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*The Fight against Corruption in the European Union*

NUP Jean Monnet Working Paper Series

**10/2023**



With the support of the  
Erasmus+ Programme  
of the European Union

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Publications in the Series should be cited as:

AUTHOR, TITLE, NUP JEAN MONNET WORKING PAPER NO. x/YEAR [URL]

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# *The Fight Against Corruption in the European Union*

## **Abstract**

The scope of this study is to identify and examine a sample of significant EU legislative instruments and other anti-corruption initiatives (GRECO, FATF, etc.). In addition to this, this study aims to evaluate the effectiveness and efficiency of the EU policy and legislative framework in the fight against corruption. The study concludes that the aforementioned anti-corruption instruments and initiatives are satisfactory, but significant challenges and opportunities for improvement remain.

## **Keywords**

*Corruption, corruption offenses, criminal law, international cooperation, transparency, independent authorities,*

## 1. Introduction

Fraud falls into three main typologies<sup>1</sup>. Each of them can be broken down into further sub-categories depending on the object of the fraud.

The above-mentioned main categories are:

- Financial statement fraud.
- Asset misappropriation.
- Corruption.

Our study focuses only on corruption and no detailed reference will be made to the two other typologies. Corruption can take the following forms:

- Bribery.
- Conflict of interest.
- Illegal gratuities.
- Economic extortion.

Corruption is a form of fraud that erodes all layers of economy and society. It has numerous and significant negative effects in the private and the public sectors and the society in general, contrary to the other two main types of fraud that affect mostly the individual or the legal entity against which they are committed.

Corruption is a type of fraud of transnational character and it needs to be addressed both at national and global level. The international community has to tackle this phenomenon by adopting efficient and effective anti-corruption measures, including legislation, monitoring mechanisms and continuous efforts to promote a sound anti-corruption culture.

In the light of the above, all States of the world, the public and the private sector, as well as the citizens themselves, have an interest in supporting the fight against corruption, given the negative impact of corruption on their legal, economic, social and other interests.

Corruption is difficult to detect and to expose. Instances of corruptions are typically uncovered due to extraordinary and fortuitous events that render imperative a criminal investigation or if the victim lodges a complaint or if authorities receive a confidential or anonymous tip.

Among the consequences of corruption, we can mention the following:

- Violation of existing legislation.
- Loss of government revenue.
- Illicit enrichment.
- Erosion of social institutions.
- Erosion of Justice.

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<sup>1</sup> Association of the Certified Fraud Examiners Manual 2015.

- Incitement of organized crime.
- Inefficiency and ineffectiveness of the public sector.
- Related offences (illicit trafficking in drugs, arms, etc.).

## **2. Scope**

The present study aims to identify the main, in our point of view, regulations, directives and other applicable instruments and procedures in the area of anti-corruption at the EU level. We also make reference to other key regional and global initiatives, such as GRECO and FATF. Finally, this study aims to evaluate the efficiency and effectiveness of the anti-corruption EU policy and legislative environment.

## **3. Anti-corruption legislation in the European Union**

The institutions of the EU, such as the European Parliament, the Council of the EU, the European Commission and others, work together to draft and adopt regulations, directives, decisions, recommendations and opinions on various topics, including the fight against fraud and corruption.

The aforementioned acts, together with the provisions of the EU Treaties, which are legally binding for EU Member States, form the EU legal framework against corruption. We have to bear in mind that the EU anti-corruption legal framework is a key source of the relevant anti-corruption legal framework of each EU Member State. With regard to the capacity of Member States to implement these acts, fully or partly, we have to take into account the following points:

- Regulations: They are binding legislative acts, they have direct effect and their implementation by the EU's member states is mandatory.
- Directives: They set objectives that the Member States have to achieve. Member State undertake to achieve the relevant objective according to their respective legal system and methodology.
- Decisions: They are binding legislative acts only for the member state or entity to which they addressed.
- Recommendations: They are not binding. It is an opportunity for the EU's competent bodies to communicate their views and to show the line of action, without any legal commitment.
- Opinions: They express the opinions of the competent bodies, not in a binding way.

We can now provide a concise review of the key EU legislative initiatives and actions, which aim to strengthen and enhance the effectiveness of the fight against corruption.

### 3.1. Treaty on the Functioning of the European Union

The key provision of the TFEU dealing with the fight against fraud in the EU is article 325 TFEU<sup>2</sup>. Due to its importance, we provide its full text below.

