



**TRANSPARENCY
INTERNATIONAL**
the global coalition against corruption

EU OFFICE



EU PRESIDENCY ANTI-CORRUPTION SCORECARD

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

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

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

Publisher: Transparency International EU Office and Transparency International Lithuania

Published: March 2014

Design: Simon Fieremans, Brussels

Every effort has been made to verify the accuracy of the information contained in this report. Nevertheless, Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts. All the information was believed to be correct as of February 2014.

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



This project is co-funded by the European Union

FOREWORD

EU legislation has a growing influence on all our lives, from the safety of the food we eat to the stability of the financial system. More and more of that legislation is also important to the anti-corruption movement, with the EU driving improvements to the transparency of public contracting procedures, for example.

Just how that legislation is shaped and agreed is a matter of some complexity and obscurity, however, even for seasoned EU-watchers. This is mainly because of the role of the Council of the European Union, a unique legislative body composed of representatives of the 28 member states. In theory, this body has equal status with the European Parliament in agreeing legislation, but in practice it often has the final word on legislation, acting like an upper chamber in other political systems. The position the Council agrees is more often than not decisive in shaping legislation.

For this reason, the transparency of EU decision-making depends to great extent on the transparency of the Council. Unfortunately, it has a poor track-record in this regard compared to other EU institutions. Although there have been improvements in recent years, information about negotiations between member states is still the exception rather than the rule, a relic of an older inter-governmental mind-set. Although information on discussions is often available to Brussels 'insiders', the broader public is

often unaware of the contribution of their representatives to EU legislation

As the EU is becoming a more important anti-corruption actor (witness the recent EU anti-corruption report) it will be important to remedy this transparency deficit. This scoreboard is an attempt to shed some light on this process, with a focus on key transparency anti-corruption reforms that were discussed under the Lithuanian Presidency of the Council. Each Presidency has an important agenda-setting role over a six-month period and the transparency and accountability of the Presidency is also an important indicator of the transparency and accountability of the wider process. It also provides an opportunity to assess how individual national governments approach what is still a prestigious international role, with the possibility of setting new standards and consolidating governance reforms. Over the next two years, we will also publish scorecards for the Greek, Italian and Latvian presidencies, with the aim of encouraging best practice in the conduct of the EU Presidency.

The Agenda of the Lithuanian Presidency was clearly dominated by the commitment to advance the Economic and Monetary Union and to put Europe back on a path to growth and job creation. The priorities that Lithuania set for its Presidency reflected this imperative.

While this Presidency was successful in pushing for compromise in a number of economic and financial related matters, our assessment of progress on key anti-corruption dossiers presents a mixed picture, as the Council failed to make progress on several important anti-corruption dossiers in the second half of 2013.

The hesitancy of the Lithuanian Presidency to place anti-corruption issues more centrally on the agenda and the lack of political will by member states in the Council contributes to this state of affairs. Above all, this assessment illustrates that much remains to be done if member states are serious about tackling corruption as part of the Council of the European Union.

Carl Dolan

Director
Transparency
International EU Office



Sergejus Muravjovas

Executive Director
Transparency
International Lithuania



WHAT IS THE SCORECARD?

This Scorecard evaluates the transparency and accountability of the Presidency of the Council of the EU and the anti-corruption track-record of Member States acting as part of the Council of the European Union (“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 two 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 Lithuania and on-going monitoring of developments in the EU Council. This assessment will be carried out biannually for the subsequent Presidencies (Greece, Italy and Latvia) and used as a tool to evaluate member states’ track records and commitment to the anti-corruption agenda at national and EU level.

WHY PUBLISH A SCORECARD?

The ability to hold governments to account for the commitments they make at EU level is a crucial aspect of the fight against corruption. The EU

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

KEY FINDINGS

- 1 Although Lithuania made efforts to ensure that its activities are publicly known, there is still much more room for transparency and accountability
- 2 Lithuania set a good example with regard to the amount of information available about the events of the Presidency in open data format
- 3 The format of data that Lithuania provided about its events shows that the public sector is capable of providing information in a user-friendly way even without legal regulations in place

- 4 Unfortunately, the same standards were not applied when it came to financial accountability: while Lithuania disclosed the overall expenses of its Presidency, there is a lack of information about public procurements, tendering processes, and concrete goods and services purchased
- 5 The Presidency prioritised three key anti-corruption issues: financing of European-level political parties, the establishment of the European Public Prosecutor's Office and the Association and Trade Agreements with the Eastern Partnership countries
- 6 Substantial progress was made on the proposal for the establishment of the European Public Prosecutor's Office despite concerns by several Member States
- 7 Three other crucial anti-corruption files were not high on the list of priorities: The Public Procurement reform package (which aims to modernise and increase transparency in public procurement), Non-Financial Reporting Directive (which contained provisions that required companies to report on their anti-bribery and anti-corruption programmes) and the Anti-Money Laundering Directive (which has the potential to enable scrutiny by civil society)
- 8 The Non-Financial Reporting Directive lacks teeth and leaves a number of reporting loopholes and exemptions that can be exploited. In addition, crucial provisions which would require companies to report on key financial information such as taxes paid in each country where they operate (country-by-country reporting obligations) were dropped from the Council mandate for trialogue negotiations. The latter provisions had been recommended by the European Council in May 2013 following a summit on the internal energy market and tackling tax fraud and tax evasion.
- 9 The overall lack of progress in key anti-corruption areas can be attributed to a diverse number of factors: opposition from Member states (*Non-Financial Reporting Directive, 4th Anti-Money Laundering Directive*), complex legal aspects of the EC proposal (*Political Party Financing*), the advanced stage of the legislative process (*Public Procurement*), and in one instance the refusal of Ukraine to sign agreements that it had been negotiating with the EU (*Association and Trade agreements at the Eastern Partnership Summit*)

METHODOLOGY




Pillar I evaluates access to information and budget transparency. Each aspect is assessed in two steps: One Yes/No question and one corresponding nominal question. **Pillar II** evaluates whether stakeholders were able to contribute to the discussions 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 key anti-corruption issues. The selection of the key anti-corruption issues that are assessed is based on a specific set of indicators: The selected issues fall within the areas where the EU has the legal competence to act and they are at a relevant stage in the legislative cycle. The issues relate to the movement's broader advocacy goals as elaborated in the TI 2015 strategy and cover the sectors that have been identified as the weakest and most problematic in the fight against corruption.

