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ANTICORRUPTION CHALLENGES IN SERBIA AND HUNGARY: IN(EFFICIENT) MONITORING OF THE ANTICORRUPTION POLICIES

Fight against corruption constitutes one of the main challenges to face with in the post-transitional, especially post-communist societies, as those who, like Hungary, have already joined European Union, as for the rest of them that, like Serbia, are still in the status of candidate for the membership. An efficient anticorruption measures include, not only preventive and repressive measures in the vital areas of the state and the society, but also a strong and vibrant monitoring mechanism developed at the national level to monitor overall anticorruption policies. Furthermore, in order to ensure an objective assessment of the anticorruption policies among members states and the candidate countries, such mechanisms need to developed also at the EU level. Considering all of this, this paper aims to analyse the current state of play of the monitoring of the anticorruption policies in Serbia and Hungary, focusing on the proliferation of the monitoring mechanisms and on the gaps and overlaps in the systems. The paper also tackles the EU fail to establish a uniform

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and sustainable anticorruption monitoring mechanism, including the omission to apply it equally on the member states and the candidate countries.

Key words: monitoring, evaluation, anticorruption policies, EU integration, EU standards.

1. Introduction

The simplest, but the truest recognition of the corruption as a crosscutting issue which permeates all the vital parts of a state and a society, was given in the Criminal Law Convention on Corruption[1] which, in its Preamble underlines that "corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society." There is no any doubt that a fight against is one of the main prerequisites in the strengthening the Rule of Law. In parallel, efficient control of the corruption, done through, institutional checks on government, protection of property rights and mitigation of violence are all in close correlation with economic performance. Especially in times of financial and economic crises solid State institutions based on commonly shared values play a key role in creating or restoring confidence and fostering growth. (EPRS, 2016) It could be said that the law corruption level reflects accordingly, stability and strength of the country.

The post-communist, Eastern Europe societies went through the intensive transitional period during the nineties, but also during the first years of XXI century. This, among others, included serious challenges associated to the need to prevent and combat corruption in the vital parts of the society, like police, judiciary, public administration, health care and education systems. On that way, they have faced with the internal needs and issues, but also with the external requirements to improve legislative and institutional anti-corruption mechanisms in the context of achieving and preserving the relevant international, especially EU standards. Their efforts to do that, was associated, at least with the doble goal: To strengthen their economies and foster competitiveness and economic growth, but also to fulfil criteria to join the European Union (hereinafter: EU)

1 Criminal Law Convention on Corruption, Strasbourg, 27.I.1999, available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173, last accessed on May 16th 2021.

While Hungary joined the EU in 2004, Serbia is still underway to do it so.[2] At the first glance that could lead as to the conclusion that there is a significant difference in term of the current state of play in Serbia and Hungary in terms of their success in the fight against corruption, as from the perspective of the standards achieved, as from the angle of the monitoring mechanisms established to oversight anticorruption processes. However, this presumption also requires the uniformity of the criteria established to access the rule of law processes, as internally, at the national level, as from the perspective of the EU institutions and mechanisms.

Considering this, this paper shads a light to the main challenges that Serbia and Hungary are facing with in terms of the structure and the efficiency of the national monitoring mechanisms established to monitor, evaluate and access the progress achieved, but also reflects upon the EU attempts to establish its own monitoring mechanism in the field of anticorruption.

2. National anticorruption monitoring mechanisms

Establishing effective mechanisms for monitoring and evaluation of anticorruption reforms is one of the key preconditions to avoid that numerous strategic documents and concrete reform measures planned by these documents are only a "dead letter", but also to ensure their implementation in a way that produces the desired effects in society. (Kolaković-Bojović, 2019) However, it is of the great importance to make the clear difference between internal anticorruption mechanisms established in various sectors like a public administration, health care, police, judiciary or education and the monitoring mechanisms established at the national level to comprehensively monitor implementation of the anticorruption policies in various, above mentioned fields, as separately as in their synergy which is necessary for the overall success in this fight. Namely, this second point is in the focus of our analysis, since it is preconditioned by the development and the adoption of the national, anticorruption policy documents and it should

