



### **Questions and Answers: Stronger rules to fight corruption in the EU and worldwide**

Brussels, 3 May 2023

#### **What is included in the anti-corruption package?**

Today's anti-corruption package consists of a Communication on the fight against corruption in the EU, which provides an overview of existing EU anti-corruption legislation and policies, takes stock of challenges and reflects on how to step-up future EU action.

Second, the Commission proposes a Directive on fighting corruption. The proposal establishes rules which update and harmonise definitions and penalties for corruption offences to ensure that high standard criminal law tools are in place to fight the full range of corruption offences, to better prevent corruption and to improve enforcement.

Third, the High Representative of the Union for Foreign Affairs and Security Policy, with the Commission's support, proposes to complement the Common Foreign and Security Policy (CFSP) toolbox of restrictive measures (sanctions) with a dedicated sanctions regime to fight serious acts of corruption worldwide.

#### **What is the situation in relation to corruption in the EU?**

Global corruption indices put many EU Member States among the countries seen as the least corrupt in the world. However, as also set out in the Rule of Law reports, there are many issues to address and corruption remains a concern for people across the EU, as shown by Eurobarometer data. In 2022, almost seven in ten Europeans (68%) believed that corruption was widespread in their country and only 31% were of the opinion that their government's efforts to combat corruption are effective. In addition, over half of the companies based in the EU (51%) think that it is unlikely that corrupt people or businesses in their country would be caught or reported to the police or prosecutors. Corruption by its nature is difficult to quantify, but even conservative estimates suggest that it costs the EU economy around EUR 120 billion per year.

#### **Why is the Commission proposing new rules to combat corruption?**

The current EU criminal anti-corruption legislation is fragmented and limited in scope, with the consequence that the types of corruption offences and the sanctions apply vary significantly among Member States.

Criminal law provisions to fight corruption are only harmonised to a limited extent, covering only bribery. Other corruption offences, such as misappropriation, trading in influence, abuse of functions, illicit enrichment from corruption are not yet approximated, and the differences in national law hamper the effective fight against corruption, in particular in cross-border cases, which have been constantly increasing.

The legislative proposal therefore aims to update the existing EU anti-corruption framework, bringing together provisions for both the public and the private sectors in one legal act and expand the scope of corruption crimes to cover all relevant offences.

The Directive aims to provide for appropriate sanctions, and address obstacles to effective investigations and prosecution, such as the short statutes of limitation, opaque procedures for lifting immunities or privileges, limited availability of resources, training and investigative tools. It also covers action to prevent corruption and to strengthen enforcement.

#### **What measures does the Commission propose to prevent corruption?**

The proposed Directive obliges Member States to ensure that key preventive tools are in place, including effective rules on access to information, on conflicts of interests in the public sector, on assets of public officials and their interaction with the private sector.

The Directive also mandates Member States to ensure the highest degree of transparency and accountability in public administration and public decision-making and to take action to raise public

awareness on the harmfulness of corruption.

It requires them to encourage civil society and community-based organisations to participate in anti-corruption efforts. It provides a coherent set of rules to better tackle corruption in the EU and allow better coordination of actions at national and EU level.

### **What are the key elements of the proposal? What is new?**

The Commission proposes a Directive to update and harmonise EU rules on definitions of and penalties for corruption offences. This will ensure high standards against the full range of corruption offences, better prevention and improved enforcement.

The proposal extends the list of EU corruption offences to cover misappropriation, trading in influence, abuse of functions, as well as obstruction of justice and illicit enrichment related to corruption offences, beyond the more classic bribery offences. It also sets out consistent penalty levels and defines aggravating and mitigating circumstances. Aggravating circumstances could be applicable, for example, when the offender is a high-level official or is responsible for law enforcement. Mitigating circumstances could include situations where the offender identifies other offenders or assists in bringing them to justice.

For the first time at EU level, the proposal brings together public and private sector corruption in one legal act. It also sets out clear monitoring and reporting requirements to help enforcement.

Action on corruption begins with prevention and creating a culture of integrity in which corruption is not tolerated. The proposed Directive obliges Member States to act and organise information and awareness-raising campaigns and research and education programmes. It requires them to encourage civil society and community-based organisations to participate in anti-corruption efforts, as well as to ensure that key preventive tools are in place, such as an open access to information of public interest, effective rules for the disclosure and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules regulating the interaction between the private and the public sector.