#### Article 325 TFEU

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies.
2. Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests.
3. Without prejudice to other provisions of the Treaties, the Member States shall coordinate their action aimed at protecting the financial interests of the Union against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.
4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Court of Auditors, shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Union with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies.
5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament a report on the measures taken for the implementation of this Article.

Another important provision is article 83 TFEU<sup>3</sup>, which states:

#### 83 TFEU

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organized crime.

On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonization measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same

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<sup>2</sup> OJ C 202, 7.6.2016, p. 188–189.

<sup>3</sup> OJ C 115, 9.5.2008, p. 80–81.

ordinary or special legislative procedure as was followed for the adoption of the harmonization measures in question, without prejudice to Article 76.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorization to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

### **3.2. Convention on the fight against corruption involving officials of EU or officials of Member States**

The Convention drawn up on the basis of article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union<sup>4</sup> contains 16 articles, which constitute an important addition to the EU arsenal against corruption. We will not examine all these articles in the context of the present study. However, it is useful to make reference to articles 2, 3, 5 and 6, which deal with the issue of criminal liability.

#### **Article 2: Passive Corruption**

1. For the purpose of this convention, the deliberate action of an official who, directly or through an intermediary requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties shall constitute passive corruption.
2. Each member state shall take the necessary measures to ensure that conduct of the type referred to in paragraph 1 is made a criminal offence.

#### **Article 3: Active Corruption**

1. For the purpose of this Convention, the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage or any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties shall constitute active corruption.
3. Each member state shall take the necessary measures to ensure that conduct of the type referred to in paragraph 1 is made a criminal offence.

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<sup>4</sup> OJ C 195, 25.6.1997, p. 2–11.

In our view, the aforementioned definitions are of great significance because corruption is defined clearly, in a way that leaves no room for ambiguity or misinterpretations.

#### **Article 5: Penalties**

1. Each member state shall take the necessary measures to ensure that the conduct referred to in Articles 2 and 3 and participating in an instigating the conduct in question, is punishable by effective, proportionate and dissuasive criminal penalties, including at least in serious cases, penalties involving deprivation of liberty which can give rise to extradition.
2. Paragraph 1 shall be without prejudice to exercise of disciplinary powers by the competent authorities against national officials or community officials. In determining the penalty to be imposed, the national criminal courts may, in accordance with the principles of their national law, take into account any disciplinary penalty already imposed on the same person for the same conduct.

#### **Article 6: Criminal liability of heads of businesses**

1. Each member state shall take the necessary measures to allow heads of businesses or any persons having power to take decisions or exercise control within a business to be declared criminally liable in accordance with the principles defined by its national law in cases of corruption, as referred to in Article, by a person under their authority acting On behalf of the business.

The aforementioned articles 5 and 6 establish criminal liability for both the person involved in the corruption and the heads of businesses.

### **3.3. Directive 2018/1673 on combating money laundering by criminal law**

Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law<sup>5</sup> contains 16 articles, the following of which determine the subject matter and scope of the act.

#### **Article 1: Subject matter and scope**

1. This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of money laundering.
2. This Directive does not apply to money laundering as regards property derived from criminal offences affecting the Union's financial interests, which is subject to specific rules laid down in Directive (EU) 2017/1371.

#### **Article 3: Money Laundering Offences**

1. Member States shall take the necessary measures to ensure that the following conduct, when committed intentionally, is punishable as a criminal offence:

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<sup>5</sup> OJ L 284, 12.11.2018, p. 22–30



- a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person's action;
  - b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity;
  - c) the acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from criminal activity.
2. Member States may take the necessary measures to ensure that the conduct referred to in paragraph 1 is punishable as a criminal offence where the offender suspected or ought to have known that the property was derived from criminal activity.
3. Member States shall take the necessary measures to ensure that:
- a) a prior or simultaneous conviction for the criminal activity from which the property was derived is not a prerequisite for a conviction for the offences referred to in paragraphs 1 and 2;
  - b) a conviction for the offences referred to in paragraphs 1 and 2 is possible where it is established that the property was derived from a criminal activity, without it being necessary to establish all the factual elements or all circumstances relating to that criminal activity, including the identity of the perpetrator;
  - c) the offences referred to in paragraphs 1 and 2 extend to property derived from conduct that occurred on the territory of another Member State or of a third country, where that conduct would constitute a criminal activity had it occurred domestically.
4. In the case of point (c) of paragraph 3 of this Article, Member States may further require that the relevant conduct constitutes a criminal offence under the national law of the other Member State or of the third country where that conduct was committed, except where that conduct constitutes one of the offences referred to in points (a) to (e) and (h) of point (1) of Article 2 and as defined in the applicable Union law.
5. Member States shall take the necessary measures to ensure that the conduct referred to in points (a) and (b) of paragraph 1 is punishable as a criminal offence when committed by persons who committed, or were involved in, the criminal activity from which the property was derived.

