

EUROPEAN ANTI-CORRUPTION AGENCIES: PROTECTING THE COMMUNITY'S FINANCIAL INTERESTS IN A KNOWLEDGE-BASED, INNOVATIVE AND INTEGRATED MANNER

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European Anti-Corruption Agencies in a Global Context: Similarities, Differences, and Policy Insights

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Introduction

A critical review of European Anti-Corruption Agencies (ACAs) and their effectiveness is more necessary than ever. European Union expansion, increased globalization of European-based commerce, and the greater interconnectedness of European civil society with the rest of the world dictate that European ACAs adapt themselves to a fluid, dynamic global marketplace of both finance and ideas where corruption originates in, passes through, and affects Europe simultaneously.

European civil society faces a similar crossroads. While “all politics remain local” and corruption and graft cases tend to generate national outrage rather than a supranational response, European civil society must adapt to the reality that no nation – and no case of corruption or abuse of power – is an island. European politicians are improperly influenced not only by local business interests but by multinational firms whose legal headquarters may be offshore tax havens in third-party countries. Local media outlets are increasingly owned by global conglomerates where the lines between journalism and commercial enterprise are more and more blurred. Meanwhile, support for domestic civil society and NGO groups has taken an increasingly international bent: organizations like Open Society Institute, Ford Foundation, Bertelsman Foundation, and the Aga Khan Network have increased their scope in recent years to become truly global – yet philanthropic – entities. Recent work by the U.N., OECD, and other international bodies to codify norms and standards in the fight against corruption means that none of this is taking place in a political vacuum.

Although that backdrop paints a generally accepted picture of today's world, the solutions to how European ACAs should best adapt themselves to those circumstances are less readily apparent. A number of key questions face European ACAs as they confront the increasingly international nature of corruption in the 21st century. Among the most important are:

1. Need Europe concern itself with the way in which other countries around the globe design and implement ACAs at the national level?
2. If European ACAs do need to concern themselves with the approaches taken by others, what are the similarities and differences between different European ACAs and between European ACAs non-European approaches to ACAs? How are perceived levels of corruption impacted by different ACA structures around the world?
3. What do those differences and similarities dictate, in terms of new policy approaches, for European ACAs in the 21st century?

This paper addresses those questions and attempts to arrive at insights and recommendations for European ACAs heading into the future. The answers – and frankly the questions themselves – cannot be derived through a purely sterile, laboratory approach. As the international community's struggles with defining and promoting "economic development" for the past fifty years have demonstrated, designing effective anti-corruption agencies and initiatives will remain as much art as science for the foreseeable future. But new data and research developed during the past several years does begin to shed light – if only anecdotal – on which basic approaches might generally be expected to succeed or fail. It is with that backdrop that we can begin to explore the new terrain and develop some basic guideposts for the way forward.

European ACAs: Fighting Corruption Globally at Home

Corruption is no longer (if it ever were) a local problem for European ACAs. Accepting the definition that regulatory authority, a controversial Dubai-based conglomerate running European ports¹, or accusations of corruption and bribery at the major European defense contractors and their international competitors².

The bottom-line for European ACAs is that they must think internationally when considering how best to structure themselves to implement their mission and mandate. The opportunities for corruption, graft, and abuse of power no longer stop at the border's edge in Europe. They are pan-European and even global in scope; European ACAs must adapt themselves to that reality. corruption is the "misuse of entrusted power for private gain"³ as well as the theory that corruption is more prevalent where an official has a "monopoly" over key information or bureaucratic processes without adequate

¹ Bremner, Faith. "Port Deal Incurs Wrath of Arab Americans, Divided Michigan Lawmakers." *Gannett News Service*. 24 Feb 2006.

² Taverna, Michael A., Wall, Robert. "Thales Rattled; Bribery Allegations Revive Memories of Taiwan Scandal." *Aviation Week and Space Technology*. 3 Oct 2005.

