SEVENTH FRAMEWORK PROGRAMME OF THE EUROPEAN COMMISSION

RESEARCH PROJECT: "ALACs"

Promotion of Participation and Citizenship in Europe through the "Advocacy and Legal Advice Centres (ALACs)" of Transparency International. Analysis and Enhancement of an Anti-corruption Tool to Enable Better Informed and Effective Citizen Participation in Europe

Project no.: 225374

Instrument: Project targeted to special groups - CSOs (BSG)

Thematic Priority: Theme SSH-2007.5.1.1
Theme Title: Area 8.5.1 Participation and Citizenship in Europe

Deliverable No 1

"ALACs and the concept of citizen participation in the light of European law"

Due date of deliverable: June 2010
Actual submission date: July 2010
Start date of project: 1st September 2009
Duration: September 2009-August 2012
Organisation name of lead contractor for this deliverable: University of Konstanz
Revision (Draft 1: July 2010)
Dissemination level: Public

Introduction

In the following preliminary thoughts are presented on Advocacy and Legal Advice Centres (ALACs) of Transparency International in the light of the law of the European Union. The report consists of two parts. The first part contains general remarks on European Law, citizen participation and anticorruption policies. The second part briefly outlines the concept of ALACs and comments on it in the light of the previous remarks on European law, with a special emphasis on Romania.

European Law, Citizen Participation and Anticorruption Policies

Many historical, political and cultural factors as well as the actual functioning of governing institutions are important in shaping citizenship and its role in fighting corruption. Although national institutions are still responsible in the first place for preventing and sanctioning corrupt behaviour in the EU, anticorruption policies are also part of supranational policies, in particular in the context of a developing notion of European citizenship.

Citizenship in the European Union

At the supranational European level a new understanding of citizenship was introduced by the Maastricht Treaty in 1992. It was the key concept in transforming the European Economic Community into the political European Union. The formal creation of European citizenship can be seen as a major achievement of European integration.

At the core of the European law of citizenship lie status and residence rights. The legal notion of citizenship of the European Union encompasses economic and social rights of free movement and residence, regulated in Articles 20 to 24 TFEU (ex 17 and 21 EC Treaty), and political rights of participation in municipal and European elections.

Free movement of citizens and Schengen

An important aspect of the free movement of citizens is their ability to freely cross borders between countries. For this purpose the Schengen Agreement creates the so-called Schengen area. It dates back to 1985 when originally five of the Members States of the EU (France, Germany, Belgium, Luxembourg and the Netherlands) created a territory on which the signatory states to the agreement have abolished all internal borders in lieu

of a single external border. The Schengen area gradually expanded after 1985. 22 of the 27 member states have signed the Schengen Agreement so far.[1]

Externally, common rules and procedures are applied with regard to visas for short stays, asylum requests and border controls within the Schengen area. Internally, cooperation and coordination between police services and judicial authorities have been stepped up. The first agreement between the five original group members, signed on 14 June 1985, was followed by a further convention, which was drafted and signed on 19 June 1990 and took effect in 1995. It abolished checks at the internal borders of the signatory states and created a single external border where immigration checks for the Schengen area are carried out in accordance with identical procedures. Common rules regarding visas, right of asylum and checks at external borders were adopted to allow the free movement of persons within the signatory states without disrupting law and order. The Treaty of Amsterdam of 1997 incorporated Schengen cooperation into the European Union's legal framework.

In order to reconcile freedom and security, the freedom of movement was accompanied by so-called "compensatory" measures. This involved improving cooperation and coordination between the police and the judicial authorities in order to safeguard internal security and, in particular, to fight organised crime. With this in mind, the Schengen Information System (SIS) was set up. SIS is a sophisticated database used by authorities of the Schengen member countries to exchange data on certain categories of people and goods.[2]

The Schengen agreement has opened internal borders within Europe, but externally it has raised barriers of entrance and imposes additional restrictions on citizens from countries that lie outside its borders. There is a fear that borders that have historically been open will turn into closed gates and that especially the eastern borders of new East European

