

Call for Evidence – AML Consulting (Global) Ltd – Response

The respondent is a UK company exporting British expertise to Accession and pre-Accession countries in support of Chapters 23 and 24 of the *acquis*. The company specialises in giving advice and training to public sector institutions in the fields of anti-money laundering, financial intelligence and investigation and the confiscation of criminal assets.

The company and its consultants have worked in this field since 2009 on projects funded by the EU, the Council of Europe, the OSCE and the UK FCO.

Questions

Q1. What has been the impact of EU enlargement on UK interests? How has the UK influenced the enlargement process?

A: The enlargement process has provided commercial opportunities for UK companies. Our company business is 60% reliant on this opportunity. Providing full-time employment for our dozen consultants.

Q2. What effect has EU enlargement had on UK interests in specific policy areas? What advantages and disadvantages has the UK experienced as a result? Please give examples.

A: The enlargement process has brought organised crime from accession and pre-accession countries to the UK. Examples include Albanian, Romanian and other Balkan involvement in existing UK drug, street crime, prostitution and human trafficking industries. Enlargement has not necessarily increased these criminal industries in the UK but the relative ineffectiveness of justice systems in accession and pre-accession countries increases the capacity and motive of organized crime from those countries to come and work in the UK. This is set out in the EUROPOL Serious Organised Crime Threat Assessment.

The key method to counter and control illegal industries run from abroad is to follow the money back to the source and confiscate it. This can only be done in partnership with properly trained counterparts who deal with international requests to freeze, confiscate and share assets. The UK is in a unique position to export its outstanding skill and experience (developed since the Proceeds of Crime Act, 2002) worldwide, including in the accession and pre-accession countries.

*UK justice agencies are uniquely skilled in criminal confiscation and as a result the UK Treasury recovers c£200m a year from criminals, this excludes compensation to victims of crime. About a third of this recovered money comes from outside the UK, although there are no **publicly available** statistics as to exactly how much and from which countries.*

Q3. How do you consider the balance between the roles of member states and of



the EU institutions in the process? Might UK interests be served by any changes to the balance of competences in this area?

A. UK skills in confiscation and financial intelligence are unusual, unmatched outside the Netherlands and Denmark. UK interests in reducing organised crime in the EU (including in the UK) would be better served by political promotion of our unique legislation and concomitant skills and experience. There are imbalances in the skills and abilities within the EU. Therefore EU institutions should seek out the best practice in Europe and direct those skills to the accession and pre-accession countries. In fact the European Commission has recommended that UK legislation and training should be promulgated in its Report on the UK, 5th Mutual Evaluation of Financial Crime and Financial Investigation (attached). The recommendation has not been acted upon, so far as this respondent is aware.

Q4 • Exercise of competence

How effectively have the member states and the EU institutions run the enlargement process? Have lessons drawn from previous enlargement rounds been applied?

A. No comment

Q5 How do you assess the EU's use of conditionality (eg, the Copenhagen Criteria, the „New Approach“ on rule-of-law issues)? Has conditionality been effective in ensuring candidate countries implement reforms necessary for EU membership? Please give examples.

A. No comment

Q6 How effective has EU financial and technical assistance been in helping candidate countries prepare for EU membership? Please give examples.

*A. In relation to chapters 23 and 24 much of the technical assistance has been delivered piecemeal, beset by duplication, conflicting advice and waste. Frequently a poor understanding of local established practise means that the technical assistance is dropped at the end of each project because it fails to suit local needs. The delivery of criminal justice can be likened to a car engine, including the necessity for each of the parts to work and for them all to work together. It is very easy to upset the balance. It is also exclusively national; no police officer or prosecutor, anywhere, has jurisdiction in another jurisdiction. When technical advisers come from the EU to accession and pre-accession countries to advise on the 'rule of law' they do not bring the *acquis*, they bring their national perspective on the *acquis*. This can create dysfunction.*

An example of this is the criminal justice system of Kosovo, where multiple advice-givers over several years have created a very challenging environment in which to deliver justice. The stand-alone agency of EULEX, whilst competent in



itself, has by its very existence, hindered the natural development of the local agencies. These, in turn, have been assisted over the years by EU advisers from different countries, creating agencies like the ones at home. Thus, in Kosovo a 'German' police force works with a 'British' Customs service and 'Italian' prosecutors, using techniques and procedures from France and many other countries. The ideas come and go with the advisers and the Beneficiary has the challenge of trying to make it all work.

All this is exacerbated by an absence of any European agreement of what makes a 'good' criminal justice system. The 'rule of law' acquis is not in harmony.