³ <http://www.transparency.org/faqs/faq-corruption.html>.

accountability⁴, European ACAs may be faced with some of the most difficult circumstances in the world with regard to combating corruption. The power shift in Europe from national capitals to Brussels presents unique and difficult challenges to Europe's national ACAs.

The expansion of the EU and, equally important, Brussels' influence over national policies have led to a situation where increasing amounts of authority and decision-making center on the supra-national structures of the EU itself. The EU itself has increasingly become many European countries' primary interface with other international entities, whether national actors (Russia, the United States, Iran, Turkey, or China) or multinational commercial entities (think Boeing or Microsoft). Gone are the days when bribes were solely instances of local businessmen influencing local politicians (or vice versa!). While this shift in authority has provoked a backlash in many European countries, power will continue to migrate from national capitals to Brussels, and the challenge to national European ACAs will increase proportionately.⁵ How can individual European ACAs develop and coordinate effective anti-corruption programs when the critical decisions that present an opportunity for graft – be they commercial regulatory decisions, privatization initiatives, or defense procurement programs – take place outside of the respective country? How effective can any national ACA be when those national agencies have limited (or no) oversight over those key decisions taken in Brussels that affect the country? These challenges to the role of national ACAs in Europe are highlighted in cases like the fight between Brussels and Microsoft over the fate of EU

European ACAs in a Globalized World

A first step to tackling these core questions is to develop a basic analytical framework that informs our thinking when examining ACAs in terms of their structures, performance, and effectiveness. First, we need to know how ACAs compare to each other in terms of basic mandate, scope, and structure. Coupling that information with data gauging the perceived level of corruption in a country may provide insight into whether particular structures for ACAs are more or less critical in fulfilling the ACA's core mission – reducing corruption in the country.⁶ Comparing similarities and differences in the “inputs” (the basic national ACA structures in place and their implementation) to the similarities and differences in the “outputs” (perceptions of corruption from one country to the next) yields insight into which ACA structures or practices – if any – truly matter in fighting corruption. While this sort of comparative analysis is inherently difficult and subjective, it is the best if not only way to tease out potential “best practices.”

⁴ Klitgaard, Robert. “International Cooperation Against Corruption.” *Finance and Development*. March 1998.

⁵ Borowiec, Andrew. “Europe Struggles to Become a Superpower.” *The Washington Times*. 12 Mar 2006, A12.

⁶ While several models of successful ACAs exist internationally – including “all-in-one” ACAs, parliamentary models, purely investigative models, and collections of several agencies acting in concert – it is generally accepted in all cases that an ACA's core mission is, first and foremost, to reduce corruption in the country. See John R. Heilbrunn's *Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?* (World Bank Institute, 2004) for a detailed treatment of the various models.

The Inputs

One of the few available tools to compare disparate ACAs – including their effectiveness – is the Global Integrity Index, a ranking of countries’ openness, government accountability, and anti-corruption mechanisms in six broad dimensions of governance⁷. Those six broad dimensions comprise more than 290 indicators – dubbed the Integrity Indicators” – assessing a country’s “integrity framework”: the laws, regulations, practices, and habits that should be in place in any country to prevent, deter, or curb corruption. Among the elements of that framework of *de jure* laws and regulations, *de facto* implementation, and citizen access to anti-corruption mechanisms are indicators assessing national anti-corruption agencies. Those indicators can serve as a useful proxy for the “inputs” in our conceptual model tracking ACA performance.

With respect to ACAs, the 2004 Integrity Indicators asked the following questions:

In law, is there an agency (or group of agencies) with a legal mandate to address corruption?
Is the main anti-corruption agency effective?
In law, the agency is protected from political interference.
In practice, the agency is protected from political interference.
In practice, the head of the agency is protected from removal without relevant justification.
In practice, appointments to the agency are based on professional criteria.
In practice, the agency has a professional, full-time staff.
In practice, the agency receives regular funding.
In practice, the agency makes regular reports to the legislature.
In practice, the agency has sufficient powers to carry out its mandate.
In practice, when necessary, the agency independently initiates investigations.
Can citizens access the main anti-corruption agency?
In practice, the main anti-corruption agency acts on complaints within a reasonable time period.
In practice, citizens complain to the agency without fear of recrimination.

