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Cracking Down on Corruption

The EU's first anti-fraud prosecutor reflects on the challenges of tackling transnational crime

LAURA CODRUTA KÖVESI is no stranger to fighting corruption. After becoming Romania's youngest and first woman prosecutor-general, she served as head of the National Anti-Corruption Directorate from 2013 to 2018. Her tenacity and fearlessness soon opened a new door. Kövesi now serves as the European Union's first anti-fraud prosecutor in charge of the new European Public Prosecutor's Office (EPPO), based in Luxembourg, which will investigate, prosecute, and bring judgment for crimes against the EU budget. These crimes can include fraud, corruption, organized crime, and cross-border value-added tax (VAT) crimes exceeding €10 million.

Previously, only national prosecutors across EU member states could tackle such criminality, but they lacked jurisdiction beyond their borders. Other institutions, such as Europol or the EU anti-fraud office OLAF, had no legal authority to act. The European Commission reports that €140 billion in VAT revenue was lost in 2018 to fraud and evasion, predicting that number to increase to €164 billion in 2020 as a result of the pandemic.

Can the EPPO successfully tackle transnational crime? F&D's Rahim Kanani interviewed Kövesi to find out.

F&D: What is the single most important lesson you bring to this new role from your experience in Romania?

LK: My experience with Romania's National Anti-Corruption Directorate is proof that nobody is above the law and that the law can be applied equally to everyone, regardless of their position in society. We were able to not only raise awareness about the seriousness of corruption and how it impacts people's lives, but we were also able to show that Romanian institutions can work efficiently and legally to defeat it. It is not an unsolvable problem.

F&D: What are the main challenges to establishing an effective EU prosecutor's office?

LK: We're building this office from scratch, so there is much work to be done to get our administrative, budget, and legislative guidelines in order. There is no precedent for such an office, as we have to harmonize the work of prosecutors from 22 different member states. They are working in different judiciaries with different procedural rules, and we have to find common ground.

The second challenge, once we're operational, is to be efficient, act independently, and win the trust of the citizens—which we can only win by being effective in our efforts and by proving that the law is applied equally to everyone.

F&D: Do you have enough resources to achieve your mission?

LK: After much debate, and with 3,000 cases expected to land on our desks when we start, we now have funding for 140 European delegated prosecutors, but we are still missing resources for key Luxembourg-based staff, who will be key to the success of our mission. We need financial investigators and case analysts. With their expertise, we can

aggregate and analyze information to investigate cross-border crime more efficiently. Until now, all the prosecutors were focused on their own internal criminality, and they didn't always have access to information outside their borders—like bank accounts and specific financial transactions. The EPPO makes this possible.

Investigations alone are not enough. Another priority is to get money back or recover the damages. With more specialized staff based at headquarters, we can identify goods and bank accounts that can be seized. This will make all the difference in terms of investigating financial fraud efficiently and effectively.

Specifically, I've been pushing for a budget of €55 million. At this point we only have €37.7 million. In the context of just how much fraud there is to investigate—in the billions of dollars—this is not a large sum of money.

F&D: How will your office decide which cases to pursue?

LK: The principle of legality is our main guide rather than the principle of opportunity. In terms of prioritizing, criteria could include the amount of damages at stake or the statute of limitations. We also have to consider the position of those suspected. If someone is using their public office to commit a crime, we may want to focus on that first. We will also need to rely on national authorities because our work requires cooperation with national police, tax administrations, and other domestic agencies.

F&D: How important is investigative journalism in fighting corruption?

LK: Investigative journalists can be a very good source of information. Sometimes we opened up investigations based on journalists exposing potential criminality, and in some cases, they were able to send us additional documents, recordings, and other materials that proved useful. I see journalists as partners because they are the ones writing about our cases, and they can help us educate the public about our work, how corruption influences their lives, and the seriousness of these topics. In 90 percent of the cases, journalists and prosecutors share the same goal, but there is one small difference: they are eager to learn more about our investigations, and we sometimes want to say less. But it's important to find common ground.

A few years ago in Romania there was a huge attack against the rule of law, and there were legislative proposals put forth that would not only cut the tools and resources of prosecutors to investigate, but they would also decriminalize clear criminality and corruption. There were proposals to eliminate the legal guarantee of independence for prosecutors and subordinate them to the minister of justice; decriminalize abuse of office offenses amounting to an arbitrarily set figure of 200,000 lei ($47,800); pardon tax evasion; decriminalize bribes if they were paid through an intermediary; ban recordings captured in public spaces from being used as evidence; close investigations if they had not been concluded within one year; and more.

Journalists explained why it was so important to reject these ideas, and more than 500,000 people took to the streets to protest these changes and support the rule of law.

Journalists would also call us and say they had information about potential illegality, but they wanted to check first whether writing an article might impede an active investigation—and if so, they would hold back the story.

F&D: You spoke of winning the trust of citizens as a pillar of effectiveness. How do you plan to do that?

LK: When you investigate cases based on solid proof, obtain convictions in court, and do so in an efficient and independent manner, you can win the people's trust. But it's not something you can do in one or two days. Even if on day one we open 3,000 cases, or 5,000 cases, it's not enough. You need to obtain credible results, and the only way you can achieve this is to have definitive decisions in the courts for a conviction. This takes time—two or three years, not two or three days. From the outset, we must establish ourselves as a strong and independent institution.

Only then will people send us their complaints and tips. In Romania, most of the cases we opened were based on information provided to us from the public. In one year alone, complaints from private citizens increased by more than 60 percent. This is a good indication that people trust you, and if they trust you, they will confide in you and fight for you. What we do is not for us, it's for the benefit of the people. That is justice. FD

This interview has been edited for length and clarity.