The proposal strengthens the enforcement aspect as well. The Rule of Law reports have shown that efficient criminal justice systems are key to upholding high standards. The Directive provides minimum rules to tackle the complex web of interrelated activities that feed on corruption in today's societies. It addresses key factors in effective anti-corruption work, including capacity, specialisation and access to the relevant investigative tools, as well as obstacles to effective investigation and prosecution such as burdensome and opaque procedures for lifting immunities or excessively short limitation periods for corruption offences.

### **Does the Directive introduce rules on asset declaration, lobbying and revolving doors?**

The Directive covers measures on all these three aspects.

Article 3 calls on Member States to ensure that key preventive tools are in place, including effective rules (i) for the disclosure and management of conflicts of interests in the public sector, (ii) for the disclosure and verification of assets of public officials and (iii) for the interaction between the private and the public sector.

This is because action on corruption begins with prevention and by creating transparency and a culture of integrity in which corruption and impunity are not tolerated.

In addition, the proposed Directive obliges Member States to take action such as information and awareness-raising campaigns and research and education programmes, and requires them to encourage civil society and community-based organisations to participate in anti-corruption efforts.\*

### **Was the public consulted on the proposed legislation?**

The Commission has published a call for evidence that was open for feedback from 20 January 2023 to 17 February 2023. More than 361 contributions were received from the public.

The Commission consulted Member States via questionnaires on the provisions at national level regarding the criminalisation of and fight against corruption.

The ideas for a draft Directive, and the responses to the questionnaires, were discussed in two experience-sharing workshops on the fight against corruption. The Commission has also consulted the Union Agencies and bodies in charge of supporting police and judicial cooperation between Member States, including Eurojust and Europol, as well as the European Public Prosecutor's Office (EPPO) and national authorities in charge of prevention and suppression of corruption.

The Commission consulted and received input from international organisations, including UNODC, the OECD, and GRECO. Academic and civil society also provided input, including Transparency

International and the UNCAC Coalition.

### **What are the key points of the Communication accompanying the initiatives?**

The Communication gives an overview of the EU anti-corruption framework and how anti-corruption can be further mainstreamed into EU policy design. It sets out the work of the EU helping to prevent, detect and combat corruption, with a strong basis of measures already in place.

The workstreams set out in this Communication represent a major EU commitment to further efforts to combat corruption and to work towards a comprehensive and strategic approach with an EU Anti-corruption Strategy. A first step in the process will be to set up an EU network against corruption. One of the first tasks of the new EU network against corruption will be to map common high-risk areas by 2024. The Commission will lead this work in close consultation with Member States.

### **What will the EU network on corruption do?**

Since 2015, the Commission is running an EU anti-corruption experience-sharing programme which has offered anti-corruption practitioners from Member States a forum for exchange on anti-corruption reforms. This work will be extended and deepened through a new EU network.

It will be tasked to develop best practices and practical guidance in various areas of common interest. It will also support a more systematic gathering of data and evidence that can serve as a solid basis for anti-corruption actions and for monitoring the success of these actions.

The network will build on experience of working not only with law enforcement and public authorities, and it will bring together all relevant stakeholders, including practitioners, experts and researchers, as well as representatives of civil society and international organisations.

### **What other instruments are there at EU level to support Member States in the fight against corruption?**

The Commission has been monitoring anti-corruption developments at national level as one of the central aspects of the annual **Rule of Law report cycle**. Since 2022, the reports also include recommendations for each Member State, supporting their efforts to take forward reforms and that encourage positive developments. In the follow-up to each Rule of Law report, the Commission engages at technical level with Member States offering expertise and help to overcome identified challenges.

The fight against corruption, together with the independence and efficiency of the justice system and the quality and inclusiveness of the law-making process, are also part of the **European Semester**. Country-specific recommendations under the Semester have guided concrete reforms and investments in several Member States to improve their capacity to fight corruption. These are reflected in the national **recovery and resilience plans**.

The Commission also makes use of specific programmes to support anti-corruption efforts in the Member States:

- The **Technical Support Instrument** provides tailor-made technical expertise to help Member States build administrative capacity and design and implement reforms, many of which have focused on increasing their defences against corruption.
- The **Internal Security Fund**, provides funding for a wide range of anti-corruption actions aimed mainly at reinforcing coordination and cooperation between law enforcement authorities, Europol, relevant international organisations as well as the involvement of academia and civil society;
- The **Union Anti-Fraud Programme** offers support to Member States in countering fraud, corruption and any other illegal activities affecting the Union's financial interests. Specifically, the programme helps national authorities strengthen their investigative capacity and includes a training section.

