



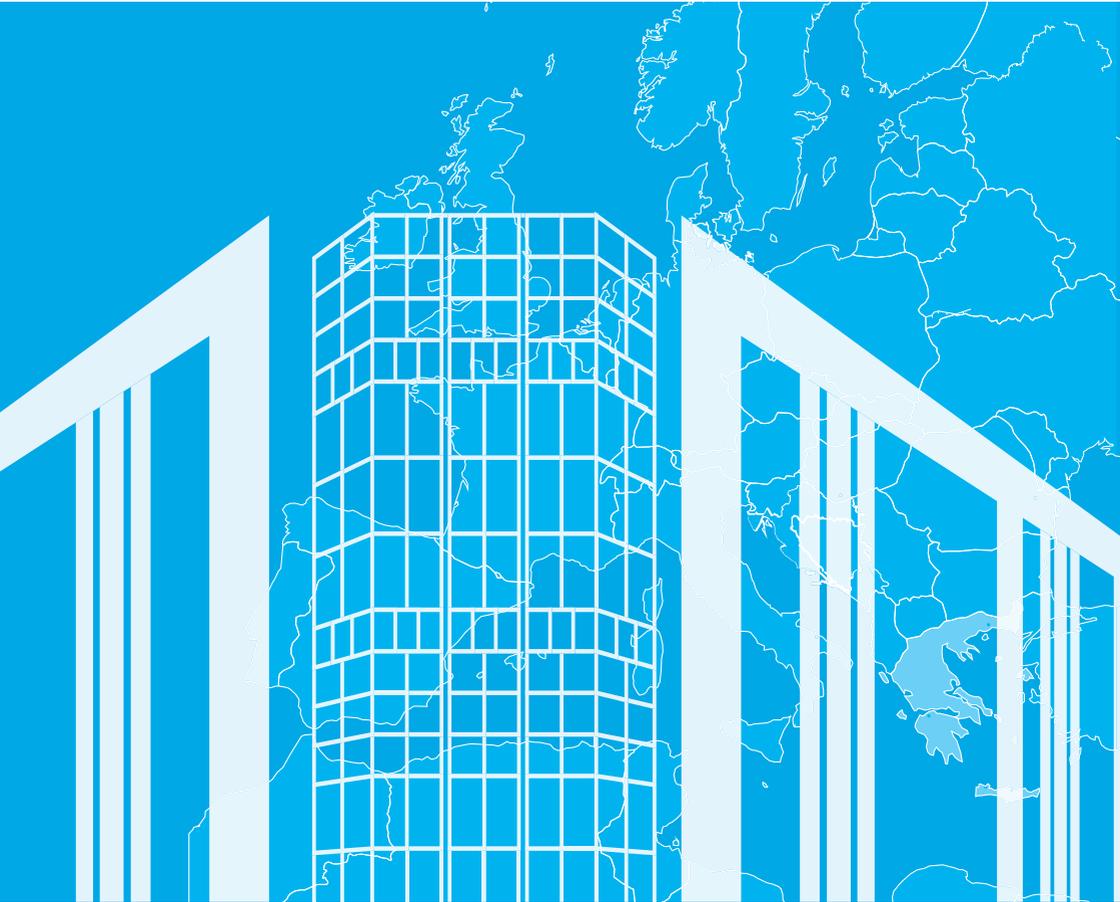
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EU PRESIDENCY ANTI-CORRUPTION SCORECARD

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

Transparency International EU Office (TI EU) is the Brussels office of the global non-governmental organisation leading the fight against corruption. The mission of TI EU is to prevent corruption and promote integrity, transparency and accountability in EU institutions, policies and legislation. The TI EU Office was established in 2008 and is registered in the EU's Transparency Register under: 5012229191-71.

Transparency International Latvia (TI Latvia) is a public benefit (charity) organisation whose mission is to promote formation of a democratic society that is free of corruption in politics, business and mutual relations. TI Latvia was established in 1998 as a Latvian chapter of the global TI movement. TI Latvia works to implement specific projects, but also consults and organizes information campaigns and education seminars.

