



**TRANSPARENCY  
INTERNATIONAL  
LUXEMBOURG**

**Activity Report 2010**

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## Introduction

Our organization, the “Association Pour la Promotion de la Transparence a.s.b.l.”, has been able to actively promote the aims it set itself at its inception in mid 2009. In that respect, the year 2010 was a successful year, with quite a few successful steps taken. As such our organization has been able to perfect its affiliation with Transparency International, changing from a national contact point to a chapter in formation in mid 2010. Since then, our organization is acting as Transparency International Luxembourg.

TI Luxembourg continued in 2010 to pursue its objective of raising greater public awareness and participation in anti-corruption activities by intensifying demand for institutional and policy changes at national level for ensuring accountability, transparency and efficient functioning of public and private bodies in the Grand Duchy of Luxembourg.

It can be viewed as great success that TI Luxembourg has become a partner to TI and other TI national chapters on many projects. Other NGO’s have also filed requests with TI Luxembourg. Still this very success puts TI Luxembourg in a very awkward position as its available resources and in specific financial and human resources are inadequate to service the many requests and demands filed with TI Luxembourg.

It is therefore of great concern and urgency to TI Luxembourg to find the financial resources in order to be able to open an office staffed with qualified personnel in order to continue and expands its activities. Not succeeding in securing those financial resources might require TI Luxembourg to stop its activities in order not to figure as alibi to the Luxembourg government. The waiting challenges cannot be served by the sole board members, requesting the assistance from all members of our organization.

The serving Board is however confident that these challenges can be overcome and that TI Luxembourg's future is bright. A lot remains to be done. We should tackle it together.

Yann Baden

President of TI Luxembourg

## **I. Affiliation to Transparency International**

Transparency International, incorporated in 1993, is a non-governmental organisation leading the fight against corruption. It has created a global network, including more than 90 locally established national chapters and chapters-in-formation. The central office is set up in Berlin-Germany. TI's job is to influence social and economic relations with a view to create a world exempt of corruption.

TI has a much decentralised modus of operation and each national chapter is independent and autonomous both financially and operationally. The actions taken by the national chapters are free from any interference of the central office. The national chapters however participate in joint efforts, such as tracing and detecting indices of corruption.

TI Luxembourg has undertaken, since its incorporation as a non-profit seeking association, the necessary steps to join Transparency International, enabling it to benefit from the latter's expertise, brand and name.

The affiliation with TI is really a progressive 3-stage process: the local group or organization first becomes a national contact point to TI, then a national chapter in formation and finally within a 2 year period from the national chapter in formation status a national chapter, with voting rights at TI's general members meeting.

TI Luxembourg became the National Contact Group in Luxembourg at the end of 2009. It applied for the National Chapter in Formation status in mid 2010. APPT then became a National Chapter in Formation in July 2010. As a first result, APPT is now acting under the name of TI Luxembourg. To this end, an agreement has been signed between TI and APPT on 13 July 2010.

## II. Activities during the year 2010

### 1. Meetings of the Board of Directors

During the year 2010 ten Board meetings were held. The dates of the meetings were as follows:

25 January 2010  
22 February 2010  
16 March 2010  
2 April 2010  
20 May 2010  
16 June 2010  
12 July 2010  
8 September 2010  
27 October 2010  
1 December 2010

The members of the Board of Directors were:

Mr Yann Baden	chair
Mrs Marguerite Ries	vice-chair
Mr Serge Marx	secretary
Mr Stephen Nye	treasurer

### 2. Meetings with members

In order to involve members in our organization's activities, it was decided, at the Annual General Meeting of 20 May 2010, to regularly meet with members. These meetings were held on a regular basis and for the future it is intended to generalize these meetings.



### 3. Annual General Meeting

The Annual General Meeting of TI Luxembourg relating to the year 2009 was held on 20 May 2010. The report on activities and the financials for the year ending 31 December 2009 were unanimously approved by the meeting. The meeting appointed Mrs Sophie Grall as the internal auditor for the year ending 31 December 2010. The 4 members of the Board of Directors of TI Luxembourg, Mrs Marguerite Ries, Mr Serge Marx, Mr Stephen Nye and Mr Yann Baden were reelected unanimously for the year 2010.

The general meeting decided that all non active members as per the articles of association are free to determine individually the amount of their annual dues.

The members identified three priority areas for our organization's work for 2010 and beyond: establishment of an Advocacy and Legal Advice Center (ALAC), the involvement of all members of our organization for the actual work to be performed on behalf of TI Luxembourg, and the hiring of an executive director for the organization.

