

Towards a high degree of accountability, transparency and integrity in the EU Institutions

Background information for the Joint Hearing on 26 March 2015

The "EU Integrity System" report from the Transparency International EU Office is "*the first ever comprehensive review*" of corruption and integrity risks in the EU institutions and how their policies are supporting measures against corruption in Europe. This study is a result of research conducted by the Transparency International EU Office over a nine months period in 2013 and 2014.

The report stresses that EU institutions have adopted general policies and rules to prevent fraud and corruption, a good foundation in the EU system to support integrity and ethics. However, the overall outcome from the report is that corruption risks persist at the EU level. The most urgent risks include opacity in the EU law-making and in the EU lobbying, poorly managed conflicts of interest, weak protection of the EU whistle-blowers and weak sanctions for corrupt companies.

The "EU Integrity System" report covers:

- Four core EU institutions with important political, legislative and executive functions: the European Parliament, the European Council, the Council of the European Union and the European Commission;
- Six EU institutions and bodies with important judicial and oversight functions: the Court of Justice of the European Union, the European Court of Auditors, the European Anti-Fraud Office (OLAF), two EU law enforcement agencies (EUROPOL for police cooperation and EUROJUST for judicial cooperation) and the European Ombudsman.

The report is highlighting key strengths and weaknesses of each institution and is putting recommendations for policy and legislative reform. Providing a solid base for future efforts, this study is supporting undertaken measures in the fight against potential corruption in the institutions and across the European Union as a whole.

Based on the report of Transparency International, a summary table is available on the next pages, presenting the EU institutions and their strengths and weaknesses. The table is followed by a brief bibliographic non-exhaustive list of publications produced by the study services, namely the Policy Departments of the European Parliament and others.

¹ Transparency International, "The EU Integrity System", April 2014, p. 8

SUMMARY TABLE OF THE "EU INTEGRITY SYSTEM" REPORT FROM TRANSPARENCY INTERNATIONAL²

Name of EU Institution	<i>Strengths</i>	<i>Weaknesses</i>	<i>Recommendations made</i>
European Parliament	<ul style="list-style-type: none"> - Public access to documents; - Transparency of legislative votes in parliamentary committees; - Satisfactory effort to respect the legislative agenda. 	<ul style="list-style-type: none"> - Poor rules on monitoring and sanctioning of MEPs' conduct; - Lack of clarity on inter-institutional discussions on draft legislation. 	<ul style="list-style-type: none"> - Oblige members to disclose third party involvements in legislative activities; - Increase transparency during the trilogues and conciliation procedures; - Create an independent control authority of EU-level political parties.
European Council	<ul style="list-style-type: none"> - High public awareness of institution; - Public access to documents. 	<ul style="list-style-type: none"> - Budgetary and administrative lack of transparency due to merged budget with the Council of the EU; - Procedure deficiency in selecting and appointing individuals in key EU position. 	<ul style="list-style-type: none"> - Administrative separation of the European Council and of the Council of the EU budgets; - Set up integrity rules for the President and his/her cabinet.
Council of the European Union	<ul style="list-style-type: none"> - Practice of voting by consensus acts; - Budgetary control powers over the Commission and other institutions. 	<ul style="list-style-type: none"> - Lack of integrity rules, including sanctions, for national delegates; - No public access to documents, nor on member states positions. 	<ul style="list-style-type: none"> - Improve transparency of trilogue and conciliation procedures; - Develop more detailed meeting reports; - Strengthen and further improve clarity of procedures on appointments of members of other institutions.
European Commission	<ul style="list-style-type: none"> - Internal whistle-blowing provisions; - High availability of documents and information; - Independence in operational activities. 	<ul style="list-style-type: none"> - No clear internal integrity rules due to the very complex system; - Limited transparency and accountability provisions in key areas; - Low level of motivation to improve anti-corruption legislation in member states. 	<ul style="list-style-type: none"> - Clarify its internal integrity rules for all staff and reform compliance and sanction provisions on conduct of Commissioners; - Improve exclusion and deterrence mechanisms in public procurement; - Clarify rules regarding use of external expertise and relations with third-parties.