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The printed version of this publication contains hyperlinks to additional material. We advise you to use the online version of this guide on the website of TI EU (www.transparencyinternational.eu) to be able to access all the information.

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FOREWORD

This scorecard, which evaluates the performance of the Latvian government at the helm of the European Union during the first half of 2015, concludes a two-year project that Transparency International EU Office undertook jointly with four national chapters in Lithuania, Greece, Italy and Latvia.

Latvia assumed its first ever Presidency of the Council of the EU during a turbulent period for the EU. Serious domestic and external challenges – the Ukraine conflict, the unfolding migration crisis in the Mediterranean region and the persisting Greek financial drama – formed the backdrop for their work.

Less dramatic, but no less a challenge, is the problem of corruption. The six months of the Latvian Presidency saw further evidence that this is a persistent issue in Europe. In the European Commission's annual survey of member states' policies for economic growth – the "European Semester" – corruption in the public administration was highlighted as a serious issue for 11 EU countries. Furthermore, the EU budget faces potential losses every year of several hundreds of millions of euros due to fraud, corruption and other criminal offences. According to a European Anti-Fraud Office (OLAF) report published in June 2015 not even

half of the investigated cases end up in court. This shows need for a coordinated transnational response to what is an increasingly transnational problem – exactly the sort of issue the EU Council should be prioritising.

All these developments weighed upon the already ambitious agenda of the Latvian Presidency. The main focus of the Latvian Presidency was clearly centered on the commitment to facilitate EU competitiveness as a key to economic growth and jobs, to fully exploit the digital potential of the European economy, and to reinforce the role of the EU in the world. In addition, the Latvian Presidency focused on the implementation of the European Council's five-year Strategic Agenda in the areas of protection of citizens, on an Energy Union with a pioneering climate policy, and a Union of freedom, security and justice. The work programme of the Latvian Presidency clearly reflected these ambitions.

While this Presidency was successful in pushing for compromises on a number of economic, financial and digital matters, our assessment of progress on key anti-corruption dossiers presents a mixed picture. As far as anti-corruption issues are concerned, the evaluation of the Presidency is quite positive since progress and efforts were evident in most of the identified areas. For the first time in the

history of the proposal on the establishment of the European Public Prosecutor's Office the negotiating positions of the member states were made open, the Transatlantic Trade and Investment Partnership (TTIP) negotiations reached an unprecedented, if not quite satisfactory, level of transparency, and a road map for tax transparency has been developed. The Presidency was also very willing to communicate information and interact with stakeholders through interactive initiatives, events and networks.

Even though transparency and anti-corruption policies did have a place on the agenda of the Latvian Presidency, our assessment is that the Council did not effectively prioritise and make progress on several important anti-corruption files we had identified. Furthermore, the Council's internal proceedings are still characterised by a high degree of opacity and complexity, which reinforces the perception that the EU legislation is occasionally hard to understand even for Brussels insiders, to say nothing about organisations or citizens in the member states.

Consequently, no progress has been achieved on the obligatory disclosure of the meetings of Council officials with lobbyists, following the decision of the Juncker Commission to publish meetings of its senior officials with registered

interest groups. While the Council is still waiting to see the Commission's formal proposals in this regard, nothing prevents it from voluntarily disclosing meetings as a gesture toward the Council's proactive leadership in increasing transparency of the European institutions.

This point cannot be overemphasised. The transparency of EU decision-making depends to a great extent on the transparency of Council proceedings, and unfortunately the Council does not have the best track record of ensuring accountability in its proceedings, especially when compared to the other EU institutions. Each Presidency has a crucial role in setting

a work programme, presiding over Council meetings and brokering dialogue during a six-month term, and the transparency of the Presidency itself is also an important indicator of the accountability of the wider process.

Despite some promising innovations by the Latvian Presidency, the general picture to emerge in this assessment, and indeed in our three previous assessments, is of an institution that is reluctant to embrace transparency either as a political ideal or as a modus operandi. Much more remains to be done if governments are serious about tackling corruption as part of the Council of the European Union.

Carl Dolan
Director
Transparency
International
EU Office



A handwritten signature in black ink, appearing to be 'C. Dolan', written in a cursive style.



