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What does the Anti-Corruption Summit mean for the EU?

Carl Dolan · Thursday, May 12th, 2016

The global Anti-Corruption Summit hosted by UK Prime Minister David Cameron today has resulted in a number of commitments by the assembled governments, which so far [includes](#) 10 EU countries (Bulgaria, France, Germany, Ireland, Italy, Malta, the Netherlands, Spain, UK, Romania). What implications do these commitments have for the EU?

The summit communique commits to closing loopholes that allow anonymous shell companies to be used for money-laundering and corruption. The EU sets the framework of anti-money laundering in Europe, and has recently reformed these rules to compel all EU governments to collect information on the true owners of shell companies in a central register. The EU directive stops short of making this information open to the public and information on trusts, in particular, will remain off limits to the public. However, three EU countries have now committed to public registers (UK, France and the Netherlands) and Ireland will ‘explore’ the possibility of doing so. The European Commission will revisit the Anti-Money Laundering Directive in June, where there will be an opportunity to make public access to information on companies and trusts mandatory. Commitments to automatically exchange information on corporate ownership between countries may also be enshrined in EU law.

There is also a nod to “increasing international transparency on tax” and five EU countries (ES, IT, NL, FR, UK) have a concrete commitment to “support the development of a global commitment for public country by country reporting on tax information for large multinational enterprises”. Following the Luxleaks revelations, the European Commission has accelerated its work here and has proposed in April a directive that would force EU companies to report to the public on profits and tax paid in selected countries. The proposal is flawed however and is not the global “country-by-country” reporting standard that can give citizens around the world an insight into what multinationals contribute to their country. The European Parliament and Council will tackle the proposal this Autumn, and we will be reminding the five EU countries listed here of their summit pledges.

Public contracting is the number one corruption risk in Europe. The communique says that “public contracting – including by international organisations – and government budgets should be fair, accountable, open and transparent to prevent and expose the theft or misuse of taxpayers’ money” and that “we will work with businesses and civil society to ensure accountability and will work towards providing, in a usable and reusable form, shareable and timely open data and documents on public contracting activities”. The EU spends around 155 billion EUR per year, much of it contracted with private firms, and information on these flows

can be very difficult to trace. The EU institutions can do a lot more to make this information available in open data formats that would make them much more accountable to citizens, NGOs and journalists.

The EU also sets the rules for public contracting by all EU governments. The directive was last revised in 2013 and should be revisited again to move to a standard where the full details of all government contracts are open to public scrutiny, and more generally to make sure that government contracts are less vulnerable to corruption. For example, the assembled leaders say that “corrupt bidders should not be allowed to participate in public procurement tenders. Relevant information, such as final convictions, is made available to contracting authorities to inform decisions on suspending and excluding bidders”. This is a particular problem in the EU where authorities do not have access to lists of corrupt bidders in other EU countries. In some cases, like Germany, there is even no national database.

Governments have pledged to “commit to make it easier for people to report suspected acts of corruption, to protect whistleblowers from discriminatory and retaliatory actions”. This good news comes a little too late for Antoine Deltour, who faces years in jail and a hefty fine for blowing the whistle on industrial-scale tax avoidance in Luxembourg. The EU may have a role in ensuring that such prosecutions are impossible in the future by raising the standards of legal protection for whistleblowers across Europe. A cross-party group of MEPs have recently supported such a [directive](#).

There is a ringing declaration that “we will work together to enforce confiscation orders across borders including, where legal systems allow, administrative freezes, non conviction-based confiscation orders or unexplained wealth orders”. There is an EU directive on confiscation of illicit assets that tries to coordinate all this in Europe, but when the directive was passed in 2013 it fell short of automatically recognising the validity of non-conviction based confiscations by countries where this is allowed (such as Bulgaria). This is obviously a big problem as corrupt Bulgarian officials and organised crime groups do not as a rule stash their ill-gotten gains in Bulgarian banks or the Sofia property market, preferring destinations such as Vienna and London. Will this be reviewed in the light of the summit’s conclusions?

“We recognise that our international institutions play a vital role in supporting the fight against corruption. We agree to work together to help deliver an international system which is responsive to new challenges and demands, and has an increased collective impact through more effective coordination”. That also means the EU, even if not explicitly named in the communique.

“We underline the centrality of the UN Convention Against Corruption (UNCAC) and call on States that have not yet done so to ratify or accede to it and implement its provisions.” The EU institutions should be mildly embarrassed here, since eight years after ratifying the convention they have failed to implement the first step, which is an assessment of its own anti-corruption rules and capacities. This baffling delay does not help its cause when engaging with its Member States on anti-corruption matters.

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