

**Together we are stronger?
Harmonising the fight against fraud and corruption in Europe**

**A “CULTURE OF CO-OPERATION” BETWEEN NATIONAL AND
EUROPEAN
AUTHORITIES IN THE FIGHT AGAINST FRAUD AND
CORRUPTION**

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Summary

Countries as sovereign entities in principle decide freely with whom, in which areas, and to what extent they will co-operate. Of course, in specific areas there are reasons which make them more or less co-operative. There are areas, which cause a lot of attraction from international community since they directly influence the level of economical development, the respect of the rule of law and social stratification not only in the country in question, but also in other countries and even regions. Indisputably, corruption and fraud are two of these phenomena, but there is a problem linked to them: corrupt and fraudulent deeds are quite often committed by those who decide on the international co-operation of a specific country. Therefore, few are interested in establishing successful international co-operation, which could endanger their own misbehaviour. They cannot reject such co-operation publicly although they can be very innovative in finding excuses and obstacles, which limit and minimise the level and extent of co-operation.

An additional issue, which has to be taken into account when speaking about corruption and fraud: although they primarily cause harm to the national situation, solutions and means for the improvement of situation are quite commonly developed at the international level and then transformed into national legislations, institutional set-up and practise. Sometimes countries have to be “pushed” slightly through their existing membership in international organisations or through their desire to become such members. It is also very natural that all national decision-makers always say publicly that they want to fight corruption and fraud – other statements would mean the end of their career. However, when it comes to the famous “political will” and decision-makers’ real actions against fraud and corruption, results can be very disappointing, even frustrating. The level of co-operation always varies in time: expecting crucial moments in their history – like the decision on the EU enlargement – some countries might even become some sort of a beacon in a specific area. Yet when the result is achieved they will try to keep the lowest profile possible, seemingly forgetting all their pledges and announcements. The international community is sometimes in a position to keep track of the promises made and sometimes not. The problem that remains is clearly the problem of possible international sanctioning for not following the promises given and obligations taken.

In practice, the most powerful tool in Europe for influencing the development of national anti-corruption and anti-fraud efforts is the EU enlargement process. Measures against corruption, against fraud and for protection of the EU’s financial interests are part of the most important accession criteria. Acceding countries know this. Therefore, in the process of accession they

do their best to comply with the EU standards in these areas. They sometimes even overlook the fact that there are no such standards (in the area of corruption) and even the fact that they are clearly facing double standards in the mentioned areas. They do not ask too many questions; they simply do what they are asked to do and they reach the peak of their anti-fraud and anti-corruption efforts at the day of accession. With the exception of Bulgaria and Romania, the EU monitoring concerning candidate countries stops here and, unfortunately, so does the further development of the mentioned measures. A general trend can be observed after the accession of last 12 new EU Member States, which shows clear deterioration of the situation in the area of corruption. While in the area of fighting fraud there is a powerful EU institution in the form of OLAF, the European Anti-Fraud Office, there is no such EU institution in the area of fighting corruption. OLAF's substantial and procedural rules on the content and forms of co-operation are strong and good. They ensure mandatory co-operation, which in rare cases in some countries even transforms into a real "culture of co-operation". Unfortunately, in the area of corruption no-one – neither the EC nor the countries – is interested in even what appears to be some form of co-operation.

The Group of States against Corruption (GRECO) is a partial and enlarged agreement of the Council of Europe, in which almost all European states – with the exception of Belarus, Liechtenstein and San Marino – and also the USA are members. The task of GRECO is to monitor its member states' anti-corruption efforts through a peer-review process. GRECO's work is divided into evaluation rounds. Currently it is in the middle of the third round now, dealing with the topics of incriminations of corrupt behaviour as regulated by the Criminal Law Convention on Corruption and transparency of financing of political parties. GRECO is applying rigorous compliance procedure, which, in a case of non-complying countries, may turn into a non-compliance procedure, a set of additional measures, which have to be taken by a non-compliant country. The fact that the seriousness of countries and the level of implementation of recommendations seem to deteriorate lately is worrying. GRECO is doing everything to bring them back to the best possible level. Sometimes, there is an impression of different countries being assessed by different criteria. Therefore, all necessary and possible steps are taken to avoid such a feeling and to ensure a really equal treatment.

There are also some other, smaller European anti-corruption projects running across Europe – like the EC's Stability Pact Anti-Corruption Initiative – SPAI, the Council of Europe's technical assistance projects – RUCOLA in Russia, MOLICO in Moldova, the European Healthcare Fraud and Corruption Network – EHFCN,...- and one of them is raising large expectations by all European countries: organisation European Partners against Corruption – EPAC as predecessor of a future EU network of anti-corruption institutions, which can do away with the most problematic feature of the existing European anti-corruption efforts: division of Europe in at least four different categories of countries: old EU Member States, new EU Member States, other GRECO members and countries that are neither a member of the EU nor of GRECO.

Having in mind major European anti-corruption initiatives, the following common features and necessities can be identified in the area of co-operation:

- participation of a majority of countries in joint European anti-corruption efforts is a consequence of different forms of external pressure;
- the level – the culture - of co-operation of different countries depends mainly on national political circumstances and conditions and varies a lot;

- the main goal of participation of some countries in the European anti-corruption efforts is the protection of their image, while the others are sincere in fighting corruption in a vigorous way;
- new EU Member States have a more developed legislative and institutional anti-corruption framework than their older partners, where the average level of corruption is significantly lower;
- application of different standards in the area of corruption suppression does not add to the unification of Europe and causes people's mistrust in the European institutions;
- the EU is not taking any lead in the anti-corruption efforts of the continent, this role has been taken over by the Council of Europe's GRECO;
- national and international political considerations are merely a limitation element in the development of anti-corruption efforts;
- if Europe wants to make a step forward, it will have to merge anti-corruption efforts of all countries and to make them equally responsible, not forgetting technical assistance to those, who do not have appropriate means yet;
- the experience and efforts of OLAF could be extended to the area of anti-corruption, as well;
- differentiation among countries on the basis of anti-corruption efforts will deepen general distinctions among them;
- measures against corruption as part of the EU legal system should be moved from Pillar III to Pillar I;
- the EU will have to increase their resources (staff, funding, institutional set-up) in the area of anti-corruption;
- countries, which are not EU members yet, will have to be included into pan European efforts against corruption through other forms of co-operation ensuring equal treatment;
- implementation of international legal instruments, mainly the UN Convention against Corruption, represents a useful possibility for harmonisation of anti-corruption efforts in Europe also.

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