#### **Article 5: Penalties for natural persons**

- 1. Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.
- 2. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) and (5) are punishable by a maximum term of imprisonment of at least four years.
- 3. Member States shall also take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 are, where necessary, subject to additional sanctions or measures.

### **3.4. Directive 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law**

Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017<sup>6</sup> contains 20 articles and it bears on the fight against fraud to the Union's financial interest

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<sup>6</sup> OJ L 198, 28.7.2017, p. 29–41.

by means of criminal law. It is not necessary to expand further quoting the key provisions; however, it is worth noting, amongst others, the criminal offences referred to in articles 3 and 4 as well as article 5, which states:

1. Member states shall take the necessary measures to ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Articles 3 and 4 are punishable as criminal offences. »
2. Member states shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Articles 3 and 4(3) is punishable as a criminal offence.

### **3.5. European Public Prosecutor's Office (EPPO)**

Council Regulation (EU) 2017/1939 of 12 October 2017 has established the European Public Prosecutor's Office ('the EPPO'),<sup>7</sup> which is an important independent body of the EU. EPPO's role is crucial and it contributes significantly in uncovering the commission of criminal offences against the financial interests of the EU. The abovementioned Regulation contains of 120 articles and we will present articles 3, 4, 5 and 6, which best illustrate the role and importance of EPPO.

#### **Article 3: Establishment**

1. The EPPO is hereby established as a body of the Union.
2. The EPPO shall have legal personality.
3. The EPPO shall cooperate with Euro just and rely on its support in accordance with Article 100.

#### **Article 4: Tasks**

The EPPO shall be responsible for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union which are provided for in Directive (EU) 2017/1371 and determined by this Regulation. In that respect the EPPO shall undertake investigations, and carry out acts of prosecution and exercise the functions of prosecutor in the competent courts of the Member States, until the case has been finally disposed of.

#### **Article 5: Basic Principles of the Activities**

1. The EPPO shall ensure that its activities respect the rights enshrined in the Charter.
2. The EPPO shall be bound by the principles of rule of law and proportionality in all its activities.
3. The investigations and prosecutions on behalf of the EPPO shall be governed by this Regulation. National law shall apply to the extent that a matter is not regulated by this Regulation. Unless otherwise specified in this Regulation, the applicable national law shall be the law of the Member State whose European Delegated Prosecutor is handling the case in accordance with Article 13(1). Where a matter is governed by both national law and this Regulation, the latter shall prevail.

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<sup>7</sup> OJ L 283, 31.10.2017, p. 1–71.

4. The EPPO shall conduct its investigations in an impartial manner and shall seek all relevant evidence whether inculpatory or exculpatory.
5. The EPPO shall open and conduct investigations without undue delay.
6. The competent national authorities shall actively assist and support the investigations and prosecutions of the EPPO. Any action, policy or procedure under this Regulation shall be guided by the principle of sincere cooperation.

#### **Article 6: Independence and Accountability**

1. The EPPO shall be independent. The European Chief Prosecutor, the Deputy European Chief Prosecutors, the European Prosecutors, the European Delegated Prosecutors, the Administrative Director, as well as the staff of the EPPO shall act in the interest of the Union as a whole, as defined by law, and neither seek nor take instructions from any person external to the EPPO, any Member State of the European Union or any institution, body, office or agency of the Union in the performance of their duties under this Regulation. The Member States of the European Union and the institutions, bodies, offices and agencies of the Union shall respect the independence of the EPPO and shall not seek to influence it in the exercise of its tasks.
2. The EPPO shall be accountable to the European Parliament, to the Council and to the Commission for its general activities, and shall issue annual reports in accordance with Article 7.

### **3.6. Directive 2019/1937 on the protection of persons who report breaches of the European Union's laws**

As already mentioned, corruption is difficult to detect and most cases of corruption are uncovered either due to extraordinary and fortuitous events, or if the victim lodges a complaint or if the competent authorities receive a confidential or anonymous tip regarding the commission of a corruption offence or any other unlawful act.