Gundars Jankovs
Director
Transparency
International Latvia

A handwritten signature in black ink, appearing to be 'G. Jankovs', written in a cursive style.

WHAT IS THE 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 prioritised 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 Latvia and ongoing monitoring of developments in the EU Council. This assessment is a final part of a two-year project aimed to produce a biannual written assessment of the transparency and accountability of four consecutive presidencies of the European Union. The project ran from 2013 to 2015 and covered four presidencies – Lithuanian, Greek, Italian and Latvian.

WHY PUBLISH A SCORECARD?

The ability to hold governments accountable for the commitments they make at the 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 EU 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 commitments and actions.

KEY FINDINGS

1. Access to information via different channels (web, face to face meetings, different events etc) was established on the early stage of the Latvian Presidency and well-kept during the mandate.
2. Generally the Latvian Presidency was welcoming to the civil society, but some events were too exclusive.
3. A notable achievement of the Presidency was a centralised approach to budget-making, which allowed a comprehensive overview of the process. All information has been publicly available. Presidency team made a big effort to ensure transparency of expenses after the end of the Presidency.
4. Considerable progress has been achieved on the proposal for the establishment of the European Public Prosecutor's Office, particularly as regards the internal institutional structure of the proposed body and transparency of the negotiations around the topic.
5. It was not possible to overcome a deadlock on the Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive), despite the considerable attention given to the topic. The EU Council on one hand and the European Commission and the European Parliament on the other continue to be in disagreement on the issue of the inclusion of VAT fraud in the scope of the Directive.
6. Transparency of negotiations around the Transatlantic Trade and Investment Partnership (TTIP) has been significantly increased, even though the issue of inclusion of the anti-corruption provisions have not been discussed.
7. The EU Council under the Latvian Presidency made some progress on tax base erosion and profit-shifting in response to the European Commission's Tax and Transparency Package, and advanced a number of other taxation-related files. Unfortunately the issue of public country-by-country reporting was not addressed at all.
8. Very little progress has been achieved on the Joint Inter-Institutional Transparency Register, partly due to the fact that the Council is still waiting to receive the Commission's proposal.
9. Overall, the Presidency team was very cooperative, responsive and made important efforts to facilitate access to the necessary information.

METHODOLOGY

The scorecard is divided in three pillars. 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 civil society organisations 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 categorised 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 key anti-corruption issues. The selection of the key anti-corruption issues under assessment is based on a specific set of indicators: selected issues should fall within the areas where the EU has the legal competence to act, should be at a relevant stage in the legislative cycle, should relate to the TI movement’s broader advocacy goals as elaborated in the TI 2015 Strategy, and should cover the sectors that have been identified by TI as the weakest and most problematic in the fight against corruption.

Each issue is assessed through two angles: the first evaluates whether the presidency gave sufficient attention to the issue, and the second looks at how much progress was achieved in the EU Council with respect to a specific anti-corruption legislative file. The answers to these questions are categorised according to a traffic light system:

- **Red** – The issue was not a priority for the presidency/there was no progress in the EU Council and/or TI’s recommendations were not taken on board.
- **Yellow** – The issue was a medium priority for the presidency/there has only been some progress in the EU 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 EU 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 Ernst & Young.

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:

- The website of the Secretariat of the Latvian Presidency (www.es2015.lv) providing information on the preparation of the Presidency has been online since 2012 (two years before the Presidency's official start). Information about the main steps of the preparation process was widely shared with the public.
- The official Presidency website (www.eu2015.lv) has been online since December 2014.
- Priorities of the Latvian Presidency were agreed on three months before the start of the mandate^{1,2,3} and the official programme was published in December 2014⁴. Stakeholders were allowed to review a draft version⁵.
- Several meetings with different stakeholders were held during the preparatory phase starting from 2012 in different regions of Latvia, but also in Brussels and Luxembourg.⁶ The process of designing the Presidency's logo was inclusive and open to every member of the Latvian society.⁷
- Thanks to the Presidency's cooperation with various NGOs, such as "Klubs Māja" (JEF Latvia), various seminars were organised, school students and young audiences among others were able to learn about the Presidency and the EU in general. Methodical information materials were produced and disseminated.⁸