[1] Italy signed the agreements on 27 November 1990, Spain and Portugal joined on 25 June 1991, Greece followed on 6 November 1992, then Austria on 28 April 1995 and Denmark, Finland and Sweden on 19 December 1996. Ireland and the United Kingdom are not part of the Schengen area and chose to opt out. The New Member States (NMS) do not have an opt-out clause. They are therefore obliged to become part of the Schengen Area. The Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia joined on 21 December 2007. Bulgaria, Cyprus and Romania are not yet fully-fledged members of the Schengen area; border controls between them and the Schengen area are maintained until the EU Council decides that the conditions for abolishing internal border controls have been met. In addition there are three non-EU countries that have signed the Schengen Agreement: Iceland, Norway and Switzerland.

[2] See Kabera Karanja 2008.

member states that already enjoy some Schengen privileges are cutting their inhabitants off from neighbours such as Ukraine, Belarus and Russia. The policing of the Schengen area has been criticised for leading to increased random identity checks throughout the territory of a particular member state, and for targeting particular racial and ethnic groups.

Furthermore there is the fear of increased crime as a result of the Schengen Agreement. As one British source has put it: "Schengen has not only made life easier for business travellers and tourists but has benefited criminals too".[3] However, it is less clear whether this is also true for an increase in cases of corruption. The link between the Schengen Agreement and corruption requires further investigation. What is clear is that since the Amsterdam Treaty of 1997 corruption falls into the category of cross-border crimes for which, since the adoption of the Lisbon Treaty in December 2009, special legislative competences are now granted to the European Union.

Legal and political rights of participation and active citizenship

There is a lively debate in the EU about expanding the areas in which citizens can participate in political and social affairs. A fundamental transformation of what is understood as European citizenship seems to be taking place. Citizens are no longer just passively enjoying their rights but also encouraged to actively participate in political and social affairs. The notion of active citizenship encompasses a number of dimensions and is closely linked with creating a European civil society[4] that reaches out to those members who are deprived of rights. It also includes social rights and the legal consequences of changes to the European social model due to new labour market conditions that require more flexible citizens in order to cope with the needs of managing transitional labour markets.[5] A particular focus in this debate is placed on the role of immigrants and non-EU citizens residing in the EU. Efforts are being made to reach beyond European citizenship as a legal status, and issues of identity, belonging, and the significance of 'Europe' in general are at stake in these debates.[6]

Characteristic of this debate are the discussions taking place within ENACT (Enacting European Citizenship), a research project funded by the 7th Framework Research

[3] http://news.bbc.co.uk/1/hi/talking_point/debates/european/803248.stm.
[4] See, for example, Outhwaite 2006.
[5] On the debate of social citizenship, transitional labour markets and the European Social Model see Rogowski 2008.
[6] See Lister, Pia 2008 Shaw 2007.

Programme of DG Research of the European Commission and coordinated by The Open University in the UK. In its own words: "ENACT's aim is to take part in debates on European citizenship through the analysis of acts of citizenship, bringing into focus a range of actors and acts not normally considered in the context of European citizenship. ENACT highlights ways in which the scope, content and perception of European citizenship is shaped by the complex ways in which citizenship is enacted, within, across and beyond member states. Acts of (European) citizenship influence who we think of as being subjects for rights, and often demonstrate graphically the challenges to instituting citizenship on a transnational scale. In short, ENACT's fresh perspective provides a new way to assess the emerging dynamics of European citizenship."[7]

A particular focus of ENACT is placed on marginalised groups in civil society. It analyses "acts" of citizenship and their challenges to European citizenship by Turkish groups, Roma and Sinti, and sex workers, along with state acts of depriving citizenship. It hopes to explore through such cases the gap between law and the politics of European citizenship.

EU anticorruption policies –An Overview

The European Union has expressed on many occasions an interest in promoting good governance and ensuring the participation of civil society through open and transparent conduct of its institutions, bodies, offices and agencies, now regulated in Article 15 (ex Article 255 TEC) of the Treaty on the Functioning of the EU (TFEU). In addition, the European Union engages in fighting corruption in a number of areas.