2 The Screening of Serbian normative and institutional framework with relevant acquis within Chapter 23 started in September 2013 with Explanatory Screening (presentation of the relevant acquis and EU standards to the Serbian institutions). This stage served as starting point for assessment of an alignment level of the Serbian legislative and institutional framework with the acquis and EU standards, during the bilateral screening in December 2013. The screening process resulted in publishing of the Screening Report which tackled various issues of the substantial importance for the justice reform and rule of law in Serbia. The negotiation process in Chapter 23 has started in July 2016, by the adoption of the Common Negotiation Position of Serbia and EU and the Action Plan for Chapter 23 which governs reform processes in the justice sector within the EU accession processes.

result in the comprehensive assessment of the situation, comparable with the results of the international monitoring mechanisms established on the global and/or on the regional level.

2.1. Monitoring and evaluation of the anticorruption policies in Serbia

Awareness of the need for long-term and systematic planning of reforms in the Republic of Serbia has matured slowly and gradually, and it seems that this process experienced a sudden expansion in the first years of the 21st century. There is no doubt that this sudden turn is directly related to the abandonment of the one-party system and the re-establishment of parliamentarism and multi-party system, as preconditions for, through clear manifestations of separation of powers, activities of each branch of government, as well as their cooperation, plans are drawn up through transparent and inclusive processes inherent in democratic societies and the need to hear the voice of all stakeholders. (Kolaković-Bojović, 2019)

The process of accession to the European Union also had an indisputable impact on strengthening the strategic planning as an approach to reforms. In the early stages, typical of the early 2000s, more in the form of a principled commitment to adopt European standards and good practices, as well as in the form of support from international experts, while, after the formal start of accession negotiations with the EU, the strategic planning process itself was formalized and regulated to, among others, ensure donor funded project support to reform processes. (Kolaković-Bojović, 2019)

A pioneering step in terms of addressing the need to monitor the situation and direct public policies in the field of anti-corruption was made in 2001, when the Anti-Corruption Council was established by the Decision of the Government of the Republic of Serbia. At the conceptual level, the Council for the Fight against Corruption (hereinafter the Council) is conceived as an expert, advisory body of the Government of Serbia. In the formal legal sense, the Council has the status of a permanent working body of the Government, established with the task of reviewing activities in the fight against corruption, proposing to the Government of the Republic of Serbia measures to be taken to effectively fight corruption, as well as monitoring their implementation and, programs and other acts and measures in that area.

As it is conceived as an expert, and not a purely expert body, it is envisaged that the Council has thirteen members appointed by the Government, among the members of the Government officials and the prominent domestic and foreign

scientists and experts. The work of the Council is managed by the President when elected by the members of the Council by a majority vote. The Council may, in order to perform its activities more efficiently, may establish permanent and *ad-hoc* expert teams. (paragraphs 3-5 of the Decision on the Establishment of the Council) (About the Council, 2021) In accordance with the pioneering status of the Council, but also the fact that, at the time of its formation, there were no strategic documents that would systematically regulate the fight against corruption, it is difficult to talk about the activities of this body in terms of monitoring and evaluation of reforms. There was no developed planning framework, nor a clear methodology according to which the Council would monitor and evaluate the results of the reforms.

The first serious indications of the commitment to systematically approach the monitoring and evaluation of the implementation of reforms in the field of the fight against corruption were made by the National Anti-Corruption Strategy (hereinafter: NACS 2005) adopted in 2005. The chapter entitled Implementation of the Strategy envisages that a special law will establish an independent body, whose powers, among other things, will include supervision over the implementation of the Strategy and the accompanying Action Plan. This strategic commitment is indeed reflected in a number of provisions of the Law on the Anti-Corruption Agency (hereinafter: The Law on the Agency) adopted in 2008. According to this law the Anti-Corruption Agency (hereinafter: ACA, Agency) has been established as an independent state body. The ACA was established as an institution with a strong preventive role that had been lacking in any authority which had theretofore dealt with corruption. Its main objective is improving the situation regarding this area, in cooperation with other public authorities, the civil sector, the media, and the public in general. Among other things, the ACA is authorized in this preventive sense to work on development of integrity plans for, and in cooperation with, state authorities. These plans – an innovation in our legal system – are aimed at reducing and eliminating risks of the emergence and development of corruption. The ACA was also given competence to oversee the financing of political parties. (ACAS Competences, 2021) In addition to this, according to law, the Agency is in charge of, inter alia:[3]

