Member States as they have a different history and transition process. It is essential to compare the current achievements to the difficulties in the past.
- There is political will in Bulgaria to tackle corruption. Bulgaria drafted the required legislation and the imperative now is with its effective implementation, in areas such as restructuring public administration, adopting a new law on conflict of interests, adopting a new law on political parties, establishing a special Action Plan in response to the EU Mechanism of Cooperation and Verification. The main aim is to continue the reforms in the judicial system and to improve the cooperation and good work between Bulgarian institutions. Considerable progress was made in regards to the communication between Bulgaria and OLAF / European Commission, which was problematic in the past.
- In reaction to the question of **Transparency International (Brussels Office)** on the important role of civil society in monitoring the anti-corruption progress especially with regards to the lifting of the sanctions in Bulgaria, the Deputy Prime Minister stressed that the strengthening of a good dialog, transparency and cooperation with civil society and media is one of the main priorities on her agenda, as well as involving more citizens in the control mechanism of the government. However, she has agreed that these efforts are not enough and a lot of work has to be continued, aimed at making it sustainable. At the same time she requests the EU to take into consideration all the progress achieved by Bulgaria and conduct a fair and objective verification. Finally Bulgaria needs the continuous support and assistance from EU and EU Member States.
- Codru Vrabie, a **EU Member State citizen** (Romania) addressed a question to all panellists, inquiring about the expected results and objectives of EU policies which address the fight against corruption, other than safeguarding taxpayers' money. In answering the given question the panellists mentioned that the results-oriented approach the EU has in the fight against corruption reflects the structure of the EU budget, since more than 80 % of it is being administered in the EU Member States. In addition to that the given situation is problematic because of lack of control mechanisms and various laws existing in various EU Member States (lack of harmonization).



Main Outputs (200 words, narrative form)

- The workshop provided a platform for civil society, the EU, anti-corruption stakeholders, and academics to openly discuss the impact and lessons learned anti-corruption policy and instruments in the EU.
- From the various different presentations, the audience gained an overview of the different types of anti-corruption actors and activities at the EU level (e.g. EU institution, international governmental organisation, politicians, academia etc.)
- During the discussion, the limitations, challenges and opportunities in the fight against corruption in the EU became clear.
- Findings of different corruption-related research tools were highlighted which showed that political trust of EU citizens is decreasing even in older EU Member States, and the public is increasingly pessimistic about the political will and the capacity of the governments in the EU to tackle corruption.
- The panellists which represented OECD, OLAF, EU Ombudsman and Network for Anti-Corruption Agencies in the EU highlighted the anti-corruption efforts of their organisations, but also emphasized that synergies need to be created to mutually support each other's instruments.
- Three of the panellists (Mrs Mungiu-Pippidi, Mrs Macovei and Mrs Plugtschieva) emphasized that Romania and Bulgaria seem singled out when discussing anti-corruption progress in the EU because in their cases the EU established the monitoring (verification) mechanism and not because they are the only new EU Member States which did not meet the anti-corruption commitments. Indeed evidence from **Transparency International's Corruption Perception Index** shows that the perceived level of corruption in these two countries is higher than in any other EU Member State. Although all three panellists agree that the stress on these two countries is warranted, they encouraged the European Commission to resort to other mechanisms than the safeguard clause, which could also be used in other countries as well (for instance, withholding EU funds).

Recommendations, Follow-up Actions (200 words narrative form)

It was agreed that it is important to strengthen the fight against corruption in the EU. All panellists agree that there are sufficient legal instruments in place to address and fight various aspects of corruption. What is imperative at the moment is the adequate and timely implementation and enforcement of the existing legislative framework.

Marc-Arno Hartwig and Joanna Beczala recommended the following possible actions:

- Support for the new 'EU anti-corruption network' (initiative launched in 2005, approved by Council on 24.10.2008)
- Regular and more research on corruption in the EU (e.g. study on links between Organised Crime and Corruption is expected in autumn 2009)
- Strengthen public administration reform (good governance) in the pre-accession process
- Obtain EU Member States support for implementing a genuine EU-wide evaluation and verification mechanism on anti-corruption measures in the EU
- Support joint trainings (EUROPOL/CEPOL/OLAF) in the field of corruption
- Simplify the use of Joint Investigation Teams (JITs) in anti-corruption investigations
- Improve coordination of all corruption-related stakeholders (i.e. WB, OECD, UN, EU,



Member States, Anti-corruption agencies, NGOs such as Transparency International etc.)

Meglana Plugtchieva recommended

- Support for domestic actors of change in order to generate national ownership and dynamics of anticorruption and funding programs which develop domestic accountability systems and build capacity in this way.

Alina Mungiu-Pippidi recommended:

- Support for domestic actors and dynamics, in other words, for a less government-centered approach than the EU has so far endorsed. National ownership of anticorruption should not be seen as similar with government ownership. This implies supporting domestic actors of change to generate national ownership and dynamics of anticorruption and funding programs which develop domestic accountability systems and build capacity in this way (rather than current direct capacity building, which yields modest results, if any).
- EU funding should move away from awareness campaigns (surveys show that the public is highly aware of the problem and it has always been) and other non-specific, high-discretion, impossible to measure results programs to sector oriented watchdog activities empowering local stakeholders.
- If current EU procedures are seen as too bureaucratic to allow more flexible funding, the EU might consider commissioning this whole array of reform support (i.e. comprehensive anticorruption, including administrative and rule of law reforms) to intermediate and smaller assistance agencies or NGOs specialized in this field. Some of these organisations (Transparency International, Freedom House Europe, Article XIX, Open Society Institute etc.) actually work by transferring best practices within the region, so they are better placed for more tailored, society-driven approaches.
- It is essential that a comparative, more objective based assessment mechanism is created that rates anticorruption in accession countries across themselves and across time. Existing benchmarks are much too driven by the creation of formal institutions which have not been proven to work in the first place (input indicators), and should be tied more with outcome or impact indicators.
- A follow-up meeting to discuss in-depth methodologies for these recommendations was suggested.

Transparency International recommended in its questions:

- Concrete response to the EU citizens concerns about corruption (expressed in most recent surveys).
- Concrete steps for the implementation of the United Nations Convention Against Corruption (UNCAC) which was ratified by the EU as well as a majority of the EU Member States recently.
- Send a political signal to the EU Member States and thereby to demonstrate the EU's political will to fight corruption in the EU.
- Sustain anti-corruption monitoring after countries join the EU.
- Create space and a concrete role for civil society to monitor anti-corruption in the EU, especially in the framework of the EU verification mechanism and the forthcoming process to lift the sanctions on Bulgaria.



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Highlights (200 words please include interesting quotes)

- The European Commission presented the *Eurobarometer survey on the attitudes of Europeans towards corruption* (released on 30 October 2008 on the Commission website) for the first time. The survey reveals that, overall, corruption in the European Union Member States is perceived to be widespread. According to Marc-Arno Hartwig from the European Commission: "Our survey shows that on average, 3 out of 4 Europeans agree that corruption is a major problem in their country (75%)".
- The drafting phase of legal instruments in the EU is over, but what is needed is enforcement and implementation.
- Support for domestic actors and civil society, in other words, for a less government-centered approach than the EU has so far endorsed.
- The Deputy Prime Minister stressed the need to further strengthen the good dialogue, transparency and cooperation with civil society and media.

Signed: _____ Natalia Graur, Transparency International Secretariat, Rapporteur _