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 Latvian 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 <http://www.es2015.lv/lv/jaunumi-es2015/386-valdiba-skata-prezidenturas-sesu-menesu-programmas-projektu>

² <http://www.es2015.lv/lv/component/content/article/11-jaunumi/349-100-dienas-lidz-latvijas-prezidenturai-eiropas-savienibas-padome>

³ https://www.youtube.com/watch?v=fAOfJr3E_g

⁴ <https://eu2015.lv/the-presidency-and-eu/priorities-of-the-latvian-presidency>

⁵ <http://www.es2015.lv/lv/prezidenturas-istenosana/darba-programma/latvijas-prezidenturas-darba-programma>

⁶ <http://www.es2015.lv/lv/prezidenturas-istenosana/darba-programma/publiskas-diskusijas>

⁷ <http://www.es2015.lv/lv/component/content/article/11-jaunumi/103-izsludina-latvijas-prezidenturas-es-padome-logo-konkursu>

⁸ <https://eu2015.lv/lv/prezidentura-un-es/prezidenturas-abc>

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:

- Information about the budget of the Presidency has been publicly available and a forecasted budget of the Presidency was published on the website of the Ministry of Finance as part of the Republic of Latvia 2013⁹, 2014¹⁰ and 2015¹¹ official budgets. Different ministries and state institutions also included that information in their foreseen budgets.
- The budget process started in 2012 leading to an agreement on budget principles and guidelines in the same year¹², further clarified in 2014¹³. A detailed final budget is publicly available on the website www.likumi.lv (Laws and Regulations of the Republic of Latvia).
- One of the most notable achievements of the Presidency was a centralised approach to budget-making, which allowed a comprehensive overview of the process. However, even though all information has been publicly available, it has not been presented in a user-friendly way but requires a more specific search.
- Regular meetings were held with the Commission of Public Spending and Audit at the Latvian Parliament. Several presentations and information materials were presented on the website of the Secretariat of the Presidency and to the media.^{14 15}

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:

- As mentioned in the point 1.2.1, information about all expenditure was made available, which allows to compare the forecasted budget to the actual expenditure¹⁶.
- Presidency team made a big effort to ensure transparency of expenses after the end of the Presidency¹⁷.
- The budget is presented in MS Excel format.

⁹ <http://m.likumi.lv/doc.php?id=253192>

¹⁰ <http://m.likumi.lv/doc.php?id=262269>

¹¹ <http://likumi.lv/ta/id/271309-par-valsts-budzetu-2015-gadam>

¹² http://www.es2015.lv/images/AMp01_190412_prezidenturas_budzeta_vadlinijas.docx

¹³ <http://www.mk.gov.lv/lv/mk/tap/?pid=40321948>

¹⁴ <http://www.es2015.lv/lv/jaunumi-es2015/350-saeimas-publiisko-izdevumu-un-revizijas-komisija-informe-par-prezidenturas-budzet>

¹⁵ <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/0/0CCEC4E7F3CE2B96C2257EC90024E901?OpenDocument>

¹⁶ http://www.l2d.lv/lv.php?doc_id=271309, attachment 4, line 96.00.00

¹⁷ <https://eu2015.lv/lv/prezidentura-un-es/prezidenturas-partneri>

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:

- Basic information about the activities to be undertaken by the Presidency was published by the end of 2014. More detailed information about main upcoming events was published well in advance, too.
- A user-friendly search option allowed identification of events by type.
- The Presidency provided a list of staff members (emails and phone numbers) responsible for each issue on their website. Also all ministries provided information about officials in charge of the Presidency issues, including cooperation with NGOs.
- Contribution to discussion was possible at every preparation stage at the meetings with NGOs organised by the Ministry of Foreign Affairs and the Secretariat of the Presidency of the Council of the EU. Preparation and follow up meetings were accessible for everybody. A select group of individuals and NGO representatives was also invited to the events.

