



# EU PRESIDENCY ANTI-CORRUPTION SCORECARD

An assessment of the transparency and accountability of the Italian Presidency and of the progress on key anti-corruption issues in the Council of the European Union

**Transparency International** (TI) is the leading civil society organisation in the fight against corruption and in the promotion of integrity, transparency and accountability around the world. Through more than 100 chapters worldwide TI works with partners in government, business and civil society to put effective measures into place to tackle corruption.

**Transparency International EU Office** (TI-EU) is the EU liaison office for the Transparency International Secretariat. It is the mission of TI EU to prevent and address corruption and promote integrity, transparency and accountability in the EU's internal and external policies, programmes and legislation.

**Transparency International Italy** (TI-Italy) was founded in 1996 in Milan. Its aim is to prevent and fight corruption in all its forms through analysis of the phenomenon of corruption, awareness raising in young people and adults and through elaboration of anti-corruption instruments in the public and private sector.

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Published: March 2015

Design: Simon Fieremans, Brussels

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This project has been funded with support from the European Commission. This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

This project is co-funded by the European Union



## FOREWORD

The Italian Presidency of the Council of the EU took over the reins at a critical moment, just after European elections that were hailed as an “end to backroom deals” because they enabled European citizens to have a say in who would become the new President of the European Commission. That election did indeed see Jean-Claude Juncker elevated to Commission President as the lead candidate of the political group that received the greatest share of votes, albeit in the context of low voter turnout and an upsurge in support for Eurosceptic parties.

These elections placed a significant time constraint on the Italian Presidency, which had to work with a group of newly elected MEPs and a Commission College that was only approved by the European Parliament at the end of October. This meant that in the Parliament many legislative dossiers were effectively put on hold until September while new committees were constituted and new rapporteurs appointed.

Nevertheless, the Presidency was able to successfully overcome these constraints. In addition, it efficiently provided timely information on all its activities. Coupled with a special initiative for the involvement of stakeholders in the drafting of the Presidency priorities, this enabled the public to meaningfully contribute to the discussions. The very cooperative attitude of the Italian Presidency Office in our

assessment mirrored this drive to constructively involve civil society on all fronts.

The Italian Presidency also prioritised all the key anti-corruption dossiers that we had identified in our position paper published in July 2014. As a result, the Italian Presidency managed to achieve a compromise on the Anti-Money Laundering Directive by which EU governments agreed to create centralised registers of beneficial ownership for companies. While these registers are not public, they can be accessed by members of the public, NGOs and journalists who can prove a legitimate interest, and so mark a step forward in the fight against corruption. The Presidency also made significant progress on the establishment of the European Public Prosecutor, a special legislative initiative that has been under discussion since 2012. In line with the Presidency's stated objective of taking strides towards the conclusion of an EU-US Free Trade Agreement Italy managed to push the publication of the TTIP negotiating mandate through the Council. Though the declassification of this document can be seen as a largely symbolic step, it certainly reflects Prime Minister Matteo Renzi's personal commitment to "total and open transparency".

However, despite this strong performance the picture that emerges is not all rosy: When it came to financial accountability the Italian Presidency failed to publish a detailed budget before the start of its Presidency and only

published a more detailed budget subsequent to an official request for this document. On the legislative front, the negotiations for the Directive on the fight against fraud to the Union's financial interests by means of criminal law (a directive which will define the types of crimes that fall under the competence of the European Public Prosecutor) have stalled and there is now a considerable risk that adoption of this Directive will be delayed until a new basis for compromise is agreed by EU Member States in the Council.

The Italian Presidency also saw the new Juncker Commission assume office on November 1, which was quickly accompanied by a new transparency initiative. Since December, meetings between lobbyists, Commissioners and senior officials have been published on the Commission website. Transparency and anti-corruption are also priorities at the European Parliament, which formally established an intergroup on integrity, transparency, anti-corruption and organised crime in December 2014.

These developments support the notion that transparency is increasingly on the agenda of the EU legislative institutions. In contrast the Council of the EU, the third institution of the EU legislative triangle, does not have the best track record of ensuring transparency in its proceedings. Our own study on the integrity of EU institutions identified weaknesses such as the absence of common integrity rules

and sanctioning mechanisms for national representatives and a lack of internal whistleblowing provisions. Crucially, the triologue negotiations continue to take place largely in secret and the broader public is often completely oblivious to the contribution of their government to EU legislation.

This Scorecard attempts to remedy this transparency deficit. It aims to do so by shedding some light on the process, with a focus on key anticorruption issues that were

discussed under the Italian Presidency. As our assessment shows, while Member States in the Council made progress on a number of fronts, much indeed remains to be done and governments need to seriously commit to tackle corruption as part of the Council of the European Union. The Italian Presidency made great strides in this regard and it is now up to Latvia and Luxembourg to continue to advance the transparency and anti-corruption agenda as part of the Presidency trio in 2015.

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## WHAT IS THE SCORECARD? WHY PUBLISH A SCORECARD?

This Scorecard evaluates the transparency and accountability of the Presidency of the Council of the European Union (“EU Council”) and the anti-corruption track-record of Member States acting as part of the EU Council. It provides an assessment of their performance on a selection of key anti-corruption topics in the course of any Presidency. The assessment is divided into three parts: Pillar I evaluates the transparency of the preparations for the Presidency by the government and administration of the country that holds the rotating EU Presidency. Pillar II evaluates the accountability of these actors during the Presidency. Pillar III evaluates how the Presidency prioritized key anti-corruption issues and how much progress member states made with regard to the selected issue in the EU Council. The Scorecard is based on research by the Transparency International EU Office and Transparency International Italy and on-going monitoring of developments in the EU Council. This assessment is carried out biannually for the precedent (Lithuania and Greece) and subsequent Presidencies (Latvia) and is used as a tool to evaluate member states’ track records and commitment to the anti-corruption agenda at national and EU level.

The ability to hold governments to account for the commitments they make at EU level is a crucial aspect of the fight against corruption. The EU Council represents Member States and is one of the most powerful institutional actors in the EU legislative triangle, which also includes the European Parliament and European Commission. Yet the Council also remains the least accessible institution for civil society. This state of affairs contributes to the lack of transparency in the EU decision making process. By providing an independent assessment of the consistency of member states’ approach to transparency, integrity and anti-corruption measures, this scorecard helps to hold governments accountable for their track record.

## KEY FINDINGS

1. The Presidency was very efficient in communicating events through a comprehensive and user-friendly website as well as a detailed section devoted to other institutional events.
2. It was possible for civil society to participate in open events and a specific initiative for the involvement of stakeholders in drafting the Presidency priorities was organised far in advance of the Presidency.
3. There was a gap in budgetary and expense information on the official Presidency website which was partially closed after the end of the Presidency. Inconsistencies were partly due to the fact that two different government bodies shared responsibility for the Presidency.
4. The Presidency team was very cooperative and made efforts to ensure that budgetary information was more transparent and accessible.
5. The Italian Presidency prioritised all four issues that had a relevant anti-corruption dimension during its time at the helm of the EU.
6. While the Italian Presidency was efficient in prioritising files that had a relevant anti-corruption dimension, Member States in the Council were less eager to capitalise on the opportunities that the semester offered: The AML Directive establishes central registries of beneficial ownership for companies, but Member States have restricted access to the public and refused access entirely to information on the ownership of entities other than companies; progress on the PIF Directive seems to have stalled and a compromise on the scope of the Directive is currently far out of sight.
7. Substantial progress was made on the proposal for the establishment of the European Public Prosecutor despite outright opposition by some Member States.
8. Despite the European Commission’s transparency offensive with regards to the Transatlantic Trade and Investment Partnership there has been no progress on the inclusion of an anti-corruption chapter in the agreement and the Council failed to publish any documents from the meetings of the relevant working group (the Trade Policy Committee).

## METHODOLOGY

**Pillar I** evaluates access to information and budget transparency. Each aspect is assessed in two steps: One Yes/No question and one corresponding nominal question.

**Pillar II** evaluates whether stakeholders were able to contribute to the discussion and how the money was spent during the Presidency. Each aspect is assessed in two steps: One Yes/No question and one corresponding nominal question. The answers were categorized according to a traffic light system:

Evaluation process	Type of scale			
Step 1	No / Yes	No		Yes
Step 2	Low / High	Low	Neutral	High

**Pillar III** evaluates the progress of the key anti-corruption issues. The selection of the key anti-corruption issues that are assessed is based on a specific set of indicators: The selected issues fall within the areas where the EU has the legal competence to act and they are at relevant stage in the legislative cycle. The issues relate to the movement's broader advocacy goals as elaborated in the TI 2015 Strategy and cover the sectors that have been identified as the weakest and most problematic in the fight against corruption.

Each issue is assessed by two aspects: If the

Presidency prioritized the issue and how much progress was made in the Council of the EU with respect to key anti-corruption or transparency reforms. The answers to these questions were categorized according to a traffic light system where the following ratings apply:

- **Red** – The issue was not a priority for the Presidency / there was no progress in the Council and/or TI's recommendations were not taken on board.

- **Yellow** – The issue was a medium priority for the Presidency/ there was only been some progress in the Council and/or many of TI's recommendations were not included in the directive.