Those scores were then aggregated into a single category score for “Anti-Corruption Agency” for each country covered.

Rather than trying to measure actual corruption, considered virtually impossible by experts, the Integrity Indicators quantitatively measures the *opposite* of corruption, that is, the existence of anti-corruption mechanisms and practices in the country, the extent to which those mechanisms are implemented, and citizens’ ability to access and make use of those mechanisms. A useful analogy to how the Integrity Indicators work is to compare how astronomers attempt to locate black holes. Rather than trying to “find” the black hole itself – impossible in that it sucks in all light and energy – scientists search for the unique movement of matter and energy around the black hole, postulating its existence by observing the behavior of that external matter. So although we cannot measure corruption itself, we can measure the “movement” around it – the existence (or lack thereof) of laws, institutions and regulations designed to increase transparency, openness,

⁷ See <http://www.globalintegrity.org> for a full description of the Index and organization.

and to prevent corruption; how those laws and regulations are put into practice; and whether the public can make use of them.

The Integrity Indicators are harvested by country-teams comprised of a lead social scientist (typically an academic researcher or NGO expert with expertise in governance and corruption issues) and country “readers,” similarly qualified experts who blindly review the lead social scientist’s raw work for quality control purposes, providing comments, criticisms, and suggested scoring changes. A headquarters team provides an additional layer of quality control and methodological oversight to the final scoring.⁸

The Integrity Indicators are not perfect: they are national in scope and do not address local or regional structures or practices; they do not “drill down” as much as a specially designed survey could into any particular category or element of national governance, including into the make-up and performance of anti-corruption agencies; and they rely on the expertise of a team of experts rather than a larger data pool of responses. That all said, they are a novel and unique approach to assessing governance structures in-country.

The Outputs

If the Global Integrity Index and the Integrity Indicators represent our “inputs” – that is, the structures, practices, and implementation in place to deter or prevent corruption – then the best proxy for our “outputs” is the governance perception data generated by the World Bank Institute (WBI). WBI compiles disparate polls and opinion surveys gauging perceptions of corruption, governance, and business climate in countries around the world and generates composite data reflecting perceptions in six broad dimensions of governance in more than 200 countries⁹. The WBI perception work has taken perception polls like Transparency International’s (TI) Corruption Perceptions Index a major step forward and represents a major improvement on TI’s methodology, which has come under increasing criticism in recent years for its serious methodological flaws¹⁰. It is by far the best aggregate perception-based data available today capturing perceptions of corruption.

For the purposes of the model constructed here, one can utilize, of the six dimensions compiled by WBI, the 2004 “Control of Corruption” dimension as a useful proxy for measuring perceptions of whether a country’s integrity framework has been effective in curbing corruption. That data is generated by combining several different perception polls, most compiled by private sector political risk firms, gauging business climate in the country. The data is then leveled and aggregated to arrive at country-level perceptions in WBI’s six dimensions of governance, including control of corruption.

⁸ Global Integrity’s country reports also comprise a major journalistic element assessing corruption on the ground in the lives of everyday citizens; that component is not addressed in this paper, though it does serve as a useful tool for qualitatively assessing what type of corruption – state capture or administrative corruption – may be more prevalent in a particular country.