Each issue was assessed by two aspects: Did the Presidency prioritise the issue and how much

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

-  Red – The issue was not a priority for the Presidency / there was no progress in the Council and/or TI's recommendations were not taken on board.
-  Yellow – The issue was a medium priority for the Presidency /there has only been some progress in the Council and/or many of TI's recommendations were not included in the directive
-  Green – The issue was a high priority for the Presidency / The Council has made substantial progress on the issue and/or TI's main recommendations were included in the adopted text

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

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

PILLAR I – PREPARATION OF THE PRESIDENCY

1.1 Access to information / Justification of Presidency Agenda

1.1.1 Is information about the goals of the 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:

- Preliminary goals and the main sectors were publicly accessible on the website of the Lithuanian Parliament in 2011
- Upon final confirmation the programme of the Presidency was available on the official Presidency website. The Website featured the agenda, the calendar of events, relevant publications, interviews and articles and is available in four languages



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:

- With the exception of *Financing of European Political Parties* all the key transparency issues were aligned with either National or EU agendas
- No specific goals related to the financing of European Political Parties were identified in any of the official documents/ programmes



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:

- The total Presidency budget and the cost distribution over the years were publicly available since 2011 (the Presidency budget was part of the Inter-Institutional Action Plan for 2012-2014)
- The final budget was available online after the government introduced changes in the Inter-Institutional Action Plan and confirmed the budget for the Presidency in 2012
- The budget was published on the official website of the Presidency before the start of the Presidency

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:

- The foreseen bulk sum expenses of the Presidency were available online
- Online information about the ongoing public procurements was provided in the official website
- It was not possible to obtain financial details in open data format

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:

- Information about all events was provided on the official website in open data format (html, pdf, xml)
- In a majority of cases all necessary information about the events was public

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:

- Logistical details were provided about the majority of events, which means that it was technically possible for interested parties to provide written contributions
- No information was provided about whether interested parties could actually access the events or whether there was any follow-up

2.2 Management of expenses of the EU Presidency

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



Why does this matter?

By disclosing the actual budget, the Presidency ensures that it is transparent and accountable for the way that allocated money was spent.

Results:

- The overall expenses of the Presidency, sources of funding and cost distribution in certain sectors were available online (including separate documents for each quarter)
- Financial and narrative reports for each quarter of 2013 were available online in analyst-friendly format
- Reports of the Parliamentary Committee on European Affairs and additional financial documents were available online

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:

- Information about the expenses was provided either in bulk sums or specifically for certain groups of goods and services
- All goods and services were obtained via public procurements
- Reports of concluded public procurements were provided in the central public procurement database but did not contain detailed information about procurement relating to the Presidency
- There is no way to learn about public procurements conducted during the Presidency in one place. Information is not provided in open data formats
- The National Audit Office of Lithuania prepared a state audit report "Preparations for the EU Presidency" which evaluated the process, outlined recommendations and is available online

PILLAR III – KEY ANTI-CORRUPTION FILES

Key issue: Why is this important?

**Political Party
Finance**

The current regulation of political party finance at European level has a number of loopholes and grey areas which risk undermining the integrity and accountability of the system, especially in view of the upcoming European elections

What is the key recommendation?

Monitoring and sanctions should be clearly assigned to an independent oversight body and European party finance information should be made available in a citizen-friendly, searchable database

What priority was given to Political Party Finance?



- The Lithuanian Vice Minister of Foreign Affairs stated the intention to adopt the *Proposal on the statute and funding of European political parties and European political foundations* in his initial address to the Constitutional Affairs Committee at the European Parliament on July 15, 2013
- The Minister announced this was a priority for Lithuania and that all institutions had to reflect hard on how to unblock the outstanding issues

What progress did the Council make?



- The Council working party on general affairs met several times to discuss the proposal with more frequent meetings during October and November
 - Due to the complex legal aspects of the proposal the Council did not adopt a full position by the end of the Presidency term
 - On December 17, 2013 the Presidency succeeded in reaching a preliminary agreement on which institutions would be responsible for party financing and established an independent authority that will be in charge of the registration of political parties
 - The Council agreed that the rules that govern political party funding will be streamlined and adapted to their specific situation and needs
 - As part of this compromise the overall amounts made available under the EU budget will stay the same
-

Key Issue:
Public
Procurement

Why is this important?

Despite the rules currently set at the EU level, corruption scandals and irregularities tied to public procurement are still quite common in member states. This was also emphasised in the recent EU anti-corruption report

What is the key recommendation?

The Public procurement reform should result in stronger monitoring systems, include whistleblower protection provisions, supply clear definitions of conflicts of interest and ensure that documentation is publicly available

What priority was given to Public Procurement?



- The adoption of the public procurement reform package featured in the presidency programme, but due to its advanced stage in the legislative process this was not declared a priority
- The Presidency prioritised an unrelated *directive on e-invoicing in public procurement* which had been proposed by the Commission in June 2013
- The Presidency held that the e-invoicing directive has the potential to increase transparency and competition in public procurement

What progress did the Council make?



- After long negotiations the Council and the European Parliament reached a provisional political agreement In June 2013
- The Committee of Permanent Representatives (COREPER I), i.e. national ambassadors to the EU, endorsed this agreement in July 2013
- Following endorsement by COREPER no further action was possible for the Council, due to delays in the translation of the agreed text > The Lithuanian Presidency had no room for manoeuvre to push for additional changes
- The adopted reform package includes definitions of conflicts of interest but lacks crucial provisions for whistleblower protection
- On December 2, 2013 the Council agreed on a general approach on the *Directive on e-invoicing in public procurement*

Key Issue: Why is this important?

Establishment of the European Public Prosecutor's Office Despite the loss of billions of Euros every year 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.)

What level of priority was given to the EPPO?



- This was one of the priority issues in the field of criminal law
- The Lithuanian Minister of Justice stated that while new ways to fight crimes that affect the EU's financial interest are absolutely necessary, sufficient time needs to be devoted for discussion amongst Member States
- To ensure that negotiations are accompanied by in-depth analysis the Presidency organised a high level conference in Vilnius to bring together various stakeholders for an exchange of ideas

What progress did the Council make?



- Upon publication of the proposal in July 2013 the Presidency immediately invited member states to provide an assessment via questionnaire
 - Discussions in the coordinating committee (CATS) soon revealed concerns by some delegations as to structure and competence of the EPPO
 - The proposal was presented at the Justice and Home Affairs (JHA) Council in October 2013
 - an "article-by-article" examination of the proposal took place during meetings of the Council's working party on Cooperation on criminal matters (COPEN)
 - The Presidency steered negotiations by contributing a discussion paper which focused on the contentious issues
 - national parliaments raised subsidiarity concerns with the proposal which triggered an automatic review by the Commission (yellow card procedure)
 - The Commission dismissed the concerns raised by the member states
 - In its recommendations to the next Presidency Lithuania stressed that the setting up of the EPPO should be pursued further
-

Key Issue:
**Association
and Trade
Agreements**

Why is this important?

