

2023 RULE OF LAW REPORT – TARGETED STAKEHOLDER CONSULTATION

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission’s attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable).

Little or no visible progress has been made in introducing long overdue reforms aimed at addressing shortcomings in the Ethics Acts since the government announced a public consultation on the topic in late 2021. In addition, suggested reforms to the Regulation of Lobbying Act are largely technical in nature and implement very few of the Standards in Public Office Commission’s or Transparency International Ireland’s recommendations.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).

It remains unclear whether the Garda Anti-Bribery and Corruption Unit (ABCU) has been allocated additional staff required. Transparency International (TI) Ireland has called for additional resources to allow the Unit and the Garda Anti-Corruption Unit (ACU) to undertake intelligence-led preventive and investigations (see <https://www.transparency.ie/resources/submissions/reform-anti-fraud-corruption-structures>).

Ireland’s Financial Intelligence Unit (FIU) also appears under-resourced to respond to the growing volume of Suspicious Transaction Reports (STRs) it receives each year. As of 2020 the FIU had 17 members of staff dealing with 29,631 STRs in the same year. This means that each member was responsible for 1,743 STRs in 2020. In comparison, staff members at its Australian and Swedish equivalents were responsible for 741 and 545 STRs respectively in the same year.

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.

We are not aware of any new measures having been introduced during this period.

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

Although TI Ireland has welcomed the establishment of new implementation plan on economic crime and corruption, a multi-agency forum/taskforce and an Advisory Council against Economic Crime and Corruption economic crime and anti-corruption. However, TI Ireland has also raised concerns about the exclusion of any substantive representation from civil society organisations on the Advisory Council (see <https://www.transparency.ie/resources/submissions/2022-letter-corruption-advisory-council>).

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.

The Government published the Regulation of Lobbying (Amendment) Bill 2022 to allow for enforcement provisions in respect of cooling off periods for retiring public officials.

TI Ireland has called for more comprehensive measures that would also extend the standard cooling-off period to two years, but with provision for shorter or longer periods depending on the Designated Public Official's position and the nature and/or interplay of the previous and new roles.

In addition, it has called for an outright ban on all members of the Oireachtas or local authorities from acting as lobbyists or receiving any income for the purpose of influencing public policy other than that provided for by virtue of the elected office they hold.

See <https://www.transparency.ie/resources/submissions/2022-committee-statement-lobbying-bill> for more information.

General transparency of public decision-making, including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing.

No visible progress has been made in this regard during the relevant period.

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned).

No visible progress has been made in this regard during the relevant period.

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

The Protected Disclosures (Amendment) Act 2022 was commenced on 1 January 2023 in order to transpose the EU Whistleblowing Directive. The Act has been broadly welcomed and extended and strengthened safeguards for whistleblowers in some respects. However, concerns have been raised about new restrictions on the reporting of wrongdoing to government ministers by public service workers and the introduction of criminal penalties for knowingly false reports (see <https://www.transparency.ie/resources/submissions/2022-letter-minister-michael-mcgrath-protected-disclosures-amendment-bill>).

The Government Department responsible for introducing and overseeing the Act, the Department of Public Expenditure and Reform (DPER) has announced that it will appoint an internal 'champion' to lead efforts in promoting public service whistleblowing and has consulted or worked closely with TI Ireland since 2011 in adopting international good practice and in the provision of supports. It funds the work of TI Ireland's 'Speak Up' Helpline and the provision of free legal advice via the Transparency Legal Advice Centre. It will also fund a new Psychological Support/Wellbeing Service led by TI Ireland, a public information campaign in cooperation with a new Office of the Protected Disclosures Commission, and an updated national survey and guidance for workers on the Act.

Additionally, nearly 40 organisations are members of TI Ireland's Integrity at Work programme which aims to build capacity among employers and regulators to respond to and act on concerns raised by their workers. These organisations include the Department of Justice and An Garda Síochána. More information is available at www.integrityatwork.ie.

List the sectors with high risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector).

Little evidence is available on those sectors at highest risk of corruption in Ireland, however, it is likely that risk factors are little different to those elsewhere in the EU.