Tips may come from people (the whistleblowers) who take the risk to report unlawful acts, such as tax evasion, financial crime, corruption, bribery, white collar crime and other crimes. For many years whistleblowers were unprotected due to the lack of any legislation at the level of national law or EU law.

Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of EU law<sup>8</sup> establishes an entire legislative framework for the protection of whistleblowers in the EU and the EU Member States. The adoption of measures for the protection of whistleblowers against retaliation are of great importance. This is manifested clearly in article 21 of the Directive:

#### **Article 21 – Measures for protection against retaliation**

1. Member States shall take the necessary measures to ensure that persons referred to in Article 4 are protected against retaliation. Such measures shall include, in particular, those set out in paragraphs 2 to 8 of this Article.

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<sup>8</sup> OJ L 305, 26.11.2019, p. 17–56.

2. Without prejudice to Article 3(2) and (3), where persons report information on breaches or make a public disclosure in accordance with this Directive they shall not be considered to have breached any restriction on disclosure of information and shall not incur liability of any kind in respect of such a report or public disclosure provided that they had reasonable grounds to believe that the reporting or public disclosure of such information was necessary for revealing a breach pursuant to this Directive.

3. Reporting persons shall not incur liability in respect of the acquisition of or access to the information which is reported or publicly disclosed, provided that such acquisition or access did not constitute a self-standing criminal offence. In the event of the acquisition or access constituting a self-standing criminal offence, criminal liability shall continue to be governed by applicable national law.

4. Any other possible liability of reporting persons arising from acts or omissions which are unrelated to the reporting or public disclosure or which are not necessary for revealing a breach pursuant to this Directive shall continue to be governed by applicable Union or national law.

5. In proceedings before a court or other authority relating to a detriment suffered by the reporting person, and subject to that person establishing that he or she reported or made a public disclosure and suffered a detriment, it shall be presumed that the detriment was made in retaliation for the report or the public disclosure. In such cases, it shall be for the person who has taken the detrimental measure to prove that that measure was based on duly justified grounds.

6. Persons referred to in Article 4 shall have access to remedial measures against retaliation as appropriate, including interim relief pending the resolution of legal proceedings, in accordance with national law.

7. In legal proceedings, including for defamation, breach of copyright, breach of secrecy, breach of data protection rules, disclosure of trade secrets, or for compensation claims based on private, public, or on collective labour law, persons referred to in Article 4 shall not incur liability of any kind as a result of reports or public disclosures under this Directive. Those persons shall have the right to rely on that reporting or public disclosure to seek dismissal of the case, provided that they had reasonable grounds to believe that the reporting or public disclosure was necessary for revealing a breach, pursuant to this Directive.

Where a person reports or publicly discloses information on breaches falling within the scope of this Directive, and that information includes trade secrets, and where that person meets the conditions of this Directive, such reporting or public disclosure shall be considered lawful under the conditions of Article 3(2) of the Directive (EU) 2016/943.

8. Member States shall take the necessary measures to ensure that remedies and full compensation are provided for damage suffered by persons referred to in Article 4 in accordance with national law.

Having examined the aforementioned provision, we can affirm that a lot of progress has been seen to protect whistleblower against retaliation. In Cyprus, it should be noted that on 4/2/2022, the 2022 law on the protection of persons reporting violations of Union and national law 6(1)/2022 was published. This law is compatible with the EU Directive 2019/1937.

### **3.7. Internal rules for the EU institutions**

Indicatively, some of the internal rules of the institutions of the EU<sup>9</sup>, which improve the effectiveness of the fight against corruption, are:

- Code of conduct for the members of the European Commission.
- Guidelines on gifts and Hospitality for the staff members.
- EU Transparency Register
- Rules for EU civil Servants-The Staff Regulation.
- Rules of Procedure of the Commission.
- Ethics and Integrity for Commissioners.
- Independent Ethical Committee.
- Transparency and Lobbying at the Commission.
- Freedom of Information – Access to documents.

The aforementioned rules and codes allow us to affirm that a comprehensive anti-corruption, ethics, integrity and transparency environment is established internally in the EU.

## **4. Other EU institutions involved in the fight against corruption and fraud**

### **4.1. OLAF – European Anti-Fraud Office**

The OLAF (from the French acronym “Office de Lutte Anti-Fraude”) was established in 1999 by means of the Commission Decision 1999/352/EC/ECSC/ Euratom<sup>10</sup>. OLAF conducts investigations related to corruption or other type of fraud in relation to EU funds, other EU revenues, custom duties, as well as cases of misconduct committed by staff and members of the EU’s institutions<sup>11</sup>.