The European Neighbourhood Policy (ENP) agreements have not included concrete anti-corruption objectives and civil society participation, which undermines local ownership of anti-corruption efforts and limits the ability for citizens to hold their governments accountable

What is the key recommendation?

The negotiations around Association Agreements should be made more transparent and include concrete anti-corruption objectives in ENP Agreements

What level of priority was given to the Eastern Partnership?



- This was a core priority for the Lithuanian Presidency under its stated objective to create an "open Europe, promoting democratic values and contributing to safe neighbourhood"
- Lithuanian President Dalia Grybauskaitė promoted the Third Eastern Partnership Summit, which took place in Vilnius in November 2013, as the "summit of opportunity for both the EU and its neighbours" during her opening address to the European Parliament
- The Lithuanian Presidency devoted considerable attention and resources to the Eastern Partnership and organised a number of assemblies, seminars, youth forums, civil society forums and conferences in Vilnius, Luxembourg and Moldova around the Third Eastern Partnership Summit

What progress did the Council make?



- The aim of the Eastern Partnership Summit was to initial and sign political association agreements with Armenia, Georgia, Moldova and Ukraine
- While Georgia and Moldova initialled political association agreements at the Summit the EU failed to initial an agreement with Armenia and also failed to sign the agreement with the Ukraine
- The Presidency organised a joint ministerial Justice and Home Affairs meeting, which will be held on a regular basis to monitor reforms and provide political guidance
- The joint declaration of the Summit included a commitment to strengthen multilateral cooperation in the fight against corruption and positions anti-corruption and good governance in Eastern Partnership countries as an important priority for the EU agenda
- The Council conclusions provide backing for further anti-corruption reforms and state clearly that there is a real need to take action in this field

Key Issue:

**Anti-Money
Laundering**

Why is this important?

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

What is the key recommendation?

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

What level of priority was given to the 4th Anti Money- Laundering Directive (AMLD)?



- Despite previous European Council conclusions which stipulated that the 4th AML Directive should be adopted by the end of 2013 this file was a low priority for the Presidency
- AML was on the indicative agenda of the Economic and Financial Affairs (ECOFIN) Council of October 15 but was eventually dropped from the final agenda
- AMLD was also not included on the ECOFIN Council agenda of November 15 but was eventually added at the request of France, Italy and Germany
- The Presidency did not organise any high-level events to push discussions

What progress did the Council make?



- The compromise text drawn up by the Presidency on August 30 did not include public registers of beneficial ownership
 - On November 4, 2013 the Presidency informed the Committee of Permanent Representatives that, despite having met eight times, the working party on Financial Services was not able to overcome the outstanding issues
 - Following submission of a French issues paper to the Council this was added to the Economic and Financial Affairs (ECOFIN) Council agenda on November 15, 2013
 - The November ECOFIN Council took stock of the work in progress but in a context of strongly divergent views amongst Member States was not able to agree on a general approach
 - The creation of public registers of beneficial ownership remains the main outstanding issue
-

Key Issue:
Corporate Reporting

Why is this important?

Citizens must also have adequate information in order to assess the activities of companies operating in their territory, including financial information. In the absence of country-by-country reporting, the local public is unaware of how much profit such operations generate and what, if any, special arrangements their governments may have entered into with multinational companies

What is the key recommendation?

The Directive should require that all large companies based in the EU should (i) disclose information on their anti-bribery and anti-corruption programmes and (ii) disclose details of revenues, sales, profits, taxes paid, political party contributions and other community contributions for every country in which they operate around the world

What level of priority was given to Corporate Reporting?



- Despite previous European Council conclusions which called for rapid progress on this proposal this file was a low priority for the Lithuanian Presidency
 - While this proposal was included in the Presidency agenda the Lithuanian authorities displayed no great enthusiasm for this file
 - The presidency programme merely stated that Lithuania would “launch discussions within the Council”
 - The intention to start discussions in the Council working groups was reiterated by the Lithuanian Minister of Economy in his address to the Internal Market and Consumer Protection Committee at the European Parliament on July 9, 2013
 - Subsequent backing at ministerial level did not materialise and the Presidency scheduled no high-level events to advance this proposal
-

Key Issue:
Corporate Reporting
(continued)

- The working party on company law examined this proposal five times
- The Presidency's first compromise text reflected the desire by a group of member states to weaken the proposal
- On December 13, 2013 Member states met in the Council to finalise their position

What progress did the Council make?

- The critical review clause which stipulated country-by-country reporting was not included in the Council mandate for the triologue negotiations
- The watered down proposal severely reduces the scope of companies that have to report, it lacks robust reporting provisions and crucially makes no reference to country-by country reporting
- The speed with which this dossier advanced came at the expense of substance



ANNEX – DETAILED INFORMATION

PILLAR I - Evaluation of the process of preparation for the presidency			
#	Question	Description of measurement method and principles to be applied	Type of question
1.1 Access to information / Justification of EU presidency agenda			
1.1.1	Is information about the goals of the presidency publicly and easily accessible?	<p>The programme of EU presidency in Lithuania was confirmed 4 days before the start of the presidency.¹ However preliminary goals/ main sectors were confirmed already in 2011 and were accessible in Parliament's website.²</p> <p>The official website of the Lithuanian Presidency was launched on 21 June 2013. It features the Presidency's agenda, the calendar of the events, relevant publications, interviews and articles. It provided the preliminary goals/ main sectors before the start of the presidency. The information on the website is available in four languages.³</p>	GREEN
1.1.2	How well are the goals of the EU presidency process justified?	<p>To measure the justification of six topics, researchers analyzed three documents to see if priorities and goals of the Presidency were aligned with them. These three documents are as follows: <i>Provisional Council agenda of Lithuanian presidency, the Government agenda</i> and the main <i>National EU Presidency agenda</i>.</p> <p>All the topics were justified well except Financing of European Political Parties. No specific goals related to the financing of European Political Parties were identified in any of the official documents/ programmes.</p>	GREEN
1.2 Budget and expense specifications			
1.2.1	Is information about the budget of the presidency fully, publicly and easily available?	<p>The Government of Lithuania has confirmed the tentative budget for Lithuanian Presidency in 2012 and it was accessible online.⁴</p> <p>Before the start of the Presidency its budget was published on the official website.⁵</p>	GREEN

1 http://static.eu2013.lt/uploads/documents/TVP_atask_2ketvirtis/2013_IL_ketv_TVP_ataskaita_2013_09_11.pdf.

