



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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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
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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/pubiskas-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.²⁰

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.
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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.
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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.
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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.
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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.
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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.
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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.

SCORECARD ANNEX

PILLAR I / PREPARATION OF THE PRESIDENCY

1. Access to information / Justification of Presidency Agenda

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

Score: **GREEN**

PRESIDENCY PROGRAMME

The programmatic lines of the Latvian Presidency of the Council of the European Union were presented to the government of Latvia on 21 October 2014²⁸. The programme priorities were also outlined at public events and by media before the start of the Presidency²⁹. The programme was published on the website in December 2014³⁰.

PRESIDENCY WEBSITE

The official web site of the Latvian Presidency of the Council of the EU was launched on 19 December 2014. The official logo of the Latvian Presidency was presented on 14 February 2014³¹ and was based on the classic image of the grinding stone³².

The information was comprehensive and updated all the time. The official website included main information for media, participants of the events, general information about all events, about Latvia and highlight stories of the Presidency. The website was user-friendly.

Sometimes there was confusion around the kind of information the Presidency shared on its official website.

Social media platforms were used smartly, Twitter seemed to be most popular, especially live tweets from events.

The Presidency also used YouTube, Draugiem and Flickr³³ to facilitate communication and promotion of events as well as interaction with citizens. Available online statistics underline the emphasis which the Presidency put on online communications³⁴.

²⁸ <http://www.es2015.lv/lv/jaunumi-es2015/386-valdiba-skata-prezidenturas-sesu-menesu-programmas-projektu>

²⁹ <https://eu2015.lv/the-presidency-and-eu/priorities-of-the-latvian-presidency>

³⁰ <http://www.es2015.lv/lv/prezidenturas-istenosana/darba-programma/latvijas-prezidenturas-darba-programma>

³¹ <http://www.es2015.lv/lv/component/content/article/11-jaunumi/243-ministru-kabinets-apstiprina-latvijas-prezidenturas-es-padome-logo>

³² <https://eu2015.lv/the-presidency-and-eu/presidency-logo>

³³ <https://www.youtube.com/user/EU2015LV>

<https://twitter.com/eu2015lv>

<https://twitter.com/es2015lv>

<http://www.draugiem.lv/es2015lv/>

<https://www.flickr.com/photos/es2015lv>

³⁴ Latvian Presidency website: 356,016 visits between December 2014 and 26 June 2015; Twitter: 4,200 followers for the Latvian account @es2015lv and 7,600 followers for the English account @eu2015; YouTube channel: 549 uploaded videos, 245,938 views; https://eu2015.lv/images/news/EU2015LV_results_en.pdf, p. 95

STAKEHOLDERS' INVOLVEMENT

A number of NGOs took part in the preparation process of the Latvian Presidency. A Memorandum of Cooperation, open to all NGOs, was signed with 93 organisations interested in participating in the preparation and implementation processes. Progress meetings with the officials and Minister for Foreign Affairs were also regularly held³⁵.

The Memorandum was aimed at improving the flow of information and ensuring NGO participation in the Presidency processes, coordinating communication about the Latvian Presidency at the Council of the EU with the general society, and jointly implementing projects and activities. NGOs that signed the Memorandum were the first to get informal and formal information and updates on the process as well as on the NGO project grant³⁶.

The goal of the NGO grant program was to support civil society organisations, events which gave added value to the Latvian Presidency at the EU Council. 198,082 EUR of the state budget was allocated to this programme. The maximum amount per project was 20, 000 EUR.

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

Score: GREEN

The Latvian Presidency goals were well rooted in the Trio Programme³⁷. All topics were aligned with the agenda of the EU and its strategic framework.³⁸

Common points were straightforward: high attention was given to the issues of economic growth, jobs and employment, monetary union and financial stability and foreign policy, with a specific focus on the neighbourhood and enlargement policy, and new business partnerships.

The goals of the Presidency were also consistent with Latvia's national priorities: Competitive Europe (aimed at economic growth and job generation within the EU), Digital Europe (aimed to create a basis for a true digital Europe, including data protection, improvement on telecommunication market) and Engaged Europe (focused on the role of the EU in global issues, such as EU neighbourhood policy, development cooperation, post-2015 agenda and transatlantic cooperation).³⁹

³⁵ <http://www.es2015.lv/lv/prezidenturas-istenosana/sadarbiba-ar-nvo>

³⁶ <http://www.es2015.lv/lv/prezidenturas-istenosana/sadarbiba-ar-nvo>

³⁷ <http://www.es2015.lv/lv/prezidenturas-istenosana/darba-programma/trio-darba-programma>

³⁸ http://ec.europa.eu/atwork/pdf/cwp_2014_en.pdf

³⁹ <https://eu2015.lv/the-presidency-and-eu-priorities-of-the-latvian-presidency>

1.2. Budget and expense justifications

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

Score: **GREEN**

Information about the budget of the Presidency has been publicly available. A forecasted budget of the Presidency was published on the website of the Ministry of Finance, as part of the Latvia's 2013, 2014 and 2015 official budgets.⁴⁰

The budget process started in 2012 leading to an agreement on budget principles and guidelines in the same year⁴¹, further clarified in 2014.⁴² A detailed final budget is publicly available on the website www.likumi.lv (Laws and Regulations of the Republic of Latvia).⁴³

The Presidency has also disclosed the financial support it received from 34 companies which amounts to almost 2 million EUR).⁴⁴

1.2.2. How transparent is the Presidency budget?

Score: **YELLOW**

One of the most notable achievements of the Presidency was a centralised approach to budget-making, which allowed a comprehensive overview of the process, including an oversight of the expenditure. It allowed to have a transparent overview of the Presidency's expenditure.