There are examples of excellent assistance. The respondent delivered some FCO funded assistance to Croatia from 2011 to 2014. During the scoping study in May 2011 a prosecutor in the Beneficiary responded positively to our enquiry about the existence of "Intelligence Led Policing", stating that a British project had introduced ILP in the early 2000s and had been nurturing its application in Croatia ever since. Without the building block of ILP it is not possible, in our opinion, to tackle crime effectively. Because of the existing platform of ILP in Croatia, we were able to provide financial investigation training to the anti-corruption agencies of Croatia and assist in introducing the concept of ILP into the Croatian Customs Service. The assistance was incremental and sensitive to the existing criminal justice system.

At the same time however the European Commission TAIEX project was also delivering financial investigation technical assistance to Croatia. TAIEX selects from a list of public servants and deploys them to seminars in the accession and pre-accession countries, paying public servants expenses and a fee (for UK public servants the fee goes to the servant's agency). No scoping visits are supported so the experts simply arrive in the foreign country, sometimes meeting their expert colleagues for the first time at the seminar and then deliver their expertise at the Beneficiary audience, who may or may not be drawn from the right ranks or agencies working in this specialism. TAIEX is delivered without reference to other technical assistance, creating a clear risk, even a certainty, of conflicting advice because there is no quality control of what the experts are saying, no liaison between the seminars or even between the experts before each session is delivered. Furthermore EU experts tend to be drawn from academic institutions and have no experience of the institutional framework and practical knowledge that are required to put theory into practice.

This kind of duplication is the norm in the accession countries with no controlled delivery of assistance on the same topics from TAIEX, IPA twining programmes, projects funded by the Council of Europe, the OSCE, the UNDP, ICITAP or individual national Embassies of EU countries. Perhaps the Beneficiary could control the delivery of assistance, but it is difficult to say 'no' to offers of help and impossible for the Beneficiary to gauge the quality of the assistance until it is actually delivered, by which time the damage has been done.



Focused British assistance helped Croatia develop its criminal justice system prior to accession. Other EU countries also assisted Croatia of course, but clear consistent assistance in a critical area underpinned the success. Continuing the analogy above the British provided the oil in the engine, enabling other assistance to work better. The successful prosecution of its former Prime Minister for corruption and the recovery of the proceeds of his crime from another EU Member State demonstrate this progress. This is an excellent and unusual example of cooperation between Member and Accession States. The recent arrest of over 300 Croatian doctors for price fixing is another example of a capable anti-corruption system. Key ingredients to Croatia's success were British expertise in ILP and financial investigation.

This respondent would argue that targeted assistance by skill-set over all the accession and pre-accession countries, aimed at developing specific skills, would be more beneficial than a current scatter-gun approach to technical assistance.

Thus EU countries would compete for the right to deliver a finite number of skill areas to the accession and pre-accession countries. Having won the competition in a particular skillset the donors would pool resources to support the development of the skill across all accession and pre-accession countries. In this scenario Intelligence-Led Policing, for example, would be delivered in the same way by the same experts across all accession and pre-accession countries, creating a harmonious environment for cooperation across frontiers. This would be self-sustaining because of the practical application of the skill when cooperating with neighbours. Continuing support from the original country experts would ensure that development was consistent across accession and pre-accession countries.

This is what AML Consulting (Global) has delivered. Our frustration is that our strategic approach to developing one harmonious skill-set across all the accession and pre-accession countries is welcomed and supported by our each of our Beneficiaries and our donors, but there is no matching strategic oversight among the relevant stakeholders.

In delivering the Rule of Law, it may seem that there is an endless list of areas for development of Policing Reform. From an expert perspective the list is finite:

Intelligence Led Policing

Leadership

Community Policing

Covert techniques

Cybercrime

Financial investigation

Forensic scene examination

Public Order

Victim care

A structured approach to delivering expertise in the above fields could build on existing local law and practices in each country, making the development self-sustaining. The common approach to these skills would simultaneously promote regional harmony.

Britain does not have a monopoly on good policing but is justifiably seen worldwide as a 'gold standard' to aspire to. British expertise in several of the above skill areas could be used to extend British standards of tolerance and unarmed policing to Europe and the overall approach outlined above would bring some structure to the Rule of Law acquis in accession and pre-accession countries.

- ☐ Future options and challenges

Q7 What challenges / opportunities might EU enlargement face in future?

A. *No comment*

Q8 How might the EU's approach to enlargement be improved in future?

A. *See answer to Q6 above. Technical assistance should be focused on particular skillsets that support the acquis and delivered to a consistent standard by the best EU experts in that skillset, established by open competition. In this way sustainable progress can be achieved over a number of years.*

Q9 What future impact might EU enlargement have on UK interests? How might any positive impacts be enhanced or disadvantageous impacts be addressed?

- General 10. Are there any further points you wish to make which are not captured above?