

**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

The Director General

Brussels, 04.04.2016  
HOME.D.2 (2016)1532904

**NOTE TO THE ATTENTION OF**  
**BEN SMULDERS, HEAD OF CABINET OF FIRST-VICE PRESIDENT TIMMERMANS**  
**DIANE SCHMITT, HEAD OF CABINET OF COMMISSIONER AVRAMOPOULOS**

**Subject:** Confirmation to launch formal work on preparation of the 2<sup>nd</sup> EU Anti-Corruption report

I am seeking a confirmation from you before I formally launch work through an inter-service group and consultations with MSs to prepare the 2<sup>nd</sup> EU Anti-Corruption report. This report will cover 28 EU MSs, [REDACTED]

The first report was released in February 2014 and Commissioner AVRAMOPOULOS has proposed that the second report be adopted in October 2016, [REDACTED]

Pursuant to Article 4 of the Commission Decision of 6 June 2011 'Establishing an EU Anti-Corruption reporting mechanism for periodic assessment' (C(2011) 3673 final), the Anti-Corruption Report (ACR), '*accompanied by country analyses for each Member State including tailor-made recommendations, shall be published by the Commission every two years.*'

On the basis of a calendar that would lead to Collegial adoption by end October (attached), internal drafts would need to be ready by June. Work is well underway in DG HOME, which include among others over the past year numerous fact-finding country visits, often back to back with or part of European Semester country missions, exchanges with Member States' contact points, thematic workshops with national experts and joint work with two dedicated networks of experts. DG HOME has also developed indicators and new criminal justice data on corruption offences, under the Action Plan on Crime Statistics, [REDACTED] Finally, we published on 9 December, International Anti-Corruption Day, a 'flash' Eurobarometer on businesses' attitudes towards corruption in the EU.

At this point in time there is a need to start intense inter-service cooperation prior to the formal ISC, to be followed by the external consultation on the country chapters of the 28 Member States. It is therefore also advisable to announce well in advance to Member States' contact points the timing of the official consultation prior to the adoption of the report, which in most cases require inter-agencies coordination at national level.

The recent meeting of the Inter-Service Group on Corruption illustrates the importance and cross-cutting nature of integrity, transparency and anti-corruption policies (report attached for ease of reference).

The Commission's Annual Growth Survey 2016 set three priorities: re-launching investment, pursuing structural reforms, responsible fiscal policies. Anti-corruption policy has a direct role in addressing all three points, which explains why core Semester DGs increasingly rely on DG HOME for information collected as part of the follow-up to the EU ACR, but also DGs like GROW for their work on the new public procurement rules, REGIO and OLAF (in addition to EMPL) because of the major importance of preventing corruption in the use of European Funds, SRSS (in the context of investment plans) and SANTE (healthcare being a sector vulnerable to corruption).

Integrity and anti-corruption are increasingly part of other EU policies as evidenced most recently by the new EU trade & investment strategy, starting with the TTIP, but also by other new pieces of legislation with strong anti-corruption provisions, such as on confiscation of criminal assets, money laundering, or the disclosure of information by private sector entities.

The international agenda is further creating a favourable momentum for increased political commitment and efforts in favour of ambitious anti-corruption policies, including work under the G20 and the OECD, while the Japan G7 Presidency has put anti-corruption policies on the agenda of the *Ise Shima* Summit. Finally Prime Minister CAMERON will convene on 12 May in London an Anti-Corruption Summit, the first-ever event at leaders' level focused solely on the fight against corruption to which Presidents JUNCKER and TUSK have been invited. President HOLLANDE is also convening together with the WORLD BANK an international conference on anticorruption on 14-16 June in Paris.

Another important element in the general context is the fact that the European Parliament keeps the issue high on the agenda. Discussions are ongoing in LIBE on Ms FERRARA's report on the 'Fight against corruption and follow-up of the CRIM committee Resolution'.

Finally, I have to underline that while DG HOME has been preparing a number of Communications and legislative proposals within very tight schedules, we would not be able to repeat the same with the anti-corruption report. We will need to rely on input from other DGs, the Member States and experts.