It is particularly concerned with corruption within its institutions. In 1997 it adopted a 'Convention in the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union' (OJ 1997 C 195/1). As the name of the Convention suggests, it is limited to acts of bribery involving EU and member state officials. This Convention on corruption entered into force on 28 Sept. 2005.

The EU now has legislative powers to introduce directives in the area of corruption. After the adoption of the Lisbon Treaty in December 2009, the previous intergovernmental

[7] http://www.enacting-citizenship.eu.

Judicial Cooperation in Criminal Matters has become an EU policy area and was integrated in the new TFEU. Corruption is mentioned in Art 83 TFEU (previous Art. 31 TEU) as a possible area of "serious crime with a cross-border dimension" which might require supranational legislation "resulting from the nature or impact of such offences or from a special need to combat them on a common basis".

Overview of anti-corruption measures of the EU since 1997

The fight against corruption has been high on the agenda of the European Union at least since the time of the Amsterdam Treaty. The 1997 Action Plan[8] against organised crime advocated a comprehensive policy against corruption, primarily focussing on preventive measures and the European Commission suggested in the same year a range of measures (banning of tax deductibility of bribes, rules on public procurement procedures, introduction of accounting and auditing standards, blacklisting of corrupt companies and measures in the Community's external aid and assistance scheme) with a view to formulating an EU strategy on corruption both within and outside its borders.[9]

In 1998 the Council identified in its Vienna Action Plan corruption as one of those criminal behaviours in the field of organised crime where prioritised action was deemed necessary by elaborating and adopting measures establishing minimum rules relating to the constituent elements of this offence and penalties.

At the 1999 Tampere European Council, EU Heads of State or Government endorsed this recommendation by identifying corruption, in the context of financial crime, as one of the sectors of particular relevance where common definitions, incriminations and sanctions should be agreed upon.

Finally, in line with the 1998 Action Plan and the Tampere Conclusions[10], the so-called Millennium Strategy on the Prevention and Control of Organised Crime of March 2004 reiterated the need for instruments aimed at the approximation of national legislation and developing a more general (i.e. multi-disciplinary) EU policy towards corruption, taking into account as appropriate work being carried out in international organisations. Furthermore, the same document urged those member states, which had not yet ratified

[8] Action plan to combat organized crime, adopted by the Council on 28 April 1997.
[9] Communication from the Commission to the Council and the European Parliament on a Union policy against corruption, adopted by the Commission on 21 May 1997, COM(97) 192 final.
[10] The prevention and control of organised crime – a European Union strategy for the beginning of the new millennium, adopted by the Council on 27 March 2000.

the relevant EU and Council of Europe anti-corruption legal instruments to ensure speedy ratification within a clear timeframe.

Since the beginning of the new millennium the fight against corruption has gained further momentum at national, EU and international level and important EU and international instruments were adopted. Concerning EU instruments, the EU adopted the Convention on the protection of the European Communities' financial interests (PIF-Convention) and its first protocol entered into force on 17 October 2002.[11] The previously mentioned, important 2005 EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU member states is currently in force in all member states except the Czech Republic and Malta.

A particular area in which the EU is active in fighting corruption is related to its interest in protecting the financial interests of the Union against fraud. On the basis of Article 325 TFEU (ex Article 280 TEC), which combines measures to prevent and to combat fraud detrimental to the EC budget[12], a European Anti-fraud Office (OLAF) was established[13]. OLAF has wide-ranging investigative powers and uses an interinstitutional approach to prevent and combat corruption.[14] With respect to OLAF internal investigations, corruption covers the professional misconduct of EU officials in relation with the exercise of their duties liable to result in disciplinary or criminal proceedings.[15]

[11] The second protocol of the PIF-Convention is still in the process of ratification.

[12] Article 325 TFEU (ex Article 280 TEC): "1. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies.
2. Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests.
3. Without prejudice to other provisions of the Treaties, the Member States shall coordinate their action aimed at protecting the financial interests of the Union against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.
4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Court of Auditors, shall adopt the necessary measures in the fields oft he prevention of and fight against fraud affecting the financial interests of the Union with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies.
5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article."

