



03.12.2013
BRUSSELS

CONFERENCE ON **ANTI-CORRUPTION**
AND **ANTI-FRAUD** MEASURES
IN RELATION TO THE USE OF THE EUROPEAN
STRUCTURAL AND INVESTMENT FUNDS

in co-operation with





EU ANTI-CORRUPTION POLICY REVISITED

MONITORING EU MEMBER STATES' ACTION AGAINST CORRUPTION

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EU ANTI-CORRUPTION PACKAGE

(follow-up of the Stockholm Programme)

Adopted on 6 June 2011

- Communication on Fighting Corruption in the EU;
- Commission Decision (internal) setting up the EU Anti-Corruption Report;
- Report on modalities of EU participation in GRECO;
- Implementation Report FD 2003/568/JHA on combating corruption in the private sector corruption.



EU ANTI-CORRUPTION REPORT – WHY DIFFERENT?

- laws and institutions largely in place – need to get them work;
- acknowledgement of the need to address insufficient political commitment;
- focus on MS capacity to control corruption and corruption risks;
- look at the impact (end of the process) – no ticking of boxes;
- no universal solution to country-specific problems;
- selective v. comprehensive;
- focus on specific areas relevant at EU level (e.g. public procurement) and on specifics of each MS;
- look for good practices, peer-learning;
- streamline information/assessments already available and fill in the gaps;
- COM in lead (no peer-review);
- grounds for future EU initiatives (policies/legislation/financing).



HOW DOES THE EU ANTI-CORRUPTION REPORT WORK? (1)

- Managed by the Commission and published every 2 years (1st report to be published in early 2014);
- Wide definition of corruption ('abuse of power for private gain');
- Focused (selected cross-cutting and country-specific matters);
- Structure:
 - + general part: methodology, Eurobarometer surveys, summary of main findings, thematic section (public procurement)
 - + country chapters (matters that stand out: good practices, weaknesses, vulnerabilities, areas that need further attention).



HOW DOES THE EU ANTI-CORRUPTION REPORT WORK? (2)

- Use of all available sources: monitoring mechanisms (GRECO, OECD, UNCAC), independent experts and researchers, civil society, specialised networks (e.g. EACN), EU institutions, services and agencies (including OLAF, Eurojust, Europol), analyses/reports issued by public authorities in MS, COM studies, Eurobarometer, other stakeholders;
- No additional administrative burden on MS;
- Facilitate experience sharing.



PREPARING THE FIRST EU ANTI-CORRUPTION REPORT

- **Expert group** to advise COM on: **methodology, approach, good practices, analysis of EU trends, assessment methods, new EU measures:**
 - open call – 17 experts selected and appointed in December 2011;
 - wide variety of backgrounds (public/private, law enforcement, judiciary, prevention, international organisations, civil society, academia);
 - act in personal capacity.
- **Network of local research correspondents** to help COM identify **outstanding country-specific problematic issues/good practices + collect relevant information/data + analyses/research upon COM request:**
 - network in place since August 2012 (public procurement procedures)
 - one correspondent/MS from among civil society/researchers/academia;
 - second opinion experts
- **Regional workshops – consultations with stakeholders;**
- **Studies financed/co-financed by COM (e.g. public procurement, protection of whistleblowers, NIS, healthcare).**



POTENTIAL AREAS FOR FURTHER POLICY WORK BASED ON PRELIMINARY FINDINGS OF PREPARATORY WORK FOR THE EU ANTI-CORRUPTION REPORT

(non-exhaustive list)

- **Accountability** and integrity standards for **elected and appointed officials**;
- Role of **internal control mechanisms** in anti-corruption policies and the cooperation between internal control mechanisms and law enforcement;
- Development of **innovative e-tools to enhance transparency and facilitate tracing of public transactions and public spending**;
- **Asset disclosure** systems and their impact on anti-corruption policies;
- Effective policies for addressing **conflicts of interests** and **revolving door practices**;
- Effective policies to address **corruption risks at local and regional level**;
- Tools to address corruption risks in **public procurement**, including those related to the implementation phase of public contracts;
- Mechanisms and policies to effectively address corruption risks related to **state-owned and state-controlled companies**;
- Transparency of **lobbying**;
- Effective protection mechanisms for **whistleblowers**;
- Mechanisms and policies to address corruption risks in the **financial sector**;
- **Effectiveness of court proceedings** in corruption cases – legislative, institutional and operational solutions.