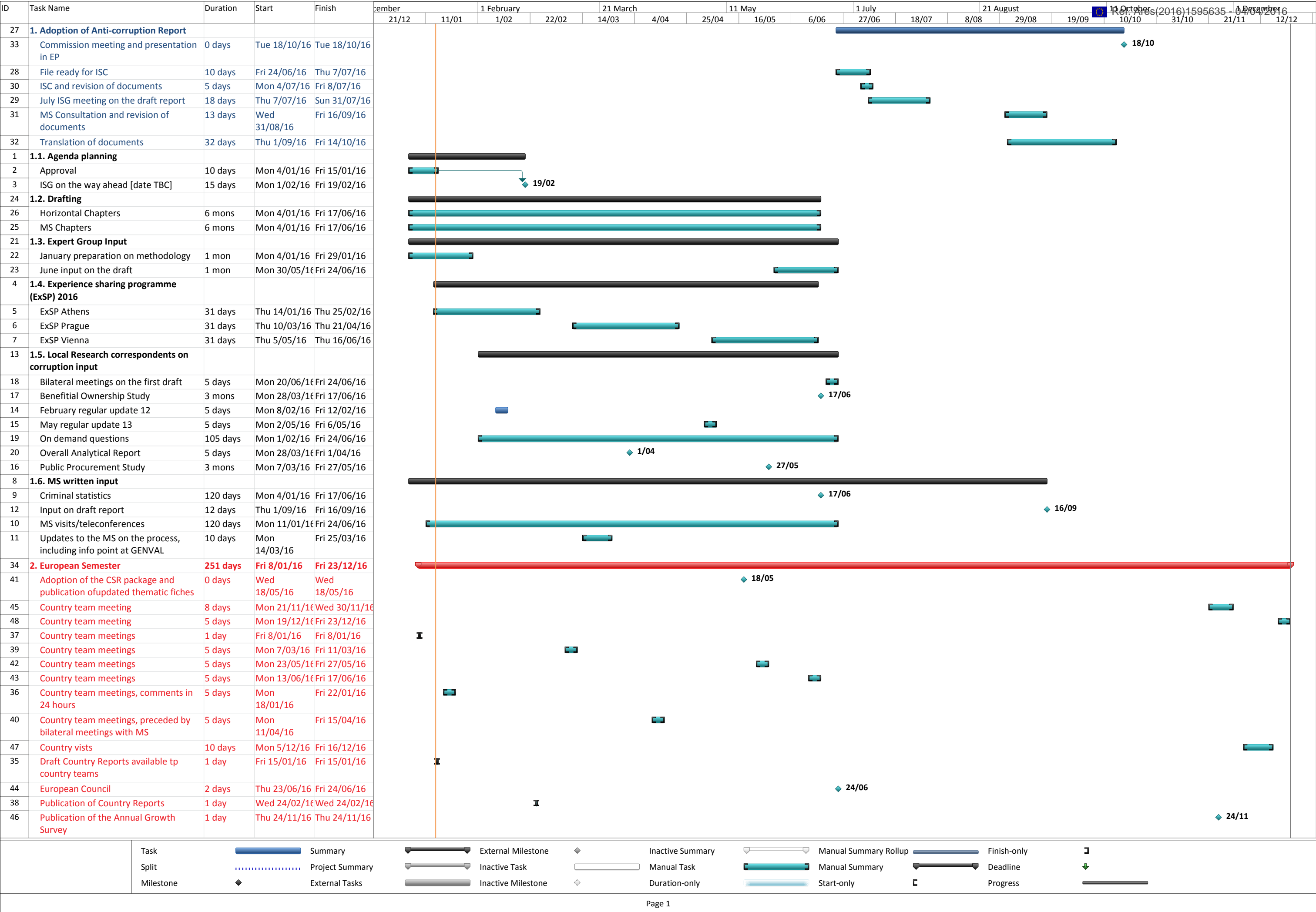
I look forward to your confirmation whether I can launch preparatory work as described above.



Matthias RUETE

Encl.:

1. Working plan on the preparation of the second Anti-corruption Report
2. Ares(2016)1252386 Minutes of the meeting of the Inter-service group on corruption



## INTER-SERVICE GROUP ON CORRUPTION

17 February 2016, 14:30-17:30

### Minutes

DG HOME welcomed participants, whose wide range illustrates the importance and cross-cutting nature of integrity, transparency and anti-corruption policies. While bilateral contacts have been ongoing, the time has come to take stock of developments since the last inter-service meeting in July 2014. HOME could not convene the group earlier because of the need for agenda clearance amid the refugee crisis.