² The summary table is a non-exhaustive list of conclusions. For more details, please consult the Transparency International report: http://www.transparencyinternational.eu/wp-content/uploads/2014/04/EU_Integrity_System_Report.pdf

<p>Court of Justice of the European Union</p>	<ul style="list-style-type: none"> - High level of publication of all decisions; - Independent body applying vetting procedure for new members; - Strict position vis-à-vis EU institutions and member states. 	<ul style="list-style-type: none"> - No power to rule on corruption cases; - Obscurity in the vetting of candidates; - Judicial decision-making process not transparent; - Self-regulation on members' integrity. 	<ul style="list-style-type: none"> - To provide the Court with sufficient resources; - Regarding corruption related cases - to establish a specialised EU court or expand competences of the Civil Service Tribunal; - Better management of resource constraints by an independent internal organisation.
<p>European Court of Auditors</p>	<ul style="list-style-type: none"> - Public access to information; - Basic integrity rules; - Transparent outputs of audit work. 	<ul style="list-style-type: none"> - No internal whistle-blowing provisions; - Complex annual ECA report; - Tardiness of delivering Special Reports. 	<ul style="list-style-type: none"> - Introduce internal whistle-blowing rules; - Establish clear assessment criteria and procedures for the (re-)appointment of ECA members; - Reduce the size of the Court and remove the "one ECA member per Member State" rule.
<p>European Anti-Fraud Office (OLAF)</p>	<ul style="list-style-type: none"> - Strengthen investigative procedures; - Support to fraud-prevention activities; - Resistant investigative work to political pressure from EP. 	<ul style="list-style-type: none"> - Investigative work resource constraints; - Poor budgetary autonomy; <ul style="list-style-type: none"> - Deficiency of OLAF's internal supervisory body control functions; - Absence of complete independence from the EU Commission. 	<ul style="list-style-type: none"> - Provide OLAF's internal supervisory body with full access to case files and control on resources; - Set up OLAF's complete organisational independence.
<p>Law enforcement agencies (EUROPOL & EUROJUST)</p>	<ul style="list-style-type: none"> - High use and well working cooperation mechanisms (joint investigations teams); - No undue involvement in the operations and the administrative work. 	<ul style="list-style-type: none"> - High refusal rate for granting access to documents; - No internal whistle-blowing provisions; - Low level of cooperation on corruption issues. 	<ul style="list-style-type: none"> - Member States should give agencies powers to act in corruption cases; - Strengthen the control and further extend the monitoring role of the EP.
<p>European Ombudsman</p>	<ul style="list-style-type: none"> - Case-related materials highly disclosed; - Better filtering complaints procedures; - Good administrative conduct; - Ombudsman's Code of Conduct as well as internal whistle-blowing rules produced³. 	<ul style="list-style-type: none"> - Tardiness in closing cases (resource constraints); - Low acceptance level by EU institutions of serious European Ombudsman's recommendations⁴. 	<ul style="list-style-type: none"> - Increase resource capacity; - Detail the eligibility criteria and appointment procedure of the Ombudsman.

³ Updated according to the latest information from the Ombudsman.

⁴ According to the Ombudsman, in 2013/2014 it made recommendations in 39 inquiries, of which 17 are still open. For the 22 closed inquiries, 15 have been fully/partially followed.

Policy Departments of the European Parliament and other⁵

Policy Department D (Budgetary Affairs)

1. *Update of the Study on "The Code of Conduct for Commissioners: Improving Effectiveness and Efficiency"*, Blomeyer & Sanz, European Parliament Policy Department on Budgetary Affairs, 2014, 56 p.

[http://www.europarl.europa.eu/RegData/etudes/STUD/2014/490697/IPOL_STU\(2014\)490697_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/490697/IPOL_STU(2014)490697_EN.pdf)

This update relates to a European Parliament study on the Code of Conduct for Members of the European Commission (2009). Overall, the Code is characterised by its poor checks and balances, the absence of a coherent implementation system, and opacity surrounding its operation.

2. *Better avoidance of conflict of interest: EU agencies and other bodies moving forward: workshop follow-up*, European Parliament Policy Department on Budgetary Affairs, 2013, 42 p.

http://www.europarl.europa.eu/RegData/etudes/workshop/join/2013/490675/IPOL-JOIN_AT%282013%29490675_EN.pdf

The half-day workshop was organised at the request of the Committee on Budgetary Control and was held on 21 February 2013. Experts from academia, NGOs working in the field of conflict of interest in public together with practitioners were invited to exchange views and experiences on how to tackle conflict of interest in this specific field of public service.