[13] OLAF was created in 1999 by the Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 (OJ L 136, 31.5.1999, p. 20).

[14] See Communication on the fight against fraud, for an overall strategic approach, COM(2000) 358 final.

[15] On OLAF and control of fraud, in particular in relation to community funds, see Wakefield 2007, especially ch. 9.

The Council adopted on 3 March 2010 the so-called "The Stockholm Programme - An open and secure Europe serving and protecting citizens". In it the Council pays particular attention to the link of corruption and economic crime and is concerned with "reducing opportunities available to organised crime as a result of a globalised economy, in particular during a crisis that is exacerbating the vulnerability of the financial system". The European Council invites the Commission in particular to "develop indicators, on the basis of existing systems and common criteria, to measure efforts in the fight against corruption, in particular in the areas of the acquis (public procurement, financial control, etc) and to develop a comprehensive anti-corruption policy."

The EU and international anti-corruption conventions

The EU understands its anticorruption policies as part of international efforts in fighting corruption. To some extent European policies have to be understood as implementation measures for international conventions. These include the OECD Convention on combating bribery of foreign public officials in international business transactions (signed on 21/11/1997; in force since 15/02/1999) and the UN Convention against corruption (UN General Assembly Resolution 58/4 of 31 October 2003, entered into force on 14 December 2005). The EU adopted three common positions during the drafting process of the UN convention. The Commission held the view that only those measures should be strengthened and supported at EU level, which are not already substantively covered, or not with the same degree of mandatory character as EU instruments, by international organisations. This positive attitude towards initiatives of the United Nations and the OECD was also adopted in relation to the Criminal Law Convention on Corruption of the Council of Europe (signed on 27/01/1999; in force since 01/07/2002).

Preventing Corruption and Specific Anticorruption measures for EU candidates

In its 2003 Communication on a Comprehensive EU policy against corruption[16] the Commission outlines a range of measures in order to achieve the objective "of prevention and combating of corruption, organised or otherwise, in order to enable the creation and safeguarding of a European area of freedom, security and justice through closer judicial, police and customs cooperation and, where necessary, approximation of criminal law", as stated in the former Art. 29 of the Treaty on European Union.

[16] European Commission, COMMUNICATION On a Comprehensive EU Policy Against Corruption, COM(2003) 317 final. In the following the report derives basic information on the EU's anticorruption policy from this report.

The list of preventive measures includes:

- Eliminating tax deduction of bribes
- Barring known corrupt applicants from tender in public procurement procedures through blacklisting
- Control of financial transactions
- Offer of training programmes
- Paying particular attention to combating fraud within the EU institutions
- Control of money laundering, especially in cases of external aid and assistance
- Raising integrity in the public sector through quality and benchmarking of public services as well as protection of vulnerable professions against influences of crime as well as strengthening corporate social responsibility
- Introducing and observing proper accounting standards and statutory audit
- Paying special attention to corruption in bodies of special nature in-between the public and the private sector.

The Commission adopted 10 general principles encouraging anti-corruption policies in candidate countries (currently Croatia, Macedonia (FYROM) and Turkey and so-called potential candidates including Albania, Bosnia and Herzegovina, Montenegro and Serbia) and other third countries (including Russia, Western NIS, and the Mediterranean Partners). These "Ten Principles for Improving the Fight against Corruption in Acceding, Candidate and other Third Countries" contain useful insights in foci as well as methods the Commission thinks are effective in fighting corruption:

1) "To ensure credibility, a clear stance against corruption is essential from leaders and decision-makers. Bearing in mind that no universally applicable recipes exist, national anti-corruption strategies or programmes, covering both preventive and repressive measures, should be drawn up and implemented. These strategies should be subject to broad consultation at all levels.

2) Current and future EU Members shall fully align with the EU acquis and ratify and implement all main international anti-corruption instruments they are party to (UN, Council of Europe and OECD Conventions). Third countries should sign and ratify as well as implement relevant international anti-corruption instruments.