### 4. Communication with the public

In order to promote its cause and familiarize the public with its activities, TI Luxembourg continued to meet with external stakeholders/partners, met with members and gave some interviews as follows:

#### **Interviews:**

- Interview with the *Luxemburger Wort* "Mehr Licht ins Dunkel" published in the edition of 26 August 2010
- Interview with *Le Quotidien* "Objectif Transparence" published in the edition of 27 August 2010
- Interview with *The Main Justice* on 1 September 2010 – *The Main Justice* is an information internet site based in Washington DC which covers primarily the Department of Justice and handles all cases related to corruption (<http://www.mainjustice.com>)

- Interview with the *Luxemburger Wort* “Korruptioun amplaz vun Transparenz” published in the edition of 18 September 2010
- Interview with the *Luxemburger Land* “Sentinelles aux petits pieds” published in the edition of 15 October 2010
- Interview with *Le Quotidien* “Le conflit d’intérêts n’est ni mauvais ni bon” published in its edition of 10 November 2010
- Interview with the *Luxemburger Land* “How we do business”
- On 12 November 2010, the “Feier Krop”, a weekly satiric newspaper in Luxembourg, published an article on TI Lux and its activities in the context of the publication of the Corruption Perception Index (CPI) 2010 by TI, “Willkommen Transparency Luxembourg, die Arbeit ruft !”.

#### **Conference:**

- 2 February 2010, the chair of TI Luxembourg participated at a conference under the heading: “The Luxembourg Financial Center: the pursuit of excellence through ethics and integrity” organized by the Luxembourg Institute for Global Financial Integrity (LIGFI<sup>1</sup>). The event was covered by the *Luxemburger Wort* and by *La Voix* both in their editions of 4 February 2010

#### **Press releases:**

- 24 August 2010 on the affiliation to TI
- 9 December 2010 on the International Corruption Day and the draft legislation n°6104

#### **Meetings with stakeholders/partners:**

- 7 January 2010, meeting with Chrëschtlech Sozial Jugend (CSJ)
- 20 January 2010, meeting with the Public Prosecutor of the Grand Duchy of Luxembourg
- 1 February 2010, meeting with the Public Prosecutor of Diekirch
- 9 February 2010, meeting with the association “Mouvement Ecologique”

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<sup>1</sup> today TIGFI – The Institute for Global Financial Integrity

- 22 February 2010, meeting with the “Ordre des Architectes et des Ingénieurs-Conseils” (OAI)
- 23 February 2010, meeting with Mr. Helminger, the Maire of Luxembourg City
- 24 February 2010, meeting with the Police Grand-Ducale
- 18 March 2010, meeting with the Minister of Justice

## **5. Participation at the General Meeting of TI and IACC Conference**

During the reporting period two international meetings were organised which were attended by a representative of TI Lux. The Executive Director of TI Luxembourg, Nourollah Moafi, attended and represented our organisation in both the Annual Membership Meetings (AMM) of TI and the 14<sup>th</sup> International Anti-Corruption Conference (IACC), which were convened from 7-14 November 2010 in Bangkok, Thailand.

TI Luxembourg attended the AMM without having any right of vote (due to its status as National Chapter in Formation). The representative of TI Luxembourg participated in different workshops and conferences held during the two events and, at the occasion of the AMM, he met the Chair of TI, Huguette Labelle and introduced to her briefly TI Luxembourg and its activities.

## **6. Corruption-related Statutes of Limitation in the European Union**

TI Luxembourg, along with 26 other EU Member States, participated in 2010 in a European-Commission-co-funded research project which assesses the impact of statutes of limitations (SoL) and other time expiration related issues in anti-corruption enforcement across the EU.

