

European Commission, DG Migration and Home Affairs Contribution to the Fourteenth session of the Working Group on the Prevention of Corruption

Thank you for the opportunity to provide input to the discussion of the Working Group, to be held in Vienna in the week of 12 June 2023. On behalf of the European Commission services, we would like to provide input on topic b) and c) of your request. We consider that the European Court of Auditors is best placed to provide input on topic (a) Strengthening the role of supreme audit institutions in the prevention of and fight against corruption;

Point B Good practices, lessons learned and challenges in periodically evaluating the efficiency and the effectivity of anti-corruption measures and policies

The European Commission monitors and reports on developments, both positive and negative, regarding the fight against corruption in all EU Member States. The third EU Rule of Law report with a specific country chapter on efforts to fight corruption, includes also concrete recommendations to tackle systemic weaknesses, and was published in July 2022.

We acknowledge the inherent limitations of perception indexes, which therefore also only form one part of our assessment.

The [qualitative assessment](#) is carried out by the Commission. The main characteristics of the assessment will be the following:

- focus on a synthesis of significant developments introduced by a brief factual description of the legal and institutional framework relevant for each pillar;
- present both challenges and positive aspects, including good practices;
- qualitatively assess all Member States, whilst remaining proportionate to the situation and developments in full respect of the principle of equality of Member States;
- be based on a close dialogue with Member States, country visits, on stakeholders' contributions and on all other relevant sources; reports and materials used will be referenced in the Report.

Nonetheless, the European Commission also regularly published the Eurobarometers on corruption – both the [Special Eurobarometer on Corruption capturing citizens' perceptions and experiences](#) and the [Flash Eurobarometer on businesses' attitudes towards corruption in the EU](#). These perception surveys help complete the picture on the prevention of and fight against corruption in the EU.

In addition, the European Commission has also been evaluating its own legal framework.

The European Commission contracted a study in 2021 called “Strengthening the fight against corruption - Assessing the EU legislative and policy framework.” <https://data.europa.eu/doi/10.2837/22427>;

The study aims at providing recommendations for possible EU measures in the area of corruption prevention and repression and to assess and compare the impacts of the identified policy options. The core problems, drivers and issues of the EU anti-corruption acquis, the need for and added value of EU action and the relevant policy objectives were identified through detailed desk research and numerous consultation activities. Overall, the assessment pointed to legislative and operational barriers that

hinder both the prevention and the fight against corruption in the EU. Main barriers include significant differences in terms of legislative and administrative arrangements in place at the national level to fight against corruption, as well as a lack of adequate data collection and monitoring of corruption data and trends that prevents sufficient prevention of corruption in the EU. These findings informed the design of the following policy measures that have been identified during this study: - Policy option 1 – Baseline Scenario: no further action is taken; - Policy option 2 - Minimum standards and supporting soft measures: legal proposal on minimum standards, e.g., through the introduction of common minimum rules and standards against corruption-related offences, which is flanked by supporting (soft) measures; - Policy option 3 - Stronger alignment and supporting soft measures: legal proposal on additional minimum standards against corruption-related offences and enablers, flanked by stronger supporting measures. This study identified policy option 3 as the preferred policy option, which constitutes stronger legislative alignment flanked by supporting soft measures. Specifically, the preferred policy option calls for the establishment of common minimum rules concerning the definition of corruption offences and related penalties, alongside common rules towards enhanced investigation and prosecution of corruption crimes across the Member States (e.g. boosting reporting, harmonising approaches to immunity and statutes of limitation, as well as to enablers of corruption). Also, the preferred policy option foresees measures aimed at ensuring adequate prevention of corruption, including comprehensive collection of corruption data, as well as the establishment of dedicated anti-corruption authorities both at the EU and national level. The assessment of the impacts expected from these options showed that the policy option 3 is highly effective in tackling the identified policy objectives, albeit slightly less cost-effective than policy option 2, considering some of the foreseen non-legislative measures would entail an increased financial burden. The preferred option is also expected to have a positive impact to the highest degree on security, economy and society, while impacts on fundamental rights has been assessed as moderate.

In short, the study demonstrated that the EU legal framework to fight corruption needs to be updated. The European Commission is preparing a legislative proposal to that effect (adoption foreseen 26 April), which will then be negotiated with the European Parliament and Council.

Point C The interlinkages between preventive and law enforcement approaches.

