

QUESTIONNAIRE

Consultation on a future reporting and monitoring mechanism on EU Member states progress on fighting corruption

Responses by the Center for the Study of Democracy

Question 1: Do you agree that the EU should establish a reporting mechanism on the fight against corruption in the EU 27 ?

Yes. The mechanism should consist of two components designed to complement each other:

- an institutional and regulatory review that inventories laws, bodies and policies aimed at reducing corruption. In this, complementarity should be sought with the EU strategy to measure crime and criminal justice (the Action Plan 2006-2010 - COM(2006) 437 final)
- Such reviews, however, do not provide information on the effectiveness of anti-corruption efforts. In order 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, the review needs to be complemented by a specially designed methodology and a facility to measure the incidence of corruption. Further details on the suggested methodology are available in the attached policy brief by the Center for the Study of Democracy.

Question 2: Would you support other measures to be proposed at EU level?

- **A legal initiative (Directive or Regulation) that would harmonise penal law and thus provide for a common definition on what the crime of corruption is and how it should be punished.**
- **Providing more financial means for awareness raising campaigns or other anticorruption projects**

EU funding – administered directly by the Commission rather than member states authorities – should be available for anti-corruption projects in several directions:

- Research on the factors facilitating the emergence and spread of corruption and its links to other types of crime. First steps in this direction have been made through the FP7 Cooperation Work Programme 2011.
- Development of a common EU methodology for regular monitoring of corruption.
- Exchange of best practices on effective anti-corruption policies and assessment methods among member states and with non-EU countries.

- Enhancing the understanding of the general public and the business sector of the more sophisticated forms of corruption (trading in influence, kickbacks, etc).

All funding should prioritize the public-private partnership approach in anti-corruption projects which would require member states public authorities to cooperate in this area with various types of NGOs (think tanks, watchdogs, advocacy organizations), media, academic institutions, business associations, independent experts and other civil society institutions.

- Developing better tools to gather data on corruption across the EU

The EU should establish its own capacity for measuring the incidence of corruption. Corruption measurement is needed in order to put the results of the intended regulatory reviews in perspective by providing hard evidence about the proliferation of corruption, to track its dynamics and identify vulnerable sectors. Further details and arguments on the suggested measurement mechanism are provided in the attached policy brief by the Center for the Study of Democracy.

Question 3: Existing monitoring mechanisms are largely based on official sources. Do you think they should be complemented with contributions from civil society, academics and independent experts?

Having civil society as a source of information on the spread of corruption and the effectiveness of anti-corruption policies is a must. Given the deeply latent nature of corruption, its assessment requires as many sources of data as are available in order to estimate its proliferation as precisely as possible. In addition, as allegations of corruption are very damaging to re-election chances, governments are prone to underestimate the level of corruption or overestimate the effectiveness of their policies. Therefore, qualitative and quantitative data from independent sources need to be used to put official information in perspective.

Question 4: Which areas whether in public or private sector you consider as particularly vulnerable to corruption (e.g. politics, law enforcement, judiciary, health, education, public procurement including spending of EU funds, business relations)

The spread of corruption varies widely within the EU not just among countries but also across sectors, as well as by type. A sector that is badly infected in one country could be mostly corruption-free in another. Corruption is also very dynamic – sophisticated white collar fraud could promptly replace blatant bribery as measures against the latter take effect. From the EU-level point of view several aspects of corruption risk should be prioritized:

- Corruption in law enforcement. Graft in the police and the judiciary could undermine even the best thought-out policies.
- Corruption affecting the functioning of the internal market. Illegal attempts to subvert the implementation of internal market standards are particularly pernicious to EU integration.

- Procurement procedures affecting the allocation of EU funds. Corruption risk is commensurate with the amounts spent on public projects, especially in countries with laxer procurement oversight mechanisms.
- Corruption generated by smuggling and cross-border organized crime. A number of recommendations in this area are contained in a study report on the links between organized crime and corruption commissioned by DG JLS.¹

There has been no corruption risk assessment carried out across the Union so far. The corruption measurement facility, suggested by the Center for the Study of Democracy, is intended to fill this void.

Question 5 - What incentives could be applied to offer the best chance for member states to implement recommendations contained in a EU reporting mechanism? (Examples: An anti-corruption fund for implementing certain measures (e.g. setting up or strengthening anti-corruption institutions, complaint mechanisms, providing training or conducting awareness raising campaigns). Using positive incentives by "naming and faming" well performing member states and highlight good examples, best practices... Issuing a ranking of Member states from best to worst.

In case these recommendations contain *policy advice*, the best way to motivate the governments of member states to comply with them would be to ensure that these they take into account as accurately as possible the factors that fuel corruption in a given country. This would require that the EU has its own corruption diagnostic facility. Ensuring that recommendations are *relevant* would allow national authorities to tie in suggested measures with their other priorities in economic, criminal and other policies.

Should the recommendations attempt to introduce common *good governance standards* (short of a Directive or a Regulation), then cooperation could be modeled on the Common Assessment Framework on minimum standards and benchmarks in administrative integrity and good governance adopted by the November 2000 Strasbourg Resolution. Participation would be rewarded through access to technical assistance, training and general capacity development opportunities, funding for anti-corruption projects and other similar benefits.

¹ <http://www.csd.bg/artShow.php?id=15192>