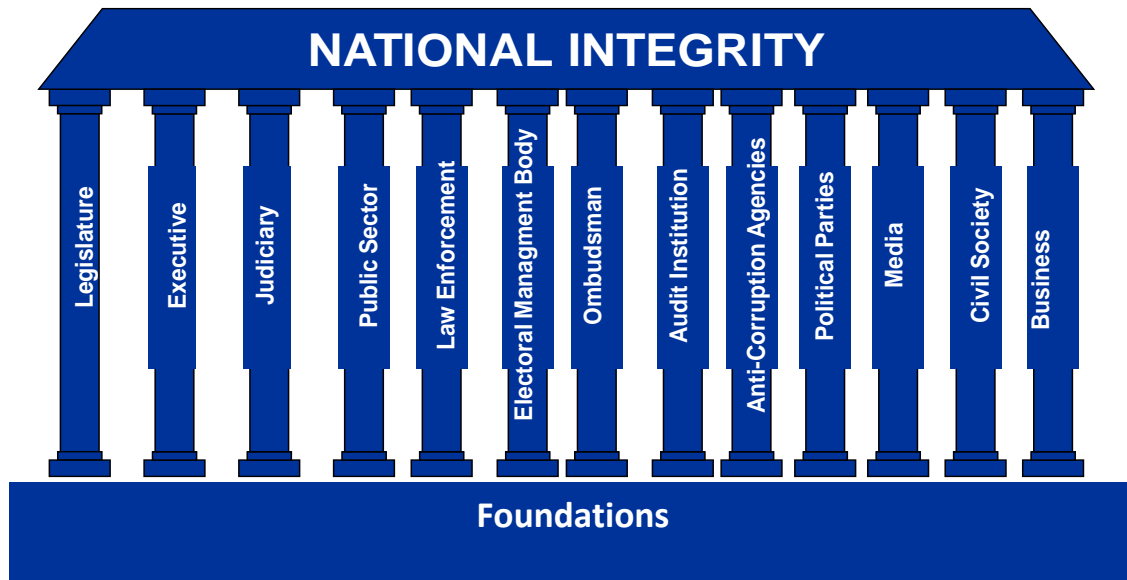
The research was carried out by the TI National Chapters and Chapters in Formation across the 27 EU Member States and it was based on 27 studies which analyzed the nature of SoL in different national legal contexts in order to identify negative and positive aspects. The final report, published by TI, can be found on the TI’s official website [www.transparency.org](http://www.transparency.org). The report is called “Timed Out : Statutes of Limitations and Prosecuting Corruption in EU Countries”.

## 7. National Integrity System

As indicated in the activity report 2009, TI Luxembourg expressed its wish to participate in the NIS report.

The concept of the NIS has been developed and promoted by Transparency International (TI) as part of TI's global approach to fighting corruption. The NIS assessment offers an evaluation of the legal basis and the actual performance of institutions relevant to the overall anti-corruption system. These institutions – or 'pillars' – can be illustrated as following:

### Pillars of a National Integrity System



While TI Luxembourg was excluded from participation in the EU funded project, TI Luxembourg still considered it important for Luxembourg and for TI Luxembourg to participate, albeit on its own funding and with its own resources. Kick-off meetings have been held in 2011. Due to an utter lack of financial and otherwise resources, participation of TI Luxembourg in the NIS project is now in jeopardy.

## 8. The new law on protecting whistle-blowing (Bill n° 6104)

The Parliament of the Grand Duchy of Luxembourg has recently passed Bill No. 6104 which amends certain criminal law provisions relating to corruption and enacts a whistleblower protection. The new law of 13 February 2011 has been published on 18 February 2011.

The draft legislation had been introduced in mid 2010 by the government as a result of Luxembourg's international commitments (a.o. UNCAC) as well as recommendations from international organizations.

TI Luxembourg met on 4 October 2010 with a representative of the Luxembourg bar organization in order to prepare a common opinion on the draft legislation. A common opinion was not drafted as TI Luxembourg chose to interact directly with the government in order to affect change.

TI Luxembourg also lobbied with the Luxembourg government and Parliament to amend certain provisions. As a result, the legal commission<sup>2</sup> of the Parliament invited TI Luxembourg to an exchange of views on the fight against corruption. TI Luxembourg met with the legal commission on 10 November 2010 and exposed its point view.

TI Luxembourg asked the government and Parliament to amend the law in order (i) to extend whistleblowing protection even if the whistleblower blew the whistle outside of its employer or the public prosecutor and in particular with an organization such as ALAC and (ii) to amend the criminal procedural law in order to allow NGO's to file criminal complaints<sup>3</sup> in relation to corruption offences. While the first wish has not been accepted, the second has.

The new legislation is a huge step forward both from an internal point of view and from the point of view of the outside perception of Luxembourg's fight against corruption. TI Luxembourg needs to closely monitor the application of the new law in order to suggest changes as and when these become required. TI Luxembourg has also participated in the submission to a joint TI project funded by the European Commission studying whistleblowing legislation in the EU.

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<sup>2</sup> the 'Commission juridique'

<sup>3</sup> 'plainte avec constitution de partie civile'

## 9. Advocacy and Legal Advice Center (ALAC)

TI Luxembourg wishes to set up an “Advocacy and Legal Advice Centre (ALAC)” in Luxembourg.