- **Green** – The issue was a high priority for the Presidency/The Council has made substantial progress on the issue and/or TI's main recommendations were included in the adopted text.

Our assessments are based on publicly available information and on documents which are subject to EU rules on access to documents. The methodology was developed in consultation with EY.

Comments on the approach taken are welcome as we continually seek to refine our methodology.

# SCORECARD

## PILLAR I – PREPARATION OF THE PRESIDENCY

### 1.1 Access to information / Justification of Presidency Agenda

1.1.1 Is information about the goal of Presidency publicly accessible?

Why is this important?

The earlier the preliminary goals of the Presidency are known publicly, the easier it is for stakeholders to contribute to the discussion of the issues.

Results:

- While programmatic lines were known beforehand, the official programme of the Italian Presidency was published on July 2, 2014 after the official presentation by the Italian Prime Minister.
- The comprehensive and user-friendly website was launched one month before the start of the Presidency.
- A specific initiative for the involvement of stakeholders in drafting the Presidency priorities took place in 2012 and a competition for the design of the Presidency logo was organised in 2014.



1.1.2 Were the goals of the presidency aligned with National and EU Agendas?

Why is this important?

A strong divergence between the goals of the Presidency and the priorities of national and European agendas could indicate that various interest groups exerted undue influence in the planning stage.

Results:

- The Italian Presidency goals were well rooted in the Trio Programme, all topics were aligned with the agenda of the EU and its strategic framework.
- The goals of the Presidency refer to the Europe 2020 strategy and they were also consistent with national priorities.



### 1.2 Budget and expense justifications

1.2.1 Is information about the budget of the Presidency publicly available?

Why is this important?

By publishing the foreseen budget, the Presiding country ensures transparency and accountability for the planned expenses.

Results:

- A foreseen general budget of the Presidency was published on the Ministry of Foreign Affairs website but was not available on the official Presidency website until the end of January 2015.
- A request of access to information regarding a detailed budget was granted in a timely fashion by the Ministry of Foreign Affairs and the Prime Minister's Office.



1.2.2 How transparent is the Presidency budget?

Why is this important?

Only a budget with clear and precise disclosure of the expenses creates the conditions for public monitoring; if the information is not available in open data formats it severely hampers the public's ability to hold the government to account.

Results:

- A very general budget was published at the beginning of the Presidency as part of the budget of the Ministry of Foreign Affairs
- A more detailed budget with different categories, dated June 2014, was published in the specific section of the Ministry of Foreign Affairs subsequent to an official request for access to this document.



## PILLAR II – ACCOUNTABILITY OF THE PRESIDENCY

### 2.1 Inclusiveness of stakeholders

2.1.1 Was it possible for stakeholders to contribute to the discussions? Why is this important?  
If the Presidency does not proactively provide public information about the main events and discussions the public is not able to contribute to the discussions.

Results:

- The majority of events of the Italian Presidency were published well in advance on the official Presidency website and included key information.
- A user-friendly search option allowed identification of events by type
- Stakeholders had the opportunity to sign up to attend subscribe to open events.
- The Presidency provided a comprehensive list of responsible staff for each issue.

2.1.2 How inclusive was the EU Presidency Process? Why is this important?  
The Presidency should make efforts to ensure that interested parties are able to engage and to contribute to the discussions in public events of the EU presidency.

Results:

- The official website of the Italian Presidency provided logistical details for all the public events, which made it possible for interested parties to be informed about the organization and the content of the events.
- It was always possible to find a contact or to subscribe to an event by email (with different levels of accuracy).

### 2.2 Management of expenses of the EU Presidency

2.2.1 Is information about the expenses and distribution of costs disclosed? Why is this important?  
By disclosing the actual budget, the Presidency ensures that it is transparent and accountable for the way that allocated money was spent.

Results:

- Some expenses were continuously published in different sections of the website of the Ministry of Foreign Affairs during the Presidency and in January 2015.
- A detailed budget was published on a specific section of the website of the Ministry of Foreign Affairs on February 10, 2015.
- During the Presidency these documents were not very easy to find for ordinary citizens and no direct link was provided on the official Presidency website.

2.2.2 How transparent and how well disclosed are the expenses of the EU Presidency? Why is this important?  
Only a budget with clear and precise disclosure of the expenses creates the conditions for public scrutiny. If the information is not available in open data formats it severely hampers the public's ability to hold the government to account.

Results:

- The budget is in open data format and provides a clear comparison with the provisional budget.
- While some very detailed expenses are provided it is not possible to establish a direct correspondence with the budget lines.

## PILLAR III – KEY ANTI-CORRUPTION FILES

Key Issue:	Why is this important?
<b>Anti-Money Laundering Directive</b>	Money laundering enables the corrupt to legitimise the illegal, distorts economies and is a major obstacle to a stable EU internal market.
	What is the key recommendation?
	Member States should establish public registers of who ultimately controls and benefits from anonymous shell companies and other opaque legal structures to enable public scrutiny.

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What priority was given the Anti-Money Laundering Directive?	<ul style="list-style-type: none"><li>• The finalisation of the Anti-Money Laundering (AML) Directive was a priority for the Italian Presidency as stated in the work programme and by Minister Pier Carlo Padoan during his hearing at the European Parliament (EP).</li><li>• The Italian Presidency organised four trialogue meetings to reach a compromise between the position of the EP and that of the Council.</li><li>• In part due to Italy's leadership on the file, the Commission, the EP and the Council were able to agree on a compromise for the 4th AML Directive at the final trialogue meeting on December 16, 2014.</li></ul>
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What progress did the Council make?	<ul style="list-style-type: none"><li>• The opposition of the Commission and Member States to public registers became clear during the first two trialogues.</li><li>• After the third trialogue the Italian Presidency stated its concern that the momentum might slow down if a compromise was not reached by the end of the year.</li><li>• In preparation for the final trialogue the Presidency circulated a compromise proposal to the Committee of Permanent Representatives</li><li>• The parties reached a compromise during the final trialogue on December 16, 2014.</li><li>• The compromise establishes centralised registers of beneficial ownership of companies that can be accessed by law enforcement and relevant government bodies (partial access will be available to the public, such as investigative journalists and civil society organisations, if they can prove a legitimate interest).</li><li>• While the final compromise constitutes a landmark in the fight against money laundering, it falls short of full transparency of the real beneficial owners behind companies; and fails to cover all trusts.</li></ul>
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Key Issue: Why is this important?  
**Establishment of the European Public Prosecutor's Office (EPPO)** Despite the loss of billions of Euros every year and the damage it causes to the EU's budget few cases of fraud and corruption are ever brought to justice in the 28 EU member states.  
What is the key recommendation?  
The European Prosecutor's Office (EPPO) should be provided with a broad mandate that includes serious EU crimes such as cross-border corruption and related financial crimes (fraud, money laundering, etc.).

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What priority was given to the establishment of the EPPO?

- The Italian Presidency prioritised the establishment of EPPO under part two of its strategic framework Moving Europe closer to its citizens: an area of democracy, rights and freedom.
- Minister Andrea Orlando confirmed this during his hearing at the European Parliament on July 22, 2014.
- The EPPO was a separate agenda item during the informal Justice and Home Affairs Council that took place in Milan on July 8, 2014.

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What progress did the Council make?

- The EPPO was discussed at a meeting of the Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) on the second day of the Italian Presidency (July 2, 2014).
- Subsequently, the EPPO was discussed during twelve meeting days at expert group level, four meetings of CATS and at the Justice and Home Affairs Councils in October and December 2014.
- Discussions focused on the concept of a single legal area, procedural safeguards, the independence of the office, the role of the EPPO in supervising national prosecutors and investigative procedures at the disposal of the office.
- Ministers at the Justice and Home Affairs Council on Dec 4-5, 2014 continued to deliberate on how to best ensure the independence of the decision-making of the office and agreed to discuss the rules on appointment and dismissal of the European Prosecutor in more detail along the lines of the Presidency compromise of November 28, 2014.
- While the constructive discussion resulted in significant progress for this file various issues (such as the independence and accountability of the EPPO) remain on the table.
- Progress was achieved in spite of strong objections to the idea of the EPPO in several EU Member States.

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Key Issue: Why is this important?  
**Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive)** This directive is intrinsically linked to the proposed regulation for the establishment of the European Public Prosecutor's Office (EPPO) in that the PIF Directive defines the scope of action of the future EPPO.  
 What is the key recommendation?  
 It is imperative that the Italian Presidency push for a speedy adoption of the PIF directive, as it is directly linked to the establishment of the EPPO; progress on the EPPO is dependent on progress in this directive.

What priority was given to the PIF Directive?  


- The PIF Directive was included on the official work programme of the Presidency.
- Italy's Justice Minister Andrea Orlando indicated during his hearing before the Civil Liberties Committee (LIBE) in the European Parliament that the Presidency would like to start negotiations on the PIF Directive swiftly and with a view to reaching agreement between the co-legislators as a matter of high priority.

What progress did the Council make?  