Many are the EU bodies and agencies involved in the fight against corruption:

- **Eurojust** fosters judicial cooperation between Member States in the fight against corruption. In 2021, it supported Member States in 326 corruption cases, set up 11 joint investigation teams and held 13 case-specific coordination meetings;
- **Europol** actively supports Member States by carrying out strategic analysis and providing support to criminal investigations and criminal intelligence operations. Within Europol, the European Financial and Economic Crime Centre provides operational and analytical support when investigating financial and economic crime, including corruption, and when freezing and seizing criminal assets;

- The European Public Prosecutor's Office (**EPPO**) prosecutes and brings to judgment the perpetrators of crimes (including corruption) related to the EU budget. In 2021 EPPO investigated 40 cases of corruption, while in 2022, the number increased to 87.
- The investigative anti-fraud office (**OLAF**) investigates fraud against the EU budget, corruption and serious misconduct within the European institutions. It is the body responsible for developing the anti-fraud policy for the European Commission.

### **When will the EU come up with an EU Strategy against corruption?**

The Commission has started developing the anti-corruption measures with today's package. As recognised in the Rule of Law reports, a strategic anti-corruption framework offers an important opportunity to translate political commitment and vision into concrete actions. Anti-corruption strategies can ensure that individual legislative or institutional loopholes are not addressed in isolation, and that anti-corruption provisions are mainstreamed in all relevant policy sectors. This calls for an EU anti-corruption strategy. To be effective, this needs to be developed on a strong foundation of consensus and broad consultation in particular with the European Parliament and Member States. It also needs to be accompanied by specific and measurable objectives, clear-cut budget and well-defined responsibilities.

### **Do we need special rules for reporting on anti-corruption offences (whistleblowing?)**

The European Union protects whistleblowers who report breaches of EU law, including wrongdoings, maladministration and mismanagement, as well as fraud and other irregularities. The important role of whistle-blowers in defending the public interest is recognised in the 2019 Whistleblower Protection Directive, which establishes effective standards to protect them against retaliation. Today's proposal takes these protections one step further by extending them to people reporting corruption offences. This is aimed at fostering a climate where people feel encouraged to report corruption offences without fearing retaliation, thereby enhancing the effectiveness of anti-corruption investigations.

### **What actions are being taken on the external dimension of the fight against corruption?**

In its external action, the EU supports legal and policy reforms to build anti-corruption institutions and oversight bodies, promote high integrity and transparency standards, and to strengthen civil society, whistleblowers, human rights defenders and independent media as watchdogs against corruption.

The fight against corruption is also part of the political, human rights, security and sectoral policies dialogues with third countries and international organisations. The EU also supports anti-corruption work in multilateral fora.

### **Why does the EU need a dedicated sanctions framework on corruption?**

To date, the EU has frameworks targeting corruption outside the EU in a two specified third countries. With today's proposal, the EU will be able to target serious acts of corruption worldwide, no matter where they occur.

The new framework would thus enhance the EU's capacity to safeguard its values, fundamental interests, security, independence and integrity, at the same time that consolidates and supports democracy, the rule of law and human rights.

### **Which acts of corruption will this proposed sanctions framework target?**

It will enable the EU to adopt restrictive measures when acts of corruption seriously affect or risk affecting the objectives of the Common Foreign and Security Policy.

Passive or active bribery of a public official or the embezzlement or misappropriation of property by a public official, including the laundering of proceeds from those acts, could constitute such serious acts of corruption, especially in a country that appears on the EU list of non-cooperative jurisdictions for tax purposes, or a country that suffers from strategic deficiencies in its national regimes on anti-money laundering and countering terrorism financing that pose significant threats to the financial system of the Union.

### **For More Information**

Press release: [Anti-corruption: Stronger rules to fight corruption in the EU and worldwide](#)

Factsheet: [Strengthening EU action to fight corruption](#)

[Joint Communication](#) to the European Parliament, the Council and the European Economic and Social Committee on the fight against corruption

[Proposal](#) for a Directive of the European Parliament and of the Council on combating corruption by

criminal law

[Webpage](#) on the fight against corruption

*\*updated on 04/05/2023*

QANDA/23/2517

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