– monitors the implementation of the National Anti-Corruption Strategy and the Action Plan for the implementation of the National Anti-Corruption Strategy and sectoral action plans;

3 The law also stipulates that the Report on the implementation of the Strategy, Action Plan and sectoral action plans forms part of the Annual Work Report, which the Agency submits to the National Assembly, no later than March 31 of the current year for the previous year. (Article 26 of the Law on the Agency)

– gives opinions regarding the implementation of the Strategy, Action Plan and sectorial action plans;
– monitors and performs activities related to the organization of coordination of the work of state bodies in the fight against corruption;
– organizes research, monitors and analyzes statistical and other data on the state of corruption.

The adoption of the National Anti-Corruption Strategy for the period from 2013 to 2018 (hereinafter: NACS 2013-2018) brought, at the normative level, significant innovations in the field of monitoring and evaluation, but uncovered the problems in terms of the system of monitoring, caused by the excessive complexity and dysfunction of the system. Namely, when making the division of the competences between the various authorities, the Strategy distinguishes between coordination of implementation, monitoring of implementation and supervision over the implementation of the Strategy. While the first competence was assigned to the Ministry in charge of justice, the second was granted to the Anti-Corruption Council and the third to the Anti-Corruption Agency. In addition to this complexity and variety of the stakeholders included in the process, there was no specific methodology of the monitoring and evaluation adopted, which resulted in different formats of the reports, but also in the different assessments of the situation by of the reports prepared by the Ministry, the Anti-Corruption Council and the Anti-Corruption Agency.

The new issues in this field occurred together with the opening the accession negotiations with EU brought the adoption of the Action Plan for Chapter 23, which governs comprehensive and in-depth reforms in the field of judiciary, fight against corruption and fundamental rights, in 2016 (hereinafter: AP 23) In its nature, the AP is an overarching reform document. Introductory part of AP 23, stipulated that the responsibility for supervising the implementation of activities from the Action Plan will be entrusted to the Council for Implementation of the Action Plan for Chapter 23 (hereinafter: The Council for AP 23) and the several governmental bodies in charge of the accession process. At the conceptual level, AP 23 opted for a model of impartial, expert control of the reform processes and envisaging that the members of the Council will be appointed by the Government of the Republic of Serbia on the proposal of the President of the Chapter 23 negotiating team, among civil servants and consultants already engaged in negotiations in the EU.

This never-ending story of the infinitely sharing, duplicating and overlapping competences, was made even a worse in 2014. Namely, even prior to this adoption of the Action Plan for Chapter 23, on August 7, 2014, a new governmental Coordination Body for the implementation of the Action Plan for the

implementation of the National Anti-Corruption Strategy 2013-2018 was established. In accordance with the Decision on Establishment, the Coordination Body directs activities within the scope of state bodies responsible for the implementation of the Action Plan for the implementation of the National Strategy for the Fight against Corruption in the Republic of Serbia for the period from 2013 to 2018. In addition, the Coordinating Body may propose to the Government to take decisions in order to implement the Action Plan. (items 2 and 8 of the Decision) (Kolaković-Bojović, 2019)

Although, at the level of the need to provide political support and mechanisms for the implementation of reforms at the highest level, this decision is justified, its basis on the provisions of the Strategy, but also constitutionality and legality, was challenged before the Constitutional Court. The initiator of the process before the Constitutional Court referred to the provisions of the NACS 2013-2018 according to which, as already mentioned, the coordination of the implementation of the Strategy is entrusted to the Ministry in charge of justice, and disputed the possibility of establishing and the scope of powers entrusted to this body. The Constitutional Court accepted the initiative and initiated the procedure for assessing the constitutionality and legality of the Decision.