According to article 2 of the Decision, OLAF is entrusted with the following tasks:

1. The Office shall exercise the Commission's powers to carry out external administrative investigations for the purpose of strengthening the fight against fraud, corruption and any other illegal activity adversely affecting the Community's financial interests, as well as any other act or activity by operators in breach of Community provisions.

The Office shall be responsible for carrying out internal administrative investigations intended:

- (a) to combat fraud, corruption and any other illegal activity adversely affecting the Community's financial interests,

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<sup>9</sup> [https://home-affairs.ec.europa.eu/policies/internal-security/corruption/eu-legislation-anti-corruption\\_en#:~:text=The%20legal%20basis%20for%20combating,to%20protect%20the%20EU's%20budget.](https://home-affairs.ec.europa.eu/policies/internal-security/corruption/eu-legislation-anti-corruption_en#:~:text=The%20legal%20basis%20for%20combating,to%20protect%20the%20EU's%20budget.)

<sup>10</sup> OJ L 136, 31.5.1999, p. 20–22.

<sup>11</sup> [Anti-fraud.ec.europa.eu/about-us/what-we-do-eu](https://anti-fraud.ec.europa.eu/about-us/what-we-do-eu)

(b) to investigate serious facts linked to the performance of professional activities which may constitute a breach of obligations by officials and servants of the Communities likely to lead to disciplinary and, in appropriate cases, criminal proceedings or an analogous breach of obligations by Members of the institutions and bodies, heads of the bodies or members of staff of the institutions and bodies not subject to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the Communities.

The Office shall exercise the Commission's powers as they are defined in the provisions established in the framework of the Treaties, and subject to the limits and conditions laid down therein.

The Office may be entrusted with investigations in other areas by the Commission or by the other institutions or bodies.

2. The Office shall be responsible for providing the Commission's support in cooperating with the Member States in the area of the fight against fraud.

3. The Office shall be responsible for the activity of developing a concept for the fight against fraud as referred to in paragraph 1.

4. The Office shall be responsible for the preparation of legislative and regulatory initiatives of the Commission with the objective of fraud prevention as referred to in paragraph 1.

5. The Office shall be responsible for any other operational activity of the Commission in relation to the fight against fraud as referred to in paragraph 1, and in particular:

(a) developing the necessary infrastructure;

(b) ensuring the collection and analysis of information;

(c) giving technical support, in particular in the area of training, to the other institutions or bodies as well as to the competent national authorities.

6. The Office shall be in direct contact with the police and judicial authorities.

7. The Office shall represent the Commission, at service level, in the forums concerned, in the fields covered by this Article.

On an annual basis, a detailed report is issued by OLAF, highlighting the work that OLAF undertakes to help combat fraud, corruption, customs undervaluation and smuggling. OLAF maintains a close cooperation with the EPPO.

#### **4.2. GRECO – Group of States against Corruption**

GRECO was established on 1/5/1999 initially by 17 member states i.e. France, Germany, Finland, Iceland, Ireland, Lithuania, Luxemburg, Greece, Cyprus, Estonia, Bulgaria, Belgium, Slovakia, Slovenia, Sweden, Romania and Spain. Currently, 50 member States and 10 Observers participate in the works of this anti-corruption body.

In brief, GRECO performs that following tasks<sup>12</sup>:

- Performing evaluations of its member states in order to identify whether the national legislative environment and other policies are satisfactory, efficient and effective and

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<sup>12</sup> <https://www.coe.int/en/web/greco/about-greco>

are in compliance with the European Union's Legislation and other policies regarding the fight against corruption.

- Recommending legislative, and other measures to help the member state under evaluation to face effectively in the proper manner the gaps identified.

From the year 2000 onwards five evaluation rounds have been carried out by GRECO. In each evaluation round different themes have been evaluated. The five evaluation rounds and the respective themes evaluated in each round are as follows:

**First Round**<sup>13</sup>: It started on 1/1/2000 and the themes evaluated were the independence, specialization and means available to national bodies engaged in prevention and fight against corruption, as well as the extent and scope of immunities.

**Second Round**<sup>14</sup>: It started on 1/1/2003 and the themes evaluated were:

- a) Identification, seizure and confiscation of corruption proceeds,
- b) Public administration and corruption (auditing systems, conflict of interest),
- c) Prevention of legal persons being as shields for corruption,
- d) Tax and financial legislation to counter corruption,
- e) Links between corruption, organized crime and money laundering.