3) Anti-corruption laws are important, but more important is their implementation by competent and visible anti-corruption bodies (i.e. well trained and specialised services such as anti-corruption prosecutors). Targeted investigative techniques, statistics and indicators should be developed. The role of law enforcement bodies should be

strengthened concerning not only corruption but also fraud, tax offences and money laundering.

4) Access to public office must be open to every citizen. Recruitment and promotion should be regulated by objective and merit-based criteria. Salaries and social rights must be adequate. Civil servants should be required to disclose their assets. Sensitive posts should be subject to rotation.

5) Integrity, accountability and transparency in public administration (judiciary, police, customs, tax administration, health sector, public procurement) should be raised through employing quality management tools and auditing and monitoring standards, such as the Common Assessment Framework of EU Heads of Public Administrations and the Strasbourg Resolution. Increased transparency is important in view of developing confidence between the citizens and public administration.

6) Codes of conduct in the public sector should be established and monitored.

7) Clear rules should be established in both the public and private sector on whistle blowing (given that corruption is an offence without direct victims who could witness and report it) and reporting.

8) Public intolerance of corruption should be increased, through awareness raising campaigns in the media and training. The central message must be that corruption is not a tolerable phenomenon, but a criminal offence. Civil society has an important role to play in preventing and fighting the problem.

9) Clear and transparent rules on party financing, and external financial control of political parties, should be introduced to avoid covert links between politicians and (illicit) business interests. Political parties evidently have strong influence on decision-makers, but are often immune to anti-bribery laws.

10) Incentives should be developed for the private sector to refrain from corrupt practices such as codes of conduct or "white lists" for integer companies."

How the Commission Monitors Corruption – the example of the Co-operation and Verification Mechanism

James H. Anderson and Cheryl W. Gray, in their Report for the World Bank "Anticorruption in Transition 3: Who is Succeeding... And Why?" noted in 2006 that specific problems exist in Central and Eastern European countries in relation to government procurement and the judiciary.[17] These were also acknowledged by the European Commission and were identified, at least since 1997, as special problems faced

[17] Anderson, Gray, 2006, p. XV.

by Central and Eastern Europe the EU that became candidates for membership at that time.

The Commission adopted specific measures during the accession process before these countries joined the EU in 2004, respectively 2007. The Commission monitored corruption as part of the implementation of the Europe Agreements that prepared these new member states for accession.[18] The *Co-operation and Verification Mechanism* (CVM) was introduced for post-accession monitoring of the latest entrants Bulgaria and Romania[19], who entered the EU on 1 January 2007.

The rationale for setting up CVM was to help Bulgaria and Romania remedy certain shortcomings in the fight against corruption. CVM was introduced by the Commission Decision 2006/928/EC of 13 December 2006[20] which established a mechanism to address specific benchmarks in the fight against corruption, especially in the area of judicial reform. CVM allows the Commission to issue periodical reports monitoring progress in specific areas of the fight against corruption.
The Commission has monitored Romania's efforts in several reports. The last European Commission's Interim Report "On Progress in Romania under the Co-operation and Verification Mechanism" of 23.3.2010[21] portrays a rather sober picture of the "State of Play" after three years of judicial reform and anticorruption efforts. At the political and administrative level, Romania undertook a number of initiatives. It introduced a National Integrity Agency (ANI) and a special prosecutorial service, the National Anticorruption Directorate (DNA). However, the report states that only "limited results were shown in judicial reform. Jurisprudence in high-level corruption trials remained inconsistent and not dissuasive. High-level corruption trials continued to suffer from procedural delays."
Independent observers doubt that the monitoring process works well. According to Patrycja Szarek-Mason, "the monitoring mechanism relies more on peer pressure than on any believable threat of using safeguard clauses. One could argue that any pressure for reform would have been more effective if it was used before accession". In short, "the cooperation and verification system is ineffective".[22]

[18] For details see Szarek-Mason 2010.
[19] On constitutional issues raised by Romania's accession see Tănăsescu 2010.
[20] OJ L 354, 14.12.2006, p. 56.
[21] COM(2010)113 final.
[22] Szarek-Mason 2010, 235-6.