However, the situation culminated in September 2020, when the implementation of the Law on the Prevention of the Corruption[4] has started in parallel with the adoption of the Revised Action Plan for Chapter 23.[5] Namely, Article 6 of the Law on Prevention of Corruption stipulates that the Agency supervises the implementation of strategic documents in the field of fight against corruption, submits a report to the National Assembly on their implementation with recommendations for action, gives recommendations to responsible entities and initiates amendments to strategic documents. In parallel, Article 38 of the Law on Prevention of Corruption, stipulates that the manner of reporting will be regulated in more detail by an act of the Director of the Agency, in accordance with strategic documents. Despite the promising manner of this provision, there are two controversial issues:

– Which policy documents should be considered as the strategic documents in the field of fight against corruption?
– Which monitoring mechanism has the priority when the same policy document deals with the prevention of the corruption, but also with the other rule of law issues?

4 Law on the Prevention of the Corruption, "Official Gazette RS" No. 35/2019, 88/2019, 11/2021.

5 Revised Action Plan for Chapter 23, available at: https://mpravde.gov.rs/tekst/30402/revidirani-akcioni-plan-za-poglavlje-23-i-strategija-razvoja-pravosudja-za-period-2020-2025-22072020.php, last accessed on May 3rd 2021.

From the wording of Article 2, item 7 of the Law, which defines that "strategic document" means strategies and action plans in the field of combating or preventing corruption adopted by the National Assembly or the Government, it cannot be concluded whether the Action Plan for Chapter 23 can be considered a strategic document in the field of anti-corruption, since, despite its comprehensiveness and detail, it deals with the fight against corruption in only one part. However, the Agency decided to consider the AP 23 as the anti-corruptive strategic document and consequently take over the steps needed to organise reporting and evaluation processes. [6]

Normally, this could be considered as the step forward in the clarification of the competences, but not in the situation where RS Government adopted the amended/revised version of the AP 23 in August 2020, where the responsibility for monitoring the implementation of the activities envisaged in the Action Plan was entrusted to the Coordination Body for implementation of the Action Plan for Chapter 23 (hereinafter: Coordination Body). (Revised Action Plan for Chapter 23, 2020) However, by the Revision of the AP 23, the Government decided to quit the practice of the expert membership in the body in charge of the reform monitoring, since the newly established Coordination Body is consisted of the representatives of the institutions in charge of the implementation of the Revised AP 23 (public functionaries and civil servants). This puts under the question the objectiveness of findings/reform assessment published by such a body, but also opened the huge dispute on who is the actually competent of the monitoring of the anticorruption reforms within the Chapter 23 framework. In addition to this, both, the Agency and the Coordination Body have developed their own (different) report templates and the monitoring methodology, but also both invited the institutions to report them on the implementation of the "anticorruption portion" of the AP 23.

Having all the above in mind, it seems that one of the main shortcomings of the monitoring system of strategic documents in the field of anti-corruption in the past few years was the extreme complexity of mechanisms, proliferation of the various stakeholders in charge of monitoring and evaluation, with vaguely delineated powers of competent entities and their multiple overlaps. Accompanied with the lack of the clear methodology and indicators, this continuous multiplication of the monitoring bodies put under the question an existence of the real commitment of the state to this issue. Even more, it indicates the simulation of the commitment and blurs the real picture.

6 According to the art. 38 of the Law, the Director of the Agency shell issue the Act which governs the process of reporting and monitoring

2.2. Public policies and reform monitoring in Hungary

In Hungary, the first significant government action against corruption took place in 2001. The Government has adopted Decree 1023/2001 on the Government Strategy against Corruption. (III. 14.), which classified the anti-corruption measures into four task groups. These focus mainly on the legal and criminal law legislative tasks of the administration. However, aspects of prevention and social awareness have already emerged in some measures. There is no doubt that Hungary's EU integration efforts played a significant role in adopting the document. Based on the government decision, the Parliament adopted stricter rules on conflicts of interest and declaration of assets and passed the so-called Glass Pocket Act. Until its repeal in 2012, this law required the disclosure of state and municipal contracts above a certain amount.