Regular meetings were held with the Commission of Public Spending and Audit at the Latvian Parliament. Several presentations and information materials were displayed on the website of the Secretariat of the Presidency and disseminated to the media.⁴⁵

⁴⁰ www.likumi.lv

⁴¹ http://www.es2015.lv/images/AMp01_190412_prezidenturas_budzeta_vadlinijas.docx

⁴² <http://www.mk.gov.lv/lv/mk/tap/?pid=40321948>

⁴³ http://www.l2d.lv/l.php?doc_id=271309

⁴⁴ <https://eu2015.lv/lv/prezidentura-un-es/prezidenturas-partneri>

⁴⁵ <http://www.es2015.lv/lv/jaunumi-es2015/350-saeimas-publisko-izdevumu-un-revizijas-komisija-informe-par-prezidenturas-budzet>

PILLAR II / ACCOUNTABILITY OF THE PRESIDENCY

2.1. Inclusiveness of stakeholders

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

Score: **GREEN**

The official website of the Latvian Presidency provided practical details about all public events, supported by a more details informational material available online. A comprehensive list of staff responsible for each subject was provided, including officials responsible for cooperation with NGOs.⁴⁶ Many events were web-streamed and the recordings were later posted on the Presidency's YouTube channel.⁴⁷

A full list of events of the Presidency which took place in Latvia is presented on the Presidency's website as well as in an e-publication of the Presidency results.⁴⁸

2.1.2. How inclusive was the EU Presidency process?

Score: **YELLOW**

The institutional calendar of the Presidency was published at the beginning of its mandate and can be downloaded in pdf format.⁴⁹ The events section of the Presidency website is comprehensive and well-detailed. Meetings were divided into different categories, based on the involved institutions, institutional configurations, event format and type.

In particular, events were categorised as per the following categories: European Council, Council Meetings, informal meetings of ministers, COREPER and PSC meetings, Expert and political meetings, Conferences and seminars, European Parliament, Parliamentary dimension, Other meetings.

For each event the website provides information on dates, indicative event agendas and background material. Events can be searched by date, type, policy area and location. A contact person was assigned to each specific policy area and event, which significantly facilitated access to information.

The level of inclusiveness and participation was especially high for the "Other meetings" sub-category, which were generally open to the wider public.

⁴⁶ <https://eu2015.lv/contacts>

⁴⁷ <https://www.youtube.com/user/EU2015LV>

⁴⁸ https://eu2015.lv/images/news/EU2015LV_results_en.pdf

⁴⁹ https://eu2015.lv/images/notikumi/EU2015.LV_calendar_2015_02_02.pdf

2.2. Management of expenses of the EU Presidency

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

Score: **GREEN**

Information about the expenses and distribution of the costs was officially published. Public procurement documents⁵⁰ and decisions were also published on the website of the Presidency's Secretariat, together with the information about partner contributions from the Latvian private sector.⁵¹

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

Score: **GREEN**

The budget is in open data format (MS Excel). It allows a direct comparison to the provisional budget and shows considerable savings of around € 15 million, together amounting to € 45 million in direct costs. Together with the indirect (personnel) costs the budget is around € 80 million. Total savings are € 27 million (both from direct and indirect costs) compared to the provisional budget⁵². The overall budget does not correspond directly to 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).

Direct costs are related to the planning and organisation of different events, including IT costs, translations, accommodation, accreditation system, communication costs, cultural events and etc. Overall 197 events were held during the Presidency, including 10 informal meetings of ministers, 44 conferences, 19 high level events (including the Riga Eastern Partnership Summit in May 2015), 10 NGO projects and 114 expert meetings.

Indirect costs included costs of the personnel involved in the organising and supporting the Presidency in last three years and amounted to 36 million Euros.

Direct costs of the Presidency:

Year 2013 - 4 037 343 EUR

Year 2014 - 18 948 846 EUR

Year 2015 - (around) 22 680 950 EUR

Total: 45 667 139 EUR

Indirect costs – personnel costs:

Year 2013 - 3 193 209 EUR

Year 2014 - 14 550 926 EUR

Year 2015 - (around) 18 880 966 EUR

Total: 36 625 101 EUR

More detailed costs (estimate costs) are available at the public procurement documents related to catering, translations, IT, transportation etc. as well as in orders by Cabinet of Ministers of Latvia.

Presidency team made a big effort to ensure transparency of expenses after the end of the Presidency, the presentation published on 29 September, 2015 (four month after the Presidency) gave a good overview of the expenditures.⁵³

⁵⁰ <http://www.es2015.lv/iv/sekretariats/publiskais-iepirkums>

⁵¹ <http://www.es2015.lv/iv/prezidenturas-istenosana/atbalsttaji>

⁵² <http://www.lsm.lv/iv/raksts/ekonomika/zinas/es-prezidentura-latvijai-izmaksaja-80-miljonus-eiro-ietaupiti-27-miljoni.a143779/>

⁵³ <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/0/0CCEC4E7F3CE2B96C2257EC90024E901?OpenDocument>

PILLAR III / KEY ANTI-CORRUPTION FILES

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 budget few cases of fraud and corruption are ever brought to justice in the 28 EU member states.

What is the key recommendation?

The EPPO should be provided with a broad mandate that includes serious EU crimes including cross-border corruption and related financial crimes, such as fraud, money laundering, etc.

A) What level of priority was given to the Establishment of the European Public Prosecutor's Office by the Latvian Presidency?

On 18 December 2014, even before the official start of its mandate, the Latvian Presidency circulated a document expressing its intention to finalise the first five chapters (Articles 1-33) of the EPPO Regulation during its term.⁵⁴ These chapters cover the setting up of the Office, such as rules on the status, structure and organisation of the Office, the procedure on investigations, prosecutions and trial proceedings and on judicial review.