Advocacy and Legal Advice Centres (ALACs) in the Light of European Law

This section consists of a brief introduction of the history and concept of Advocacy and Legal Advice Centres (ALACs), followed by some remarks on ALAC activities in the light of European law. These thoughts are partly based on impressions gained during a field study visit of the ALAC of the Romanian TI Chapter in Bucharest at the end of March 2010.

Advocacy and Legal Advice Centres (ALACs): History and Concept

ALACs were set up by the international non-governmental organisation Transparency International (TI) that focuses on fighting corruption worldwide. Although still young, TI managed to become a leading international non-governmental organisation in a short period of time. It was founded in 1993 and can claim to be the best-recognised global civil society organisation engaged in a worldwide fight against political and other forms of corruption.[23]

TI is a global network including more than 90 locally established national chapters and chapters-in-formation. These bodies fight corruption in the national arena in a number of ways. They bring together relevant players from government, civil society, business and the media to promote transparency in elections, in public administration, in procurement and in business. TI claims to have the skills, tools, experience, expertise and broad participation to fight corruption on the ground, as well as through global and regional initiatives.

TI's global network of chapters and contacts also use advocacy campaigns to lobby governments to implement anti-corruption reforms. And in this context their Advocacy and Legal Advice Centres (ALACs) play an important role. ALACs are TI's tool to establish contact with citizens who are either victims or witnesses of corruption. Judging on statements on TI's websites, ALACs play an increasingly central role in the activities of TI.

The first ALACs were established around 2003. They share the general philosophy of TI. They are politically non-partisan and only respond to citizens' complaints. They do not undertake investigations of alleged corruption or expose individual cases, but only advise

[23] Eigen 2003.

citizens about possible channels to pursue. However, at times they work in coalitions with other organisations or, for example, independent journalists.

The ALAC is an integral part of the national TI Chapter. It has various permanent features and is a stable part of the chapter. It contributes significantly to professionalising activities and to convincing sponsors to become donors of TI activities, including the work of the ALAC. To demonstrate how ALAC works, the case of the Romanian ALAC is presented in the following section.

Case study: ALAC in Romania

The Romanian ALAC belonged to the first group of three Advocacy and Legal Advice Centres founded in 2003. These innovative initiatives in Eastern and South-eastern Europe (the other two initial ALACs were founded in Bosnia and Herzegovina and in Macedonia), which were first created on a pilot basis, rapidly took off and became models for setting up similar centres in other national chapters. The ALAC in Romania is part of the national Romanian TI Chapter. On its website this TI Chapter describes itself as follows:

"TI Romania was founded in 1999 through the remarkable endeavours of a group of citizens with a high degree of civic responsibility, and a number of organizations concerned with reducing corruption in Romania. They laid the foundation to the structure and objectives of this organization. That same year, Transparency International Romania was accredited as a national branch of, and declared entitled to continual technical support from, the Transparency International network - a global coalition dedicated to fighting corruption."

The language TI Romania adopted to describe itself, its approach as well as its activities reveals a belief in professionalism and managerialism. The organisation presents itself on its website like a business corporation by using an organisational chart and by defining "TI-Ro Objectives" with a strong focus on the financial side of the organisation (emphasis on donors and display of annual balance sheets and audit reports). The "TI-Ro Mission" statement focusses on "strategy": "Mission. The mission of TI Romania is to promote the Romanian integrity system in solidarity in order to reduce corruption.

Transparency International Romania designed an institutional strategy for 2008 – 2010 in order to inspire and orient the organisation's efforts to fight corruption towards concrete and sustainable results, following the highest integrity and quality standards.

The strategy is the basis for conducting and implementing specific anticorruption programmes at national level and to determine the interest area for TI Romania at regional level."