2 http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=410980&p_query=&p_tr2=2

3 http://www.prezidente.lt/en/presidency/press_releases_960/the_president_answered_questions_from_lithuanian_citizens_about_eu_presidency.html?backlink=%252Fen%252Fsearch%252Fresults%252Ffp0.html

4 <http://old.eu2013.lt/en/lietuvos-pirmininkavimas-es-tarybai/lietuvos-pirmininkavimo-es-tarybai-prioritetai>

5 http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=461496

5 English version: <http://old.eu2013.lt/en/biudzetas/pirmininkavimo-es-tarybai-biudzetas>

1.2.2	How transparent is the EU presidency budget?	The Inter-Institutional Action Plan for 2012-2014 was approved in July 2011. One may find the total budget of the presidency and its distribution over the last 3 years. There are budgets for certain periods and expenditure divided into lines. ⁶ Before the start of the Presidency information about the ongoing public procurements was published in the official website of the Presidency. ⁷ However, it was not possible to download data in open formats.	YELLOW
-------	--	---	--------

PILLAR II - Evaluation of EU presidency openness and inclusiveness

#	Question	Description of measurement method and principles to be applied	Type of question
2.1	Inclusiveness of stakeholders		
2.1.1	Was it possible for stakeholders to contribute to the discussion?	All events of Lithuanian Presidency could be found online in the official website. ⁸ In most cases visitors could find the title of the event, the date, the program, information for the media, location (maps), contact person and his/her email and telephone number. Information may be downloaded as HTML, PDF or XML format data. ⁹	GREEN
2.1.2	How inclusive was the EU presidency process?	In the agenda one may find all the political and cultural events held during the Presidency. Logistical details (maps, locations, responsible persons for contacting with interested parties, their contact details, programs, information for the journalists) were provided in majority of cases so it was possible for interested parties to provide a written contribution. However no information about the openness of the events was found (interested parties could have access to the events). And for this reason the highest score was not given. ¹⁰	YELLOW
2.3	Management of costs/ expenses of EU presidency		
2.3.1	Is information about actual expenses and distribution of costs related to the presidency disclosed?	The budgets can be found online, separate documents for each quarter. Financial and narrative reports of the first 3 months of 2013 can be online. ¹¹ Reports for the Parliamentary Committee on European Affairs and other financial documents are available online as well. ¹²	GREEN

6 English version: <http://old.eu2013.lt/en/biudzetas/pirmininkavimo-es-tarybai-biudzetas>

7 <http://old.eu2013.lt/pirkimai/lietuvos-pirmininkavimo-europos-sajungos-tarybai-sustikimams-skirtu-baldu-pirkimas> this information was not available after the public procurements were conducted because the website does not feature archive function. However data might be found using search mechanisms in the Internet.

8 http://www.eu2013.lt/en/events/search?filter_category=50&date_from=2013-07-01&date_till=2013-12-31&keyword=&email=&submit_events_widget_search=Search

9 http://www.eu2013.lt/en/events/search?filter_category=50&date_from=2013-07-01&date_till=2013-12-31&keyword=&email=&submit_events_widget_search=Search

10 http://www.eu2013.lt/en/events/search?filter_category=50&date_from=2013-07-01&date_till=2013-12-31&keyword=&email=&submit_events_widget_search=Search

11 http://static.eu2013.lt/uploads/documents/TVP_ataskaitos/2013_I_ketv_TVP_ataskaita_2013_05_07.pdf ; http://static.eu2013.lt/uploads/documents/TVP_ataskaitos/1_priedas_ketv.pdf

12 <http://www.eu2013.lt/lt/Pirmininkavimo-biudzetas>

2.3.2 How transparent and how well disclosed are the expenses of EU presidency? In 2013 the Ministry of Foreign Affairs prepared quarterly reports based on the information it received from the institutions that were responsible for the preparation process for the Presidency. The Committee on European Affairs and the Audit Committee of the Parliament received quarterly reports on how the funds were spent in 2013. The Implementation Report for the first quarter of 2013 is available in Lithuanian.¹³ Other financial reports for the Parliamentary Committee on European Affairs and financial documents are available online as well.¹⁴ YELLOW

The National Audit Office of Lithuania prepared a State Audit Report “Preparations for the EU Presidency” which evaluated the preparation process and outlined recommendations.¹⁵

However, information about the expenses was not detailed enough to get aware about the precise goods and services purchased^{16,17}. Information about public procurements was provided in central public procurement portal together with all other procurements in Lithuania.¹⁸ It was not possible to download data in open data format.

13 http://old.eu2013.lt/uploads/files/2013_l_ketv_TVP_ataskaita_2013_05_07.pdf

14 <http://www.eu2013.lt/lt/Pirmininkavimo-biudzetas>

15 http://www.vkontrole.lt/audito_ataskaitos.aspx?tipas=2

16 http://static.eu2013.lt/uploads/documents/TVP_ataskaitos/5_priedas_2013_III_ketv_TVP_islaidos_lenteleje.pdf

17 http://static.eu2013.lt/uploads/documents/TVP_ataskaitos/4_priedas_Islaidos_pagal_islaidu_kategorija.pdf

18 http://www.cvpp.lt/?option=com_vpt&Itemid=63&task=search&theme=new&vpt_united=%C4%AEveskite+paie%C5%A1kos+kriterij%C5%B3...&vpt_company=u%C5%BEsienio+reikal%C5%B3+ministerija&vpt_noticetype=0&vpt_jarcode=&vpt_proceduretype=0&vpt_object=&vpt_reporttype=0&vpt_cpvcode=&filter_from=&vpt_participant=&filter_to=&vpt_winner=&vpt_tendertype=&vpt_tenderid=&vpt_social=&vpt_place=&button=&vpt_bussect=

PILLAR III - INTRODUCTION

This Pillar focuses on a specific set of key anti-corruption files and assesses how they advanced in the Council of the EU during the Lithuanian Presidency. The selection of the key anti-corruption issues that are assessed in this Pillar is based on a specific set of indicators: The selected issues fall within the areas where the EU has the legal competence to act and they are at a relevant stage in the legislative cycle. The issues relate to the movement's broader advocacy goals as elaborated in the TI 2015 strategy and cover the sectors that have been identified as the weakest and most problematic in the fight against corruption

These topics are only a small part of the overall Presidency agenda, which featured a wider set of priorities. Under the theme "for a credible, open and growing Europe" the Lithuanian Presidency was dominated by the commitment to advance the Economic and Monetary Union and to put Europe back on a path to growth and job creation.

The priorities that Lithuania set for its Presidency, such as better economic governance, sustainable finances and the Multiannual Financial Framework, heavily reflected this imperative. Aside from the Eastern Partnership, which was the Presidency's flagship initiative, Lithuania managed to advance a host of sensitive dossiers that had not matured during the first six months of 2013. The substantial progress that the Council

made on several economic and financial issues such as the single supervisory mechanism, the Bank Recovery and Resolution Directive and the adoption of the Multiannual Financial Framework, was in large parts due to the persistence of Lithuanian efforts to overcome divisions among member states and push for compromise.