In the following period, some attempts were made to establish various anti-corruption advisory bodies. However, these did not result in substantive changes. The only exception was the Anti-Corruption Coordination Board, established in 2007 (since then abolished). This body approached the issue with a strategic approach and by 2008 developed an Anti-Corruption Strategy and an associated Action Plan. This document was ultimately not discussed by the Government. However, its effects can be seen on the content of the Integrity Project launched by the State Audit Office in December 2009.

Despite the favorable trend, government policy in 2010 was even more based on a criminal law approach. The penal policy has been tightened somewhat in a populist way, with the result that perpetrators have had to face an increased sentence. Within the framework of this policy, the National Defense Service was set up.

The Government of Hungary has adopted a National Anti-Corruption Program (hereinafter: The Program) for the period 2015-18 (NEMZETI KORRUPCIÓELLENES 2015-2018, 2021). The Program has supplemented the legal approach of the previous period with aspects of the value-based approach. Accordingly, the emphasis has also been placed on prevention and strengthening integrity. The program focused primarily on corruption in the public sector and the economic sector.

The government strategy in force at the time of writing this paper is summarized in the Medium-Term National Anti-Corruption Strategy for 2020-2022 (Strategy) (Medium-Term National Anti-Corruption Strategy for 2020-2022, 2021). It focuses on three objectives, which are to raise the professional standard of the fight against corruption, to increase the integrity within organizations exposed to corruption threats, and finally to reduce the risks in administrative mechanisms. The Strategy achieves its objectives in three areas of intervention: technology-based, rule-based, and value-based.

Hungarian anti-corruption documents and strategies usually distinguish between external and internal elements of anti-corruption mechanisms. Elements of external control include the legal environment and bodies that take action against corruption either through their supervisory powers or as part of the criminal justice system. Elements of internal control include an integrity management system, anti-corruption training, sensitization training, and organizational solutions that reduce corruption risks. The Public Prosecutor's Office and State Audit Office which belong to the external mechanism make an annual report to the Parliament. In addition, the representatives can give questions to the chief of these offices. The National Protective Service is under the control of the Minister of the Interior.

One of the novelties of external legal control is to eradicate corruption in health care. It has become systemic for patients to provide material goods to health care staff in hopes of better or faster care. The Hungarian government solved this problem as of January 1, 2021, by adding the fact of bribery to the Penal Code. According to this, both the transfer of an unlawful advantage to medical personnel or, in view of them, someone else in connection with the provision of health care, and its acceptance have become suitable for establishing a criminal offense of bribery.[7]

The next important step in the fight against corruption was the joint declaration signed on 18 November 2011 by the Minister of Administration and Justice, the President of the State Audit Office, the President of the Supreme Court, and the Attorney General for concerted action. Although the declaration is not legally binding, it can only be seen as a "moral commitment", but the signatories undertook to take concerted action to prevent corruption, to consult, and to establish a network of cooperation, while respecting the independence of the judiciary. The Minister of the Interior joined the National Courts Office in 2014, the Governor of the Hungarian National Bank in 2016 and the Public Procurement Authority, and finally the Hungarian Competition Authority in 2020. They were evaluated at an online event held on 26 November 2020 anti-corruption measures of the last decade (Járvány idején még inkább szükséges a korrupcióellenes összefogás, 2021) As all participants have assessed their role, no objective conclusions can be drawn from this self-assessment.

In 2011, an anti-corruption unit was established within the organizational framework of the Prosecutor General's Office, and at the same time the powers of the Prosecutor's Office were expanded: they can use disguised tools under the Prosecutor's Office Act to detect official crimes. The NCO has set up a Judicial Integrity Working Group, and a special working group on the Curia (Supreme

7 Penal Code. Section 290 (6) and Section 291 (6)

Court) analyzes all types of risks to the performance of its duties, paying particular attention to corruption risks .

