CSD
CENTER FOR THE STUDY OF DEMOCRACY

DEVELOPING AN EU COMPETENCE IN MEASURING CORRUPTION

Policy Brief No. 27, November 2010

The evolution of the EU anti-corruption agenda

The problem of corruption has been occupying the minds of policy makers, analysts and the public all over the world for quite some time now. In the EU, it has been on the agenda since the mid 1990s, the focus on it possibly sharpened by the two latest waves of enlargement. Its effects, however, have been identified across the Union to the extent that the European Commission concludes that "within the EU there is no corruption free-zone."

The experience of the 2007 enlargement has been particularly educational. The Commission had little specific guidelines to offer acceding countries as anti-corruption was not in the core of the EU acquis. Still, the significance of transparent and accountable government for the functioning of the EU internal market and the delivery of its core policies required that anti-corruption be made one of the key requirements for membership.

Since the Union is a mechanism of harmonisation, rather than transformation, in the initial stages of accession the European Commission focused on ensuring nominal compliance with what constituted the EU law in this area. In the process, the understanding of anti-corruption progress and how it should be evaluated underwent significant evolution. Initially convinced that it was "hard to know the

MAIN POINTS

➢ The anti-corruption reporting mechanism that the European Commission is intending to introduce should be complemented by regular measurement of the incidence of corruption. Well tested methodologies already exist.

➢ Having its own facility for measuring corruption would allow the EU to:

  o be credible in its assessments, especially of candidate countries;
  o be capable of making relevant recommendations;
  o carry out corruption risk assessments;
  o broaden its policy options against corruption (currently focused on law enforcement).

➢ The Bulgarian experience in measuring corruption would be particularly relevant in the development of such a facility. The Corruption Monitoring System, implemented by the CSD, generates data on the incidence of corrupt transactions and assesses corruption risk in the various public and corporate sectors.

extent of corruption" (the 2000 Regular Report on Bulgaria), by 2007 the Commission was setting anti-corruption benchmarks for Bulgaria and Romania. Although these were items on a to-do list for the government, rather than measurable indicators of change, they were indicative that the need for some of kind of verifiable data on anti-corruption progress was being acknowledged.

Given its controversial nature, corruption has taken some time to move up on the EU agenda. The first call for action was in 1997, followed by a 2003 Commission Communication on "a comprehensive anti-corruption policy". The latter was, however, an assortment of more or less general intentions, rather than a coherent policy document informed by a vision of what the EU role in this area should be. Its follow-up was expected in 2008 but is now postponed for 2011. This deferment has had, though, the unexpected benefit of bringing about the current consultation which should be able to generate sufficiently advanced thinking on the EU competences in anti-corruption.

In the 2003 Communication, the Commission was of the opinion that at the time "a separate EU anti-corruption evaluation and monitoring mechanism is inappropriate". The reason was that the EU was hoping to accede to the Council of Europe monitoring mechanism known as Greco. Should this fail, "the Commission would consider if a separate EU mutual evaluation and monitoring mechanism on the fight against corruption could be set up." Seven years later an accession to Greco is still on the agenda but now the so called Stockholm Programme, adopted by the EU General Affairs Council in 2009, tasks the Commission to "develop indicators … to measure efforts in the fight against corruption".

This provides possibly the **first opportunity** for the Union to start developing **an anti-corruption policy that is as evidence-based** as some of its other policies.

Monitoring and measuring corruption

As concerns about corruption grew, so did efforts to track its dynamics and the effect of policies against it. The experience so far shows that an adequate understanding of corruption needs **two closely linked evaluation methods.**

First, there is **corruption monitoring**. In intergovernmental bodies it came to signify the practice of regular inspections looking into anti-corruption policies, institutions, regulations and procedures. An example is the **monitoring practiced by the oversight mechanisms of the four anti-corruption conventions** agreed within the Council of Europe, OECD and the UN (the latter still being developed). It implies the administration of questionnaires and occasional visits by expert teams intended to ascertain the extent to which the legislation of a given country has reflected its commitments under the conventions. This institutional and regulatory review does not evaluate corruption at all but constitutes a kind of statutory audit intended mainly as a pressure tool. At best, it could determine the degree of political commitment to harmonize laws and the administrative capacity to enforce it. At worst - in particular given the so called consensus minus one principle (whereby the examined country abstains during the adoption of the assessment) - the reciprocity of such an exercise among peers could compromise its objectivity (in Greco, the evaluated government's agreement is required for the publication of the monitoring report).