The Committee on Finance, Public Expenditure and Reform, and Taoiseach delayed the passage of the Public Sector Standards Bill 2015 which would have closed some loopholes in the Ethics Acts and mitigated risks arising from gift-giving, entertainment and other financial interests of public officials. The Bill lapsed in 2020 and the Government has yet to publish its proposals for reform.

The Electoral Acts are considered strong by comparison and allow SIPO to undertake investigations without a prior complaint and impose criminal penalties for non-compliance. However, it appears that SIPO does not audit returns made to it under the Acts and the method for filing and publication of returns under both the Ethics and Electoral Acts is in

urgent need of modernisation: currently returns are expected to be made manually contrary to recommendations by the OECD.

Since 2017, TI Ireland has highlighted measures aimed at addressing corruption risks in public procurement, disposal of assets, supply chain management, charitable contributions and other processes. Full details on the findings of these studies are available at

<https://www.transparency.ie/resources/national-integrity-index>.

Ireland's role as host of a major international financial services centre, lax corporate transparency standards and enforcement pose significant money laundering risks. This was highlighted in a TI Ireland report published on AML and asset recovery measures in 2020 (available at <https://www.transparency.ie/resources/asset-recovery>). A failure to apply beneficial ownership rules to Irish Limited Partnerships (ILPs) increases this risk. A recent Bellingcat/Sunday Times report showed a surge in ILP registrations from companies in secrecy jurisdictions after Persons with Significant Control regulations were imposed on Scottish Limited Partnerships in 2017 (see <https://www.bellingcat.com/news/2022/06/18/inside-the-secretive-world-of-irishlimited-partnerships/>).

Ireland's Register of Beneficial Ownership (RBO) promptly removed access to its register for both journalists and civil society in response to the CJEU's ruling on beneficial ownership data (C-37/20 and C-601/20) in November 2022. The RBO's decision is contrary to the CJEU recommendation on legitimate interest and prevents independent scrutiny of returns and suspicious ownership patterns.

Any other relevant measures to prevent corruption in public and private sector.

N/A.

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery.

Criminal sanctions as provided for in statute are considered to be adequate for most corruption-related offences. However, this is not the case for certain breaches of the Ethics and Lobbying Regulation Acts as noted earlier.

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds.

(Please include, if available the number of (data since 2019): indictments; first instance convictions; first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year)

Aggregated data on fraud and theft offences is published by the Central Statistics Office. TI Ireland has called for the collection and publication of disaggregated data identifying enforcement measures on foreign bribery and other corruption related offences since 2006. No progress has been noted in this regard since then.

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning).

Intelligence-led policing of public-sector corruption is essential if red-flags and suspicious patterns are to be identified. However, the sharing of data among existing agencies is unlikely to be enough to expose the most complex and politically-sensitive cases. TI Ireland has therefore recommended that the Government considers establishing an independent National Anti-Corruption Bureau (NACB) to lead investigations into the most complex and politically-sensitive cases. The NACB would have powers similar to the New South Wales Independent Commission Against Corruption.

Irrespective of whether an independent unitary anti-corruption agency is established, as noted earlier, it appears that existing agencies are under-resourced or lack the legal powers to investigate corruption related concerns.

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.

As noted, we are not aware of any recent prosecutions or convictions although the Garda Anti-Corruption Unit and the National Bureau of Criminal Investigation appear to have active in investigating links between certain gardaí and members of organised crime groups.

Other - please specify.

Although not directly related to anti-corruption measures, a survey conducted by TI Ireland of local media publishers and broadcasters in 2022 highlighted concerns over levels of undue influence by local authorities over editorial policy. The survey was undertaken on foot of SIPO findings made against Wexford County Council over attempts to influence editorial output at a local radio station and complaints made to TI Ireland's Helpline. It recommended that specific guidance be published to address the risks arising from the potential use of advertising and sponsorship revenues to exert pressure on broadcasters and journalists. The Government replied that such guidance was unnecessary. Please see <https://www.transparency.ie/resources> for links to this and other submissions and resources recommending enhanced anti-corruption risk measures.