PUBLIC PROCUREMENT IN THE SPOTLIGHT FOR THE FIRST EU ANTI-CORRUPTION REPORT

- area regulated at EU level currently undergoing reforms;
- significant element of national economies in the EU/ high level of financial flows;
- rather high risks of corruption and fraud;
- weaknesses of anti-corruption policies in public procurement adversely affect the management of both national and EU funds;
- high level of costs of corruption in public procurement, including in relation to EU funds (2013 EU-funded study implemented by PwC and ECORYS: in 2010 alone the overall direct costs of corruption in public procurement in five sectors in 8 MS mounted to EUR 1.4 to 2.2 billion);
- still insufficient awareness in this policy area as to the nature and seriousness of corruption risks and the relevance of anti-corruption measures, notably on the preventive side.



EXAMPLES OF PRACTICES FOUND IN CORRUPTION CASES IN PUBLIC PROCUREMENT

In the public procurement cycle:

- drafting tailor-made specifications to favour certain bidders;
- split of public tenders in smaller bids to avoid competitive procedures;
- conflict of interests and revolving doors concerning not only procurement officials, but also higher levels of contracting authorities;
- disproportionate and unjustified selection criteria;
- unjustified exclusion of bidders;
- unjustified use of emergency procedures;
- unjustified exceptions from publication of bids.

Post-award phase:

- quality of deliverables intentionally compromised;
- insufficient justification of amendments to public contracts;
- subsequent amendments of contracts modifying the specification terms and increasing the budget.



AREAS THAT WOULD REQUIRE PARTICULAR ATTENTION

- **conflict of interests and revolving door practices:** need to further raise awareness and ensure adequate checks;
- **regional and local levels:** need for adequate checks and balances;
- risks associated with **close links between businesses and politicians** – several corruption cases investigated or adjudicated in various MS concern corrupt practices related to the award of public contracts emerging from close ties between businesses and politicians; some of these involved allegations of illegal party funding in exchange for public contracts;
- **right balance** between effective **control mechanisms** and **simplification of procedures;**
- more focus on monitoring **post-award phase;**
- **avoid overreliance on external oversights** to the detriment of effective of internal controls;
- risks associated with **complexity of legislation** and/or **legal uncertainty/high frequency of legislative amendments;**
- **professionalisation and training** of public procurement officials, including on governance and integrity issues;
- adequate **training of law enforcement and judiciary;**
- **Ex. of vulnerable sectors:** construction, energy, transport, defence and healthcare.



HOW TO ADDRESS EFFECTIVELY CORRUPTION RISKS IN PUBLIC PROCUREMENT?

- **stability and clarity of legislation;**
- high **transparency** standards, including for **implementation phase;**
- innovative **electronic tools/applications/web-portals** to enable user-friendly tracing of public spending and information on public procurement procedures and public contracts;
- increased use of **e-procurement;**
- clear uniform rules on **conflicts of interests** and **revolving doors** and **effective enforcement;**
- effective **internal controls** combined with **independent oversights;**
- **risk management tools/strategies** and red-flagging tools for contracting authorities and procurement oversights;
- tailor-made strategies **targeting vulnerable areas/sectors;**
- further **professionalisation** of public procurement staff and **training** on corruption risks and integrity-related aspects;
- enforcement of **dissuasive sanctions** in case of breaches of procurement rules and **effective recovery** of damages caused to the public interest;
- active involvement of **civil society and businesses** – integrity pacts.



KEY CHALLENGES FOR EU ANTI-CORRUPTION POLICIES

- Real added value and impact (i.e. bring visible change)
- Depart from mere law enforcement approach towards a wider good governance approach (prevention tools/corruption risks);
- Smart use of existing standards/indicators/evaluations/information + innovative approaches/indicators;
- Outspoken AND objective assessment, reflecting ever changing realities and particularities of MS/circumstances/sectors;
- Ensuring MS ownership and follow-up;
- Ensuring more active results-oriented engagement with a wide variety of stakeholders.



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