It is within these mechanisms that what became know as **"monitoring fatigue"** has taken place. It refers to complaints by country bureaucrats of the transaction costs involved in servicing too many evaluation questionnaires and expert missions. It is this lack of enthusiasm for adding another layer of reporting that has prompted Commission to remark that a future EU mechanism "should not represent a disproportionate additional administrative burden."

This type of review could provide feedback on the **quality of the delivery mechanism** of a certain

policy but is useless as **an evaluation tool** of its design or effectiveness. The impact of anti-corruption efforts can only be understood by **measuring the incidence of corruption.** Measurement puts the results of regulatory reviews in perspective by providing hard evidence about the proliferation of corruption, tracks its dynamics and identifies vulnerable sectors.

There are two main measurement techniques. First, there are the international comparative evaluations which seek to identify corruption in the transactions between foreign/international businesses and national administrations. The most well known of these is the Corruption Perception Index (CPI) of Transparency International which reflects the assessment by foreigners of the corruption image of a given country.

Second, there are national level diagnostic instruments. In these, the focus is on the transaction between local citizens and businesses and the public administration. These measure frequency of bribes and the other types of corruption, thus providing a statistical measure of the incidence of corrupt transactions. A good example of these is the Corruption Monitoring System (CMS) of the Center for the Study of Democracy in Bulgaria (described in more detail below). Unlike the CPI, which aggregates indexes of **attitudes** international investors and watchdogs, the CMS generates data about the **actual level of corruption** by measuring its incidence.

In a nutshell, **monitoring** could be said to an instrument of the **politics** of anti-corruption, while **measurement** is a tool of anti-corruption **policy**.

Monitoring, as a review of regulations and institutional capacity, evaluates anti-corruption **input**. The **output**, in other words the impact on corruption, can only be assessed through measurement methods.

Developing an EU competence in measuring corruption

Although it is unlikely that anti-corruption would graduate to a **common** policy in the EU any time soon, any steps in that direction need to be informed by a sufficiently elaborate understanding of origins and dynamics of corruption in the various political, social and economic environments of the member-states and beyond. Regardless of the shape of a future EU mechanism requiring member states to report on their anti-corruption policies, institutions and regulations, it would need **its own corruption measurement methodology** in order to be able to "to identify appropriate policy action/measures at EU level which ultimately should lead to a measurable reduction of corruption in the European Union," as intended by the current consultation brief published by the European Commission.

A **European anti-corruption policy** - comprehensive, common or otherwise – would need a **measurement capacity** for a number of specific reasons:

1) **Credibility.** The experience of the EU in dealing with corruption so far, in particular in the context of enlargement, shows that measuring anti-corruption progress through indicators such as the number of civil servants trained or strategies adopted has allowed governments considerable deniability; adding the number of convicted public officials as an indicator has changed little (convictions are a means, and not the most effective ones, not an end in anti-corruption). Anchoring assessments in **hard data** about prevalence levels would significantly **enhance the Union leverage in bringing about change** since it would deprive corrupt governments of excuse that the magnitude of corruption in their countries is unknowable. This applies to member states but is much more relevant to the relations of the EU with acceding countries. In its November 2010 progress report on Croatia, for example, the Commission yet again concludes that

"corruption is still prevalent in many areas" without reference to any type of evidence;

2) **Capacity to make recommendations.** Political pressure is important in bringing about change but so is policy assistance. For the assistance provided by the EU to match its evaluations – both within and without the EU – it would need a solid and sophisticated tool for providing governments, civil society and business with meaningful recommendations that make sense in the specific environment. The experience of the latest enlargements shows that without such a capacity the confusion of making anti-corruption efforts at once the **objective** and the **precondition** of assistance is difficult to avoid;

3) **Incentives in addition to enforcements.** There are very few anti-corruption policies *per se.* Being a multifaceted, dynamic and complex phenomenon corruption is tackled through a variety of means which pertain to different areas of public policy. The current view of corruption as a predominantly criminal phenomenon has a number of drawbacks:

- criminal justice is among the least harmonized areas in the EU;

- this approach is ineffective where corruption is widespread among law enforcement and the judiciary;

- focusing on law enforcement is useless with respect to political corruption since its high stakes and complexity make effective prosecutions exceptionally difficult. Ballot boxing them out, rather than boxing them in is the way to get rid of corrupt politicians.