- On June 6, 2013 the Justice and Home Affairs Council reached a general approach on the compromise.
- The Italian Presidency provided a background and state of play document to CATS in the beginning of September, emphasising the importance of swift negotiations and rapid progress in order to enable the discussion on the EPPO to proceed.
- Major differences remained between the position of the Council and the European Parliament (the EP's position in effect exempted MEPs from the definition of public official).
- In the discussion in CATS on September 16, 2014 a majority of delegations rejected the position of the European Parliament and stated their preference for the wording of the general approach.
- Two technical meetings and two political dialogues took place in October and November 2014.
- Some swift progress was made in the dialogues but one substantive issue (whether or not to exclude VAT-fraud and public procurement fraud from the scope of the Directive) remains unsolved.
- While there are opportunities to reach agreement on most issues in the relatively near future, there is now also a risk that the adoption of this directive may be considerably delayed, since no possible solution or basis for compromise with regard to VAT has been identified.

Key Issue:  
**Transatlantic  
Trade and  
Investment  
Partnership  
(TTIP)**

Why is this important?

EU free trade agreements have never contained specific anti-corruption provisions and there is widespread concern among civil society about the general lack of transparency in the ongoing negotiations.

What is the key recommendation?

The TTIP should include strong anti-corruption and transparency requirements in order to achieve the highest level of commitment to government transparency and combating corruption.

To enable meaningful public scrutiny Italy should encourage a highly transparent negotiating process, including publication of the negotiation mandate.

What level of  
priority was given  
to TTIP?

- The TTIP was prominently included in the Presidency work programme and presented as a strategic issue that will define Europe in the medium to long term.
- Italian deputy Minister for Economic Development Carlo Calenda stated before the EP Trade Committee that the TTIP was the EU's top trade priority and promised to strive for more transparency in the process.
- On August 25, 2014 Minister Calenda sent a letter to EU Trade Ministers which urged EU Member States to declassify the TTIP negotiating mandate, which had already been leaked online).
- On October 14-15, 2014 the Italian Presidency dedicated an informal Foreign Affairs Council on trade to the TTIP.

What progress did  
the Council make?

- On October 9, 2014 Member States in the Council agreed to Italy's request and took the decision to declassify the TTIP negotiating mandate by common accord.
- On October 17 the Working Party on Information in the Council discussed how the EU's communication strategy on the TTIP could be enhanced.
- On October 24, 2014 the Presidency proposed draft Council conclusions on the TTIP negotiations, which were discussed in the Trade Policy Committee on November 7 and in the Committee of Permanent Representatives on November 12, 2014.
- On November 21, 2014 the revised Council conclusions were adopted by the Foreign Affairs Council.
- On December 18, 2014 Heads of State at the European Council called for the conclusion of bilateral trade agreements with all key partners
- There has not been any tangible progress on the inclusion of an anti-corruption chapter in the TTIP.

## BACKGROUND

### HOW ARE LAWS MADE IN THE EU?

The Commission submits a legislative proposal to the Parliament and Council. At the first reading Parliament adopts its position. If the Council approves the Parliament's wording then the act is adopted. If not, it adopts its own position and passes it back to Parliament with explanations. The Commission also informs Parliament of its position on the matter. At the second reading, the act is adopted if Parliament approves the Council's text or fails to take a decision. The Parliament may reject the Council's text, leading to a failure of the law, or modify it and pass it back to the Council. The Commission gives its opinion once more. Where the Commission has rejected amendments in its opinion, the Council must act unanimously rather than by majority.

If, within three months of receiving Parliament's new text the Council approves it, then it is adopted. If it does not then the Council President, with the agreement of the Parliament President, convenes the Conciliation Committee composed of the Council, an equal number of MEPs and the European Commission as moderator for trialogue discussions. The committee draws up a joint text on the basis of the two positions. If within six weeks it fails to agree a common text, then the act has failed. If it succeeds and the committee approves the text, then the Council and Parliament (acting by majority) must then approve said text (third reading). If either fails to do so, the act is not adopted.

### WHAT ARE TRIALOGUES?

Trialogues are conciliation meetings where negotiating teams from the European Commission, the European Parliament and the Council of the EU hash out compromises that are acceptable to all parties in order to speed up the legislative process. Trialogues are always chaired by the Permanent Representative of the country that holds the Presidency of the Council of the EU and the content may vary from very technical issues with working level officials and assistants from the three institutions to political discussions between high level politicians and ambassadors. Due to the informal nature of these meetings there is no standard format, there are no minutes taken and any agreement reached in the meeting is preliminary and still has to be approved via the applicable procedure.

### ABOUT THE COUNCIL OF THE EU

- The Council of the EU is the institution representing the member states' governments. Also informally known as the EU Council, it is where national ministers from each EU country meet to adopt laws and coordinate policies.
- The Council is an essential EU decision-maker. It negotiates and adopts new EU legislation, adapts it when necessary, and coordinates policies.
- The Council is a single legal entity, but it meets in 10 different "configurations", depending on the subject being discussed (e.g. Justice and Home Affairs Council, Foreign Affairs Council, etc.)
- It takes decisions by a simple majority, qualified majority or unanimous vote, depending on the decision that needs to be taken.
- The Council is supported by the Permanent Representatives Committee (COREPER) and more than 150 highly specialised working parties and committees, known as the 'Council preparatory bodies'. These bodies examine legislative proposals, and carry out studies and other preparatory work which prepares the ground for Council decisions (e.g.
- The presidency of the Council of the EU rotates among member states every six months. The presidency chairs meetings at all levels: Council, Permanent Representatives Committee (COREPER) and working parties. It puts forward guidelines and draws up the compromises needed for the Council to take decisions

## LIST OF ABBREVIATIONS

<b>AML</b>	The 4th Anti-Money Laundering Directive
<b>CATS</b>	Coordinating Committee in the area of policy and judicial cooperation in criminal matters
<b>CONT</b>	Committee on Budgetary Control
<b>COREPER</b>	Committee of Permanent Representatives (the national ambassadors to the EU)
<b>ECON</b>	European Parliament Committee on Economic and Monetary Affairs
<b>EPP</b>	European Public Prosecutor's Office
<b>JHA</b>	Justice and Home Affairs Council
<b>LIBE</b>	Civil Liberties, Justice and Home Affairs Committee in the European Parliament
<b>PIF</b>	Directive on the fight against fraud to the Union's financial interests by means of criminal law
<b>TTIP</b>	Transatlantic Trade and Investment Partnership

## SCORECARD ANNEX

### PILLAR I - PREPARATION OF THE PRESIDENCY

#### ACCESS TO INFORMATION / JUSTIFICATION OF PRESIDENCY AGENDA

1. Is information about the goals of the Presidency publicly accessible?

Score: **GREEN**

#### PRESIDENCY PROGRAMME

The programmatic lines of the Italian Presidency of the Council of the European Union were presented on the 24th of June 2014 in the Chamber of Deputies of the Italian Parliament by the Prime Minister Matteo Renzi<sup>1</sup>. On the same day the Presidency Trio Programme was approved and published by the General Affairs Council<sup>2</sup>. The programme priorities were also outlined at public events and by media before the start of the Presidency. The draft of the programme was published on the website on June 16, 2014 (before the start of the Presidency) and a section relating to the program and priorities was gradually created<sup>3</sup>.

On the July 2, 2014 the Italian Prime Minister presented the Presidency programme to the plenary session of the European Parliament in Strasbourg. The event was presented on the website<sup>4</sup> of the Prime Minister's Office with relevant supplementary material (videos of main parts of the speech and of the full meeting<sup>5</sup>). The complete version of the programme was published on the website only after the official presentation by the Prime Minister, according to a timeline that had been previously established by the Presidency of the Council. The detailed programme with goals and priorities was available in Italian, English and French.

#### PRESIDENCY WEBSITE

The official web site of the Italian Presidency of the Council of the EU was launched On June 5, 2014<sup>6</sup>. The official logo of the Italian Presidency, consisting of a stylized swallow with the colours of the Italian flag and the European Union was presented on May 20, 2014. It was selected through a competition among 600 Italian schools that contributed to raising awareness of Italy's

Presidency among Italian students.<sup>7</sup>

The official website includes an extensive news section with press releases, articles, speeches, insights, photos, videos and a calendar of events properly divided by type of event and a detailed and user-friendly search option for events.

Informative and well-conceived infographics were available to simplify and explain general topics and the functioning of the Council.

The use of social media platforms such as YouTube, Twitter, Flickr, and Instagram (see Presidency account details in footnotes)<sup>8</sup> facilitated the communication and promotion of events as well as interaction with citizens. Available web statistics underline the emphasis which the Presidency put on online communications<sup>9</sup>.

#### STAKEHOLDERS' INVOLVEMENT

An initiative for the involvement of stakeholders was organised far in advance of the commencement of the Presidency by CIME (Italian Council of the European Movement) in October 2012. This initiative, called "Workshop 2014. Italy in Europe" was promoted by the Ministry of Foreign Affairs and the Presidency of the Council of Ministers in order to identify most relevant issues to be addressed during the Presidency.<sup>10</sup>

2. Were the goals of the Presidency aligned with the national and EU agenda?

Score: **GREEN**

The Italian Presidency goals were well rooted in the *Trio Programme*<sup>11</sup>. All topics were aligned with the agenda of the EU and its strategic framework.<sup>12</sup>

Common points were straightforward: high attention on the issues of Economic Growth, Jobs and Employment, Monetary Union and Financial Stability and Foreign Policy, with a specific focus on Neighbourhood Policy, enlargement policy of the EU borders and New Business Partnerships.

