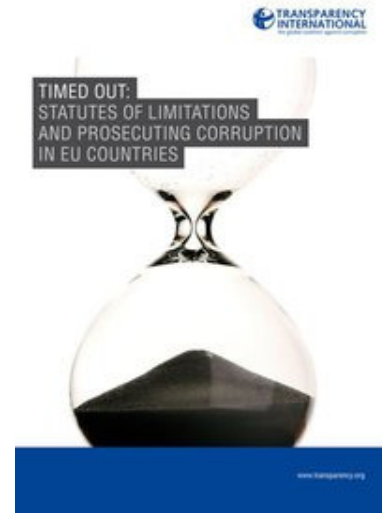


Launch of the new report

Timed out: Statutes of limitations and prosecuting corruption in EU countries

Brussels, 30th November 2010



Transparency International (TI) invited international experts to present and discuss the findings of its recent publication “*Timed out: Statutes of limitations and prosecuting corruption in EU countries*”. The report assesses the relevance of statutes of limitations (SoL) in the fight against corruption across the EU in order to identify weaknesses and best practices.

Opening Remarks – Anja Osterhaus, Transparency International Report Author and Moderator

Anja Osterhaus opened the event by highlighting some of the main findings of the report. The analysis covered the statutes of limitations regime in all 27 EU member states and identified a wide range of different regimes.

“There is a European country in which one in ten criminal proceedings runs out of time. This means that ten percent of the alleged criminal offenders in this country are not convicted – not because they were found not to be guilty, but because the proceedings could not be concluded within the set time frame,” she said. But in most European countries this data is simply not available and it is therefore difficult to come to final conclusions regarding the strengths and weaknesses of the SoL regime in many countries.



The research identified many reasons for impunity of corruption offences in EU member states, from lack of detection of corruption to lengthy proceedings, often combined with a high level of bureaucracy and excessive requirements of proof. In such a context, statutes of limitations are often too short to allow the prosecution of crimes.

The report recommends reviewing the SoL regime in many European countries to

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close remaining loopholes, particularly in cases of political and grand corruption and of international cases requiring cross-border cooperation. A particularly problematic situation remains in three EU countries where cases can expire even if an alleged offender was found to be guilty in the first instance judgement.

However, the report also found that recent reform efforts have improved the SoL regime in many European countries, not least thanks to the recommendations and guidance from international institutions such as GRECO and the OECD Working Group on Bribery.

Gherardo Colombo, Former Italian Prosecutor and High Court Judge

Gherardo Colombo was one of the key investigators of the widespread Italian corruption case “Tangentopoli” or “Bribesville”. The case involved more than 5.000 individuals, including 150 members of parliament, many ministers and judges and even four former Italian Prime Ministers. Investigations started in 1992. At the beginning they were completed within reasonable time, but the number of acquittals due to statutes of limitations increased over time and reached 25% of the cases in 2002. Since then, the rate of expiry has probably increased further.

Mr Colombo assessed the current status quo in Italy and said that recent reforms would make it even more difficult to prosecute similar cases today. Some new legal rules regarding the falsification of balance sheets and the abuse of authority crime have made investigations



extremely difficult. These changes have strongly reduced the field of application of previous rules, thus hindering disclosure of corruption. The length of statutes of limitations was significantly reduced for some corruption-related crimes, cutting the maximum term from 15 to 7.5 years. He said, “*where it was very difficult to reach a final judgement before statute of limitations expired, now it is even more difficult.*”

Neringa Mickeviciute, Transparency International Lithuania

TI Lithuania is one of the eleven project partners that performed an in-depth assessment of the SoL regime in their respective country. Research findings of all project partners were discussed at an expert roundtable before the individual reports were finalised and all findings compiled in the report launched today.

Ms Mickeviciute said that she found it particularly useful to complement statistics and desk research with information gathered from practitioners. In addition, she felt it was helpful to compare findings across countries.

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In Lithuania, only two cases are known to have been closed due to SoL. However, one should take these statistics with care. Particularly cases of political corruption are often not even started in Lithuania because it is assumed that SoL will end up dismissing the case eventually anyway. She also said that two cases closed are two cases too much as there should be zero tolerance to corruption.

The Lithuanian SoL regime was reformed in summer 2010 and further reform proposals are pending. The recent changes further improved the SoL regime in Lithuania but it is too early to fully assess their results. It was felt that there is no need for specific SoL regarding corruption-related offences

Leah Ambler, legal analyst, OECD

Ms Ambler outlined that the OECD has repeatedly stressed the relevance of statutes of limitations in foreign bribery. She welcomed this first horizontal assessment of the SoL regime across 27 EU countries and felt this would add to the work of the OECD in trying to improve the legislative framework in this respect.

The OECD convention on bribery explicitly refers to statutes of limitations in article 6. The text reads: *“In view of the complexity of the offence of bribery of foreign public officials and the potential difficulties of obtaining evidence from several jurisdictions, the statutes of limitations for the offence should allow adequate time for investigation and prosecution.”*



She agreed with a point made by the moderator, namely that it is not easy to specify what “adequate SoL” effectively means. According to the OECD Working Group on Bribery, if SoL are less than 5 years, this is a cause for concern. However, what length of SoL is adequate, depends on the efficiency of law enforcement bodies and the judiciary, on the traditions in each country and a number of other factors.

She also agreed that further data is required to provide a solid basis for analysis. This report is a significant step towards closing this knowledge gap, but more data is needed.

Monica Macovei MEP

Ms Macovei expressed her appreciation for the report and supported the general conclusions. Corruption undermines trust and all efforts need to be done to consider corruption a serious crime and to ensure the effective prosecution of cases. According to Ms Macovei, the elimination of absolute statutes of limitations altogether is something that should be explored.

In Romania, cases have been delayed on purpose in order to reach expiry due to SoL. There is a huge problem of corruption within the judiciary. This was highlighted during Romania’s EU accession process, but only few members of the judiciary were sent to

prison. She reiterated the importance of reviewing judicial decisions for postponement of cases, particularly those involving high level officials.

Ms Macovei explained that at the EU level there is very little that can be done on this topic – all action is taken by the member states. However, she suggests to add the assessment of the SoL regime as one of the criteria into the new monitoring and review tool, which is currently being developed by the European Commission.

Discussion

Participants reiterated the relevance of international agreements which, as the report and speeches have shown, can make a difference. The problems of inefficiencies and excessive workload of the judiciary were highlighted as well: In Italy, for



example, 3 million crimes need to be dealt with by 2000 public prosecutors – this is an impossible situation. To reduce the amount of cases, there is a need for a change in culture. Education about corruption and its damaging effects is critical.

Another strand of discussion focussed on the relevance of journalists in the field of anti-corruption. The capacities and knowledge of journalists regarding anti-corruption are vital for good reporting. The problem is, however, that media is often not free, and particularly investigative journalism is lacking.

The full report can be downloaded at

http://www.transparency.org/publications/publications/other/statutes_limitations

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