**Third Round**<sup>15</sup>: It started on 1/1/2007 and the themes evaluated were:

- a) Incriminations provided for in the criminal law Convention on corruption (ETS 173) its additional protocol (ETS 191) and Guiding principle 2 (GPC 2),
- b) Transparency of party funding with reference to the recommendation of the committee of ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns.

**Fourth Round**<sup>16</sup>: It started on 1/1/2012 and the themes evaluated were:

- a) Prevention of corruption of members of parliament, judges and prosecutors,
- b) Ethical principles and rules of conduct,
- c) Conflict of interests,
- d) Prohibition or restriction of certain activities,
- e) Declaration of assets, income, liabilities and interests,

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<sup>13</sup> [https://www.coe.int/en/web/greco/evaluations#%2222359946%22:\[4\]](https://www.coe.int/en/web/greco/evaluations#%2222359946%22:[4])

<sup>14</sup> [https://www.coe.int/en/web/greco/evaluations#%2222359946%22:\[3\]](https://www.coe.int/en/web/greco/evaluations#%2222359946%22:[3])

<sup>15</sup> [https://www.coe.int/en/web/greco/evaluations#%2222359946%22:\[2\]](https://www.coe.int/en/web/greco/evaluations#%2222359946%22:[2])

<sup>16</sup> [https://www.coe.int/en/web/greco/evaluations#%2222359946%22:\[1\]](https://www.coe.int/en/web/greco/evaluations#%2222359946%22:[1])

- f) Enforcement of the rules regarding conflicts of interest,
- g) Raising awareness.

**Fifth Round**<sup>17</sup>: It started on 20/3/2017 and the theme evaluated has been the prevention of corruption and the promotion of integrity in central governments (top executive functions) and law enforcement agencies.

Having examined the themes under evaluation in each round, we can draw the following conclusions:

- GRECO's evaluation standards are structured in such a way as to identify whether the EU anti-corruption legislation and policies are implemented by the States under evaluation. The degree of compliance and the eventual shortcomings are reported, while the proper counter-measures and best practices are recommended to help the State under evaluation to address shortcomings and other compliance issues.
- GRECO's evaluations are carefully designed and, in each round, the number of themes under evaluation increases compared to the previous one.
- The methodology and the structure of the questionnaire are very good, covering critical questions for the State under evaluation. The State's responses are evaluated and the final conclusions are very helpful for the entire evaluation exercise.

### 4.3. Other international initiatives

It should be noted that, in addition to Europe's key important role in the fight against corruption, the international community has important initiatives to show for.

At the level of the United Nations, we can mention the UN Convention against Corruption<sup>18</sup>, which was adopted by the UN General Assembly on 31/10/2003 (Resolution 58/4) and it came into force on 14/12/2005. With 189 States Parties, this is the most widely accepted anti-corruption convention, as well as the most complete and comprehensive international instrument against corruption.

At the level of civil society, Transparency International is an international non-governmental anti-corruption organization (NGO). With around 100 chapters worldwide, Transparency International plays a very important role in the fight against corruption and maintains cooperation with both the public and private sectors of various countries.

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<sup>17</sup> [https://www.coe.int/en/web/greco/evaluations#{%22222359946%22:\[0\]}](https://www.coe.int/en/web/greco/evaluations#{%22222359946%22:[0]})

<sup>18</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-14&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-14&chapter=18&clang=_en)



## **5. National anti-corruption authorities in Cyprus and Greece**

### **5.1 Cypriot Independent Authority against Corruption**

On 8/7/2022 the President of the Republic of Cyprus announced the establishment of the Cyprus Independent Authority against Corruption. The Cypriot House of Representatives (Parliament) passed the 2022 Law<sup>19</sup> on the establishment and operation of the independent Anti-Corruption Authority (19(I)/2022). According to article 6, the Authority has the following mission:

6. (1) The Authority's mission is to take the necessary initiatives and actions to ensure the coherence and effectiveness of the actions of the public sector services, the wider public sector and the private sector in matters of preventing and combating acts of corruption, as well and for ensuring, in the best and most efficient way, the implementation, progress, management and evaluation of each National Anti-Corruption Strategy.

(2) The Authority investigates, ex officio or after submitting a complaint, acts of corruption in the public sector, in the wider public sector and in the private sector:

Provided that, with regard to persons in the private sector, complaints may be submitted to the Authority only in relation to acts of corruption by persons in the private sector in which persons of the public sector or the wider public sector are directly involved and/or acts of corruption of persons in the public sector or wider public sector in which private sector persons are involved.