A formal expression of the Presidency's intention to achieve significant progress with the EPPO draft regulation was reflected in the second part of Latvia's strategic framework Integrating Europe: the Programme for Council Configurations. The official work programme stated that the Presidency "will also focus on the protection of the EU's financial interests by enhancing certain institutional and operational aspects. In this regard, the presidency will work on making further progress on a draft regulation for the establishment of the European Public Prosecutor's Office."⁵⁵ From mid-January 2015 onwards, the issue was consistently discussed at different levels. Overall, the EPPO proposal was discussed at 13 meeting days in the competent Working Party on Cooperation in Criminal Matters (COPEN), one meeting of the Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS), and at several meetings of Justice and Home Affairs Counsellors. The file was also discussed at the Justice and Home Affairs Council on 12-13 March 2015.

In addition, the Presidency together with the European Commission held a conference on EPPO on 16-17 April 2015 at the European Academy of Law (ERA) in Trier, Germany. The conference was intended to be a "reality check"⁵⁶ of the current draft proposal by 50+ practitioners from all member states.

Score: Green

⁵⁴ <http://www.statewatch.org/news/2015/jan/eu-council-epo-16992-14.pdf>

⁵⁵ https://eu2015.lv/images/PRES_prog_2015_EN-final.pdf

⁵⁶ http://www.parlament.gv.at/PAKT/EU/XXV/EU/07/04/EU_70498/imfname_10560510.pdf

A) What progress was made in the Council?

Building on the substantial progress achieved by the Lithuanian, Greek and Italian Presidencies, Latvia was able to significantly advance the EPPO negotiations, which led to a “broadly expressed conceptual support” for the text of Articles 1-16 of the draft regulation which in broad terms cover the internal institutional setup of the EPPO and its relationship with the corresponding national actors. It must be noted that a number of member states have opted out of the establishment of the EPPO, namely Denmark, Ireland and the UK (the two latter will maintain the opt-in prerogative).

The current structure of the EPPO is based on the redrafted text submitted by the Greek Presidency in June 2014. The original simple vertical/hierarchic model proposed by the Commission (centralised European Public Prosecutor and decentralised European Delegated Prosecutors (EDPs)) was replaced by a complex horizontal/collegial structure. The Central Office of the EPPO now features the European Chief Prosecutor, his/her Deputies, a College, several Permanent Chambers and European Delegated Prosecutors (EDPs; one per country).

The College chaired by the Chief Prosecutor and composed of one member per member state would have the general oversight of the Office's activities and would be responsible for taking decisions on general issues and strategic matters. Permanent Chambers would be responsible for directing and monitoring the investigations and prosecutions conducted in the member states, as well as instructing the EDPs, where necessary.

Four main topics extensively discussed during the Latvian Presidency include:

- (1) The set up and composition of the Permanent Chambers;
- (2) The investigation measures;
- (3) The role and competence of different actors within the Office; and
- (4) The issue of transaction.

One of the most heated debates concerned the investigation measures at the EPPO's disposal.⁵⁷ Delegations' views diverged on whether the European system of investigation measures should be at least partly harmonised or governed by the national laws. The current draft represents a “balanced compromise” between these positions where the European Delegated Prosecutors (EDPs) would be entitled to the same investigative measures as according to national law in similar national cases, whereas a harmonisation would be provided where the offence would exceed the damage of 100 000 euros.

Given the complex structure of the body, other debates focused on the division of the exact roles and competences of different actors/levels within the Office, allocation of cases and the nature of decisions to be taken by the Permanent Chambers. Concerns were raised in relation to the expenditure of resources and potentially inefficient operations.

⁵⁷ <http://data.consilium.europa.eu/doc/document/ST-5630-2015-INIT/en/pdf>

The issue of transaction has been causing a disagreement among delegations since the Lithuanian Presidency. Its purpose is to provide for a fast and effective way to close certain cases without an indictment, in the interest of the proper administration of justice. It allows the suspect to pay a lump-sum fine which, once paid, entails the final dismissal of the case. During negotiations a considerable number of various views have been put forward. The majority of delegations have expressed support for the idea of a common European system for transaction, while other are against mainly since it is a part of their national law. Many delegations have noted that a transaction should only be possible under certain conditions or that such a system would need to be submitted to judicial control. The Latvian Presidency proposed to update this text with a number of elements to accommodate requests for a clarification of the conditions under which a transaction can be proposed and for a strengthening of the procedural safeguards.⁵⁸

By mid-February considerable progress was made on the internal organisation of the Office and the Presidency presented a redrafted version of the proposal. The redraft does not include the new draft provisions on the status and structure of the EPPO (Articles 7-12) since, according to the Presidency, “these provisions will be examined in another context”.⁵⁹

By the time the March 2015 JHA Council was held, there had been a broad agreement in principle on the text of the article on the issue of transaction. Further technical work needed to be done in the coming months, as some member states were still not happy with all the aspects of the text.⁶⁰ Following the Council meeting, Latvian Justice Minister Dzintars Rasnačs expressed his hopes that agreement would be reached in the near future.⁶¹

In May 2015 the Presidency presented a new consolidated version of the first 29 articles of the regulation giving a detailed overview of the current state of play to serve as a basis for further discussions on the text.⁶² The text represents a balanced compromise between different views expressed by the delegations during the negotiations and offers solutions for the majority of the concerns voiced during the working parties. Another noteworthy development includes an unprecedented public disclosure of the member states’ negotiating positions in the footnotes of the revised proposal⁶³ – a significant progress towards increased transparency of negotiations welcomed by TI.

