

POSITION PAPER

Corruption and the Eastern Partnership

1. Summary

The Eastern Partnership is a unique platform to leverage anti-corruption reforms in Eastern Europe and Central Asia. The offer of closer political and economic integration with the EU aims to provide incentives for Eastern Partnership countries to undertake significant reforms in the area of governance and broader political and economic transformation. Corruption continues to be a serious challenge in the Eastern neighbourhood and the EU has in the past failed to capitalise on its influence in the region to promote transparency, accountability and integrity in its foreign policy.

Transparency International (TI) believes that the period after the Eastern Partnership Vilnius Summit presents an important opportunity for the EU and its Eastern Partners to step up their cooperation in promoting a democratic reform agenda and tackling serious corruption problems in the region. This will require concerted efforts by both the EU and its Eastern Partners to make the partnership more transparent, more conditional and with greater engagement of civil society and citizens.

2. Corruption in Eastern Partnership countries

The countries of the Eastern Partnership (EaP) – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine – generally face significant problems with systemic corruption in their public institutions. Over a 5 year period, the TI Corruption Perceptions Index has indicated little improvement in tackling corruption in most EaP countries with the exception of Georgia. The 2012 Corruption Perceptions Index found that, with the exception of Georgia, all EaP countries scored below 50¹ indicating a serious problem with corruption. The best performer was Georgia (52), while Ukraine (26) and Azerbaijan (27) scored lowest.

Further, a recent survey amongst citizens in EaP countries found that the majority of people think corruption has increased or stayed the same in the past 2 years. Those institutions viewed as most corrupt include the judiciary, police and medical sector (Global Corruption Barometer 2013). Research by other organisations, including the Council of Europe GRECO reports and

¹ The Corruption Perceptions Index scores countries on a scale from 0 (highly corrupt) to 100 (very clean) - See more at: <http://cpi.transparency.org/cpi2012/results/#sthash.Ld0vom8c.dpuf>

World Bank Worldwide Governance Indicators, also point to serious continued problems with system corruption in the many EaP countries.

The persistence of corruption in EaP countries comes at a high cost. Corruption has far reaching corrosive effects on societies, translating into human suffering, failure in the delivery of basic services (health, education), hindering economic development and undermining citizens' trust in the political system. Key problems include the impunity of corrupt officials, opaque governance systems, and a failure of government entities to carry out their oversight function, including the judiciary, parliament and anti-corruption agencies.

3. Promoting anti-corruption through the Eastern Partnership

The EaP was launched in 2009 as the Eastern dimension of the European Union's policy towards its closest neighbours, the European Neighbourhood Policy (ENP). The EaP provides the forum for closer political and economic integration of Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine with the EU. Over the past three years, the EU and its Eastern Partners have been negotiating important political Association Agreements (AA), including deep and comprehensive free trade agreements (DCFTAs). The AA, as well as visa liberalisation dialogues, with EaP countries include commitments to tackle corruption and require the countries to approximate to EU legislation, norms and standards in specific areas. DCFTA negotiations cover corruption-related chapters on public procurement, competition and transparency.

On November 28-29 the Eastern Partnership summit will take place in Vilnius where it is likely that an AA will be initialled with Georgia and Moldova. Although technical negotiations for the AA with Ukraine and Armenia were complete, both countries decided at a late stage not to proceed with the AA. Armenia has decided to join the Russian-led Customs Union, which is incompatible with the AA. So far it is unclear how the EU's relationship with Ukraine and Armenia will develop in the near future following their decision not to enter into an AA with the EU. Negotiations are ongoing with Azerbaijan although a DCFTA is impossible as Azerbaijan is not a member of the World Trade Organisation (WTO). In the case of Belarus negotiations have not started due to political problems.

The EU has developed several approaches to support anti-corruption measures in its neighbouring countries. Support to anti-corruption interventions may be given through²:

² Martini, M., 2012. EU Strategies to Support Anti-Corruption Measures in Neighbouring Countries. U4 Anti-Corruption Resource Centre Expert Answer.
<http://www.u4.no/publications/european-union-strategies-to-support-anti-corruption-measures-in-neighbouring-countries/>

- (i) financial assistance, such as the European Neighbourhood and Partnership Instrument (ENPI);
- (ii) technical assistance, such as capacity building and institutional development programmes (includes twinning, institution building programmes, trainings)
- (iii) positive conditionality, rewarding committed partner countries with additional funding;
- (iv) civil society strengthening;
- (v) political dialogues;
- (vi) regional cooperation.