(3) Collection and processing of personal data for the purposes of fulfilling the Authority's mission is carried out in compliance with the provisions of the GDPR and the Law on the Protection of Natural Persons Against the Processing of Personal Data and the Free Movement of such Data.

### **5. 2. Greek National Transparency Authority**

The Greek National Transparency Authority<sup>20</sup> was established by Law 4622/2019 (A' 133) articles 103 and 118-119. The mission of the Authority<sup>21</sup> is to design and implement a framework of coherent policies for detecting and suppressing acts of corruption, as well as for preventing their commission.

## **6. Cypriot and Greek Criminal codes: a critical approach**

Having examined a sample of the provisions of the Criminal Codes (Tables 1 & 2 at the end of this study), we can conclude that both Cyprus and Greece are compliant with the EU's relevant legislation. Nevertheless, we argue that there is room for further improvement, especially with regard to the introduction of stricter sanctions.

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<sup>19</sup> [http://www.cylaw.org/nomoi/enop/non-ind/2022\\_1\\_19/full.html](http://www.cylaw.org/nomoi/enop/non-ind/2022_1_19/full.html)

<sup>20</sup> <https://aead.gr/nta/apostoli-kai-armodiotites>

<sup>21</sup> <https://aead.gr/>

Furthermore, we have to consider the need to introduce additional legislative safeguards in relation to the supervision of the private sector in order to increase compliance especially on behalf of large companies in relation to the establishment of an anti-corruption culture of both the companies and their employees.

Many legal entities, mainly public limited companies are aware of what fraud and corruption are and they adopt and implement, anti-fraud and anti-corruption policies, codes of ethics and compliance, including efficient and effective measures. Such measures may be, transparency procedures, integrity regulations, declarations of conflicts of interest policy, whistleblowing policies, anti-bribery policies and other similar procedures.

## **7. Conclusions**

### **7.1. EU legislation environment**

The EU legislative framework is deemed to be satisfactory. Our objective was to provide an overview of the EU legislative initiatives and supervisory bodies and we can conclude that they form a satisfactory legal framework against corruption.

### **7.2. The fight against corruption is a global problem**

Thus far, several anti-corruption approaches have been developed, hence several types of legal instruments have emerged, as well as various anti-corruption policies, codes of ethics, whistleblowing policies, anti-fraud policies and other relevant rules and standards. Further discussion is required at global level (e.g. EU, UN, USA etc.). Each and every separate anti-corruption approach is significant, but we need to bring together all tools and weapons of the anti-corruption arsenal in order to eradicate this global problem.

### **7.3. International cooperation and exchanges of information**

Cooperation among EU member states needs to be improved and upgraded. A special registry for cases of corruption needs to be created. Upon the creation of the said registry, information sharing needs to be authorized among the EU Member States, provided that the data protection legislation is respected.

### **7.4. More severe sanctions**

More severe sanctions need to be introduced and imposed, in order to deter those who violate or are enticed to violate anti-corruption legislation.

### **7.5. Increased budget**

International organizations, such as the EU and UN, their member states and other stakeholders, need to increase their budget and dedicate more funds in the fight against corruption, by developing new tools and techniques for preventing and detecting instances of corruption. Jointly funded projects and joint actions constitute the appropriate direction in the fight against corruption.

### **7.6. Corrupted regimes should be recognized as a separate corruption type**

The political regime in some countries is based on corruption and the impunity of corrupted groups. Such regimes resort to the help of associates, technocrats and experts to help them survive politically. The leaders of such regimes employ corruption as a policy to defraud international community and to gain support for the implementation of their shady political expectations against other countries. This is a particularly grim type of corruption, which needs to be recognized as a separate type of corruption and be dealt with as such.

### **7.7. Independent national anti-corruption authorities**

National anti-corruption authorities need to be absolutely independent. It is dubious whether independence is ensured in countries having more than one body of this type. Anti-corruption authorities need to be independent, centralized and unique in each country.

Another issue of great relevance is the quality of the work that a national anti-corruption authority performs. The hiring procedures of an anti-corruption authority need to ensure the recruitment of high-level scientific and specialized staff.

National anti-corruption bodies must be granted the appropriate legislative authority, which should ensure their independence and their unhindered access to information, documents and evidence in both the public and the private sectors, in order for such authorities to be able to perform their mission.