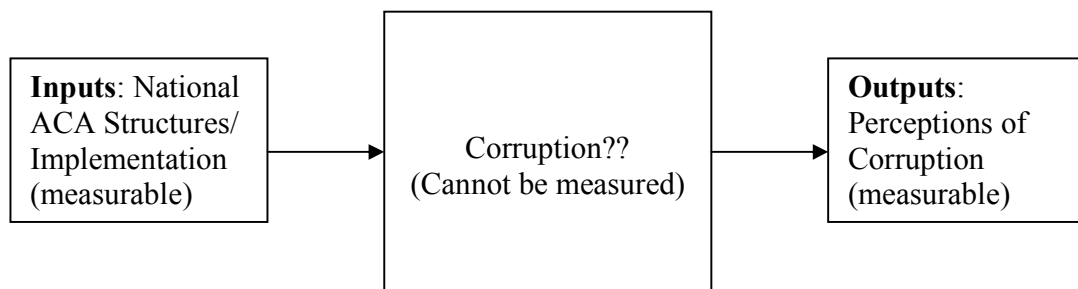
⁹ See <http://www.worldbank.org/wbi/governance> for WBI’s full dataset, related papers, and methodological descriptions.

¹⁰ Former TI head of research Fredrik Galtung’s critique – which can be found at <http://www.tiri.org/docs/boundaries.pdf> -- is the most persuasive.

Like the Integrity Indicators, WBI's work is also imperfect: it tends to disproportionately disregard outlying data; it is often confused for representing actual measures of governance when in fact it is merely a composite of perception polls; and it is based on third-party surveys and polls over which it has no quality control and which tend to self-reinforce each other. That all said, it serves as a useful proxy here for gauging perceptions of corruption in-country.

The Model

One can envision this input-output schematically along the following lines:



If one accepts the postulate that corruption itself can never be fully measured in that it can never be fully observed, then this model, while imperfect, represents a useful construct for trying to gauge whether national ACAs have an impact on curbing corruption.

The Results: Inputs

First, we must review the “inputs” for our model – the ACA structures in place for European ACAs. The 2004 Global Integrity Index and Integrity Indicators covered two “traditional” Western European/EU countries – Italy and Germany. It also covered three other Organization for Security and Cooperation in Europe/Council of Europe countries that are key EU partners and are appropriate for analysis here: Ukraine, Turkey, and Russia. WBI's data for 2004 covered all of these countries.

Italy's and Germany's ACAs ranked “very strong” overall in the 2004 Global Integrity Index (overall score for category V1-2 above 90).¹¹ The major weakness cited in the German example – where there is no single national ACA but a collection of Staatsanwaltschaften prosecutors and anti-corruption agencies on the federal level – was insufficient manpower to carry out their duties. Otherwise, public complaints were acted upon promptly by authorities and staff hired professionally and protected from political interference.

¹¹ See <http://www.globalintegrity.org/default.aspx?act=10> for a detailed explanation of Global Integrity's scoring system and methodology.

In the Italian case, one of the primary ACAs in place – the Guardia de Finanza – scored strongly in all categories of independence and effectiveness save for the fact that the organization depends upon the support of the Ministry of Finance; its head is also appointed by the head of state. Both circumstances expose the ACA to possible political interference.

Like the situation in Germany and Italy, Ukraine had no single ACA but rather a collection of agencies at the national level tasked with a legal mandate to fight corruption. In practice, however those entities were not protected from political interference. Global Integrity also reported that citizens feared recrimination for reporting cases to the bodies that make up the national ACA. Both of those negative scores dragged Ukraine’s overall ACA score down to the “moderate” range.

In Turkey the situation appeared worse, with the overall score for Turkey’s ACA (again, a collection of disparate, uncoordinated bodies rather than a single national-level unit) in the “very weak” range. Reports to the President on corruption cases were not automatically made public and one of the key anti-corruption agencies – the State Inspection Auditing Board – was understaffed and underfunded.

The lowest score of the group was in Russia, where a Council set up by Russian President Vladimir Putin in December 2003 to fight corruption is viewed as powerless and as an advisory body to the President rather than as an enforcement body. Most corruption-related investigations take place within the “power” ministries, in particular the FSB, where they are very much subject to politicization, Global Integrity reported.