The Romanian ALAC plays a leading role in this strategy. Its handling of cases produces "concrete and sustainable results". It provides a source of information not only on specific corruption cases. It also generates information that can be used for the design of advocacy strategies in specific areas. In fact, the ALAC is a symbol of the strategic organisational responses promoted by the national chapter.

Managerialism and professionalism characterise the work of the Romanian ALAC. It employs a permanent professional staff, which is trained in law. The team includes a former public prosecutor and cases are handled with administrative precision. Citizens can contact the ALAC directly. The channels of communication are letters and email. Citizens can approach the staff in person and interviews are conducted in its office in Bucharest, which is located in the building where the national TI Romania chapter also resides.

Each case is recorded in files and these files create the basis for elaborate statistical reporting to the national chapter as well as the TI Headquarter in Berlin. Cases are closed if there was no contact or feedback over one year. In case legal representation is required, the ALAC personnel do not recommend specific lawyers. Thus the ALAC does not view itself as part of a network of lawyers that support each other. However, information is given to citizens on how to find a legal representative.

Interviews are conducted with victims or witnesses of corruption and the ALAC personnel keep close contacts with independent journalists. These journalists are both consulted and informed about cases. However, the ALAC does not officially inform the media about specific cases of corruption and publicly denounce them. In its public documentation it only constructs so-called typical cases of corruption.

At the centre of the Romanian ALAC's activities is the fight of judicial corruption. In fact the ALAC was called initially (in Romanian) "Centrul de Resurse Anticorupție în Justiție" (translates as Resource Centre for Anticorruption in the Judicial System). The majority of its cases still are related to judicial corruption. The Romanian ALAC made special efforts to disseminate advice in the area of judicial corruption and the focus on these cases has been its greatest success to date.

The focus on judicial corruption is in line with efforts by TI Romania to monitor judicial independence. During the Romania's accession process to the EU it became involved in "studies of magistrates' perceptions regarding their professional independence" after 2005[24]. In a certain sense TI Romania supported and assisted the European Commission in monitoring developments in Romania and helped to implement standards imposed by the EU.

The Romanian ALAC is proud that it was able to develop a number of advocacy campaigns on the basis of information gathered through complaints. Probably the best known of these is the campaign on whistleblower legislation and protection in Romania.[25] TI Romania began advocating for whistleblower legislation with the Romanian Ministry of Justice after having seen a number of cases in their ALAC involving public employees from a variety of state agencies who were discriminated for efforts to expose alleged wrongdoing by their public employers. As a result of this successful lobbying by Transparency International the Romanian parliament adopted a respective law in 2004. Under this law, public employees are protected against retaliation for submitting legitimate complaints about unethical behaviour.

ALACs and European Law: A Few Concluding Observations

For an evaluation of ALACs it is important to understand their dual character. On the one hand they reach out to citizens and assist them in fighting corruption. On the other hand they are management tools for TI's national chapters as well as the TI headquarters for generating data and information for international public advocacy campaigns.

[24] Further information of the 2005, 2006, 2007 'Study of magistrates' perceptions regarding their professional independence' can be obtained at http://www.transparency.org.ro/politici_si_studii/sondaje/index_en.html.

[25] More inforamtioon on the whisleblower campaign of the Romanian TI Chapter can be found at http://www.transparency.org/global_priorities/other_thematic_issues/alacs/alacs_in_action#romania

In a certain sense they represent in this dual role the type of civil society organisations that the European Union targets as building blocks for a European society. TI's ALACs are rooted in national contexts with close links to citizens and at the same time they are part of an international organisation that pursues goals high on the agenda of the European Commission while creating the new European Union through expansion into Eastern Europe.

ALAC's role as an advisor is different from traditional legal advice. Their case advocacy is only partly meant to be assistance for the victim or witness of corruption. Their work resembles a type of public advocacy[26] that reaches beyond the single case. ALACs represent public interests and engage in what socio-legal scholars call "cause lawyering".[27] While acting on behalf of citizens in this way, they promote a concept of citizenship that is based on the notion of an engaged citizen who fights for his or her public interests. ALACs are in fact designed to mobilize citizens. From a European law perspective they are good example what active citizenship could mean, albeit in the limited sense of European citizenship.