Effective policies have viewed corruption as a matter of deficiency of certain social and economic institutions rather than simply deviant behavior subject to prosecution by state authorities. A corruption measurement system would allow the EU to adopt a broader approach looking into incentives, attitudes, values and individual and corporate behavior and thus understand the generators of corruption in the various national environments.

4) **Linkages to other policies.** Within the law enforcement approach, a corruption measurement system would allow EU level policy-makers to recognize the linkages between corruption and related offences – the grey economy, organized crime,[1] white collar fraud, etc.;

5) **Availability of policy options.** If EU decision-makers are serious about an anti-corruption policy they need to be able to understand the implications of the various types of interventions. All corruption was not created equal and while the term is useful as a political battle-cry it is less so as a policy design concept. A measurement facility would provide disaggregated data allowing policy-makers to comprehend the various types of corrupt behavior across social groups, economic sectors or institutions thus informing policy choices.

Towards a corruption measurement facility for the EU

The EU is currently in a position to benefit from over 15 years of international experience in corruption measurement. Corruption metrics are becoming increasingly sophisticated and are now capable of providing a range of meaningful data to inform public policy.

The following main characteristics of a future measurement facility of the EU can be inferred from the experience so far:

1) It should be **cost-effective**. This could be achieved by making use of already existing capacities in the field – Eurobarometer, the European Crime and Safety Survey, national mechanisms such as the Corruption Monitoring System in Bulgaria, etc.;

---

[1] A comprehensive study of the links between organized crime and corruption, commissioned by Directorate General for Justice, Freedom and Security and carried out by the Center for the Study of Democracy, is available at http://www.csd.bg/artShow.php?id=15192

2) It should be **tailor-made for the EU**. Existing international composite indexes, such as the CPI, aggregate information from sources that have been created for very different purposes. The particular European challenge in corruption measurement is to ensure the **comparability** of results, while controlling for the **specific characteristics** of the national environments. The indicators of a European measurement system should be designed to reinforce each other, rather than just lump together numbers in order to rank countries. The fact, for example, that Finland is much less corrupt than Bulgaria could be used to pressure the Bulgarian authorities to reform but is of little use for EU-level policy-making in this area;

3) It should be **independent**. Given the politically sensitive nature of corruption having national governments as key stakeholders is likely to compromise objectivity. It should therefore be performed by an independent watchdog.

The design of a corruption measurement facility for the EU could be launched by the appointment of a **High Level Panel** to advise the Commission on an appropriate blueprint. The Panel would consist of leading European experts in corruption measurement and would utilize existing methodologies.

The Bulgarian experience with diagnosing corruption is particularly relevant to the development of a future EU-wide mechanism, especially because it took place in the context of EU accession. The **Corruption Monitoring System** (CMS) of the Center for the Study of Democracy was developed in the late 1990s and by the early 2000s was already recognized internationally as best practice. Elements of its design have been incorporated in the Corruption Monitoring Protocol of the United Nations Program against Corruption. The CMS has been implemented in Bulgaria for over 14 years now, its findings being referenced by all international organizations, including the EU, monitoring reforms in Bulgaria. In addition, it has been applied in all Balkan countries[2] and some of the Central Asian states.

The CMS consists of a set of quantitative and qualitative instruments and is designed to generate information about the structure and dynamics of **corrupt behavior**. It measures a number of parameters of corruption:

- **Corruption victimization –** includes the share of individuals and companies involved in the various types of corrupt transactions and a measure of the total and average amounts of the informal payments made;

- **Corruption pressure –** a measure of the share of individuals and companies forced into bribery or other types of corruption;

- Individual and corporate **attitudes towards corruption;**

- **Spread of corruption** – estimates of its proliferation by sector, professional or social group, etc. Includes an assessment of the potential corruption risk in the delivery of public services;

- **Intolerance of corruption - s**hare of individuals or companies that have filed complaints concerning corrupt practices;

- Assessment of the **factors fueling corruption;**

- Assessment of the **government efforts** to counter corruption;

- **Awareness of anti-corruption** – how the public and business view anti-corruption policies.