⁵⁸ <http://data.consilium.europa.eu/doc/document/ST-6318-2015-REV-1/en/pdf>

⁵⁹ <http://data.consilium.europa.eu/doc/document/ST-6319-2015-INIT/en/pdf>

⁶⁰ <http://data.consilium.europa.eu/doc/document/ST-7178-2015-INIT/en/pdf>

⁶¹ <https://twitter.com/eu2015lv/status/576424466747645952>

⁶² <http://data.consilium.europa.eu/doc/document/ST-8316-2015-REV-1/en/pdf>

⁶³ <http://data.consilium.europa.eu/doc/document/ST-9372-2015-INIT/en/pdf>

Overall, the progress achieved by the Latvian Presidency on the EPPO negotiations can be viewed through two different prisms. On one hand, the Presidency succeeded in securing a broad conceptual support for specific provisions within the first 16 articles of the regulation, as described above. On the other hand, there are still many unresolved issues which will need further discussion. Topics not even mentioned by the new presidency include the judicial review, cross-border investigations, the admissibility of evidence and procedural safeguards (Articles 20-33 have only been touched upon briefly and have not been modified during the Latvian Presidency).

But most importantly, the above developments related to the institutional design of the EPPO lose their significance in the light of the existing deadlock of the separate negotiations on Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive, examined below), which is supposed to provide legal basis for the establishment of the EPPO and its competence. Much will depend on the outcome of these negotiations, and as long as there is no agreement on the Directive – the very foundation of the EPPO – trying to solve internal structural issues related to the Office may be moot.

Score: Green

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

Why does it matter?

This directive will provide legal basis for the EU to legislate on fraud and related crimes that harm the Union's financial interest. It is intrinsically linked to the proposed regulation for the establishment of the EPPO in that the PIF Directive defines 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. Any delay in the adoption of the PIF Directive would come at the expense of the European tax payer, whose money remains at risk of fraud and related crimes, such as corruption and money-laundering.

A) 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 (PIF Directive) by the Latvian Presidency?

According to the 2010 Commission report on the protection of the Union's financial interests, suspected fraud amounts to approximately EUR 600 million annually⁶⁴. EU institutions and member states are equally responsible for countering fraud affecting the financial interests of the EU. The proposed Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive) aims to enforce these responsibilities by harmonising fraud related criminal offences and sanctions.

The Latvian Presidency indicated their intention to push for adoption of the PIF directive during its term. The Directive was formally mentioned in the second part of Latvia's strategic framework Integrating Europe: the Programme for Council Configurations, according to which the Presidency will "focus on the protection of the EU's financial interests by enhancing certain institutional and operational aspects" and "an agreement will actively be sought on the Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF)".⁶⁵

Three political trilogues and several technical meetings were held between February and June 2015 although no significant progress toward a compromise text was achieved.

Score: Yellow

⁶⁴ http://ec.europa.eu/anti_fraud/documents/reports-commission/2010_en.pdf

⁶⁵ https://eu2015.lv/images/PRES_prog_2015_EN-final.pdf

B) What progress was made in the Council?

As background, the proposal to revise the existing legal framework governing the fight against fraud was submitted by the Commission in July 2012⁶⁶. On 6 June, 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 on the proposal in the first reading on 20 April, 2014. The incoming Italian Presidency held several technical meetings and two political trilogues on the subject in October and November 2014 which led to a concluding state of play document⁶⁷ in late November 2014. This document demonstrated some progress made but also underlined several outstanding issues which remained open, such as the inclusion of a provision on procurement fraud and its content (Article 4(1)), the provision on sanctions for serious offences (Article 7(3)), and the minimum prescription time for enforcement of convictions (Article 12), which is the expiration deadline by which a conviction can be enforced.

Probably the most contested issue however concerned VAT-related fraud (Article 2). Since member states' VAT contributions to the EU budget are calculated based on a standard rate, any errors or fraud in the collection of VAT revenue in the member states directly affect the Union's overall resources.⁶⁸ In other words, the less VAT is collected on the national level, the less contributions member states make towards the overall EU budget. Therefore the initial text of the proposal also included provisions covering VAT-related fraud in the member states.

The negotiations reached a deadlock when the co-legislators failed to agree on whether VAT provisions should be included within the scope of the directive. While the Parliament and the Commission have been arguing in favour – based on the argument that VAT fraud affects the entire Union – the Council has been strongly opposed to such option considering it exclusively a national issue. According to the information collected during the research phase for this scorecard, a vast majority of delegations at the Council has been strongly opposed to the inclusion of the VAT provisions. There have been several attempts in the past to resolve this disagreement in the competent Council Working Party and between the institutions, but no possible solution or basis for compromise was identified.

The need to overcome the deadlock and to finalise the negotiations during the Latvian Presidency was stressed by the European Commissioner for Justice, Consumers and Gender Equality Věra Jourová in January 2015. Speaking before the European Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee Jourová insisted on the importance of convincing the member states to include VAT in the Directive, while highlighting the fact that losses due to fraud affecting VAT amounted to EUR 18 billion in 2014, the same as the annual contribution from VAT to the EU budget⁶⁹.

⁶⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0363:FIN:EN:PDF>

⁶⁷ <http://data.consilium.europa.eu/doc/document/ST-15221-2014-INIT/en/pdf>

⁶⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0363:FIN:EN:PDF>

⁶⁹ https://ec.europa.eu/commission/2014-2019/jourova/announcements/commissioner-vera-jourovas-remarks-european-parliaments-civil-liberties-justice-and-home-affairs_en

These diverging positions also had an immediate effect on the proposal for a regulation on the establishment of the European Public Prosecutor's Office. Overcoming the deadlock on the VAT issue is indispensable for a substantial progress on the establishment of the EPPO, since Article 2 of the EPPO regulation refers to "criminal offences affecting the financial interests of the Union" as "offences provided for by the PIF Directive"⁷⁰, which means that the EPPO cannot be effectively established until the PIF directive is adopted.

The Latvian Presidency expressed its intention to advance the negotiations and resumed the trilogue discussions in February 2015 focusing on the outstanding issues, including VAT. Following several technical meetings and three political trilogues held in February, March and June 2015 which focused on possible compromises on the outstanding substantial issues, no major progress has been achieved on the PIF directive.