Lithuanian efforts also have to be assessed against the number of dossiers which were inherited from the previous Presidency, the urgency to pass legislation before the European Parliament's shortened term due to the upcoming European elections, the capacity constraints of Lithuanian administration and the lack of previous experience in running a Presidency of the Council of the EU.

PILLAR III - KEY ANTI-CORRUPTION FILES

Political Party Finance

Why does it matter?

The current regulation of political party finance at European level has a number of loopholes and grey areas which risk undermining the integrity and accountability of the system, especially in view of the upcoming European elections

What is the key recommendation?

Monitoring and sanctions should be clearly assigned to an independent oversight body and European party finance information should be made available in a citizen-friendly, searchable database

3.1.1 – What level of priority was given to political party finance by the Lithuanian Presidency?

This file was a high priority from the very start of the Lithuanian Presidency: In his initial address to the Constitutional Affairs Committee at the European Parliament the Lithuanian Vice-Minister of Foreign Affairs, Vytautas Leskevicius, announced on July 15 that this complex file was a priority for the Lithuanian Presidency. He went on to say that as the Cypriot and Irish Presidency had not been able to reach compromise in triologue discussions it was necessary for Commission, Parliament and the Council to reflect hard on unblocking the outstanding issues, such as independence of the registration authority. The issue of how a decision to de-list a European political party because of breaches of EU values should also be taken.¹⁹ The European Commission published its *proposal on the statute and funding of European political parties* in September 2012.²⁰ In April 2013 the European Parliament's Committee on Constitutional Affairs tabled the amended proposal for plenary.²¹

GREEN

3.1.2 – What progress was achieved in the Council?

The Council working party on general affairs met several times to discuss the details of the proposal,

19 See <http://www.eu2013.lt/en/news/statements/speech-by-vytautas-leskevicius-vice-minister-of-foreign-affairs-at-the-european-parliament-constitutional-affairs-committee>

20 See the proposal here: [http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/corn/2012/0499/COM_COM\(2012\)0499_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/corn/2012/0499/COM_COM(2012)0499_EN.pdf)

21 See <http://www.europarl.europa.eu/sides/getDoc.do?type=REP ORT&mode=XML&reference=A7-2013-140&language=EN>

with more frequent meetings during October and November.²² On December 17, the Presidency succeeded in reaching a preliminary agreement on the institutional architecture of the proposal.²³ The compromise sets out that an independent authority bearing its own legal status will be responsible for the registration and de-registration of political foundations and parties. This was one of TI's main recommendations.²⁴ The independent authority will follow the recommendations of the Committee of Independent and Eminent persons. The presidency also achieved a compromise on funding of political parties from the EU budget and on its principles and rules. This preliminary agreement means that the current Greek Presidency has to focus on the remaining issue of conflicts with national law where the Council still has no agreed position. The complex legal aspects of the file, resulting from the original proposal from the Commission, made an agreement between member states difficult.²⁵ The lack of agreement on a full position of the Council on this dossier during the Lithuanian Presidency leaves very little time for the Greek Presidency to negotiate a compromise that can be adopted before the end of the current term of the European Parliament.²⁶

YELLOW

22 See Council docs CM 3792/13, CM 4061/13, CM 4517/13, CM 4774/13, CM 4952/13, CM 5095/13, CM 5218/13, CM 5444/13;

23 See <http://www.eu2013.lt/en/news/pressreleases/lithuanian-presidency-achieves-major-breakthrough-in-negotiations-on-regulation-of-european-political-parties>

24 2012 Transparency International Position Paper on Statute and Financing of European Political Parties: <http://transparencyinternational.eu/wp-content/uploads/2012/11/TI-EU-Position-Paper-Europarty-Financing.pdf>

25 as pointed out during a meeting between TI and the Greek Ambassador and Perm Rep Officials on October 28, 2013

26 See EU elections briefing: http://www.linklaters.com/pdfs/mkt/brussels/EU_transition_elections_2014.pdf

Public Procurement

Why does it matter?

Despite the rules currently set at the EU level, corruption scandals and irregularities tied to public procurement are still quite common in member states. This was also emphasised in the recent EU anti-corruption report.

What is the key recommendation?

The Public procurement reform should result in stronger monitoring systems, include whistleblower protection provisions, supply clear definitions of conflicts of interest and ensure that documentation is publicly available

3.3.1 – What level of priority was given to public procurement by the Lithuanian Presidency?

The European Commission published the *proposal package for the modernisation of public procurement policy* in December 2011, which included three draft directives (the Classical Directive on General Public Procurement, the Directive on Procurement In the utilities sector and the Directive on Services Concessions).²⁷ In June 2013 the Irish Presidency and the European Parliament representatives reached provisional political agreement on the dossier after long and detailed negotiations.²⁸ The adoption of the public procurement package featured in the presidency programme but due to its advanced stage it was not declared a priority. With the three main directives having already been agreed, the Committee of Permanent Representatives

(COREPER I) - i.e. national ambassadors to the EU - unsurprisingly endorsed this agreement in July 2013 under the Lithuanian Presidency.²⁹ The Presidency did however prioritise a directive on e-invoicing in public procurement which was proposed by the European Commission in June 2013.³⁰ As outlined by the Lithuanian Vice Minister of Economy Rasa Noreikiene during a presentation at the International Public Effectiveness Conference on October 29, this directive has the potential to increase transparency and competition in public procurement.³¹

YELLOW

3.3.2 – What progress was achieved in the Council?

Following the endorsement of the political agreement on the three core directives in July 2013, no further action was possible for the Council and the Presidency on these dossiers due to delay in the translation of the agreed text before the European Parliament's first reading.³² It should be noted that not many of the recommendations of Transparency International regarding the main public procurement directive had been taken up in the political agreement under the previous presidency, with no room for manoeuvre to push for additional changes for the Lithuanian

27 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0896:FIN:EN:HTML>

28 <http://www.eu2013.ie/news/news-items/20130502publicprocurementpackage/>

29 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/138101.pdf

30 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0449:FIN:EN:PDF>

31 See slides of presentation here: <http://de.slideshare.net/commonsenseLT/51-1100-rasanoreikiene>

32 See compromise package here: <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2011644%202013%20INIT> See final compromise text here: <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2012167%202013%20INIT>

Presidency.³³ While the directive includes a clear definition on conflicts of interest it lacks other crucial transparency and integrity provisions, such as whistle blower protection.³⁴ Nevertheless, and after a debate steered by the Lithuanian Presidency, the Council agreed on a general approach on the additional e-invoicing directive³⁵ on December 2, 2013³⁶.

YELLOW

Establishment of the European Public Prosecutor's Office

Why does it matter?

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

What is the key recommendation?

The 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.)

3.4.1 – What level of priority was given to the EPPO by the Lithuanian Presidency?