We recognise that a sharp distinction between preventive and repression of corruption cannot be made. The European Commission regularly organises experience sharing workshops, where we bring together national anti-corruption contact points for quarterly meetings on subjects falling within both categories. We also note that bringing authorities together that are normally focused on either the prevention or repression of corruption has beneficial effects. Lessons learned from either the preventive or the law enforcement approach to corruption inform efforts in the other. The Commission will also present a Communication on anti-corruption which will address corruption in a comprehensive manner, combining preventive and repressive aspects.

We conducted a questionnaire among our Member States to assess whether they have specialised bodies that deal with the prevention and/or repression of corruption. Some of the results will likely be published in the EU Justice Scoreboard 2023 (planned adoption May) and show that in many MS so-called preventive bodies also have repressive powers including investigatory powers; sanctioning powers; a role in the judicial process, etc. In essence, many national authorities already take into account synergies between “prevention” and “repression”.

We strongly support interlinking anti-corruption and fight against organised crime activities, including those carried out in the framework of EMPACT (European Multidisciplinary Platform Against Criminal

Threats). The current [SOCTA](#) (Serious and Organised Crime Threat Assessment) includes corruption elements (in particular: *Almost 60% of the criminal groups reported for the SOCTA 2021 engage in corruption*). Corruption remains a key area to target for two EMPACT priorities: criminal finances and high-risk criminal networks (HRCN). This EU Member States driven instrument meant to identify, prioritise and address threats posed by organised and serious international crime involved various actors, including the relevant Member States, EU institutions and agencies, associating non-EU countries, international organizations and other (public and private) partners.

The Commission has finalised the selection of projects under the 2022 call for proposals on the fight against corruption (ISF-2022-TF1-AG-CORRUPT) with 2.045.000 EUR in this intervention area. Three interesting and extremely promising projects are going to kick-off in early spring (they are currently being contracted).

Strengthening the role of supreme audit institutions in the prevention of and fight against corruption

Whilst Supreme Audit Institutions (SAIs) are not directly responsible for the prevention, detection and correction of fraud, they do form part of the established system of financial accountability in many jurisdictions, and as such are well placed in any fight against corruption. Training and capacity building activities are important means of enhancing the anti-corruption expertise of public auditors as well as promoting knowledge sharing and cooperation between SAIs. However, the importance of clear, relevant and robust auditing standards should not be underestimated.

Most SAIs are members of the International Organisation of Supreme Audit Institutions (INTOSAI), which brings them together for activities based around building capacity of SAIs, sharing knowledge between them and preparing professional standards. The International Standards of Supreme Audit Institutions (ISSAIs) are INTOSAI's formal and authoritative pronouncements or declarations on public sector audit. These standards – that also cover issues relating to an auditor's responsibilities in respect of fraud and corruption – draw on the collective professional expertise and experience of INTOSAI's members worldwide.

The INTOSAI standards consist broadly of founding principles and core principles. The founding principles have historical significance and specify the role and functions to which SAIs should aspire, while the core principles lay down prerequisites for their proper functioning and the professional conduct of their employees. Governments, national parliaments, as well as for the wider public may draw upon these principles to understand better the value of SAIs to society.

For example, one of the founding pronouncements clarifies the role of SAIs in society and lays down the principle that all SAIs should respond appropriately to the risks of financial impropriety, fraud and corruption, and promote ways of addressing the same¹. By the same measure, the independence, accountability and transparency of SAIs are essential in any democracy based on the rule of law. Another core pronouncement notes that, when applied consistently, transparency can help fight corruption, improve governance and promote accountability². The publication by a SAI of its audit reports is an important contribution to transparency.

One of the core principles exhorts auditors not only to assess the risks of fraud relevant to the objectives of their audit, but also to maintain an attitude of professional scepticism and be alert to the possibility of fraud

¹ INTOSAI P-12, The Value and Benefits of Supreme Audit Institutions – making a difference to the lives of citizens

² INTOSAI P-20, Principles of transparency and accountability

throughout the entire audit process³. Another core principle mandates high standards of integrity and ethics for staff of all levels in SAIs, not only to prevent internal conflicts of interest and corruption, but also to highlight the regular and sound running of their own operations⁴.

The credibility of any SAI is built on the quality achieved in its audits, and carrying out audits in accordance with globally accepted standards and principles ensures a level of consistency in audit work. SAIs are also required to operate extensive quality management processes, also based on international standards. This helps ensure that the conclusions and recommendations of an audit conducted in accordance with globally accepted standards can stand up to external scrutiny.

Over the next few years, INTOSAI will be working to strengthen its standards in relation to fraud and corruption, in close cooperation with its working group dedicated to this important issue. The important role of UNODC will help inform this process.

³ ISSAI 100, Fundamental principles of public sector auditing

⁴ ISSAI 130 - Code of Ethics