### **7.8. Transparency**

EU should adopt stricter mandatory rules with regard to transparency in the public sector. All public administrative procedures should be transparent and it is very important for the citizens to know that transparency constitutes a legally protected interest.

## 7.9. Culture

This factor is very important. People's culture with regard to corruption needs to change. It is of great significance to educate people on what constitutes corruption and by which way citizens can contribute to the fight against corruption. People have to abandon fear and have the courage to cooperate with the authorities against corruption.

Citizens are perhaps the category of victims that is subject the most to the negative effects of corruption, therefore they have a legitimate interest to fight corruption effectively.

In this direction EU legislation should pay more attention to the human factor and mobilize it in the fight against corruption. To achieve this, the EU should:

- Enhance training regarding corruption, the types of corruption, who commits an act of corruption and other relevant topics.
- Identify and communicate clearly to citizens that their interest corresponds with the elimination of corruption, so they have to be a part of the fight against corruption.
- Citizens should change their culture, not participate in corrupted schemes, refrain from bribing in order to gain an unfair advantage or benefit over others.
- Citizens must abandon fear, in communicating a corruption scheme coming to their attention, having in mind that they will be protected for sure.
- Stricter EU legislation should protect whistleblowers who communicate to the proper authority any information about any corruption scheme.
- New stricter EU legislation is necessary to prevent actions that stigmatize and target whistleblowers who report corruption incidents to the competent authorities.

**TABLE 1: Anti-corruption provisions in the Cypriot criminal law**

s/n	Cap.154 Article number	Title	Penalties
1	100	Tithing of a Public Official.	Imprisonment up to seven years or a fine penalty up to €100.000 or both
2	102	Giving a gift as a show of favor from a public official.	Misdemeanor, Imprisonment for 2 years and a fine penalty
3	105	Abuse of power.	Imprisonment for 7 years
4	133	Fraud and breach of trust by a public official.	Guilty of Misdemeanor
5	267	Theft by public officials.	14 years Imprisonment
6	268	Stealing from secretaries and servants.	14 years Imprisonment
7	269	Theft by directors or officers of companies.	14 years Imprisonment
8	270	Theft from dealers.	14 years Imprisonment
9	300	Fraud.	Felony, Imprisonment for 5 years
The Public Service Law 1990 (1/1990)			
1	69	Gifts and bribes.	
2	69A	Obligation to report Corruption or Bribery acts to the relevant competent Authority.	

**TABLE 2: Anti-corruption provisions in the Greek criminal law**

s/n	Article number	Title	Penalties
1	158	Election voting Fraud	<ul style="list-style-type: none"> <li>• Imprisonment for up to 2 years or a fine. *</li> <li>• Imprisonment for up to 1 year or a fine.*</li> </ul>
2	159	Bribery of politicians	Imprisonment and a fine of up to 1000 daily units.
3	159A	Bribery of politicians	Imprisonment up to 10 years and a fine up to 1000 daily units.
4	169A	Undue influence of judicial officers	Imprisonment of at least 1 year and a fine.
5	235	Bribery of an employee	<ul style="list-style-type: none"> <li>• Imprisonment of at least 3 years and a fine. *</li> <li>• Imprisonment of up to 10 years and a fine. *</li> <li>• Imprisonment and a fine up to 1000 daily units. *</li> <li>• Imprisonment up to 10 years and a fine. *</li> <li>• Imprisonment of 3 years and a fine. *</li> </ul>
6	236	Bribery of an official	<ul style="list-style-type: none"> <li>• Imprisonment of up to 8 years and a fine.</li> <li>• Imprisonment of 2 years and a fine. *</li> </ul>
7	237	Bribery of judicial officials	<ul style="list-style-type: none"> <li>• Imprisonment and a fine of up to 1000 daily units. *</li> <li>• Imprisonment of up to 10 years and a fine of up to 1000 daily units. *</li> </ul>
8	239	Abuse of power	<ul style="list-style-type: none"> <li>• Imprisonment of at least 2 years and a fine. *</li> <li>• Imprisonment of up to 10 years and a fine. *</li> </ul>
9	259	Breach of duty	Imprisonment up to 2 years or a fine.
10	386	Fraud	<ul style="list-style-type: none"> <li>• Imprisonment for at least 3 months and a monetary penalty. *</li> <li>• If the damage caused exceeds €120.000 Imprisonment for up to 10 years and a fine.*</li> </ul>

\* Some of the aforementioned criminal law provisions have more than one sanctions, due to variety of forms that the criminal offence can take.