The Lithuanian Presidency has given attention to the proposal for a *regulation on the establishment of a*

European Public Prosecutor's Office to contribute to further negotiations. On August 5, the Presidency published a feature on its website with several quotes from Minister of Justice Juozas Bernatoniš, who outlined why this proposal is one of the priority issues in the field of criminal law.³⁷ The Proposal is closely related to the Proposal for Directive on the fight against fraud to the Union's financial interests by means of criminal law.³⁸ Bernatoniš added that while new ways to fight crimes that affect the EU's financial interest are absolutely necessary, sufficient time should be devoted to discussion by Member states. The Lithuanian Presidency further stated that it wants to ensure that negotiations are accompanied by in-depth analysis of the proposal. To this end, on September 16 the Presidency organised a high-level conference in Vilnius³⁹ to bring together various stakeholders for an exchange of ideas.⁴⁰ The focus on the institutional structure of the EPPO, the high level of the speakers at this conference and the depth of the discussions indicate that this proposal was indeed a high priority for the Lithuanian Presidency.

GREEN

33 See final compromise text here: <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2012167%202013%20INIT>

34 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+20140115+TOC+DOC+XML+V0//EN>

35 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/139863.pdf

36 See the Letter from General Secretariat to Council here: <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2016162%202013%20INIT>

37 <http://www.eu2013.lt/en/news/features/juozas-bernatonis-the-main-goal-of-the-european-public-prosecutors-office-protection-of-the-eu-taxpayers-money->

38 [http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/com/2012/0363/COM_COM\(2012\)0363_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/com/2012/0363/COM_COM(2012)0363_EN.pdf)

39 <http://static.eu2013.lt/uploads/documents/Programos/EPPO%20Programa%20A4%20EN.pdf>

40 For a summary of the conference see <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2013863%202013%20INIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fst13863.en13.pdf>

3.4.2 – *What progress was achieved in the Council?*

The European Commission adopted the proposal for the establishment of the European Public Prosecutor's Office in July 2013.⁴¹ Immediately after the summer break, the Presidency fostered an initial debate among delegations on the proposed regulation inviting the delegations on the basis of a questionnaire to provide a preliminary general assessment of the proposal and to hold a first exchange of views.⁴² Discussions in the Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) on 23 September revealed concerns by a number of delegations as to the proposed structure and competence of the EPPO.⁴³

In October, the EC presented its proposal to the national ministers at the Justice and Home Affairs (JHA) Council which instructed its preparatory bodies to continue to work on this proposal.⁴⁴ In general, the majority of ministers welcomed the proposal. They emphasised, however, the need for further clarification and development to ensure that as many EU member states as possible would participate in the EPPO.⁴⁵ Intensive discussion, including an "article-by-article" examination took place in the

subsequent meetings of the Council's Working Party on Cooperation in criminal matters (COPEN) on 1-2 October, 24-25 October and 5-6 November.⁴⁶ The Presidency contributed with a discussion paper which channelled the negotiations on the three main, contentious issues, namely the EPPO's competence, the role of delegated prosecutors and the Office's structure. Lithuania's Presidency also suggested the European Commission provide information on the procedure and future steps following the 'yellow card' of 14 national parliamentary chambers that raised concerns about the EU's competence to establish the new regional, judicial body.⁴⁷ On December 20 the Presidency sent the working party on cooperation in criminal matters a report on the state of play of this proposal, which concluded that there were still unresolved issues relating to structure, competence and division of power between the EPPO and its representatives at national level.⁴⁸

Negotiations in the Council, which the Lithuanian Presidency has continuously fostered, were still on-going when its term came to an end in December 2013. In its recommendations

41 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0534:FIN:EN:PDF>; See also the EC Press Release: http://europa.eu/rapid/press-release_IP-13-709_en.htm
42 See the questionnaire here: <http://register.consilium.europa.eu/pdf/en/13/st13/st13567.en13.pdf>
43 See http://www.parlament.gv.at/PAKT/EU/XXV/EU/00/77/EU_07779/imfname_10428735.pdf
44 http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/138925.pdf
45 See Presidency's follow-up to the first meeting of the working party: <http://register.consilium.europa.eu/doc/srv?i=EN&t=PDF&gc=true&sc=false&f=ST%2014914%202013%20INIT>

46 <http://db.eurocrim.org/db/en/doc/1999.pdf>
47 <http://register.consilium.europa.eu/doc/srv?i=EN&t=PDF&gc=true&sc=false&f=ST%2015386%202013%20INIT> - National parliaments primarily stressed that the European Commission had not adequately considered the option of strengthening the already existing bodies of Eurojust [explain what this is] and the EU's Anti-Fraud Office OLAF, having failed to substantiate the need and added value of a new EPPO. (Total of 19 votes for Yellow card; only 14 are required; see <http://europeanlawblog.eu/?p=2025>) In response the EC decided neither to shelve nor to amend the legislative proposal as the subsidiarity concerns raised by member states did not apply in this case (See communication from the European Commission here: http://ec.europa.eu/commission_2010-2014/sefcovic/documents/2013_11_27_com851_public_prosecutor_en.pdf)
48 <http://register.consilium.europa.eu/doc/srv?i=EN&t=PDF&gc=true&sc=false&f=ST%2018120%202013%20INIT>

to the incoming Greek Presidency, Lithuania stressed that particular attention should be paid to the protection of the EU financial economic interests, also by establishing a European Public Prosecution Office: “The initiatives of setting-up of a European Public Prosecutor and the reform on Eurojust should be further pursued. In future, it is of utmost importance to ensure the high quality, usability and effective implementation of the EU instruments in this area.”⁴⁹

GREEN

Association + Trade Agreements

Why does it matter?

The European Neighbourhood Policy agreements have not included concrete anti-corruption objectives and civil society participation, which undermines local ownership of anti-corruption efforts and limits the ability for citizens to hold their governments accountable.

What is the key recommendation?

The negotiations around Association Agreements should be made more transparent and include concrete anti-corruption objectives in Eastern Neighbourhood Policy Agreements

3.5.1 – What level of priority was given to the A + T Agreements by the Lithuanian Presidency?