Below is a summary of the ACAs for the five countries in question:

2004 Global Integrity Index: Selected Data on ACAs ¹²		GERMANY	ITALY	RUSSIA	TURKEY	UKRAINE
V1-2	Anti-Corruption Agency (Overall Score)	0.94	0.95	0.33	0.49	0.72
72	In law, is there an agency (or group of agencies) with a legal mandate to address corruption?	1.00	1.00	1.00	1.00	1.00
73	Is the main anti-corruption agency effective?	0.83	0.86	0.00	0.47	0.53
73a	In law, the agency is protected from political interference.	1.00	0.00	0.00	1.00	1.00
73b	In practice, the agency is protected from political interference.	1.00	0.75	0.00	0.50	0.25
73c	In practice, the head of the agency is protected from removal without relevant justification.	1.00	1.00	0.00	0.25	0.25
73d	In practice, appointments to the agency are based on professional criteria.	1.00	1.00	0.00	1.00	0.50
73e	In practice, the agency has a professional, full-time staff.	1.00	1.00	0.00	0.50	1.00
73f	In practice, the agency receives regular funding.	0.75	1.00	0.00	1.00	1.00
73g	In practice, the agency makes regular reports to the legislature.	1.00	1.00	0.00	0.00	0.25
73h	In practice, the agency has sufficient powers to carry out its mandate.	0.25	1.00	0.00	0.00	0.25
73i	In practice, when necessary, the agency independently initiates investigations.	0.50	1.00	0.00	0.00	0.25
74	Can citizens access the main anti-corruption agency?	1.00	1.00	0.00	0.00	0.63
74a	In practice, the main anti-corruption agency acts on complaints within a reasonable time period.	1.00	1.00	0.00	0.00	1.00
74b	In practice, citizens complain to the agency without fear of recrimination.	1.00	1.00	0.00	0.00	0.25

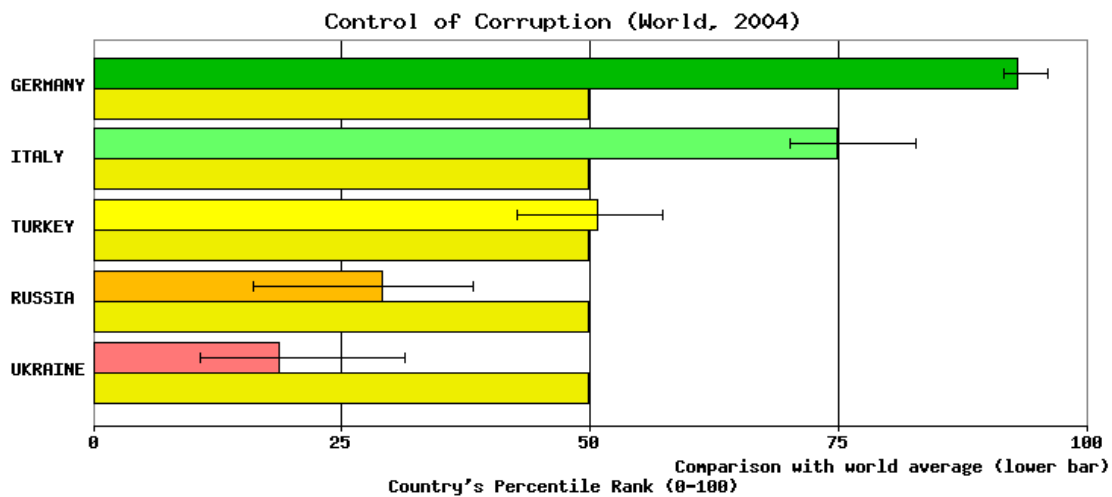
¹² Please see <http://www.globalintegrity.org> for all country-specific data, expert comments, and sourcing.