The inflexible positions of the Parliament and the Council did not allow a compromise to be reached. The Parliament, supported by the Commission, insisted on ensuring that the role of the future EPPO would cover investigation and prosecution of at least major cross-border VAT fraud cases. The Parliament did not consider the Council's compromise proposal on a new recital generally referring to this possibility to be a sufficient guarantee in this respect.

Slight progress towards a compromise was made on the inclusion of a provision on procurement fraud that the Council could accept. The European Parliament intends to propose a new recital for this, in combination with its current wording of Article 4 (1), which however is still opposed by the Council.

As regards the sanctions for serious offences committed by natural persons, the positions of the co-legislators moved towards a possible compromise. The European Parliament could accept a threshold of more than 100 000 euros for determining the seriousness of an offence in relation to a maximum penalty of at least four years of imprisonment, as proposed by the Council.

No significant progress was made either on the minimum prescription period for relevant offences or on the prescription period for enforcement following a final conviction, as the positions of the co-legislators remain divergent. On the minimum prescription period for relevant offences the European Parliament is pushing for 5 years with no exceptions in cases of interruptions or suspensions, as proposed by the Council. On the prescription period for enforcement following a final conviction the European Parliament could accept a reduction to 7 or 8 years instead of 10 to come closer to the position of the Council (5 years), which, however, is not willing to accept this compromise⁷¹.

Overall, the trilogues between the Council and the European Parliament continue but there is no clarity on the likely timeframe for the adoption of the Directive.

Score: Red

⁷⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52013PC0534>

⁷¹ <http://www.statewatch.org/news/2015/may/eu-council-fraud-dir-trialogue-8604-15.pdf>

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)

Why does it matter?

Recent free trade agreements that the EU has finalised are limited to provisions relating to transparency of regulatory and procurement procedures but do not contain specific anti-corruption provisions that are a standard feature of recent U.S. 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?

TTIP should include strong anti-corruption, legal and regulatory transparency requirements in order to achieve the highest level of commitment to government transparency and combating corruption. The Latvian Presidency should use its chairmanship of the Trade Policy Committee (TPC) to ensure that it scrutinises the Commission's progress in the negotiations with a view to including the strongest anti-corruption requirements in TTIP. Latvia should continue to encourage a highly transparent negotiation process.

A) What level of priority was given to the transparency provisions in the Transatlantic Trade and Investment Partnership by the Latvian Presidency?

Latvian Presidency announced that the transatlantic relations and TTIP would constitute one of the strategic priorities during its mandate. The official work programme states that the Presidency "will be making all efforts to conclude negotiations on an ambitious, comprehensive and mutually beneficial Transatlantic Trade and Investment Partnership by the end of 2015."⁷²

TTIP was indeed a priority topic during the Latvian Presidency, under which two negotiations rounds took place – on 2-6 February in Brussels and on 20-24 April in New York. In addition, TTIP was discussed at several technical meetings of various Council configurations, was debated at the EU Council meeting on 19-20 March and at the Foreign Affairs Council meeting on trade issues on 7 May.

Despite the strong attention paid to the TTIP negotiations as a whole, the majority of meetings focused on addressing technical issues, predominantly the investor-state dispute settlement mechanism (ISDS). While the issue of increased legal and regulatory transparency requirements was regularly debated throughout the entire term of the Latvian Presidency, the inclusion of an anti-corruption chapter was not addressed at all.

Score: Yellow

⁷² https://eu2015.lv/images/PRES_prog_2015_EN-final.pdf

B) What progress was made in the Council?

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 commented on the importance of this agreement to enshrine Europe and America's role as global standard setters and on the strong political will on both sides.⁷³

TI first called for the inclusion of the anti-corruption chapter in the TTIP in a letter to then Trade Commissioner Karel De Gucht in 2013.⁷⁴ In March 2014, TI had also provided the Commission with a suggested text for an anti-corruption chapter in the TTIP, considering the distorting effect of corruption on competition and the resulting diversion of investment flows.⁷⁵

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.⁷⁶ The letter also echoed and underlined concerns about the transparency of the negotiations that had previously been raised by TI and a number of civil society organisations.⁷⁷

At the same time the then Italian Presidency had undertaken steps to enter into consultations with member states on whether the negotiating directives could be disclosed to the public.⁷⁸ This process led to a ground-breaking decision issued by the Council on 9 October 2014 to publish the EU negotiating directives, which was considered good basis for transparency. It must be mentioned though that the TTIP document was already widely leaked by a number of European policy-makers in spring 2014.⁷⁹

Immediately after taking over the EU presidency, Latvia reiterated that the TTIP negotiations have a special significance for the Presidency under the current geopolitical circumstances and stressed its intention to finalise the talks by the end of 2015 while actively promoting measures guaranteeing transparency and raising public awareness.

On 21 January Zanda Kalniņa-Lukaševica, Latvia's Parliamentary State Secretary for EU affairs, presented the priorities of the Presidency to the European Parliament Committee on International Trade (INTA). Kalniņa-Lukaševica praised the European Commission's efforts to bring greater transparency to the TTIP negotiations, including making TTIP texts with explanations for non-experts available to the public on 7 January⁸⁰ and urged national Parliaments to become more actively involved in this matter.⁸¹

⁷³ <http://data.consilium.europa.eu/doc/document/ST-143-2013-INIT/en/pdf>

⁷⁴ http://www.transparencyinternational.eu/wp-content/uploads/2014/02/2013-10-03_TIEU_TTIP-De-Gucht.pdf

⁷⁵ http://www.transparencyinternational.eu/wp-content/uploads/2014/03/2014-03-07_TI_Letter-to-Karel-de-Gucht-FINAL-doc.pdf

⁷⁶ <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/de/54634/html.bookmark>