Anti-corruption policies are also high on the inter-institutional agenda, with opinions and hearings at the European Parliament, and reports by the European Ombudsman and the European Economic & Social Committee. There is also increasing focus internationally, including for instance an upcoming report by the Council of Europe Parliamentary Assembly on transparency and openness in the European institutions.

### EU Anti-Corruption Report

Preparations for the second EU Anti-Corruption Report are entering a crucial phase. Adoption by the College is planned for October 2016, [REDACTED]

[REDACTED] HOME will consult DGs bilaterally on the draft report, and launch a formal inter-service consultation in June. In addition to the 28 country chapters, the report will include thematic chapters for which input from relevant DGs will be essential:

- Corruption in public procurement at local level in large infrastructure projects;
- Transparency of financial flows and beneficial ownership;
- Corruption in healthcare.

All Member States have designated a national contact person to facilitate communication on the follow-up to the EU Anti-Corruption Report, and a first "ice-breaking" meeting took place in February 2015. Separately, the network of local research correspondents (academics and NGO experts) delivers regular updates on developments in each Member State. HOME also has an [expert group](#) on corruption that contributes methodological insight.

[Experience sharing workshops](#) bring Member State experts together to address challenges highlighted in the EU Anti-Corruption Report, under the [Chatham House rule](#) to encourage open discussion. Workshops were held on asset disclosure in April 2015 (in Budapest), on whistleblower protection in July 2015 (in The Hague), and on healthcare corruption in November 2015 (in Rome). Additional workshops will cover *local public procurement* on 24 February 2016 (in Athens), *private sector corruption* on 21 April 2016 (in Prague), and *political immunity systems* on 16 June 2016 (in Vienna). The inter-service group is welcome to suggest topics for future workshops. **DG HR** noted they would have liked to participate in the whistleblowing workshop, and HOME committed to keep DGs informed of planned workshops.

HOME also organised Eastern Partnership panels on asset disclosure and healthcare corruption, back to back with the experience sharing workshops, allowing Member State experts to participate in both events.

In response to calls for more "objective" data in future EU Anti-Corruption Reports, HOME published [criminal justice statistics](#) for corruption offences from 2011 to 2013 – the first such collection at EU level. HOME has now asked Member States to provide data for 2014. The statistics are comparable across time but not across countries because of diverging definitions and indicators. **Eurostat** welcomed this pilot initiative as a good basis for developing a permanent collection.

HOME also published the results of a 2015 [Eurobarometer of businesses' attitudes towards corruption in the EU](#), with questions on experience and perception; a citizen survey is envisaged in 2016.

**DG JUST** will publish the EU Justice Scoreboard with 2014 data on efficiency, quality and independence of national judicial systems in the EU.

### **Reviewing the EU institutions**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **Other international developments**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **Mainstreaming anti-corruption in EU policies**

Anti-corruption policies are increasingly present in the *European Semester*, linked to the three priorities of the Annual Growth Survey: re-launching investment, pursuing structural reforms and responsible fiscal policies. Integrity issues are often linked to public procurement, public-private partnerships, the healthcare sector, and judicial quality and independence. Along with other DGs, HOME has been involved in Semester fact-finding missions and the drafting of country reports and fiches on obstacles to investment, published as part of the Juncker Plan's "third pillar." The **SG** gave an overview of the Semester's streamlined approach that entails fewer and more focused country-specific recommendations, while the country reports continue to cover broader issues.

Since 2007, corruption is also a priority in the *Cooperation & Verification Mechanism* for Bulgaria and Romania, coordinated by the **SG** with input from HOME, JUST, OLAF and others. In recent years, Romania has performed better than Bulgaria. This year's Council conclusions reflect to some extent Romania's campaign to phase out the Mechanism, while acknowledging that it would be premature to specify the timing.

The *Rule of Law Mechanism* is being invoked for the first time in the case of Poland, with the involvement of the SG, DG JUST and SJ.

The new *Structural Reform Support Service* (under SG), which assists with reforms in Greece, Cyprus and other countries, will be invited to join the inter-service group.

**DG JUST** mentioned work on anti-money-laundering, in particular beneficial ownership, criminal law, effectiveness of judicial systems and company law, which provides opportunities for cooperation on the next EU Anti-Corruption Report.