<sup>7</sup> <http://italia2014.eu/it/news/post/fil-logo-del-semester/>

<sup>8</sup> <https://www.youtube.com/channel/UCXZyWpWlV9rRau5axwgqXg>  
<https://twitter.com/IT2014EU>  
<https://www.flickr.com/photos/palazzochoigi/>  
<http://instagram.com/it2014eu>

<sup>9</sup> Website: 194727 unique visitors and 469434 visits between July and December 2014  
Twitter: 41.172 followers (Lithuania 2013: 3.467; Greece 2014: 12.625), 5,6 million visualisations  
YouTube: 375 uploaded videos, 67.988 visualizations  
Google+: 15.288 followers, 117.681 visualizations

<sup>10</sup> [http://www.movimentoeuropeo.it/index.php?option=com\\_content&view=article&id=237:officina-2014-italia-in-europa&catid=44:progetti&Itemid=92](http://www.movimentoeuropeo.it/index.php?option=com_content&view=article&id=237:officina-2014-italia-in-europa&catid=44:progetti&Itemid=92)

<sup>11</sup> Member states holding the six-month presidency work together closely in groups of three, called 'trios'. This system was introduced by the Lisbon Treaty in 2009. The trio defines long-term objectives and prepares a common agenda on the main topics and issues the Council will deal with over an 18-month period. Based on this programme, each of the three countries prepares its own detailed six-month programme. See the 18 month trio programme here: <http://italia2014.eu/media/1124/18-months-programme.pdf>

<sup>12</sup> [http://ec.europa.eu/atwork/pdf/cwp\\_2014\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp_2014_en.pdf)

<sup>1</sup> [http://www.corriere.it/politica/14\\_giugno\\_24/renzi-vertice-ue-ypres-determinazione-convinzione-f7d6c15c-fb73-11e3-9def-b77a0fc0e6da.shtml](http://www.corriere.it/politica/14_giugno_24/renzi-vertice-ue-ypres-determinazione-convinzione-f7d6c15c-fb73-11e3-9def-b77a0fc0e6da.shtml)

<sup>2</sup> <http://data.consilium.europa.eu/doc/document/ST-11258-2014-NIT/en/pdf>

<sup>3</sup> <http://italia2014.eu/it/la-presidenza-e-lue/programma-e-priorita/C3%A0/>

<sup>4</sup> <http://www.governo.it/Notizie/Palazzo%20Chigi/dettaglio.asp?d=76082>

<sup>5</sup> <http://audiovisual.europarl.europa.eu/Assetdetail.aspx?id=a3c72012-d0f6-4296-8ada-a35c00e13c46>

<sup>6</sup> <http://italia2014.eu/it>

The Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth<sup>13</sup> received also a lot of attention and were prominently mentioned in the media<sup>14</sup>.

The goals of the Presidency were also consistent with Italy's national priorities, such as economic growth, employment, Immigration, creation of synergies with the Expo 2015).

## BUDGET AND EXPENSE JUSTIFICATIONS

1. Is information about the budget of the Presidency publicly available?

Score: **YELLOW**

Initially a provisional general budget was available in the "Transparent Administration" section of the Ministry of Foreign Affairs, but no link to the official Presidency website was provided until January 2015. A detailed budget was only published in the appropriate section of the website of the Ministry of Foreign Affairs after a request of access to information was submitted at the end of the Presidency period. Nevertheless the request was approved and the answer was provided within the time limits stipulated by law.<sup>15</sup>

However, it was impossible for citizens during the Presidency to access the provisional budget by visiting the Presidency website. The "Transparent Administration" section of the Presidency website, where the budget is supposed to be published according to the law, was linked to the "Transparent Administration" section of the website of the Prime Minister's Office<sup>16</sup>. This website provided the budget of the Prime Minister's Office, rather than the budget of the Italian EU Presidency. A request of access to information addressed to the Prime Minister's Office was approved but it confirmed that it did not manage the budget of the EU Presidency.

This inconsistency was due to the sharing of responsibilities of the Presidency between two bodies, the Prime Minister's Office - responsible for communication and the website management - and the Ministry of Foreign Affairs, which was in charge of the entire organisation relating to the Presidency.

At the end of January 2015, a link was included in the "Transparent Administration" section of the Presidency website, directing to the equivalent section of the Ministry of Foreign Affairs.<sup>17</sup>

<sup>13</sup> [http://ec.europa.eu/europe2020/pdf/europe\\_2020\\_explained.pdf](http://ec.europa.eu/europe2020/pdf/europe_2020_explained.pdf)

<sup>14</sup> <http://www.corriere.it/economia/speciali/2014/europa/notizie/al-via-semester-europeo-guida-italiana-renzi-l-europa-sia-piu-ambiziosa-71fde974-016e-11e4-b768-bebb8a7659d.shtml>

[http://www.repubblica.it/politica/la-situazione/2014/07/02/news/renzi\\_in\\_europa\\_orgoglio\\_e\\_coraggio\\_per\\_cambiare\\_verso-90532372/](http://www.repubblica.it/politica/la-situazione/2014/07/02/news/renzi_in_europa_orgoglio_e_coraggio_per_cambiare_verso-90532372/)

[http://www.ilsecoloxix.it/p/mondo/2014/07/02/ARSxuq0-semester\\_strasburgo\\_discorso.shtml](http://www.ilsecoloxix.it/p/mondo/2014/07/02/ARSxuq0-semester_strasburgo_discorso.shtml)

<http://www.ilgiornale.it/news/interni/selfie-e-google-maps-nemmeno-strasburgo-renzi-rinuncia-slang-1033875.html>

<sup>15</sup> <https://www.transparency.it/wp-content/uploads/2015/01/Risposta-richiesta-accesso-civico-MAE.pdf>

<sup>16</sup> The "Presidenza del Consiglio dei Ministri" is the institutional body that supports the Prime Minister

<sup>17</sup> [http://www.esteri.it/mae/it/ministero/trasparenza\\_comunicazioni\\_legali/](http://www.esteri.it/mae/it/ministero/trasparenza_comunicazioni_legali/)

2. How transparent is the Presidency budget?

Score: **YELLOW**

No budget was published on the official Presidency website. However, the Ministry of Foreign Affairs published two kinds of budgets on its website. At first only a generic budget was available: it was included as a subsection in the budget of the Foreign Affairs Ministry, it is in pdf format (low level of open data<sup>18</sup>, even if it's a searchable document) and it was published in March 2014<sup>19</sup>. The estimation of costs is € 58 million and divided into only two items. The budget amount is in line with previous Presidencies, as was widely reported by media.<sup>20</sup>

Officials from the Ministry of Foreign Affairs were available to give more information on the budget in one-to-one meetings.

A more detailed official budget (dated June 2014) was available online at the end of the Presidency and was provided after a request of access to information. It shows different categories of provisional expenses even if it is in a low quality open data format (scanned, unsearchable document that is not machine-readable).<sup>21</sup>

<sup>18</sup> [www.funzionepubblica.gov.it/media/982175/vademecumopendata.pdf](http://www.funzionepubblica.gov.it/media/982175/vademecumopendata.pdf), page 22

<sup>19</sup> [www.esteri.it/mae/resource/mae/2014/03/20140303\\_Tabella\\_6\\_2014.pdf](http://www.esteri.it/mae/resource/mae/2014/03/20140303_Tabella_6_2014.pdf)

<sup>20</sup> [http://www.lettera43.it/politica/unione-europea-semester-italiano-all-insegna-dell-austerita\\_43675132842.htm](http://www.lettera43.it/politica/unione-europea-semester-italiano-all-insegna-dell-austerita_43675132842.htm)

<sup>21</sup> [www.esteri.it/mae/resource/mae/2014/12/2014lettera\\_Grasso\\_e\\_Boldrini\\_prot\\_071.pdf](http://www.esteri.it/mae/resource/mae/2014/12/2014lettera_Grasso_e_Boldrini_prot_071.pdf)

## PILLAR II - EVALUATION OF EU PRESIDENCY OPENESS & INCLUSIVENESS

### INCLUSIVENESS OF STAKEHOLDERS

1. Was it possible for stakeholders to contribute to the discussions?

Score: **GREEN**

All events and meetings of European Parliament, European Council and Italian Presidency can be found online on the official website<sup>22</sup>. The website provides key information such as the title of the event, date, short descriptions, location, and contacts. The search engine for identifying events is very efficient and use-friendly and shows events with brief descriptions and attachments (press releases, etc.). Although in the event section there were no references and contacts to a specific person for each policy area (which was provided by the Greek Presidency), a comprehensive list of staff responsible for each subject was provided<sup>23</sup>.

2. How inclusive was the EU Presidency process?

Score: **GREEN**

The institutional calendar of the European semester has been published at the beginning of the Presidency and can be downloaded in pdf format<sup>24</sup>.