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 Latvian Presidency provided practical details about all public events. Many events were web-streamed and the recordings were later available on the Presidency's YouTube channel¹⁸.
- It was always possible to find a contact person for each event but the selection process for participants was not always sufficiently clear. In most of the cases the choice of invitees was politically motivated. The same applied to the selection of facilitators/moderators; it was up to the responsible state institution to select participants for events. A good example was the Ministry of Education which had an open call for facilitators of the Youth Event (of the Trio Presidencies) already in autumn 2013.
- There was a public call for NGO projects during the Presidency with a state co-funding of up to 95% of a project's total budget. Every NGO could participate in the project call¹⁹.
- A Memorandum of Cooperation was signed with 93 NGOs which expressed their interest in the preparation and implementation processes of the Presidency. These processes were open to all NGOs. Progress meetings with the officials and the Minister for Foreign Affairs were also regularly held. held²⁰.

¹⁸ <https://www.youtube.com/user/EU2015LV>

¹⁹ <http://www.es2015.lv/lv/prezidenturas-istenosana/sadarbiba-ar-nvo>

²⁰ <http://www.es2015.lv/lv/prezidenturas-istenosana/sadarbiba-ar-nvo>

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:

- A detailed budget was published on a specific section of the website of the Ministry of Foreign Affairs and the website of the Secretariat of the Presidency three months after the conclusion of the Presidency.
- Even though all financial documents were published on the Laws and Regulations website during the Presidency, they were not easily understandable for the ordinary citizens.

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

Why does this matter?

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:

- Financial information was easily accessible in the annual budgets of the Republic of Latvia.
- There are very clear guidelines about how money should be spent²¹.
- Clear procedures about public procurement were published together with the final results of public tenders²².
- A detailed overview of the Presidency Secretariat expenditure was published, too²³. The Presidency achieved significant budget savings of around €15 million in direct and €27 million in indirect costs²⁴.

²¹ http://www.es2015.lv/images/AMP01_190412_prezidenturas_budzeta_vadlinijas.docx

²² <http://www.es2015.lv/lv/sekretariats/publiskais-iepirkums>

²³ http://www.es2015.lv/images/dokumenti/2015_07_tame_sekretariats.pdf

²⁴ <http://www.lsm.lv/lv/raksts/ekonomika/zinas/es-prezidentura-latvijai-izmaksaja-80-miljonus-eiro-ietaupiti-27-miljoni.a143779/>

PILLAR III – KEY ANTI-CORRUPTION FILES

Key Issue:

Establishment of the European Public Prosecutor's Office (EPPO)

Why is this important?

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'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.).

What priority was given to the establishment of the EPPO?



- The intention to significantly progress with the EPPO draft proposal was formally expressed in the Latvian Presidency's strategic framework "Integrating Europe: the Programme for Council Configurations."
 - The EPPO proposal was subject of 15+ meetings within various Council configurations, including the JHA Council on 12-13 March 2015.
 - In addition to the above meetings, the Presidency, together with the European Commission, organised a conference on EPPO on 16-17 April 2015 at the European Academy of Law in Germany, aimed at soliciting feedback and recommendations on the draft proposal from 50+ subject-experts from all member states.
-

What progress did the Council make?



- Even though the final agreement was not reached, the Presidency secured a wide conceptual support for the first 16 articles of the proposal covering the internal institutional setup of the EPPO and its relationship with the corresponding national actors, which was reflected in a redrafted text of the regulation.
 - While the constructive discussion resulted in a significant progress for this legislative file, various non-negligible differences between the positions of member states still remain on the table.
 - One of the most significant achievements of the Presidency on this issue was disclosure – for the first time in the EPPO negotiations history – of the member states' positions on specific provisions.
-

Key Issue:
Directive on the fight
against fraud to the
Union's financial
interests by means
of criminal law (PIF
Directive)

Why is this important?

The PIF Directive is intrinsically linked to the proposed regulation for the establishment of the European Public Prosecutor's Office (EPPO) in defining its scope of action.

What is the key recommendation?

It is imperative that the Latvian Presidency overcomes the existing deadlock in the trilogues and pushes for a speedy adoption of the PIF directive.

What priority was given
to the PIF Directive?