3. *Political and other forms of corruption in the attribution of public procurement contracts and allocation of EU funds extent of the phenomenon and overview of practices*, Blomeyer & Sanz, European Parliament Policy Department on Budgetary Affairs, 2013, 92 p.

[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490676/IPOL-JOIN_ET\(2013\)490676_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/490676/IPOL-JOIN_ET(2013)490676_EN.pdf)

This study reviews the problem of political and other forms of corruption in public procurement in the European Union. It identifies weaknesses in all the stages of the public procurement cycle, allowing corruption to undermine the objectives of integrity and value for money and eventually jeopardise the whole EU internal market policy.

4. *Corruption and conflict of interest in the European institutions: the effectiveness of whistleblowers*, PricewaterhouseCoopers Belgium, i-Force, European Parliament Policy Department on Budgetary Affairs, 2011, 144 p.

[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453222/IPOL-JOIN_ET\(2011\)453222_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453222/IPOL-JOIN_ET(2011)453222_EN.pdf)

In view of existing whistleblowing rules applied within the European institutions this study provides a critical review of the efficiency of incentives and limitations to whistleblowing. The study is based on the analysis of specialised literature, statistics, legal cases and most

⁵ The non-exhaustive list of selected publications covers a period from 2010 to 2014. Information for this list has been provided by EPRS.

importantly the results of interviews of key persons within the EU institutions and of whistleblowers to identify several existing practices allowing for a discussion on improving the effectiveness of whistleblowing within the EU institutions.

Policy Department C (Citizen's Rights and Constitutional Affairs)

5. *Interest representatives' obligation to register in the Transparency Register EU competences and commitments to fundamental rights*, Prof. Martin Nettesheim Faculty of Law of the University of Tübingen, European Parliament Policy Department C, 2014, 34 p.
[http://www.europarl.europa.eu/RegData/etudes/etudes/etudes/join/2013/493038/IPOL-AFCO_ET\(2013\)493038_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/etudes/join/2013/493038/IPOL-AFCO_ET(2013)493038_EN.pdf)

The following study examines whether the EU is entitled to the powers to apply regulations that oblige interest representatives to register in the Transparency Register. The study arrives at the conclusion that an obligation to register could only be established on the basis of Article 352 of the Treaty on the functioning of the European Union.

6. *The Immunity of Members of the European Parliament*, Rosa Raffaelli Sarah Salome Sy, European Parliament Policy Department C, 2014, 36 p.
[http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/509981/IPOL_IDA\(2014\)509981_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/509981/IPOL_IDA(2014)509981_EN.pdf)

The note is describing the scope of Members of the European Parliament's immunity, as clarified by the Court of Justice of the European Union, together with the procedures followed by Parliament in cases of waiver or defence of parliamentary immunities.

7. *Openness, transparency and access to documents and information in the European Union*, Henri Labayle, professor at Université de Pau et des pays de l'Adour, European Parliament Policy Department C, 2013, 44 p.
[http://www.europarl.europa.eu/RegData/etudes/note/join/2013/493035/IPOL-LIBE_NT\(2013\)493035_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2013/493035/IPOL-LIBE_NT(2013)493035_EN.pdf)

The Treaty of Lisbon updates the terms under which the principles of transparency and openness clarify the right of public access to documents in the European Union. This right is both a fundamental right of individuals and an institutional principle. Observation of the practice followed by the EU institutions and the broad lines of the practices followed nationally indicate that EU law needs to undergo extensive revision.

8. *Democratic Scrutiny, Transparency, and Modalities of Vote in the National Parliaments of the Member States and in the European Parliament*, Jędrzejowska Izabela, European Parliament Policy Department C, 2012, 83 p.
[http://www.europarl.europa.eu/RegData/etudes/note/join/2012/462506/IPOL-AFCO_NT\(2012\)462506_EN.pdf#search="accountability"](http://www.europarl.europa.eu/RegData/etudes/note/join/2012/462506/IPOL-AFCO_NT(2012)462506_EN.pdf#search=)

This comparative study looks at modern parliaments from the perspective of transparency, accessibility and accountability of their activities to the general public. The note is taking into account as well the voting modalities and transparency measures employed in the Parliamentary Assembly of the Council of Europe.