The extension of European norms and values to Europe’s Eastern Neighbourhood was one of

49 See the letter from the Lithuanian Presidency to the Greek Presidency on the future development of the Justice and Home Affairs area: <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2017808%202013%20RE%201>

the core objectives of the Lithuanian Presidency under its priority to create an “open Europe, able to tackle global challenges effectively, promoting democratic values, contributing to safe neighbourhood and actively protecting the rights of EU citizens”.⁵⁰ In the framework of the Eastern Partnership, the EU has been negotiating political association agreements with partners in its Eastern Neighbourhood (Armenia, Azerbaijan, Georgia, Moldova and Ukraine) to enhance political and economic integration with the EU.⁵¹ The third Eastern Partnership Summit⁵² in November 2013, organised by the Lithuanian Presidency, was to be an important milestone and the culmination of years of concerted European efforts to bring the Eastern Partnership countries into the EU sphere of influence. The Lithuanian Presidency devoted considerable attention and resources to the Eastern Partnership, organising more than a dozen assemblies, seminars, youth forums, civil society forums, and conferences around this thematic priority in Lithuania as well as additional events in Luxembourg and Moldova. The promotion of the third Eastern Partnership summit as the “summit of opportunity for both the EU and its neighbours” by Lithuanian President Dalia Grybauskaitė in her opening address to the European Parliament is further testimony to

50 http://static.eu2013.lt/uploads/documents/Presidency_programme_EN.pdf

51 The Eastern Partnership, launched in 2009, is a joint initiative between the EU and the Eastern European partner countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) to enable closer economic integration, political association, increased mobility and cooperation for the countries on the eastern fringes of the EU.

52 The Eastern Partnership Summits are an integral part of the Eastern Partnership and to take place scheduled every two years. For more information see here: http://europa.eu/rapid/press-release_MEMO-13-1057_en.htm

the importance that the Lithuanian Presidency attached to the Eastern Partnership.⁵³

GREEN

3.5.2 - *What progress was achieved in the Council?*

The aim of the 3rd Eastern Partnership Summit in Vilnius was to initial and sign political association agreements (including Deep and Comprehensive Free Trade Agreements) with Armenia, Georgia, Moldova and the Ukraine. However, despite major efforts and priority given to the success of the Eastern Partnership summit and negotiations by the Lithuanian Presidency, the EU was unsuccessful in signing an agreement with Ukraine and initialling the agreement with Armenia.⁵⁴ Georgia and Moldova did initial political association agreements with the EU during the summit. The Joint Declaration of the Eastern Partnership Summit included a commitment to strengthen multilateral cooperation in the fight against corruption.⁵⁵

An important and much welcome innovation of the Lithuanian Presidency was the organisation of a joint ministerial Justice and Home Affairs meeting on Eastern Partnership in October.⁵⁶ The meeting, which will in future be held on a regular basis to monitor reforms and provide political guidance, positions anti-corruption and good governance

in Eastern Partnership countries as an important priority for the EU political agenda. As a result of this meeting, the joint declaration provides political backing from the Council for anti-corruption reforms and support in Eastern Partnership countries: The Council conclusions on cooperation in the area of justice and home affairs within the eastern partnership state unequivocally that the Council “calls upon the Eastern Partnership countries to ensure that tools and mechanisms related to the fight against corruption function in a robust manner. Corruption undermines genuine competition in the economy and affects the legitimacy of key democratic institutions. There is a real need to take firm action in this field”.⁵⁷

YELLOW

Corporate Reporting (Non-Financial Reporting Directive)

Why does it matter?

Citizens must also have adequate information in order to assess the activities of companies operating in their territory, including financial information. In the absence of country-by-country reporting of financial information (including tax payments), the local public is unaware of how much profit such operations generate and what, if any, special arrangements their governments may have entered into with multinational companies

What is the key recommendation?

The Directive should require that all large companies

53 <http://www.eu2013.lt/en/news/statements/speech-by-president-dalia-grybauskaitė-at-the-european-parliament>

54 <http://www.euractiv.com/global-europe/vilnius-summit-time-reflection-news-532048>

55 http://president.lt/en/press_center/press_releases/joint_declaration_of_the_eastern_partnership_summit.html

56 <http://www.eu2013.lt/en/news/pressreleases/lithuanian-presidency-invites-eastern-partnership-justice-and-home-affairs-ministers-to-discuss-cooperation>

57 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/126870.pdf

based in the EU should (i) disclose information on their anti-bribery and anti-corruption programmes and (ii) disclose details of revenues, sales, profits, taxes paid, political party contributions and other community contributions for every country in which they operate around the world

3.6.1 – What level of priority was given to corporate reporting by the Lithuanian Presidency?

In April 2013 the European Commission published a *proposal on the disclosure of non-financial and diversity information by certain large companies and groups*.⁵⁸ This dossier moved along swiftly and the Legal Affairs Committee in the Parliament (JURI) appointed its rapporteur in May 2013.⁵⁹ Eight Committees were asked for an opinion and seven provided one.⁶⁰ On May 22, 2013, just weeks before the start of the Lithuanian Presidency, European heads of state at the European Council on energy and taxation called for rapid progress on this proposal, “notably with a view to ensuring country-by-country reporting by large companies and groups”⁶¹. In spite of these European Council conclusions, while this proposal was included in the agenda of the Presidency, Lithuania displayed no great enthusiasm for this file and merely stated that it would “launch discussions within the Council”.⁶² The Lithuanian

Minister of Economy Evaldas Gustas mentioned the Presidency’s intention to start discussions in the Council working groups in his address to the Internal Market and Consumer Protection Committee on July 9.⁶³ However, subsequent backing at ministerial level did not materialise and there were no events scheduled to advance this proposal outside of the regular process.

RED

3.6.2 – What progress was achieved in the Council?

In the Council the working party on Company Law examined the proposal five times.⁶⁴ Unfortunately, a group of member states was successful in weakening the proposal and the Presidency’s first compromise text reflected that position.⁶⁵ Under the compromise, a number of amendments proposed by Member States would keep reporting virtually voluntary, which clearly runs contrary to the Commission’s original intentions. Subsequently, support for this proposal among member states faded, at the same time as powerful business lobbies expressed fears that the proposed reporting obligations would impose “additional burden and disproportionate requirements” on numerous companies.⁶⁶ On December 13, 2013

58 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52013PC0207:EN:NOT>

59 http://m.fsr.dk/-/media/Files/Faglig%20viden/CSR/Artikler%20og%20notater/Fact_Sheet_EC_Legislative_Proposal_on_disclosure_of_non-financial_and_diversity_information.aspx

60 [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2013/0110\(COD\)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2013/0110(COD))

61 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/137197.pdf

62 http://static.eu.2013.lt/uploads/documents/Presidency_programme_EN.pdf

63 <http://www.eu.2013.lt/en/news/statements/speech-by-evaldas-gustas-minister-of-economy-at-the-european-parliament-internal-market-and-consumer-protection-committee>

64 <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2017385%202013%20INIT>

65 <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2013551%202013%20INIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fst13551.en13.pdf>

66 [http://www.bdi.eu/BDI_english/download_content/BDI-Stellungnahme_zu_nichtfinanziellen_Berichtspflichten_\(2013-09-18\)_EN.pdf](http://www.bdi.eu/BDI_english/download_content/BDI-Stellungnahme_zu_nichtfinanziellen_Berichtspflichten_(2013-09-18)_EN.pdf)

the Member States met in the Council to finalise their position. At this meeting the Lithuanian Presidency stated that it supported a strong review clause which included obligations for companies to disclose their country-by-country payments. This position was supported by a group of member states led by France and Spain.⁶⁷ At this meeting the Committee of permanent representatives (COREPER I) mandated the Presidency to engage in informal trilogue negotiations.⁶⁸ Surprisingly, after the meeting the Presidency informed other member states that there had been some confusion during the meeting and what had been agreed was *not* to include the review clause on country-by-country reporting (CBCR).⁶⁹ As a result, there was no reference to country-by-country reporting in the Council mandate for the trilogue negotiations, which was one of the core recommendations of Transparency International.