**DG EMPL** and **REGIO** have a new joint anti-fraud strategy for EU funds in the programming period until 2020. Member States are asked to assess fraud risks and take additional measures to mitigate them. Tools such as ARACHNE support local management and control systems to strengthen fraud prevention and detection. Anti-fraud seminars took place in 12 countries with the participation of various DGs, setting an example for cooperation across ministries in the Member States.

**DG REGIO** has piloted [\*Integrity Pacts\*](#) in the Structural and Investment Funds, in partnership with Transparency International, committing contracting authorities and bidders to abstain from corruption, while a civil society organisation monitors compliance. Seventeen projects are ongoing in 11 Member States, on a voluntary basis. REGIO has commissioned a stock-taking study of administrative capacity for public procurement in European Structural & Investment Funds with 28 country fiches, including good practice in preventing corruption.

*Whistleblowing* has been prominent on the agenda, especially of the European Parliament, where HOME took part in two conferences in June 2015 and will attend an event in March where the Greens/EFA group will present a whistleblower protection directive they have drafted.

Whistleblowing helps to detect and prevent corruption but is a broader subject encompassing the remit of multiple DGs. Existing and proposed EU legislation contains whistleblower protection provisions in areas such as trade secrets, audit, market abuse, and collective investment in transferable securities. However, Member States are likely to resist a potential EU whistleblowing directive, on grounds of subsidiarity or competence. Coordination is necessary across the relevant DGs.

On the basis of international best practice, **DG HR** is reviewing the effectiveness of the Commission's own whistleblowing guidelines, which need to be better communicated to staff. A publicity campaign is envisaged in spring. As noted by the European Ombudsman's own-initiative, the Commission is one of only two EU institutions to implement whistleblower guidelines, as required.

**DG GROW:** The revised procurement directives aim to improve prevention, detection and redress of corruption. Measures include exchange of best practice, integrity pacts, red flags, whistleblower support, data collection, contract registers, and an ambitious definition of conflict of interest. In the crucial post-award phase, new rules will regulate the modification of contracts. Member States have until April 2016 to transpose the new rules into national law, except on e-procurement, where the deadline is September 2018.



**OLAF** gave an update on the last meeting of the European contact-point network against corruption ([EPAC/EACN](#)) that brings together anti-corruption and police oversight practitioners. Their Paris Declaration calls for deterrent custodial and financial punishment, effective asset recovery, automatic cross-border exchange of financial information, and national and transnational protection of witnesses.

The Council is negotiating on the *European Public Prosecutor's Office*, proposed to investigate and prosecute crimes affecting EU financial interests. Operational aspects have been provisionally agreed.

Negotiations are also ongoing on the proposed Directive on *protecting EU financial interests through criminal law*, aimed at establishing minimum penalties and common definitions. The main stumbling block is whether the text should cover Value Added Tax fraud.

**DG BUDG** noted that the *Financial Regulation* was amended to improve early detection and exclusion of economic operators.

HOME has been working on *freezing and confiscation of criminal assets* for which a Directive was adopted in 2014, including corruption as a predicate offence. **DG JUST** has done work on mutual recognition of freezing and confiscation orders.

The 2003/568 framework decision on *corruption in the private sector* is now open for implementation review, and HOME will launch infringement procedures if necessary.

The [Directive on disclosure of non-financial and diversity information](#) will require large companies to disclose information on anti-corruption, bribery and other issues. Transposition workshops are helping Member States transpose the Directive into national law, required by December 2016. **DG FISMA** will draft optional guidelines to facilitate the disclosure of non-financial information by companies from 2017.

**DG RTD** provided an update on the ANTICORRP interdisciplinary research project funded by the Seventh Framework Programme from March 2012 until February 2017. Consisting of 20 research groups in 15 Member States, the project investigates factors that promote or hinder the development of effective anti-corruption policies. Findings highlight media freedom, procurement risk indicators, and the impact of favouritism on markets. A recent [study](#) commissioned by the Dutch Presidency focuses on public integrity and trust. ANTICORRP researchers are available to deliver a presentation for the Inter-service group. The Research Executive Agency (**REA**) will share information about the EU-funded research project entitled Digital whistleblower: fiscal transparency, risk assessment and impact of good governance policies assessed (DIGIWHIST).

The **SG** noted that the Regulation on the statute and *funding of European political parties and foundations* enters into force in 2017, and a new authority will be established by September with powers to control for fraud and corruption.

The inter-service group's [SharePoint](#) website will be used increasingly as the preparations for the next EU Anti-Corruption Report accelerate.