The Results: Outputs

Turning to perceptions of controlling corruption in these same countries, we find both some expected and some surprising results based on our inputs above.

As a percentile rank of “controlling corruption,” Germany ranked the best of our five countries, scoring a 93.1 percentile ranking. Italy was next with 74.9, followed by Turkey at 50.7, Russia at a poor 29.1 percentile, and Ukraine last at 18.7. Again, this data was aggregated by WBI by combining several elements of anywhere from 10 to 14 different opinion polls surveying perceptions of, most often, business climate and business risk.

WBI’s results are depicted graphically here:



Source: D. Kaufmann, A. Kraay, and M. Mastruzzi 2005: Governance Matters IV: Governance Indicators for 1996-2004 (<http://www.worldbank.org/ubi/governance/pubs/govmatters4.html>)

Interpreting the Results, Policy Insights

One interesting result flowing from our comparison of our “inputs” to our “outputs” is Ukraine’s poor showing in perceptions of controlling corruption while scoring “moderate” – rather than “weak” or “very weak” – for its ACA system. Russia and Turkey demonstrated greater weaknesses in their ACA structures, according to the Global Integrity Index, yet scored better in perceptions of controlling corruption. Why the perceived failure to control corruption in Ukraine when the ACA structures were not as weak as those in its neighbors Russia and Turkey?

One possible explanation comes from unpacking the individual components that make up each country’s respective ACA score in the Global Integrity Index. Not all ACA weaknesses exhibited by those three countries necessarily lead to the same outcomes when it comes to perceptions of controlling corruption. In other words, some weaknesses in an ACA structure may be more damaging than others. In Ukraine’s Global Integrity

data, the most glaring deficiencies concerned political interference. Russia's ACA scoring in the Global Integrity Index similarly suffered from political interference, which may help explain Russia's low score in the WBI perception data. Though some problems with political interference were noted in Turkey's scoring in the Global Integrity Index, they were qualitatively different than (and not as crippling as) the political interference described in Russia and Ukraine, and Turkey's overall ACA score was higher than the other two. Although anecdotal, this could potentially explain why perceptions of controlling corruption in Turkey turn out to be higher than those in Russia and Ukraine and reinforce an important central element to an effective ACA in any country: political independence.

An equally compelling explanation for the turnaround in scoring between Ukraine, Russia, and Turkey concerns media freedom. Data concerning media freedom gathered as part of the 2004 Global Integrity Index rank Ukraine and Russia in the second-to-lowest category in media freedom – “weak” – as compared to a “moderate” score for Turkey and “very strong” scores for Italy and Germany. Although the data pool is not large enough to draw any definitive statistically significant conclusions, this anecdotal evidence suggests that an effective, professional, and free media can help “fill the gaps” left by an ACA that is hampered by political interference. An effective media that is politically independent can actually enhance the effectiveness of a formal, government-run ACA by contributing to public awareness of corruption-related scandals or investigations. That public awareness, at least in an environment where civil society can operate relatively unfettered, can embolden ACAs by providing them with the public political support they need from citizens to protect themselves against political leaders seeking to curb ACA investigations or enforcement activities. In other words, as public awareness increases through media coverage, the political costs to clamping down on ACA activities increases. In this way, a free media can potentially act as an “ACA of last resort” when the ACA itself is under political pressure.

A final commonality to emerge from a comparison of all of these countries is that a single, centralized ACA structure may not be the most important factor in whether an ACA (or network of agencies tasked with ACA activities) is effective in controlling corruption. Unlike the classic example of Hong Kong, in the five countries noted above there was no single “anti-corruption agency” in the country mandated, by law, to lead the national fight against corruption. In Germany and Italy, the system of decentralized ACA control has still meant that perceptions of controlling corruption are strong. In the other three countries, it has not.