Due to the strong opposition to this directive by Germany, the UK and Poland the successive Presidency compromise texts were progressively watered down so that at the end of the Presidency period the compromise text was inadequate: The scope of the reporting was reduced from 18.000 companies to 5.000 companies and there are no audit requirements for the non-financial report. Most importantly, the Presidency's compromise text actually leaves out the crucial review clause

which would have stipulated mandatory reporting of payments on country-by-country basis.⁷⁰ Regrettably, the speed with which this dossier was dealt with came at the expense of substance.

RED

Anti-Money Laundering Directive

Why does it matter?

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

What is the key recommendation?

member states should establish public registers of who ultimately controls and benefits from anonymous shell companies and other opaque legal structures like trusts and foundations to enable public scrutiny

3.2.1 – What level of priority was given to the Anti-Money Laundering Directive by the Lithuanian Presidency?

Although the review of the EU'S 3rd Anti-Money Laundering Directive (AMLD) featured in the Lithuanian Presidency Programme, the file was a weak priority for the Presidency. Several weeks prior to the Lithuanian Presidency, the European Council stressed the need to fight money laundering and improve beneficial ownership identification during their meeting on May 22, 2013. The conclusions stipulated that the revision of the AMLD should be adopted

67 <http://www.corporatejustice.org/Non-financial-reporting-reform-on.html?lang=en>

68 <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2018082%202013%20INIT>

69 <http://taxjustice.blogspot.de/2013/12/country-by-country-reporting-short.html>

70 <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2017385%202013%20INIT>

before the end of 2013.⁷¹ Support for the review of the AMLD also came from the UK, which had urged EU action on beneficial ownership transparency through the AMLD in a letter sent to Council President van Rompuy in April.⁷²

Despite the importance attached to the AMLD by certain member states and during the Council Meeting in May, the Lithuanian Presidency did not place the AMLD sufficiently on the agenda. This is partly attributable to delays which occurred in the European Parliament, such as changes regarding the parliamentary committees responsible for the review of the AMLD. The review of the AMLD was on the provisional agenda for the Economic and Financial Affairs Council (ECOFIN) in October 2013⁷³, but was later dropped from the final agenda.⁷⁴ For the following ECOFIN Council meeting in November, the Presidency did not include the AMLD on the agenda, and it was only added at the request of France, Germany and Italy.⁷⁵ The Presidency did not organise high level events on the AMLD to push the discussions in Council forward, nor did it provide other high-level support for this important dossier.

RED

71 http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressData/en/ec/137197.pdf

72 <https://www.gov.uk/government/news/pm-letter-to-the-eu-on-tax-evasion>

73 See page 21 of <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2011729%202013%20INIT>

74 http://www.consilium.europa.eu/uedocs/cms_data/doaecs/pressdata/en/ecofin/139019.pdf

75 See page 3 of http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/139465.pdf

3.2.2 – What progress was achieved in the Council?

The Commission published its *proposal on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* in February 2013.⁷⁶

In October 2013 it was announced in the European Parliament that the review of the AMLD would be under joint competence of the Civil Liberties, Justice and Home Affairs (LIBE) Committee and the Economic and Monetary Affairs (ECON) Committee. The draft report which was published by the rapporteurs in mid-November stipulated that registers of beneficial ownership only be available to competent authorities and obliged entities, leaving it to Member States to decide whether to provide public access.⁷⁷

In the Council, the Lithuanian Presidency published a partial compromise text to steer discussions in the meeting of the working party on August 30, 2013.⁷⁸ This compromise text did not include public registers of beneficial ownership, which is a crucial tool to enable public scrutiny by civil society, journalists and ordinary citizens to detect fraud and corruption. Subsequently a number of meetings took place amongst attachés in the working

76 http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=EN&type_doc=COMfinal&an_doc=2013&nu_doc=45

77 See draft report here: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-523.003+01+DOC+PDF+V0//EN&language=EN>

78 <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2013215%202013%20INIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fst13215.en13.pdf>

party on Financial Services. On November 4 the Presidency informed the Committee of Permanent Representatives (COREPER) that eight meetings of the working party on Financial Services had not sufficed to overcome the outstanding issues of registries of beneficial ownership, supra-national risk assessment, monitoring of implementation mechanisms, and third country equivalence.⁷⁹ On the same day France submitted an issues paper to COREPER and urged that discussions move from a technical to political level (i.e. a policy debate at the next ECOFIN Council) in order to obtain a clear political orientation on the outstanding issues.⁸⁰

Following the French intervention, the review of the AMLD was then added to the agenda of the Economic and Financial Affairs Council (ECOFIN) which was chaired by Rimantas Sadzius, the minister for Finance of Lithuania, on November 15.⁸¹ While the ECOFIN Council took stock of the work in progress it was unable to resolve the outstanding issues and hence did not manage to agree on a general approach.⁸² For both the discussions during the ECOFIN Council meeting and in the European Parliament, the potential creation of public registers of beneficial ownership for companies, trusts and other legal arrangements

in the EU has been the divisive issue.⁸³ In a context of strongly diverging views amongst Member States on the review of the AMLD and repeated delays in the Parliament, the Lithuanian Presidency did advance the Council discussions to the extent outlined above. However, as the Council was unable to agree a general approach, the task of reaching a political consensus will fall to the Greek or even the Italian Presidency.

RED

79 See <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2015574%202013%20INIT>

80 See Issues paper here: <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2015667%202013%20INIT>

81 http://europa.eu/rapid/press-release_MEMO-13-982_en.htm

82 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/139626.pdf

83 The remaining divisions of member state's positions were displayed during the ECOFIN Council: <http://video.consilium.europa.eu/webcast.aspx?ticket=775-979-13671>

Transparency International

EU Liaison Office

Rue Breydel 40

1040 Brussels

BELGIUM

Tel: +32 (0)2 23 58 621

brussels@transparency.org

<http://www.transparencyinternational.eu>

www.facebook.com/pages/Transparency-International-EU/125166944231729

twitter.com/ti_eu