As part of the anti-corruption organizational system, the National Protective Service (NPS) was established on 1 January 2010. Until that time, there was unified state police in Hungary (Christián 2012). Subsequently, however, the first three and then in 2019 four independent police organizations were established, all of which are under the control of the Minister of the Interior. One of these is the NPS, whose main task is to fight corruption. It carries out this activity in essentially the entire public administration sector. At the end of 2014, the organizational framework of government anti-corruption activities also changed. The Government referred to the coordination of its anti-corruption activities to the competence of the Minister of the Interior, including the NPS. The responsibilities of this organization include crime detection and prevention, monitoring the conduct of law enforcement personnel, auditing the integrity of government officials and law enforcement personnel, coordinating governmental tasks related to anti-corruption activities and promoting pre-appointment and non-promotion to senior positions. The due diligence referred to in the list covers the legality of the performance of the duties of the said staff, in particular their resistance to corruption. This investigation provides an opportunity for NPS' covered staff to commit minor offenses, even attempted bribery, to compel the person under investigation to take action. The subject is, of course, unaware that he is undergoing a reliability test. The purpose of the investigation is to determine how the person under investigation behaves in the provoked situation, ie how resistant he or she can be to corruption.

The Corruption Prevention Department, established within the NPS, is responsible for coordinating government anti-corruption tasks. To this end, its main tasks are: to prepare a draft anti-corruption strategy and related action plans; Continuous assessment of the integrity and corruption risks of the public administration and the corruption situation; is responsible for the development and coordination of the integrity management system of public administration bodies; It promotes awareness of the prevention potential of timely identification of corruption risks through the preparation of evaluation and analysis case studies; Proposes the development of a thematic training course on integrity counseling and training and further training in public service and law enforcement on corruption prevention, integrity and professional ethics; It prepares an audit plan to review administrative cases not covered by the appeal, in which there is no counterparty (A korrupcióellenes tevékenységgel összefüggő kormányzati feladatokban való közreműködés, 2021).

It seems that the external elements of the control mechanisms in Hungary are based on very wide-ranging cooperation. The anti-corruption work of the cooperating bodies is highly coordinated. At the same time, it cannot be ignored

that Hungary has not joined the jurisdiction of the European Public Prosecutor's Office established within the framework of the EU. The declared purpose and task of this EU body is to combat corruption and all forms of money laundering. The European Commission's Rule of Law Report for 2020 sets out criticisms relevant to our topic. Among other things, the shortcomings in the independence of public bodies relevant to the fight against corruption were highlighted. In the Commission's view, this weakens the effective control role of public bodies. Another important finding is that, despite all the positive measures, no cases with a strong suspicion of serious corruption have been detected (URL 14).

3. International Monitoring Mechanisms

In addition to the comprehensive anticorruption mechanisms developed by the Council of Europe,[8] such as legal instruments dealing with matters such as the criminalization of corruption in the public and private sectors, liability and compensation for damage caused by corruption, conduct of public officials and the financing of political parties, but also the institutional mechanisms aimed to monitoring of compliance with these legal instruments- namely the Group of States against Corruption (hereinafter: GRECO), the European Commission adopted in 2011 the Decision (20011)3673 Establishing an EU Anticorruption reporting mechanism for periodic assessment ('EU Anti-corruption Report').[9] The main idea of this action, was to introduce an efficient mechanism and methodology to monitor a situation in the member states, in terms of their fight against corruption.[10] This somehow should've reflected the principle underlined by the former European Commission President Jean-Claude Juncker, who declared that the European Union is built on compromises, but when it comes to human rights, the rule of law, the fight against corruption, there can be no compromise', (Blanche, 2019) Good in its substance, this initiative

8 This paper intentionally lefts behind the United Nations (UN) mechanisms in the fight against corruption through the United Nations Office for Drugs and Crime (UNODC), based on the (2003) United Nations Convention against Corruption (UNCAC) as the first global convention to address corruption in a comprehensive manner, trying to focus on the EU perspective.

9 (European Commission Decision establishing an EU Anti-corruption reporting mechanism for periodic assessment ('EU Anti-corruption Report'), 6 June 2011,.)