9. *Parliamentary oversight of security and intelligence agencies in the European Union*, Wills Aidan, Vermeulen Mathias, European Parliament Policy Department C, 2011, 442 p.
[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453207/IPOL-LIBE_ET\(2011\)453207\(SUM01\)_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453207/IPOL-LIBE_ET(2011)453207(SUM01)_EN.pdf)

This study evaluates the oversight of national security and intelligence agencies by parliaments and specialised non-parliamentary oversight bodies, with a view to identifying good practices that can inform the European Parliament's approach to strengthening the oversight of Europol, Eurojust, Frontex and, to a lesser extent, Sitcen. A number of detailed recommendations are put forward by the study.

10. *Citizens and EU Administration - Direct and Indirect links*, Professor Curtin Deirdre, Dr. Mendes Joana, University of Amsterdam, European Parliament Policy Department C, 2011, 26 p.
[http://www.europarl.europa.eu/RegData/etudes/note/join/2011/432754/IPOL-JURI_NT\(2011\)432754_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2011/432754/IPOL-JURI_NT(2011)432754_EN.pdf)

This note focuses on the legal and non-legal avenues by which transparency and participation have been ensured in EU law and practice. In addition, reference is made to the European Ombudsman and the right to petition the European Parliament.

Policy Department A (Economic and Scientific Policy)

11. *The role of the European Parliament in the European Semester: increasing the accountability of the Commission and Council*, Hallerberg Mark, European Parliament Policy Department A, 2010, 17 p.
[http://www.europarl.europa.eu/RegData/etudes/note/join/2010/447498/IPOL-ECON_NT\(2010\)447498_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2010/447498/IPOL-ECON_NT(2010)447498_EN.pdf)

This paper considers the role the European Parliament should play under a new European Semester. It begins with a discussion of what legislatures generally do in economic policy and in fiscal policy in particular. It then considers the nature of the problem facing European governance and possible institutional changes to address it.

European Parliament Research Service (EPRS)

12. *Conflicts of interest in public administration*, Zibold Franziska, European Parliament Library, 2013, 5 p.
<http://www.europarl.europa.eu/document/activities/cont/201302/20130221ATT61562/20130221ATT61562EN.pdf>

With the financial crisis, "conflict of interest" has become a buzzword. Not a day passes without the press uncovering another case of unethical behaviour. The introduction of new ethical rules and standards has become a political and sensitive topic. But what is exactly a conflict of interest?

13. *Protecting the financial interests of the Union: The role of administrative investigations*, D'Alfonso Alessandro, European Parliamentary Research Service, 2013, 8 p.
[http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/130480/LDM_BRI\(2013\)130480_REV2_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/130480/LDM_BRI(2013)130480_REV2_EN.pdf)

The European Anti-fraud Office (OLAF) is the EU body responsible for administrative investigations to fight illegal activities detrimental to the EU's financial interests. However, in the fight against illegal activities affecting the finances of the EU, OLAF is only part of the picture. New developments, including the possible establishment of a European Public Prosecutor's Office (EPPO), could have an impact on OLAF's investigative activities.

European Commission Report

14. *EU anti-corruption report, Report from the Commission to the Council and the European Parliament*, COM(2014) 38 final, February 2014, 41 p.
http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf

The report provides a clear picture of the situation in each Member State: measures in place, outstanding issues, working policies and areas that could be further improved. The report shows that the nature and scope of corruption varies from one Member State to another and that the effectiveness of anti-corruption policies is quite different. It also shows that corruption deserves greater attention in all EU Member States.

European Court of Auditors Publication

15. *Gaps, overlaps and challenges: a landscape review of EU accountability and public audit arrangements*, European Court of Auditors, 2014, 74 p.
http://www.eca.europa.eu/lists/ecadocuments/lr14_01/qj0214776enc.pdf

Accountability and audit arrangements for EU policies, instruments, entities and related public financial resources and related challenges are considered in this review. The review is aiming to raise awareness of and foster reflection on the challenges for EU accountability and audit arrangements. There are no 'audit recommendations' in this case, but instead the review contains pointers to issues which need to be addressed by European policymakers, legislators and the audit community.

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