While recognising the important role of EU policy, programmes and financial assistance in supporting anti-corruption in the region, there remain significant areas for improvement. Firstly, the process around the AA has suffered from a distinct lack of transparency and public debate at the country level. Given the important and far reaching effects that AA and the DCFTA will have on citizens in EaP countries, the EU should ensure that negotiations are more transparent and better communicate what is on offer in these agreements. As it stands, the text of the AA only becomes public after it has been signed and once implementation begins, although negotiations span several years. This could take the form of organised public hearings and debates for citizens.

In the case of Armenia and Ukraine there was a failure to adequately involve civil society in the association process and its implications for the fight against corruption. Following the recent decision of Armenia and Ukraine not to enter into an AA with the EU, civil society and citizens were hampered in their efforts to defend the AA due to lack of information on what these agreements entail. In future, EU partnership processes with these countries should be conducted with greater transparency and an inclusive approach towards civil society.

Secondly, the EU policy towards its neighbours has at times suffered from incoherence and a lack of a principled approach, especially when it concerns energy interests. High-level visits and political statements which draw attention to governance problems and human rights abuses are important signals to governments in EaP countries, but which are undermined when EU messages are incoherent. This has been particularly important when assessing elections and other democratic processes in the region.

A key problem for the region is the inability of governmental entities to carry out their role in the states' system of checks and balances. This includes governmental watchdogs such as Courts of Auditors, governmental anti-corruption agencies, internal audit departments, sector regulators (utilities,

telecom, broadcasting etc) and competition/anti-monopoly agencies. In several countries in the region, these agencies are not fully able to carry out their work, as their institutional capacity is often insufficient – partly because national government are not allocating sufficient resources to ensure their functioning. The EU has an important role to support these entities through trainings, funding and political dialogue. For example, the European Parliament and its administration could start providing assistance to national parliaments and their staff to help develop the expertise and institutional capacity that allows them to fully carry out their oversight roles, including in very technical areas.

A related issue is the need for oversight over law enforcement and intelligence agencies. The EU should promote and support systems of adequate democratic oversight (by the judiciary, Parliament or other mechanisms) over the activities of law enforcement, special forces and intelligence agencies and push for reforms that promote accountability of these government entities. A lack of such accountability contributes to a strong risk of misuse of power and human rights violations, including the application of illegal surveillance measures and the unjustified systematic monitoring of electronic communication without appropriate court supervision. This not only violates citizens' rights to privacy but also deters whistleblowers from coming forward and hinders the work of journalists and civil society activists.

Finally, the role of civil society as an effective watchdog has been underutilised in previous years. The increase in direct budget support from the EU to the governments in EaP presents significant risks of being lost to corruption and mismanagement. Civil society is a natural partner in monitoring this process, but requires greater capacity building and availability of information to carry out this important task.

At the same time, many countries of the EaP are experiencing a significant donor shift and reduction in funding available for civil society activities. Non-European donors have notably started to decrease their involvement in several of these countries due to a shift in donor priorities and the economic and financial crisis. This trend is likely to continue. We hope that the EU will be able to play a more important role in providing support to civil society organizations in the EaP countries as other donors withdraw. This role will be vital to the existence of civil society organizations, as in most or all of the countries there are no or only very limited domestic funding opportunities available for independent civil society, especially for those organizations working on human rights, good governance, rule of law and anti-corruption.

4. Recommendations

In order to address these shortcomings the EU should:

- Make the negotiations for **Association Agreements** and other partnership agreements more transparent and better communicate their implications to citizens through the organisation of public debates and hearings in the respective countries.
- Ensure a **consistent and principled approach** towards Eastern Partners, in particular when assessing elections and other democratic processes.
- Enhance EU support for building the **capacity of governmental watchdogs** which carry out important functions for the states' system of checks and balances.
- Promote and support systems of adequate **democratic oversight** over the activities of law enforcement, special forces and intelligence agencies and push for reforms that promote accountability of these government entities.
- **Support civil society** in their watch dog function by making information available on direct budget support to partner governments, including them systematically in the monitoring process and encouraging governments to delegate advisory functions to civil society.
- Increase **EU funding opportunities** for civil society and activists and provide financial assistance that is accessible to smaller and larger civil society organisations as well as to individual activists. Support should also allow for enough flexibility so that civil society can pursue their missions and respond to new windows of opportunity for change, while still remaining accountable for the funding they receive.

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About Transparency International at the EU level

The Transparency International EU Office is part of the global Transparency International movement, the leading civil society organisation in the fight against corruption around the world. It is the mission of the EU Office in Brussels to promote integrity, transparency and accountability in the EU institutions and EU internal and external policies, programmes and legislation. It is its objective to create lasting, structural change at the EU level so that government, politics, business, civil society and the daily lives of people are characterized by integrity, justice and security.