ALACs' support for whistle-blowing laws is an example of lobbying for legislation that has an international dimension. As in the case of antidiscrimination law in which the EU has strong legislative competences because of a perceived lack of enthusiasm on the part of member state governments, national legislators are often reluctant to be active in introducing whistle-blowing laws. The new governance approach of the EU advocates in these situations mutual learning from experiences with this type of new legislation in other member states (and from experiences outside Europe). This learning processes include addressing difficulties in implementing new laws, an area in which ALACs encounter problems in their daily contact with citizens.

Furthermore, as the case of the Romanian ALAC demonstrates, civil society organisations in Central and Eastern European countries that recently became new member states of the EU can play an important role in controlling their governments and thereby helping the European Commission in monitoring reforms of vital institutions of civil society. The focus of the Romanian ALAC on judicial corruption is a good example of the interplay of ALAC and European law and policy efforts. ALACs take part more or

[26] See Trubek 1979 and Trubek and Trubek 1981.
[27] See Sarat, Scheingold 2006.

less consciously in the post-accession monitoring process and assist the European Commission in implementing conditions imposed by the EU. To some extent they thereby help to compensate the weaknesses of the Co-operation and Verification Mechanism.

Bibliography

Anderson, J.H., Gray, C.W. (2006) Anticorruption in Transition 3: Who is Succeeding... And Why? Washington: World Bank

Eigen, P. (2003) Das Netz der Korruption: Wie eine weltweite Bewegung gegen Bestechung kämpft. Frankfurt/New York: Campus

European Commission, COMMUNICATION On a Comprehensive EU Policy Against Corruption, COM(2003) 317 final

European Commission, INTERIM REPORT On Progress in Romania under the Co-operation and Verification Mechanism, COM(2010)113 final

European Council, The Stockholm Programme- An open and secure Europe serving the citizen, 14449/09 JAI 679, PRESIDENCY NOTE, 16 October 2009

Kabera Karanja, S. (2008) The Schengen Information System and Border Control Co-operation: A Transparency and Proportionality Evaluation. Leiden: Brill

Lister, M., Pia, E. (2008) Citizenship in Contemporary Europe. Edinburgh: Edinburgh University Press

Outhwaite, W. (2006) Is there a European Civil Society? In: Rogowski. R., Turner, C. (eds.) The Shape of the New Europe – History, Law and Policy. Cambridge: CUP

Rogowski, R. (ed.) (2008) The European Social Model and Transitional Labour Markets – Law and Policy. Aldershot: Ashgate

Sarat, A., Scheingold, S.A. (eds.) (2006) Cause lawyers and social movements. Palo Alto: Stanford University Press

Shaw, J. (2007) The Transformation of Citizenship in the European Union: Electoral Rights and the Restructuring of Political Space. Cambridge: CUP

Szarek-Mason, P. (2010) The European Union's Fight Against Corruption: The Evolving Policy Towards Member States and Candidate Countries. Cambridge: CUP

Tănăsescu, S. (2010, forthcoming) The Constitutionalisation of EU Law in Romanian Jurisprudence, in: K. and Morawa, A.H.E. (eds.) Post-enlargement Constitutionalization in Central and Eastern Europe. Aldershot: Ashgate

Trubek, D.M. (1979) Public Advocacy: Administrative Government and the Representation of Diffuse Interests, in: Access to Justice, Vol. III: Emerging Issues

and Perspectives, Cappelletti, M., Garth, B. (eds.). Alphen a/d Rijn: Sijthoff and Noordhoff, pp. 445-94.

Trubek, D.M., Trubek L.G. (1981) Civic Justice through Civil Justice: A New Approach to Public Interest Advocacy in the United States, in: Cappelletti, M. (ed.) Access to Justice and the Welfare State. Alphen: Kluwer, 119-44

Wakefield, J. (2007) The Right to God Governance. Alphen aan de Rijn: Kluwer Law International