- A reference to the PIF Directive was included in the official work programme of the Latvian Presidency, in the chapter "Integrating Europe: the Programme for Council Configurations."
- Several technical meetings and three formal trilogues with the European Parliament took place, however no substantive progress has been achieved as yet on the compromise text.

What progress did the
Council make?



- There were no substantive developments on the PIF Directive during the Latvian Presidency. Despite the considerable attention given to the topic, it was not possible to make progress on the most controversial open issue of the inclusion of VAT fraud in the scope of the Directive.
- Trilogues with the European Parliament continue, but agreement between the Council and the Parliament does not seem imminent and the likely timeframe for adoption is not clear at the time of writing.

Key Issue:
The 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 legal and regulatory requirements to achieve the highest level of commitment to government transparency and combating corruption. To enable meaningful public scrutiny Latvia should continue to encourage a highly transparent negotiation process.

What priority was given to the transparency provisions in the TTIP?



- The TTIP was included in the work programme of the Latvian Presidency, which stressed the importance of the negotiations to be concluded by the end of 2015.
 - The topic was regularly debated at meetings of various Council configurations, including at the highest levels, such as the EU Council meeting on 19-20 March and the Foreign Affairs Council meeting on 7 May.
-

What progress did the Council make?



- Even though considerable progress has been achieved during the Latvian Presidency on the TTIP negotiations in general, no tangible progress has been achieved on the inclusion of an anti-corruption chapter in the TTIP and a number of issues related to negotiations transparency remain on the table.
 - This lack of progress however cannot be solely attributed to the Council and its Presidency, since the TTIP negotiations are led by the European Commission. All potential text amendments should thus be initiated and introduced by the Commission for the EU Council (and the European Parliament) to agree on.
-

Key Issue:
Enhancing corporate
transparency –
Tax transparency

Why is this important?

Most companies reveal too little about their financial payments to governments on a country-by-country basis, which means they are not doing enough to foster transparency and accountability to ward off corruption.

What is the key recommendation?

The Latvian Presidency should coordinate a formal Council response to the European Commission's Tax and Transparency Package. The Council's response should provide political support for a Commission's proposal on public country-by-country reporting (CBCR) by 2016.

What priority was
given to corporate tax
transparency?



- The work on tackling tax fraud, evasion and avoidance was one of the working priorities of the Latvian Presidency in the Economic and Financial Affairs Council.
 - The key focus of discussions was the Commission's Tax Transparency Package published on 18 March 2015.
 - 20+ meetings of the relevant working party were held during the Latvian Presidency, of which four were fully dedicated to the technical analysis of the Commission Tax Package.
-

What progress did
the Council make?



- The Latvian Presidency has successfully developed a road map with immediate, medium and long-term measures for combating tax base erosion and profit-shifting (BEPS) and achieved some progress on a number of legislative files.
 - Initial groundwork has been laid out for the future presidencies on a number of other relevant files.
 - Recommendations of TI regarding CBCR provisions however were not sufficiently addressed.
-

Key Issue:
Better lobby
regulations:
Inter-Institutional
Agreement (IIA)
for a mandatory
lobby register

Why is this important?

Lobbying activities and influence at the EU level need to be more transparent. There are around 25,000-30,000 lobbyists in Brussels, advocating the European institutions to influence legislation. Many more lobby national governments in the European capitals. For fair, open and transparent EU decision-making it is crucial that their influence is made public.

What is the key recommendation?

A mandatory lobby register covering the European Parliament, the European Commission and the EU Council is an important and necessary tool to prevent undue influence and to strengthen EU citizens' trust in European institutions. The Latvian Presidency should leverage its leading position to push the Council to participate in the European Commission transparency initiative.

What priority was
given to IIA for a
mandatory lobby
register?

- The Council has never been a part of the Joint Transparency Register (JTR) covering the European Parliament and the European Commission, in which it has been participating as an observer since June 2012.
- The Council is currently awaiting for the European Commission's new proposal on the mandatory JTR, which will replace the existing bipartite agreement and will make participation for all three EU legislating institutions obligatory.
- In general, low priority has been given to the subject and no documents have been produced by the Council in connection to the JTR issue since 16 October 2014, mainly due to the fact that the new proposal is still being drafted.