This phenomenon is not limited to Europe. Below is a chart depicting which countries covered by the Global Integrity Index in 2004 had a single, centralized ACA and how all countries fared in WBI's data with regard to perceptions of controlling corruption. The countries are ranked from lowest to highest (weakest to strongest) according to WBI scores in perceptions of controlling corruption:

COUNTRY	Single, “Central” ACA?	Perception of Controlling Corruption
NIGERIA	Yes	8.9
ZIMBABWE	No	11.8
VENEZUELA	Yes	14.3
INDONESIA	Yes	17.7
KENYA	Yes	18.7
UKRAINE	No	18.7
GUATEMALA	No	27.1
RUSSIA	No	29.1
PHILIPPINES	No	36.5
ARGENTINA	Yes	42.9
NICARAGUA	No	46.3
INDIA	Yes	47.3
MEXICO	Yes	48.8
TURKEY	No	50.7
GHANA	No	51.7
BRAZIL	No	53.2
PANAMA	Yes	55.2
NAMIBIA	Yes	62.6
SOUTH AFRICA	No	70.9
ITALY	No	74.9
JAPAN	No	86.2
PORTUGAL	No	86.7
UNITED STATES	No	92.6
GERMANY	No	93.1
AUSTRALIA	No	94.1

Although the pool of countries in this selection is small, they do represent a diverse collection of large and small countries, democratic and non-democratic, and rich and poor. Although the data pool is not large enough to make definitive conclusions, the chart does suggest anecdotally that having (or not having) a single, centralized ACA appears to matter little in whether the country performs strongly or weakly in perceptions of controlling corruption. It lends credence to the argument that what’s important in fighting corruption, particularly at the national level, is less about wire diagrams and bureaucratic structure and more about the broader social and political context in which an ACA operates. This anecdotal evidence suggests that civil society and media can play a large and important role in facilitating effective anti-corruption efforts even when there is no centralized ACA in place.

This could have profound implications as the EU expands into countries facing acute budgetary and resource constraints. As national leaders and experts in Brussels consider good governance and anti-corruption reforms as part of an overall accession package, in some circumstances it may be best at the outset to focus less on establishing resource-intensive anti-corruption agencies and more on promoting a more holistic approach to fighting corruption that emphasizes reinforcing those basic pillars of civil society – including a free, professional, and independent media – that need to be in place anyway

as accession countries move along the road of reform. If indeed civil society and the media can help fill gaps exposed by an ineffective or non-existent ACA, than perhaps supporting their development should take precedent over creating new bureaucracies in a time of limited resources – at least at the outset of the accession process.

Conclusions

As Europe wrestles with the political and economic costs associated with expansion and centralization of power in Brussels, informed insights into how best to design national anti-corruption programs take on greater importance. Our review of the available data on European ACAs and their counterparts around the world suggests at least three principles that be should taken under consideration in both “traditional” Western European countries and newer accession countries to the south and east.

- 1) Political independence may be an important variable affecting the performance of ACAs in Europe. There is no set formula for ensuring that independence: in some countries it may mean the ACA reports directly to Parliament rather than the executive; in others it may relate more to guaranteed budgets and de-politicization of the personnel process. Regardless of unique national characteristics, ensuring the political independence of European ACAs should be a primary concern.
- 2) A free, independent, and professional media can have a large multiplier effect in engaging civil society to support anti-corruption efforts and ACAs themselves. By drawing civil society closer to and more aware of ACA investigations and activities, the media can bolster the political support for ACA activities and help fill gaps where a national ACA may be understaffed, under funded, or politically constrained.
- 3) When considering whether a single, centralized ACA or system of disparate agencies is the best anti-corruption solution for a country, the anecdotal evidence suggests that no single formula is a panacea either in Europe or around the world. These sorts of decisions are more art than science and will need to be tailored to unique national and historical contexts with the full input of all stakeholders – political leaders, the private sector, and civil society included.

None of these prescriptions are fool-proof or guarantee success. But with the increasing availability of new tools and data to inform the decision-making process, we have a better chance than ever of getting it right.