The events section is rich and well detailed and meetings are divided into different categories: European bodies meetings, Informal Meetings, Parallel Events, and Other Institutional Events. For each of them information on dates, agenda, indicative programs and background notes are provided.

Events can be searched on the website by date and sectors (e.g. "Transport, Telecommunications, Energy" or "Education, Youth, Culture and Sport").

Although there is not a contact person assigned for each specific area, there is always a contact for every event so that it was possible to acquire more information.

The level of inclusiveness and participation can be evaluated especially in reference to the "Other Institutional Events", which are generally open to the public. This section provides varying levels

<sup>22</sup> <http://italia2014.eu/it/ricerca-eventi/?tipoevento=128>

<sup>23</sup> <http://italia2014.eu/it/contatti/contatti/whos-who-roma/>

<sup>24</sup> [http://italia2014.eu/media/1354/calendario\\_semestre\\_it.pdf](http://italia2014.eu/media/1354/calendario_semestre_it.pdf)

of accuracy, depending on the events, and it ranges from a simple presentation file with a contact email for registration and participation or a simple link to a contact person at the responsible Ministry, to a wide number of documents and information<sup>25</sup> or to a rich website specifically dedicated to the event, as for "Digital Venice", "LET'S 2014" and others<sup>26</sup>.

### MANAGEMENT OF EXPENSES OF THE EU PRESIDENCY

1. Is information about the expenses and distribution of costs disclosed?

Score: **YELLOW**

Some expenses were continuously published in different sections of the Ministry of Foreign Affairs website during the Presidency. It is noteworthy that consultancy contracts were all published with relevant details<sup>27</sup>, and a tender for sponsors was published online with results<sup>28</sup>, even if the research was not easy and there was no direct link on the official Presidency website until the end of January 2015.

A detailed budget was published on a specific section of the website of the Ministry of Foreign Affairs<sup>29</sup> and detailed lists of expenses for services and personnel were published in the same section on February 10, 2015. However, the page is not directly accessible from the Presidency website and it is not easy to find for an external user.

2. How transparent and how well disclosed are the expenses of the EU Presidency?

Score: **YELLOW**

The budget is in open data format (excel). It allows a direct comparison with the provisional budget and shows savings of around € 25 million (while the provisional budget was € 56 million the real costs amounted to € 30.24 million). The overall budget does not correspond directly with the available documents that detail the expenses for services and personnel provided in the same section. Supporting documents are not available for all budget lines (e.g. contributions to civil society initiatives)<sup>30</sup>.

<sup>25</sup> <http://italia2014.eu/it/eventi/09/30/match-fixing/>

<sup>26</sup> <http://italia2014.eu/it/eventi/07/08/digital-venice/>, <http://www.digitalvenice.eu/digital-venice-2014>

<http://italia2014.eu/it/eventi/09/29/let-s-2014/>, <http://www.lets2014.eu/>

<http://italia2014.eu/it/eventi/10/07/eurocean2014/> <http://eurocean2014.eu/>

<http://italia2014.eu/it/eventi/09/18/copernicus/>, <http://www.techitaly.eu/>

<http://www.techitaly.eu/>

<http://italia2014.eu/it/eventi/11/14/marine-strategy-e-blue-growth/>, <http://italia2014.eu/it/eventi/11/14/marine-strategy-e-blue-growth/>

<sup>27</sup> [http://www.esteri.it/mae/it/ministero/trasparenza\\_comunicazioni\\_legali/consulenti%20e%20collaboratori/delegazionepresidenzaitalianaue.html](http://www.esteri.it/mae/it/ministero/trasparenza_comunicazioni_legali/consulenti%20e%20collaboratori/delegazionepresidenzaitalianaue.html)

<sup>28</sup> [http://www.esteri.it/mae/it/ministero/trasparenza\\_comunicazioni\\_legali/bandi-gara-contratti/avvisi-sui-risultati-della-procedura/ricerca\\_esiti.html?id=488](http://www.esteri.it/mae/it/ministero/trasparenza_comunicazioni_legali/bandi-gara-contratti/avvisi-sui-risultati-della-procedura/ricerca_esiti.html?id=488)

<sup>29</sup> <http://www.esteri.it/mae/it/presidenzaitalianaue/l-organizzazione-e-il-finanziamento-della-presidenza-italiana-del-consiglio-dell-unione-europea.html>

<sup>30</sup> [http://www.esteri.it/mae/resource/doc/2015/02/Pratiche\\_2014\\_Riepilogo\\_spese\\_raffronto\\_prev\\_cons\\_DIVISE\\_Rev1.xlsx](http://www.esteri.it/mae/resource/doc/2015/02/Pratiche_2014_Riepilogo_spese_raffronto_prev_cons_DIVISE_Rev1.xlsx)

## PILLAR III - KEY ANTI-CORRUPTION FILES

### ANTI-MONEY LAUNDERING

Why does it matter?

- Money laundering enables the corrupt to legitimise the illegal, distorts economies and is a major obstacle to a stable EU internal market

What is the key recommendation?

- Member States should establish public registers of who ultimately controls and benefits from anonymous shell companies and other opaque legal structures to enable public scrutiny

1. What level of priority was given to the Anti-Money Laundering Directive by the Italian Presidency?

According to the official work programme the finalisation of the Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Anti-Money Laundering Directive) was a priority for the Italian Presidency as part of its drive to strengthen the regulation of financial markets<sup>31</sup>. This was confirmed on July 22, 2014 by Italian Economy and Finance Minister Pier Carlo Padoan, who outlined to the Economic and Monetary Affairs Committee of the European Parliament that the fight against money laundering would be a key area of legislative efforts under the Italian semester<sup>32</sup>.

Prior to this confirmation, the Committee of Permanent Representatives (COREPER) had managed to arrive at a general approach on June 18 on the final stretch of the Greek Presidency. In its Press Release the Council called on the incoming Italian Presidency to steer this file through the trialogue discussions between the European Commission (EC), the European Parliament (EP) and the Council once the EP would resume after the European elections<sup>33</sup>.

The Italian Presidency organised four trialogue meetings to reach a compromise between the position of the EP and that of the Council. Its work on this file also benefitted from an increasing international momentum: On November 5, 2014, Denmark announced its plans to create public registers in response to a flurry of cases where Eastern European criminals systematically abused Danish companies for tax evasion and money laundering<sup>34</sup>. Little more than a week later, at their

meeting in Brisbane, Australia the G20 leaders came out in support of transparency of beneficial ownership by agreeing to the G20 High Level Principles of Beneficial ownership transparency<sup>35</sup>.

A few days after the second trialogue, the finance Ministers of France, Germany and Italy sent a joint letter to Commissioner Pierre Moscovici, in which they called for a tightening of tax rules, stating plainly that EU plans for exchange of tax information do not go far enough. They made use of the occasion to once more underline that by establishing compulsory ownership registers, EU law “could do more on trusts, shell companies and other non-transparent entities.”<sup>36</sup>

Italy’s resolve to conclude this file by the end of its Presidency was confirmed by its work behind the scenes: Throughout the Presidency the Working Party on Financial Services met eight times to prepare for the four trialogue negotiations<sup>37</sup>. In part due to Italy’s leadership on the file, the EC, the EP and the Council were able to agree on a compromise for the Fourth Anti-Money Laundering Directive at the final trialogue meeting on December 16, 2014<sup>38</sup>.

Score: **GREEN**

2. What progress was achieved?

The Italian Presidency organised four trialogue meetings to reconcile the positions of the European Commission, the European Parliament and Member States. The first trialogue took place on October 9, 2014 and the storage of beneficial ownership information was the main political issue, with both the EP and Member States having very divergent positions. During this first exchange of views the EP underlined its strong negotiating mandate, given that a vast majority (more than 90% of Members of the European Parliament) had endorsed a publicly accessible register of beneficial ownership transparency in the plenary vote. The Presidency explained that Member States had different starting points to this issue but that there was flexibility in exploring both the mechanisms of storing information and the level of access and safeguard criteria. The European Commission maintained that unlimited and uncontrolled (i.e. public) access to beneficial ownership information could be risky and recommended that criteria should be established to avoid abuses. The parties agreed that regulated or limited access to beneficial ownership information could be considered to ensure the protection of privacy and too prevent unlimited and unjustified access to information. Following the first trialogue, all parties asked the European Commission to analyse the differences between the Parliament’s and the Council’s positions on beneficial ownership and to find a

31 [http://italia2014.eu/media/1349/programma\\_en1\\_def.pdf](http://italia2014.eu/media/1349/programma_en1_def.pdf)

32 <http://www.europarl.europa.eu/news/de/news-room/content/20140722ipr53208/html/Italian-Presidency-priorities-discussed-by-EP-committees>

33 <http://data.consilium.europa.eu/doc/document/ST-11085-2014-INIT/en/pdf>

34 <http://cpbpost.dk/news/danish-companies-being-misused-for-international-economic-crime.11307.html>

35 [https://g20.org/wp-content/uploads/2014/12/g20\\_high-level\\_principles\\_beneficial\\_ownership\\_transparency.pdf](https://g20.org/wp-content/uploads/2014/12/g20_high-level_principles_beneficial_ownership_transparency.pdf)

36 <http://www.financialtransparency.org/wp-content/uploads/2014/12/Letter3Ministers.pdf?80f948>

37 <http://bit.ly/15vFKND>

38 <http://www.europarl.europa.eu/news/en/news-room/content/20141216IPR02043/html/Money-laundering-Parliament-and-Council-negotiators-agree-on-central-registers>

compromise, also based on practices in different countries.

