EU legislation on anti-corruption

One tool to help anti-corruption efforts is ensuring a common high standard of legislation, either specifically on corruption, or incorporating anti-corruption provisions in other sectoral legislation.

The EU proposes new legislation and works to prevent corruption within the limits established by the **Treaty on the Functioning of the European Union (TFEU)**.

- The EU should ensure a high level of security, including through the prevention and combating of crime and the approximation of criminal laws (Article 67 TFEU).
- Article 83 of TFEU designates corruption as a 'euro-crime' - a particularly serious crime with a cross-border dimension, by which the EU may in certain circumstances, adopt minimum rules in this area.
- The legal basis for combating fraud and any other illegal activities affecting the EU's financial interests is Article 325 TFEU, which tasks the EU itself and its Member States with the obligation to protect the EU's budget.

Modernising the EU anti-corruption framework

In her 2022 State of the Union Speech, Commission President von der Leyen announced to update the EU's legislative framework on anti-corruption to better prevent and fight corruption across the European Union in the future.

On 3 May 2023, the Commission presented a new proposal to combat corruption by criminal law. Bribery remains at the core of the new legislation, but there are many other forms of corruption threatening citizens and weakening our societies. Among others, the new proposed legislative framework will:

- Step up corruption prevention by raising awareness of the negative impact of corruption on citizens and our societies to address corruption risks before they emerge or deepen and stimulate a culture of integrity.
- Extend the definitions of criminal corruption offences beyond the more classic bribery offences, including for example also misappropriation, trading in influence, abuse of

functions, as well as obstruction of justice and illicit enrichment related to corruption offences.

- Introduce minimum criminal penalties and sanctions for different offences to ensure a level playing field in all Member States
- Extend the statute of limitation to prosecute corruption in courts
- Ensure that law enforcement and prosecutors have appropriate investigative tools and resources at hand to fight corruption

With this proposal, the EU modernises the current, fragmented and pre-Lisbon EU level framework on corruption and implements international obligations under the UN Convention Against Corruption (UNCAC).

The new EU anti-corruption measures includes:

- Communication on the fight against corruption,
- Proposal for a Directive of the European Parliament and the Council on combatting corruption by criminal law, and
- A new EU sanction regime for corruption.

Until formal adoption of the new proposed Directive by the co-legislators, the main anti-corruption legislation remains:

- The 1997 Convention on fighting corruption involving officials of the EU or officials of EU countries
- The 2003 Council Framework Decision on combating corruption in the private sector, which criminalises both active and passive bribery.
- The 2008 Council Decision 2008/852/JHA on a contact-point network against corruption

Both, the 1997 Convention and 2003 Council Framework decision will be replaced by the new Directive, for those EU Member States bound by the new Directive.

Legislation to protect the EU's financial interests

Legislation on combating fraud, corruption and other illegal activities affecting the Union's financial interests is also a corner stone of the EU anti-corruption policy framework

- The **Directive on the fight against fraud to the Union's financial interests by means of criminal law** (Directive (EU) 2017/1371) establishes rules on the definition of criminal offences and sanctions with regard to combatting fraud, corruption and other illegal activities affecting the EU's financial interests.

- Based on the new **Regulation on a general regime of conditionality for the protection of the Union budget** (Regulation (EU, Euratom) 2020/2092**)**, the Commission can propose to the Council to impose budgetary measures on EU countries where breaches of the rule of law principles – including corruption - can affect, or seriously risk affecting the sound financial management of the EU budget.
- Next to that is the establishment of the **European Public Prosecutor's Office,** which has a mandate to conduct criminal investigations and prosecute cross-border corruption cases (Council Regulation (EU) 2017/1939 of 12 October 2017, implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office).
- The **European Anti-Fraud Office (OLAF)** conducts administrative investigations in line with Regulation (EU, Euratom) No 883/2013 to combat fraud, corruption and other illegal activities affecting the financial interests of the EU (see also Commission Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-Fraud Office (OLAF)).

Sectoral legislation

The effective fight against corruption is facilitated by the EU rules on the prevention of money laundering and terrorist financing; public procurement; asset recovery and confiscation rules and whistleblowing.

- The **5th Anti-Money Laundering Directive (AMLD)** obliges all EU Member States to set up centralised bank account registries and data retrieval systems as well as central beneficial ownership registers. The AMLD also establishes the interconnection of the beneficial ownership registers, to enhance transparency in corporate ownership. An updated version of these rules (the 6th Directive) was proposed by the Commission in July 2021
- The **Directive on combating money laundering by criminal law (EU) 2018/1673** sets minimum rules on the criminalisation of money laundering and sets out that corruption must be a predicate offence to money laundering.
- The EU regulates in the field of **asset recovery and confiscation** to recover the proceeds of crime – including in cases of corruption. This includes Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime, Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices, Council Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property and Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and

confiscation orders. An updated version of these was proposed by the Commission in May 2022.

- The EU's Directive (EU) 2019/1937 on the **protection of persons who report breaches of Union law ('the Whistleblowing Directive')** was adopted in 2019 with the aim to increase the detection of corruption and to better protect whistleblowers.
- **EU rules on public procurement** aim to prevent corruption in tender procedures.
- To fight **tax evasion**, a corruption-related crime, Directive (EU) 2010/24 provides for mutual assistance for the recovery of claims relating to taxes, duties and other measures. Directive (EU) 2011/16 in Administrative Cooperation in direct taxation provides for mutual assistance to combat tax evasion and tax avoidance, as well as measures to enhance corporate tax transparency.

Internal rules for EU institutions

The EU also applies strict rules on the prevention of corruption and transparency across its institutions. For this purpose, several rules and policies are in place:

- Rules for EU civil servants - The Staff Regulation
- Rules of Procedure of the Commission
- Guidelines on gifts and hospitality for Commission staff
- Ethics and Integrity for Commissioners
- Code of Conduct for the Members of the European Commission
- Independent Ethical Committee
- EU Transparency Register
- Transparency and Lobbying at the Commission
- Freedom of information - Access to documents