⁷⁷ http://www.transparencyinternational.eu/wp-content/uploads/2014/07/foee_joint_ttip-transparency-call_march2014.pdf

⁷⁸ <http://data.consilium.europa.eu/doc/document/ST-14428-2014-INIT/en/pdf>

⁷⁹ <http://www.euractiv.com/sections/trade-industry/green-party-leaks-confidential-ttip-paper-300760>

⁸⁰ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1231>

⁸¹ <http://data.consilium.europa.eu/doc/document/ST-5837-2015-INIT/en/pdf>

The 8th round of negotiations was held on 2-6 February in Brussels and was focused, among other technical issues, on regulatory co-operation/coherence and transparency, transparency in public procurement and regulatory practices, provisions on civil society involvement and transparency mechanisms.⁸²

On 9 March while addressing the Latvian Parliament Foreign Minister Edgars Rinkēvičs stated that “Latvia will actively seek to engage the general public in the negotiation process and promote maximum openness and transparency.”⁸³

On 19-20 March the European Council discussed the state of play in the TTIP negotiations and once again urged both sides to conclude them by the end of the year. Member states and the Commission were advised to step up efforts to communicate the benefits of the agreement and to enhance transparency and dialogue with the civil society.⁸⁴ On 25 March however, following the informal Trade Council in Riga, Latvia’s Foreign Minister Edgars Rinkēvičs stated that “during our Presidency and during the next Presidency of Luxembourg, most likely these negotiations will not be concluded”.⁸⁵

The 9th negotiating round took place in New York on 20-24 April and focused particularly on the second and third negotiation pillars – regulatory cooperation and rules.⁸⁶ The parties also discussed standards and transparency, in particular the possibilities open to their respective stakeholders to participate in the other party’s standardisation processes. Discussions also continued on transparency, greater openness and better information exchange provisions for small and medium enterprises (SMEs).⁸⁷

On 7 May TTIP was debated at the Foreign Affairs Council meeting on trade issues. Even though the debate was mostly focused on a further improvement of the ISDS mechanism, the Council reiterated its call for more transparency and for better access to negotiating documents.⁸⁸

On 16 June the European Parliament trade committee held another exchange of views with Latvian Parliamentary State Secretary Zanda Kalniņa-Lukaševica, taking stock of the progress achieved in the last six months in the field of trade policy. Kalniņa-Lukaševica noted that during the Latvian Presidency the TTIP negotiations gained a new momentum not only at negotiations table, but also in terms of transparency and engagement with stakeholders and public. According to Kalniņa-Lukaševica, “during the Latvian Presidency, TTIP negotiations reached an unprecedented level of transparency”.⁸⁹ For the first time so many negotiation documents related to the EU international trade negotiations have been made public.⁹⁰

⁸² http://trade.ec.europa.eu/doclib/docs/2015/february/tradoc_153175.pdf

⁸³ <http://www.mfa.gov.lv/en/foreing-minister-s-speech-at-the-discussion-on-foreing-policy-in-the-latvian-parliament-and-annual-report-on-national-foreign-policy-and-the-eu>

⁸⁴ <http://data.consilium.europa.eu/doc/document/ST-5497-2015-INIT/en/pdf>

⁸⁵ <http://www.euractiv.com/sections/trade-society/latvia-eu-us-likely-miss-year-end-target-free-trade-deal-313253>

⁸⁶ TTIP negotiations revolve around three pillars – market access, regulatory cooperation and rules. The market access pillar focuses on trade in services, procurement rules and, especially, tariffs and quotas on manufacturing and agricultural goods. The second pillar deals with all legal norms protecting citizens’ health, safety and security but which limit competition and entry in the market. The third pillar deals with further trade rules, such as customs and trade facilitation, provisions for state-owned enterprises, for energy and raw materials trade, and for trade in specialized food protected under the EU “geographical indication”.

⁸⁷ http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc_153437.pdf

⁸⁸ <http://data.consilium.europa.eu/doc/document/ST-8639-2015-INIT/en/pdf>

⁸⁹ <https://eu2015.lv/news/media-releases/2269-zanda-kanina-lukasevica-external-trade-and-investment-are-among-the-most-powerful-tools-for-growth-and-job-creation>

⁹⁰ https://eu2015.lv/images/news/EU2015LV_results_en.pdf

Kalniņa-Lukaševica also added that “while there has been a major improvement in communication with the public, better information, greater public awareness and open dialogue can definitely help dealing with an occasional hostility in public opinion, and this is where the member states and all EU institutions have to step up their game.”⁹¹

Overall, while considerable progress has been reported by the Latvian Presidency on the transparency of the TTIP negotiations in general, there has not been any tangible progress on the inclusion of an anti-corruption chapter in the agreement. According to the information obtained during the research phase, the lack of transparency and progress can hardly be attributed to the Council and the Latvian Presidency, given that the Commission has so far been unable to even initiate discussions with the member states on whether the existing mandate could cover the inclusion of the anti-corruption chapter due to the restrictions imposed on the Commission by the United States.

At the same time, public assessment of the transparency in TTIP negotiations has been far less optimistic. The EU position on a number of sensitive issues, such as tariffs, services, investment and procurement remains secret, and even though a vast number of TTIP-related documents has been released, the draft text of the TTIP agreement itself has not been made publicly available pending the completion of negotiations. This restriction applies even to the member states’ delegations, which are unable to access U.S. input papers at all and can only access draft TTIP chapters under specific conditions (in special reading rooms during two designated days a week strictly by appointment). Same principle is applied to members of the European Parliament. Finally, the EU negotiating team comprised of more than 30 senior officials is not bound by the obligation to publicly disclose their meetings with lobbyists despite several inquiries by the European Ombudsman.⁹²

Score: Yellow

⁹¹ <http://data.consilium.europa.eu/doc/document/ST-10195-2015-INIT/en/pdf>

⁹² <http://corporateeurope.org/international-trade/2015/05/ttip-talks-despite-pr-still-under-cloak-secrecy>

ENHANCING CORPORATE TRANSPARENCY – TAX TRANSPARENCY

Why does it matter?