At the second trialogue on November 4, 2014, both the Council and Commission maintained their opposition to public registers of beneficial ownership information, stating that it is not for average citizens to investigate and act to prevent money laundering, but for the authorities and other obliged entities.

The Commission presented possible solutions in a non-paper on transparency of beneficial ownership which was circulated on November 14, 2014<sup>39</sup>. While this paper floated the possibility of having central registries with different level of access according to the quality of the person requesting information, it fell short of supporting truly public registers.

On November 17, 2014 Mrs Cristina Collura, who followed negotiations for the Italian Ministry of Economy and Finance, stressed in a public conference organised by Transparency International Italy and CIME the importance of the “acquis” already reached, that is the obligation of a company to know who it is controlled by, and the establishment of a register<sup>40</sup>. At the same time she recognised the different positions of Member States on the accessibility of the register and indicated that there was a high probability for a compromise on this issue<sup>41</sup>.

In the Council, the Working Party on Financial Services met on November 19, 2014 to discuss the European Commission’s non-paper<sup>42</sup>. The German representatives argued against centralised registers, fearing that a centralised register would take away the responsibility of companies to carry out due diligence testing. The Italian Presidency rejected that argument and pointed to the fact that responsibility for due diligence remains with the obliged entity.

After the third trialogue, which took place on November 25, 2014 the Italian Presidency stated its concern that the momentum for compromise would slow down if a deal was not reached by the end of the year. Italy felt that there were also other important parts of the directive (e.g. cooperation among Financial Intelligence Units) which might be instrumentally watered down if the process gets delayed further.

On December 2, 2014 the Presidency sent a paper to COREPER in preparation of the final trialogue in which it stated that apart from a few remaining issues, for which it suggested updated mandates, there was already a broad convergence of views. On beneficial ownership, the Presidency suggested a compromise which effectively made centralised registers the only mechanism for storing information on beneficial ownership. This compromise proposal allows competent authorities to access information from a single source and it also gives access to obliged entities and to all those persons and organisations which have a legitimate interest<sup>43</sup>.

39 Non-papers are internal discussion documents drawn up either by one of the EU’s institutions or by a Union government. They are designed to stimulate discussion on a particular issue and do not represent the official position of the institution or country which drafted them. Non-papers have no official status, but can be very useful in starting debates on particularly sensitive issues, allowing EU decision-makers to talk about issues they would find it politically difficult to take a firm line on.

40 Consiglio Italiano del Movimento Europeo: <http://www.movimentoeuropeo.it/>

41 <https://www.transparency.it/antiriciclaggio-procura-europea-e-trattato-ttp-grandi-sforzi-della-presidenza-italiana-dellue-e-importante-ruolo-della-societa-civile/>

42 <http://data.consilium.europa.eu/doc/document/CM-5058-2014-INIT/en/pdf>

43 <http://data.consilium.europa.eu/doc/document/ST-16221-2014-INIT/en/pdf>

In the Council Working Party on Financial Services a majority of Member States maintained that allowing for full public access to any person would be disproportionate relative to the goals of the Directive, could raise privacy issues and might even be outside the legal base of the Directive<sup>44</sup>.

The final compromise that was struck during the final trialogue on December 16, 2014 provides for centralised registers of beneficial ownership which can be accessed by law enforcement and relevant government bodies; partial access will be available to the public, such as investigative journalists and civil society organisations, if they can prove a legitimate interest<sup>45</sup>. While this compromise covers companies, with regards to trusts it establishes that the information on beneficial ownership is held in a central register only for trusts that generate tax consequences, and that this information is accessible to competent authorities, FIUs and obliged entities. Ambassador Stefano Sannino, the Italian chair of COREPER, enthusiastically stated that “this agreement will allow the EU to be in the lead in the fight against money laundering and terrorist financing. The agreement goes far beyond the G20 principles agreed last November in Brisbane. The Italian Presidency worked hard in favour of transparency throughout negotiations.”<sup>46</sup>

The final compromise does constitute a landmark in the fight against money laundering and anonymous shell companies. However, some concerns remain, as the final compromise text falls short of full transparency of the real beneficial owners behind companies. In addition the compromise lacks provisions for access to beneficial ownership information for trusts and fails to cover all trusts<sup>47</sup>.

Score: **YELLOW**

## ESTABLISHMENT OF THE EUROPEAN PUBLIC PROSECUTOR’S OFFICE

Why does it matter?

- Despite the loss of billions of Euros every year and the damage it causes to the EU’s budget few cases of fraud and corruption are ever brought to justice in the 28 EU member states.

What is the key recommendation?

- The European Public Prosecutor should be provided with an extended mandate to also include the recognised serious EU crime of cross-border corruption that siphons off large amounts of EU taxpayers money.

44 <http://data.consilium.europa.eu/doc/document/CM-5271-2014-INIT/en/pdf>

45 <http://italia2014.eu/it/news/post/dicembre/money-laundering/>

46 <http://italia2014.eu/en/news/post/dicembre/money-laundering/>

47 <http://data.consilium.europa.eu/doc/document/ST-5116-2015-ADD-2/en/pdf>

## 1. What level of priority was given to the establishment of the European Public Prosecutor's Office by the Italian Presidency?

The Italian Presidency prioritised the establishment of the European Public Prosecution Office (EPPO) under part two of its strategic framework Moving Europe closer to its citizens: an area of democracy, rights and freedom. The official programme stated that the Presidency “will focus on achieving progress in the Council negotiations on the proposal for a regulation on establishing a European Public Prosecutor's Office”<sup>48</sup>. Furthermore, on July 22, 2014, Italy's Justice Minister Andrea Orlando emphasised in the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) that fighting corruption is one of the key priorities of the Italian Presidency and that the Presidency aims to achieve substantial progress on the EPPO file<sup>49</sup>.

Before it officially took over the reins at the Council, the Italian Presidency circulated a state of play report to the Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) working group in which it outlined the outcome of the last Justice and Home Affairs Council and invited delegations for a preliminary tour de table in order to engage in discussions on the outstanding issues of judicial control and judicial review<sup>50</sup>. The EPPO was also a separate item on the agenda of the informal Justice and Home Affairs Council that was organised by the Italian Presidency in Milan on July 8, 2014<sup>51</sup>. Overall, this file was discussed during twelve meeting days at expert group level, four meetings of CATS and at the Justice and Home Affairs Councils in October and December<sup>52</sup>.

Score: **GREEN**

## 2. What progress was made in the Council?

Italy was able to build on the substantial progress achieved by the Lithuanian and Greek Presidencies, which resulted in discussion of the first 19 Articles of the regulation at the Justice and Home Affairs Council on June 6, 2014<sup>53</sup>. By organising an initial meeting to address the issues of judicial control and judicial review CATS on July 2, during its second day in office, the Italian Presidency underlined that the EPPO would be a priority for Italy during its term at the helm of the EU<sup>54</sup>.

48 [http://italia2014.eu/media/1349/programma\\_en1\\_def.pdf](http://italia2014.eu/media/1349/programma_en1_def.pdf)

49 <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20140722-0900-COMMITTEE-LIBE>

50 <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2011255%202014%20INIT>

51 [http://italia2014.eu/media/1253/agenda-8-9-july\\_-informal-justice-and-home-affairs.pdf](http://italia2014.eu/media/1253/agenda-8-9-july_-informal-justice-and-home-affairs.pdf)

52 <http://data.consilium.europa.eu/doc/document/ST-16993-2014-INIT/en/pdf>

53 [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/143119.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/143119.pdf)

54 <http://data.consilium.europa.eu/doc/document/ST-12825-2014-INIT/en/pdf>

Discussions then continued in the Working Party on Cooperation in Criminal Matters (COPEN), which met to deliberate on the EPPO on July 17, 2014<sup>55</sup>. Shortly after the first COPEN meeting the European Commission published its Fight against fraud 2013 Annual Report, which showed that the overall number of reported cases had increased by 30% from last year<sup>56</sup>.

On September 4, 2014 the Presidency circulated a state of play report to CATS that also invited delegations to consider whether the EC proposal included the necessary procedural safeguards that Member States had requested<sup>57</sup>. This was discussed further in the CATS meeting of September 15, 2014, where many delegations agreed with the EC proposal, some demanded additional safeguards and many delegations emphasised that dual regimes of safeguards must be avoided<sup>58</sup>.

On October 3, 2014 the Presidency indicated that discussions had moved on to the concept of one “single legal area” in the EU and that this provision, which will have a decisive influence on the functioning of the office, has been intensively debated in the COPEN working group<sup>59</sup>.

On November 28, the Italian Presidency invited another orientation debate by providing COREPER with a state of play document and the redrafted 37 Articles of the Regulation. The document also outlined remaining topics regarding the independence of the EPPO such as the supervisory role of the European Prosecutors, nomination and appointment procedures, and independence of decision-making in the office, and invited delegation's views on these remaining issues<sup>60</sup>. During this COREPER meeting several delegations concurred that the proposed permanent chambers would contribute to the independence of the EPPO<sup>61</sup>.