What progress did
the Council make?

- Naturally, very little progress has been achieved by the Presidency, since the Commission's work on the proposal is still in progress.
- The Council is facing genuine legal obstacles limiting its current engagement in a mandatory lobby register due to the member states opposition and the fact that this subject falls under national legislations.
- The Council however stated that it is eager and committed to find solutions to increase transparency of lobbying in EU affairs and is currently discussing the possibility of joining the Inter-Institutional Agreement.

BACKGROUND

How are laws made in the EU?

When adopting legislation, the EU Council generally acts upon a proposal by the European Commission and in cooperation with the European Parliament. This structure is commonly referred to as the “Institutional Triangle”.

The Commission submits a legislative proposal to the Parliament and the 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 the 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, where the Commission is required to give its opinion once again. If the Commission rejects the amendments in its opinion, the Council must act unanimously rather than by majority. If not, the Council President – with the agreement of the Parliament President – convenes the Conciliation Committee composed of the EU Council, an equal number of MEPs and the European Commission as moderator.

The committee draws up a joint text on the basis of the two positions. If within six weeks it fails to agree on a common text, then the act has failed. If it succeeds and the committee approves the text, then the Council and the Parliament (acting by absolute majority) must approve the said text (third reading). If either fails to do so, the act is not adopted.

What are trilogues?

Trilogues 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. Trilogues are always chaired by the Permanent Representative of the country that holds the presidency of the EU Council 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 European Union

The Council of the European Union (informally known as the EU Council), is the main legislative and decision-making institution in the EU. It brings together national ministers of the 28 EU member states responsible for various topics and meets under 10 different configurations depending on the subject (justice and home affairs, foreign affairs, agriculture, fisheries, etc.). Its decisions are made by qualified majority voting in most areas, although in practice consent remains the norm. Under what is known as the “ordinary legislative procedure” the EU Council and the European Parliament share legislative and budgetary powers equally, meaning both have to agree for a proposal to pass. EU Council represents the national interests and views of each member state.

The EU Council should not be confused with the European Council, which is the supreme political authority of the EU composed of EU heads of states usually meeting four times a year.²⁵ The European Council sets the general political direction and priorities for the EU and takes major political decisions, such as amendments of the treaties, structural changes to the institutions, internal and external crisis situations, etc. According to the treaties, the European Council is not supposed to interfere with the legislative procedure.

The EU Council is responsible for:

- The adoption of laws and the Union's annual budget (jointly with the European Parliament);
- The coordination of economic policies across Europe;
- The definition and implementation of the EU's Common Foreign and Security Policy (CFSP);
- The conclusion of international agreements (jointly with the Parliament);
- The adoption of measures in the area of police and judicial cooperation in criminal matters.

The EU Council is supported by the Permanent Representatives Committee (COREPER) which is responsible for the preparatory work for all Council meetings.²⁶ COREPER meetings are in turn supported by more than 250 highly specialised thematic working groups and committees composed of the Permanent Representations' staff members (often seconded civil servants from national ministries) meeting on a regular basis.

The presidency of the EU Council is assigned to a single member state and rotates every six months. The presidency is responsible for the organisation and management of the Council's business and is considered one of the main driving forces through which the member states can advance their political priorities.

Rotating presidencies work in a "Trio" – in close cooperation with the preceding and next presidencies.²⁷ These configurations are required to present a joint programme to ensure thematic coherence and efficient planning over 18 months. The presidency is also supported by the Council Secretariat, which provides logistical support, interpretation, as well as ensuring consistency and expertise.

²⁵ In reality the President of the Council has the right to convene additional meetings to address urgent political issues.

²⁶ Technically COREPER operates on two levels: COREPER II, which consists of each member states' permanent representatives (ambassadors) and deals with economic and financial affairs, foreign affairs, general affairs and justice and home affairs; and COREPER I, which consists of each country's deputy permanent representatives and deals with the six remaining issues (transport, energy, agriculture, etc.).

²⁷ Member states holding or preparing to hold a presidency work in groups of three, called "trios". This system allows member states to set long-term common goals and ensure continuity over an 18 month period.

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