Most companies reveal too little information about their financial payments to governments on a country-by-country basis, which means they are not doing enough to foster the transparency and accountability necessary to ward off corruption. Recent scandals have revealed that multinational companies are using complex and opaque structures to avoid paying taxes, which in many cases are a result of special agreements between companies and governments. Moreover, companies exploit legal loopholes and tax havens to engage in 'profit shifting' from country to country, sometimes with the sole intention of reducing the taxes paid on profits. The existing country-by-country reporting (CBCR) obligations are currently limited to the financial sector under the Capital Requirements Directive (CRD IV) and the extractive and forestry industries under the Accounting and Transparency Directives. They do not however provide for specific information sharing on the existence of tax rulings.

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 CBCR for all economic sectors by 2016. The Council should be encouraged to support rules that will require all listed companies in the EU to disclose details of revenues, sales, profits, taxes paid, political party donations, and other community contributions for every country where they operate around the world.

A) What level of priority was given to enhancing corporate tax transparency by the Latvian Presidency?

The work on tackling tax fraud, evasion and avoidance was officially one of the main priorities of the Latvian Presidency, as presented to the Economic and Financial Affairs Council (ECOFIN) on 19 January 2015.⁹³

During the Latvian Presidency the Council's work was focused on the Commission's Tax Transparency Package announced in February and presented on 18 March 2015, that contains a number of measures aimed to increase tax transparency in the EU.⁹⁴ The key element of the package is a proposal on the automatic exchange of information on tax rulings⁹⁵, and a number of other measures on indirect taxation issues, such as improving the VAT system, reviewing the Code of Conduct on business taxation⁹⁶ as well as an impact assessment on a potential extension of public CBCR obligations for all commercial sectors.

All in all, over 20 detailed discussions were held at relevant working parties on tax issues (direct and indirect taxation) during the Latvian Presidency, of which four were dedicated to the technical analysis of the Commission proposal, at an informal ECOFIN on 25 April in Riga and at the ECOFIN meeting on 19 June in Luxembourg.

Score: Green

⁹³ <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205335%202015%20INIT>

⁹⁴ http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/transparency/com_2015_136_en.pdf

⁹⁵ Tax ruling is a document issued by a tax authority defining in advance how a corporation's tax will be calculated and which tax provisions will be used. Automatic exchange of information on tax rulings will ensure that they do not provide a competitive advantage in some member states potentially decreasing the tax obligations of certain corporations.

⁹⁶ The Code of Conduct on Business Taxation is one of the EU's main tools for ensuring fair corporate tax competition outlining the criteria that determine whether a tax regime is harmful or not and requiring Member States to abolish any harmful tax measures that go against the Code. http://europa.eu/rapid/press-release_IP-15-4610_en.htm

B) What progress was made in the Council?

As background, one of the priorities laid out for the Union over the next five years by the June 2014 European Council meeting was to “guarantee fairness: by combatting tax evasion and tax fraud so that all contribute their fair share.”⁹⁷ On 25 November 2014, at the High Level Working Party on Taxation (HLWP) the Council discussed further work related to unfair tax competition, base erosion and profit shifting (BEPS), and noted that the work should be carried out based on a roadmap containing actions and clear deadlines consistent with OECD actions in the area of BEPS adjusted to the EU context.⁹⁸

The December 2014 Council held under the Italian Presidency concluded that “there is an urgent need to advance efforts in the fight against tax avoidance and aggressive tax planning, both at the global and EU levels.”⁹⁹ Based on the request from the December 2014 Council meeting and building on the work of the Italian Presidency, Latvia committed to continue developing currently existing initiatives and support new efforts that the Commission intended to propose.

During the Latvian Presidency the Council paid particular attention to the Commission’s Tax Transparency Package. Almost all provisions of the proposal are supported by the majority of member states, who are calling for a quick adoption of the new Directive.¹⁰⁰ Even though there is a general consensus on technical issues addressed at the four working party meetings, further examination of the file is required to reach an agreement among all member states. Formal adoption of this proposal is expected in the second semester of 2015.¹⁰¹

On 20 March 2015 the Latvian Presidency formulated a final compromise text¹⁰² on the Shareholders Rights Directive (SRD). The original text was adopted by the Commission in April 2014 and is aimed to raise governance standards and address insufficient engagement between institutional investors and asset managers, insufficient link between pay and performance of directors and lack of shareholder oversight on related party transactions (insufficient transparency among minority shareholders when it comes to important transactions involving 1% of companies’ assets). The European Parliament Legal Affairs Committee (JURI) tabled a number of amendments in February 2015, one of which included mandatory reporting for “activities of large companies, and in particular regarding profits made, taxes on profit paid and subsidies received”.¹⁰³ The revised text of the Presidency reflected some amendments but disappointingly enough failed to address CBCR provisions.

⁹⁷ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/143478.pdf

⁹⁸ <http://data.consilium.europa.eu/doc/document/ST-10161-2015-INIT/en/pdf>

⁹⁹ https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/146411.pdf

¹⁰⁰ <http://data.consilium.europa.eu/doc/document/ST-9495-2015-INIT/en/pdf>

¹⁰¹ <http://data.consilium.europa.eu/doc/document/ST-10161-2015-INIT/en/pdf>

¹⁰² <http://data.consilium.europa.eu/doc/document/ST-7315-2015-INIT/en/pdf>

¹⁰³ http://www.europarl.europa.eu/meetdocs/2014_2019/documents/juri/am/1049/1049179/1049179en.pdf

On 26 May 2015 the Council adopted the conclusions on a New Global Partnership for Poverty Eradication and Sustainable Development after 2015, in which commitment to good governance, transparent management of public resources and anti-corruption measures was expressed. In particular, focus was made on enhancing financial transparency measures, such as CBCR and related exchanges in this respect between relevant authorities, beneficial ownership registries and strengthened investigation and law enforcement responses.¹⁰⁴

Overall, the Latvian Presidency has successfully developed the BEPS roadmap¹⁰⁵ and achieved some progress on a number of legislative files, while laying the groundwork for the future Presidencies on others. Recommendations of Transparency International regarding CBCR provisions however were not sufficiently addressed.