10 According to Article 2 of this Decision the Report has the following objectives: "(a) to periodically assess the situation in the Union regarding the fight against corruption; (b) to identify trends and best practices; (c) to make general recommendations for adjusting EU policy on preventing and fighting corruption; (d) to make tailor-made recommendations; (e) to help Member States, civil society or other stakeholders identify shortcomings, raise awareness and provide training on anti-corruption"

seems to be a long-awaited follow up on the Article 83 of the Treaty on the Functioning of the European Union which defines Eurocrimes as 'particularly serious crimes with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis'. EU has not made use of this power to update the pre-Lisbon legal framework, apart from directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law, despite the fact that the scope of corruption greatly differs across EU Member States. (Corruption Perceptions Index 2018, 2019) However, an introduction of the EU reporting mechanism appears to be disputable for at least two reasons:

– The duplication of what GRECO already does;
– An absence of the reporting periodicity in practice;
– An absence of the application of the mechanism on the candidate countries, to ensure, among others, uniformity of the approach when access the level of the compliance with the relevant standards in the member states and the candidate countries.

If we look closer to the mechanism itself, we can see that the EU Anti-Corruption Report is a 'reporting mechanism' for the periodic assessment of anti-corruption efforts in the Union in order to facilitate and support the implementation of a comprehensive anti-corruption policy in the Union. (EPRS, 2016) However, when it comes to the methodology, the EU Anti-Corruption Report is based on a wide range of sources, mostly including the existing evaluation mechanisms in other supranational *fora*, the GRECO and the Organisation for Economic Co-operation and Development (hereinafter: OECD)[11], which shows that it relies heavily on non-EU specific monitoring bodies and tools. The similar practice has been earlier established when the EU Justice Scoreboard has been developed, since it highly relies on the European Commission for the efficiency of justice (hereinafter: CEPEJ) reports.[12] While GRECO approach includes country self-assessments, followed by on-site visits, publication of evaluation reports containing country recommendations and subsequent assessment of the measures taken to implement the recommendations, the EU Anti-Corruption Report strongly relies on the member states' ownership, since the methodology in use to collect data does not include questionaries nor country visits. Basically, this additionally increases an importance of the national mechanisms in place.

11 The approach of the OECD is mainly an economic one, while GRECO has a much broader approach, including a social, political and democratic issue.

12 See more: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_en#scoreboards, last accessed on May 16th 2021.

In terms of the periodicity, the first issue of the EU Anti-Corruption Report was published in 2014,[13] and new editions were scheduled to appear every two years. However, in 2016 the EU dropped the idea of the periodicity, while a clear explanation of such a decision was not provided. EU commission spokesperson Margaritis Schinas declared that "for the Commission, the fight against corruption is not in any way an attempt to interfere or offer value judgments within the political life in a member state".[14]

Finally, in terms of the differences in the treatment of the member states and the candidate countries, the European Commission has simply kept the annual country reports as a method for accessing the situation in candidate countries, among others, in the field of anticorruption, even when it is clear that those reports lack the clear methodology and indicators to provide a clear picture. Furthermore, this picture is frequently blurred by the current political relations. These disables, not only the objective assessment of the situation in the candidate countries, but also the comparison of the situation in the member states and the candidate countries, especially those with the similar historical and political background and the legal tradition, like Serbia and Hungary.

4. Conclusions

From the all said above, it is obvious that, despite the non-disputed importance of the anticorruption actions, an efficient monitoring & evaluation mechanism as at the level of the EU as at the national level of the EU Member States and the candidate countries is still missing. Despite the obvious discrepancies among the States that are subjected to the GRECO review, the EU (un)intentionally missed the opportunity to establish its own, sustainable monitoring mechanism based on the GRECO findings, but also to apply it uniformly both- to the Member States and the candidate countries. This resulted in the obvious lack of the clear and objective assessment of the anticorruption policies across the EU, due to proliferation of the monitoring mechanism at the national level, with the declaratory, rather than substantive purpose. This also has especially negative impact on the reform processes in the candidate countries, since they are aware of the EU incapacity and/or unwillingness to efficiently assess their anticorruption

13 (European Commission Report From the Commission to the Council and the European Parliament, EU Anti-Corruption Report, COM(2014) 38 final, 3 February 2014)

14 See more: https://euobserver.com/institutional/136775, last accessed on May 16th 2021.

policies and practices, especially in comparison with the Member States. In addition to the complex heritage of the recent transition, this makes a fruitful ground for the slow and sometimes even simulated fight against corruption.

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