On December 4 and 5, 2014 Ministers at the Justice and Home Affairs Council continued to deliberate on how to best ensure the independence of the decision-making of the office and agreed to discuss the rules on appointment and dismissal of the European Prosecutor in more detail along the lines of the text which the Presidency circulated on November 28<sup>62</sup>. A majority of delegations noted that these rules should be strengthened by introducing a more objective and transparent nomination and appointment procedure for members of the EPPO College<sup>63</sup>.

While the constructive discussions in the Council resulted in significant progress on this file, they also served to highlight various technical issues which merit further analysis. It must be noted that

55 <http://data.consilium.europa.eu/doc/document/CM-3552-2014-INIT/en/pdf>

56 [http://ec.europa.eu/anti\\_fraud/documents/reports-commission/2013/1\\_act\\_part1\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/reports-commission/2013/1_act_part1_en.pdf)

57 <http://data.consilium.europa.eu/doc/document/ST-12825-2014-INIT/en/pdf>

58 <http://data.consilium.europa.eu/doc/document/ST-13573-2014-INIT/en/pdf>

59 <http://data.consilium.europa.eu/doc/document/ST-13509-2014-REV-1/en/pdf>

60 <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2015862%202014%20REV%201>

61 <http://data.consilium.europa.eu/doc/document/ST-16060-2014-INIT/en/pdf>

62 [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/jha/146049.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/146049.pdf)

63 <http://data.consilium.europa.eu/doc/document/ST-16516-2014-ADD-1/en/pdf>

the progress made by the Italian Presidency was achieved in spite of formidable obstacles in EU Member States (“yellow card” procedure initiated against the EPPO proposal by eleven national parliaments; see previous Scorecard) and a drive to weaken the EPPO that was spearheaded by members of the Dutch Parliament<sup>64</sup>.

Overall, Italy’s approach of initiating a broader thematic debate in parallel to the analytical examination of the individual provisions served to maximise the time available to advance this dossier in spite what Italy’s chief negotiator, Lorenzo Salazar, described as the “hostility of some delegations”<sup>65</sup>.

Score: **GREEN**

## DIRECTIVE ON THE FIGHT AGAINST FRAUD TO THE UNION’S FINANCIAL INTERESTS BY MEANS OF CRIMINAL LAW

Why does it matter?

- This directive is intrinsically linked to the proposed regulation for the establishment of the European Public Prosecutor’s Office (EPPO) in that the PIF Directive defines the scope of action of the future EPPO.

What is the key recommendation?

- It is imperative that the Italian Presidency push for a speedy adoption of the PIF directive as it is intrinsically linked to the establishment of the European Public Prosecutor’s Office and progress on the EPPO is dependent on progress in this directive.

### 1. What level of priority was given to the Proposal for a Directive on the fight against fraud to the Union’s financial interests by means of criminal law (PIFD) by the Italian Presidency?

This directive was a priority for the Italian Presidency and was included on the agenda under the “criminal law” heading. The official work programme stated that the Presidency will focus on “achieving progress in the negotiations in the Council on the proposal for a Regulation on the establishment of an EPPO which, in cooperation with the Member States’ authorities, will investigate, prosecute and bring to justice the perpetrators of crimes affecting the budget of the European Union. Against this background, the Presidency will also commence negotiations with the European Parliament on the proposal for a Directive on the protection of the EU’s financial

64 <https://euobserver.com/justice/124812>

65 <http://www.eurojus.it/diario-breve-del-semester-di-presidenza-italiana-2014-nel-settore-della-giustizia-penale/>

interests, on the basis of the general approach already established, in order to make progress towards its adoption. Likewise, particular attention will be given to the proposal for a Regulation reforming EUROJUST, inter alia with a view to enabling it to perform the tasks needed to assist the work of the EPPO.”<sup>66</sup>

On July 22, 2014 Italy’s Justice Minister Andrea Orlando indicated during his hearing before the Civil Liberties Committee in the European Parliament that the Presidency would like to start negotiations on the PIF Directive swiftly and with a view to reaching agreement between the co-legislators as a matter of high priority<sup>67</sup>.

Score: **GREEN**

### 2. What progress was made in the Council?

The proposal for a Directive on the fight against fraud to the Union’s financial interests by means of criminal law (PIF Directive) was submitted by the Commission in 2012. On June 6, 2013 the Justice and Home Affairs Council reached a general approach on the compromise text of the Articles and the recitals. The European Parliament adopted its position in first reading on the proposal on 20 April, 2014.

As soon as the newly elected European Parliament appointed the rapporteurs for the two responsible EP committees (the Committee on Civil Liberties, Justice and Home Affairs and the Budgetary Control Committee) the Italian Presidency provided a background and state of play report to CATS in the beginning of September<sup>68</sup>. The document emphasised the importance of swift negotiations and rapid progress in order to enable the discussion on the EPPO to proceed on the definition of the office’s field of competence. In the document the Italian Presidency also outlined the major differences between the EP report and the general approach adopted by the Council in June 2013, inviting delegations to begin a reflection at working party level on the latitude for discussing the remaining issues<sup>69</sup>.

The most noteworthy differences at this point related to the definition of active and passive corruption. On passive corruption, the first reading position of the EP widened the definition to include all cases of remuneration or promise to the public official, whether or not the act is in breach of his official obligations. On active corruption, the EP position widened the definition of active corruption to also cover cases where the remuneration (or promise of remuneration) is received after the performance of the conduct of the public official. Interestingly, the EP’s first reading position also restricts the definition of public official to civil servants or functionaries, which would actually exclude MEPs

66 [http://italia2014.eu/media/1349/programma\\_en1\\_def.pdf](http://italia2014.eu/media/1349/programma_en1_def.pdf)

67 <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20140722-0900-COMMITTEE-LIBE>

68 <http://www.eurojus.it/diario-breve-del-semester-di-presidenza-italiana-2014-nel-settore-della-giustizia-penale/>

69 <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20140722-0900-COMMITTEE-LIBE>

from the definition of public official, which equates to MEPs effectively exempting themselves from the applicability of this directive. In addition, by introducing, amongst others, a distinction between “serious offences” and “other offences”, the general approach adopted by the Council substantially watered down the provisions of this directive. The European Parliament (LIBE and CONT) had previously made clear that such a distinction is to be avoided for reasons of legal certainty<sup>70</sup>.

The discussion in CATS took place on September 16, 2014, where a majority of delegations rejected the position of the EP and suggested that the Council maintain the wording of the general approach. However, delegations declared that there was a certain marge of flexibility in terms of the definition of corruption. Predictably, a number of delegations “expressed their astonishment at the Parliament’s opinion on the definition of a public official”<sup>71</sup>. The discussion in CATS fed into a document with compromise suggestions which the Presidency circulated to delegations on September 22 in order to prepare the trialogues<sup>72</sup>.

Two technical meetings and two political trialogues took place in October and November 2014. According to the state of play document which the Presidency provided to the Council on November 27, some progress was made, but substantive issues remained open (e.g. whether or not to exclude VAT-fraud and public procurement fraud from the scope of the Directive). In particular, the exclusion of revenues arising from VAT from the scope of this directive has proven to be a severely contested issue on which, despite lengthy discussions in working parties and during trialogues, the EP and the Council were not able to reach an agreement.

Overall the progress in trialogues was swift, especially considering the timeframe. However, the Italian Presidency has warned that while there are good possibilities to reach agreement on most issues in the relatively near future, there is now a risk that the adoption of this directive may be considerably delayed since no possible solution or basis for compromise with regard to VAT has been identified. The Presidency concluded by inviting “Ministers to encourage deepened reflections in their Member States on possible solutions to this issue”<sup>73</sup>.

Score: **YELLOW**

## TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)

Why does it matter?

- Recent free trade agreements that the EU has finalised have limited themselves to provisions

<sup>70</sup> <http://data.consilium.europa.eu/doc/document/ST-12880-2014-INIT/en/pdf>

<sup>71</sup> <http://data.consilium.europa.eu/doc/document/ST-13573-2014-INIT/en/pdf>

<sup>72</sup> <http://data.consilium.europa.eu/doc/document/ST-13472-2014-INIT/en/pdf>

<sup>73</sup> <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2015221%202014%20INIT>

relating to transparency of regulatory and procurement procedures but did not contain specific anti-corruption provisions that are a standard feature of recent US trade agreements. There is also widespread concern among civil society about the general lack of transparency in the ongoing negotiations.

What is the key recommendation?

- The Transatlantic Trade and Investment Partnership should include strong anti-corruption and legal and regulatory transparency requirements in order to achieve the highest level of commitment to government transparency and combating corruption. To enable meaningful public scrutiny Italy should encourage a highly transparent negotiating process. Publication of the negotiation mandate is a necessary first step in this regard.