Score: Yellow

¹⁰⁴ <http://data.consilium.europa.eu/doc/document/ST-8667-2015-INIT/en/pdf>

¹⁰⁵ <https://eu2015.lv/news/media-releases/1458-presidency-all-eu-member-states-should-benefit-from-the-capital-markets-union>

BETTER LOBBY REGULATIONS: INTER-INSTITUTIONAL AGREEMENT FOR A MANDATORY LOBBY REGISTER

Why does it matter?

Lobbying activities and influence at the EU level need to be more transparent. There are around 30,000 lobbyists in Brussels, targeting 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 Council of Ministers is an important and necessary tool to prevent undue influence and 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.

A) What level of priority was given to better lobby regulations by the Latvian Presidency?

Low priority was given to the subject by the Council because the institution is awaiting for the Commission to publish its new proposal on the Joint Transparency Register (JTR) announced in early 2015. Even though the Council has been participating in weekly meetings of the JTR Secretariat as an observer since June 2012, no documents have been produced since 16 October 2014.

Score: Yellow

B) What progress was made in the Council?

There are around 30,000 lobbyists in Brussels, targeting the European institutions to influence legislation. Such widespread lobbying activities lead to criticism regarding transparency and accountability of the EU decision-making process.

The European Parliament was the first institution which attempted to address these concerns by setting up its transparency register in 1995. This initiative was followed by the Commission's Register of Interest Representatives established in 2008. The two registers were merged in 2011 into a Joint Transparency Register (JTR), operating on a basis of voluntary registration and supported by an Inter-Institutional Agreement (IIA) signed between the two institutions and serving as a legal framework.

When the JTR was launched in June 2011, TI welcomed this milestone, as it marked the first time that both the European Commission and the European Parliament had a shared register for organisations that were seeking to influence EU policy-making by these institutions. Initially, the Council stated that it would consider having a role in the Register. Since then, Council has participated in the weekly meetings of the JTR Secretariat in an observer role, but it has been reluctant to join it.

Following a political review of the JTR two years after its establishment, as laid down in the IIA between the Commission and Parliament,¹⁰⁶ and the change in leadership of the European institutions, a new version of the Transparency Register was launched in January 2015 based on a revised IIA signed between the Commission and the Parliament in April 2014 (in force since January 2015). This version aims to improve and enhance the already existing system by providing more accurate, clearly defined and up-to-date information, still however declared on a voluntary basis.

A call for mandatory lobby register was first expressed by the European Parliament in 2008¹⁰⁷ and was subsequently reiterated several times. In response, the President of the European Commission Jean-Claude Juncker promised to enhance transparency in interactions with interest groups and to introduce a proposal replacing the existing system with a mandatory one covering the European Parliament, the European Commission and the Council by 2016 – a promise reflected in the Commission's 2015 work programme.¹⁰⁸

¹⁰⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:191:0029:0038:EN:PDF>

¹⁰⁷ <http://www.europarl.europa.eu/EPRS/EPRS-Briefing-542170-European-Transparency-Register-FINAL.pdf>

¹⁰⁸ http://ec.europa.eu/atwork/pdf/cwp_2015_en.pdf

This initiative, entrusted to the Commission's Vice-President Frans Timmermans, was followed by a relevant indicative roadmap published in February 2015 outlining the objectives, challenges and various policy options for the establishment of a mandatory Transparency Register for interest representatives.¹⁰⁹ As of December 2014 the Commission has also started publishing information about the meetings involving its senior officials with representatives of interest groups, and banned their interactions with unregistered lobbyists.

During the Latvian Presidency the Council has continued to discuss its potential participation in the IIA despite the fact that the Commission has not published its proposal yet. Therefore little progress has been achieved on the issue. According to Zanda Kalniņa-Lukaševica, Latvia's Parliamentary State Secretary for the European Affairs, the Council remains committed to the idea and is looking forward to working closely with the Commission and the Parliament to increase transparency of lobbying in EU affairs.¹¹⁰

While there is a general political support for the issue, the legal and practical application of the Register continues causing concerns among the Member States, the majority of which are skeptical and point to administrative burdens entailed by the register as well as a supposed lack of tangible benefits.¹¹¹

Inga Reine, head of institutional affairs at the Permanent Representation of Latvia to the EU, pointed out that the Council is facing genuine legal obstacles which prevent it from a full participation in a mandatory lobby register and limit its current engagement. This is due to the fact that the work of the Council, including the permanent representations of national governments in Brussels, falls under national legislation. Reine assured that the Council is eager to find solutions and is currently discussing the possibility of joining the IIA.¹¹²

Score: Yellow

¹⁰⁹ http://ec.europa.eu/smart-regulation/impact/planned_ia/docs/2015_sg_010_transparencyr_04022015_updated_fvp_en.pdf

¹¹⁰ <http://www.europarl.europa.eu/news/en/news-room/content/20150611IPR65723/html/Committee-on-Constitutional-Affairs-meeting-17062015>

¹¹¹ http://www.pism.pl/files/?id_plik=19385

¹¹² <http://alter-eu.org/alter-eus-new-campaign-launched-with-transparency-debate-at-the-parliament>

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