As evidenced by a sample of its findings for Bulgaria in the graph below, the CMS methodology is capable of illuminating a number of aspects and manifestations of corruption. It is only by having this multi-dimensional view that policy-makers are able to understand and address such a deeply latent problem as corruption.

---

[2] The Southeast European Legal Development Initiative (SELDI) carried out the first comparative study of corruption in the Balkans in 2002 (www.seldi.net/indexes.htm)

Figure 1. Corruption Dimensions, October 2009
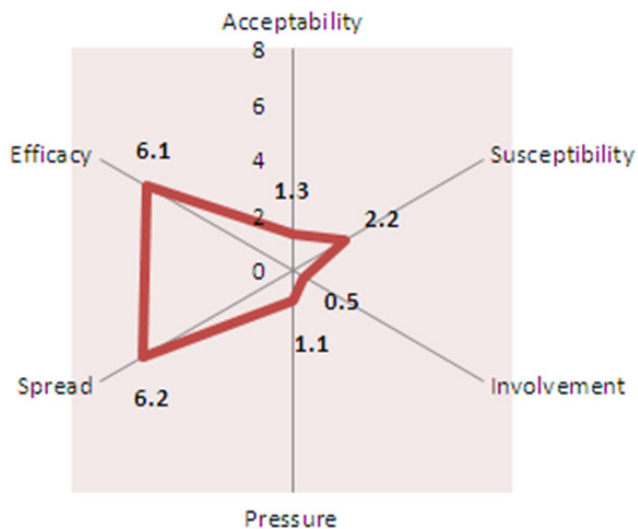
Source: Corruption Monitoring System, CSD.

The CMS measurement is carried out through a process of **public-private partnership** involving NGOs, government institutions and international partners and results in an annual Corruption Assessment Report[3]. The Report is presented for consideration and adoption to a high-level Policy Forum attended by politicians as senior as the President, Prime Minister, Chairperson of Parliament and ministers, as well as NGO leaders, senior judges, Bulgarian and foreign investors, ambassadors of partner countries, representatives of international organizations, the European Commission and others.

A number of key features of the CMS make it relevant to a future corruption metrics methodology that could be adopted by the EU:

- It provides **verifiable data about the prevalence of corruption** and an insight into the mechanisms of corruption through the experience of the victims;

- It is **context-neutral** and could be utilized in any political, social or cultural environment thus being useful both during future enlargements and in countries where the Union provides assistance;

- It is an important overall indicator of the **effectiveness of the internal market** and can be used as a precise instrument for targeting outstanding challenges.

A major advantage of this approach is its capacity to provide **risk assessment** – a particularly relevant feature which would allow the EU to avoid any ex-post lawmaking in this area. Hidden as it may be, corruption has many manifestations that can be measured through proxy indicators in order to design preemptive policy interventions.

As anti-corruption efforts at the EU level are being reinvigorated through a public consultation process, one of the key issues to be tackled is what kind of competence the EU would have in this field. A "reporting and evaluation" mechanism is being considered, modeled on but complementarily to what is being done within the Council of Europe, OECD and the UN. Whatever shape the future mechanism could take, however, it should have the capacity to measure the actual proliferation of corruption in the various national environments. Corruption metrics have come a long way since their initial steps in the mid 1990s and should be used to inform policy options at the EU level. The Bulgarian Corruption Monitoring System, developed and applied by the Center for the Study of Democracy, provides a blueprint which could be used for a European measurement facility.

---

[3] The latest, 2009 report *Crime without Punishment: Countering Corruption and Organized Crime in Bulgaria* provides an overview of the state and dynamics of corruption in Bulgaria, as well as of Bulgarian anti-corruption policies and initiatives during the first two years of Bulgaria's EU membership. It is available at http://www.csd.bg/artShow.php?id=9591