1. What level of priority was given to the Transatlantic Trade and Investment by the Italian Presidency?

The official work programme states that the Italian Presidency “will encourage significant progress in negotiations for a Transatlantic Trade and Investment Partnership - which will strategically enhance economic and trade relations across the Atlantic”<sup>74</sup>. The work programme clearly positions TTIP as a central element of the Europe 2020 Strategy, stating that “the potential for improved competition for growth and possible interaction with the advancements in the TTIP negotiations will also be taken into account.” Under the heading of Common Trade Policy the Presidency reiterates that it will “give particular attention to encouraging concrete results” in the TTIP negotiation.

On September 3, 2014, in his hearing before the Trade Committee of the European Parliament, Italian deputy Minister for Economic Development Carlo Calenda confirmed that the TTIP is the EU’s top trade priority and promised to strive for more transparency in the process. Minister Calenda also stated that communication about TTIP had been misleading and that supplementary efforts on transparency were needed. He underlined that he had sent a letter to his counterparts in order to make the negotiating mandate public. On the same day, Maurizio Martina, Italian Minister of Agriculture, Food and Forestry Policies, informed the EP’s Agriculture Committee that the Presidency would closely follow international trade negotiations (including TTIP) and stressed that the while the EU should “focus on opportunities these agreements might bring”, it “should not hide their downsides.”<sup>75</sup>

<sup>74</sup> [http://italia2014.eu/media/1349/programma\\_en1\\_def.pdf](http://italia2014.eu/media/1349/programma_en1_def.pdf)

<sup>75</sup> <http://www.europarl.europa.eu/news/de/news-room/content/20140722ipr53208/html/Italian-Presidency-priorities-discussed-by-EP-committees>

On October 14-15, 2014 the Italian Presidency organised an informal Foreign Affairs Council on trade in Rome. The event, opened by Prime Minister Matteo Renzi, gave EU trade ministers the chance to discuss the state of play with the Trade Commissioner Karel De Gucht, US chief negotiator Michael Froman<sup>76</sup>. At this event, Minister Calenda stressed during his presentation that it is essential to boost communications initiatives and the transparency of the negotiating rounds<sup>77</sup>. His official statement after the meeting listed “enhanced transparency towards public opinion so as to clarify the real terms of the agreement” as one of the two fundamental elements to conclusion of the negotiations<sup>78</sup>.

The TTIP was indeed a high priority for the Italian Presidency; the publication of the negotiating mandate and subsequent actions by Minister Calenda throughout the Italian semester can be seen as a testimony to the Presidency’s commitment to enhance transparency in the negotiations.

Score: **GREEN**

## 2. What progress was achieved?

Negotiations for the TTIP were launched in June 2013. During his speech at the G8 meeting on June 17, 2013 then Council President Herman Van Rompuy remarked on the importance of this agreement to enshrine Europe and America’s role as global standard setter and on the strong political will on both sides<sup>79</sup>.

Transparency International had first called for the inclusion of an anti-corruption chapter in the TTIP in a letter to then Trade Commissioner Karel De Gucht in 2013<sup>80</sup>. In March 2014, Transparency International had also provided the Commission with a suggested text for an anti-corruption chapter in the TTI, pointing to the necessity of such a chapter considering the distorting effect of corruption on competition and the resulting diversion of investment flows<sup>81</sup>.

On July 29, 2014 the European Ombudsman Emily O’Reilly started an own-initiative inquiry by way of a letter to Uwe Corsepius, the Secretary General of the Council of the EU. Her letter invited the Council to consider publishing the negotiating mandate in order to promote public trust, especially in view of the fact that a leaked version of the negotiating mandate was already available online<sup>82</sup>.

The letter also echoed and underlined concerns about the transparency of the negotiations

76 <http://www.sviluppoeconomico.gov.it/index.php/en/2014-06-27-15-06-15/2031637-two-day-long-debate-on-ttip-in-rome>

77 [http://www.sviluppoeconomico.gov.it/images/stories/documenti/Discorso\\_TTIP\\_Calenda\\_EN.pdf](http://www.sviluppoeconomico.gov.it/images/stories/documenti/Discorso_TTIP_Calenda_EN.pdf)

78 [http://www.sviluppoeconomico.gov.it/images/stories/documenti/Statement\\_Calenda\\_FAC\\_EN.pdf](http://www.sviluppoeconomico.gov.it/images/stories/documenti/Statement_Calenda_FAC_EN.pdf)

79 <http://data.consilium.europa.eu/doc/document/ST-143-2013-INIT/en/pdf>

80 [http://www.transparencyinternational.eu/wp-content/uploads/2014/02/2013-10-03\\_TIEU\\_TTIP-De-Gucht.pdf](http://www.transparencyinternational.eu/wp-content/uploads/2014/02/2013-10-03_TIEU_TTIP-De-Gucht.pdf)

81 [http://www.transparencyinternational.eu/wp-content/uploads/2014/03/2014-03-07\\_TI\\_Letter-to-Karel-de-Gucht-FINAL-doc.pdf](http://www.transparencyinternational.eu/wp-content/uploads/2014/03/2014-03-07_TI_Letter-to-Karel-de-Gucht-FINAL-doc.pdf)

82 <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/de/54634/html.bookmark>

that had previously been raised by Transparency International and a number of civil society organisations<sup>83</sup>.

The Secretary General of the Council answered this letter on the exact day of the deadline set by the Ombudsman, informing her that while the Council was aware of a number of obligations concerning the way EU have to deal with requests for public access there is no obligation to publish non-legislative documents such as negotiating mandates. However, the reply also stressed that the Council fully recognises the importance of a high level of transparency of the EU’s aims and objectives in the TTIP negotiations and that the Italian Presidency had recently undertaken steps to enter into consultations with Member States on whether the negotiating directives could be disclosed to the public<sup>84</sup>.

On August 25, 2014 Carlo Calenda, the Italian Deputy Minister for Economic Development, sent a letter to his counterparts, urging EU Member States to declassify the TTIP negotiating mandate. The letter was co-signed by then Trade Commissioner Karel De Gucht and reflected the personal commitment of Minister Calenda to bring the negotiating mandate and other documents relating to TTIP into the public domain<sup>85</sup>.

On October 9, 2014 Member States in the Council agreed to Italy’s request and took the decision to declassify the TTIP negotiating mandate by common accord. On the occasion, Minister Calenda expressed “deep satisfaction” with the Council’s decision, underlining that this had been “long advocated by the Italian Presidency”<sup>86</sup>.

On October 17, 2014 the Working Party on Information in the Council discussed how the EU’s communications strategy on the TTIP could be enhanced. At this meeting the Italian Presidency once more welcomed the declassification of the negotiating mandate as a good step forward. While all delegations agreed with this, some considered this step towards transparency as necessary but not sufficient<sup>87</sup>.

On October 24, 2014 the Presidency proposed draft Council Conclusions on the TTIP negotiations. These conclusions were discussed in the Trade Policy Committee on November 7, 2014 and in COREPER on November 12, 2014<sup>88</sup>. After an additional discussion in the Trade Policy Committee on 14 November the Presidency submitted a revised document to COREPER on November 18, 2014<sup>89</sup>.

The revised Council conclusions were adopted by the Foreign Affairs Council on November 21,

83 [http://www.transparencyinternational.eu/wp-content/uploads/2014/07/foee\\_joint\\_ttip-transparency-call\\_march2014.pdf](http://www.transparencyinternational.eu/wp-content/uploads/2014/07/foee_joint_ttip-transparency-call_march2014.pdf)

84 <http://data.consilium.europa.eu/doc/document/ST-14428-2014-INIT/en/pdf>

85 <http://bit.ly/1yLok16>

86 <http://data.consilium.europa.eu/doc/document/ST-14095-2014-INIT/en/pdf>

87 <http://data.consilium.europa.eu/doc/document/ST-14637-2014-INIT/en/pdf>

88 <http://data.consilium.europa.eu/doc/document/ST-15199-2014-INIT/en/pdf>

89 <http://data.consilium.europa.eu/doc/document/ST-15555-2014-INIT/en/pdf>

2014. Regrettably, the draft conclusions were modified during the discussions and the revised conclusions omit a reference to a “spirit of transparency” in the very first article. Nevertheless, the adopted conclusions do underline the importance of enhancing transparency and dialogue with civil society and also emphasise “the need to approach the US side to discuss meaningful possibilities to improve transparency, including access to all negotiating documents in order to let Member States develop constructive discussions with civil society.”<sup>90</sup>

On December 18, 2014 Heads of State at the European Council called for the conclusion of bilateral trade agreements with all key partners, stating that both the EU and the US should “make all efforts to conclude negotiations on an ambitious, comprehensive and mutually beneficial TTIP by the end of 2015” and that it would take regular stock of the progress on this<sup>91</sup>.

The decision to declassify the TTIP negotiating mandate, though largely symbolic in view of the fact that it was already available online, is a welcome step by the Council. However, there has not been any tangible progress on the inclusion of an anti-corruption chapter in the TTIP and the conclusions that were adopted at the Foreign Affairs Council were not as strong on transparency as the draft conclusions that the Italian Presidency had originally proposed.

Score: **YELLOW**

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<sup>90</sup> <http://data.consilium.europa.eu/doc/document/ST-15859-2014-INIT/en/pdf>

<sup>91</sup> <http://data.consilium.europa.eu/doc/document/ST-237-2014-INIT/en/pdf>

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