ALACs, initiated and developed by TI, provide free advice and assistance to victims and witnesses of corruption. Through telephone hotlines, walk-in centres and outreach services, ALACs help citizens pursue corruption-related complaints. The diversity of cases and people who use the centres - from the unemployed (jobless or free entrepreneurs and liberal professions) to entrepreneurs and well-positioned whistleblowers - demonstrates the pervasive nature of corruption. In line with TI’s approach of constructive engagement, ALACs build partnership with public authorities and private actors with a view to remedy the situation.

ALACs started in 2003 on a pilot basis in South Eastern Europe. The ALAC model has since taken off and now represents one of the most dynamic of anti-corruption interventions. It is expected that ALACs will operate in more than 50 countries in all regions of the world by the end of 2011.

The ALAC of TI Luxembourg, if launched as programmed, would be the first one in the area of Western Europe. For the preparation steps, TI-S visited with TI Luxembourg on 28 September 2010, stressing the importance to TI-S of a first successful ALAC in a ‘western’ country. The government of Luxembourg initially also did welcome the idea of establishing an ALAC in Luxembourg and pledged to assist TI Luxembourg by providing human resources and an appropriate office for its activities. The assistance of the government has since been reduced to a potential office. As a matter of fact, even this assistance seems today unrealistic putting the ALAC project in jeopardy.

TI Luxembourg had a number of meetings with the ministry of justice, subsequent to the initial meeting of 18 March 2010, in order to coordinate the government’s expected assistance and prepare the launch of the ALAC:

22 April 2010

8 June 2010

31 August 2010

20 September 2010

5 October 2010

## **10. The “Sondage” Project**

The Board of Directors during a meeting of 27 October 2010 with the participation of TI Luxembourg’s members, decided to launch a study under the name of “Sondage” project.

The objective of the project aims at identifying areas in public administrations, financial sector entities and entities working under public contracts that are at greater risk of corruption with a view to suggest systemic changes to reduce the risk. Initially a checklist/questionnaires specific for each nature of stakeholder would be prepared and distributed.

The implementation of the Project is being undertaken by three working groups for the three different sectors.

## **11. Internet site**

TI Luxembourg has been maintaining and updating its internet site at <http://www.transparence.lu>. A new and major update, converting the site to a more standardized TI-style site should be realized as soon as the necessary resources are available.

## **12. Members**

TI Luxembourg is seeking popular support. Corruption being a difficult and technical issue, TI Luxembourg will never attract a very large popular support basis. Nevertheless, its membership basis has been increasing slowly but steadily and we can count today 18 members (16 as of the 31 December 2010).

### 13. Perspectives

TI Luxembourg is facing difficult times as a result of non existent financial or other resources and important legitimate requests for assistance/cooperation. As a result, the Board of Directors has launched in April 2011 a request for assistance to the Luxembourg government and informed TI-S of the difficulties. As this step has an impact on how TI Luxembourg will be doing business in the future, the Board feels that although not related directly to 2010, the members should be informed at the earliest possible time. The Board has therefore decided to copy its letter to TI-S hereafter which reads as follows:

« YB/mt/L35

*Luxembourg, 26 April 2011*

*Transparency International -  
Secretariat  
Mrs Anja Osterhaus  
Acting Regional Director*

***by e-mail***

*Dear Anja,*

***re : Transparency International Luxembourg***

*As a result of a number of events, the Board of Directors of TI Luxembourg held a general strategic debate at its meeting of 5<sup>th</sup> April 2011.*

*TI Luxembourg is indeed facing very difficult times. The demands and requests towards TI Luxembourg from various stakeholders are significant and growing. Those demands include requests for cooperation from TI-S, other national chapters, other NGOs and last but not least*



*the Ministry of Justice of the Luxembourg state. These various requests, while legitimate and in the interest of the objectives defended by TI Luxembourg, put a very heavy burden of resources on TI Luxembourg. This heavy burden is such that TI Luxembourg is no longer able to sustain its workload and reply in due time to the various requests and demands received.*

*Up to now TI Luxembourg has been working on an exclusively voluntary basis. This is now no longer sufficient and TI Luxembourg needs, in order to be able to sustain its workload, to hire a qualified graduate employee. At the same time, TI Luxembourg needs to be able to rent offices that would not only house TI Luxembourg personnel and volunteers but also be open to the public.*

*TI Luxembourg does not have and has not been able to raise any financial assistance apart from members' fees. Due to the small size of the country the membership size is also reduced. Hence the member's donations do not allow TI Luxembourg to either rent offices or hire a person capable of providing the work required by TI Luxembourg.*

*Exacerbating these difficulties is the bitter feeling the Board is left with as result of TI Luxembourg's attempted cooperation with the Ministry of Justice. You may recall that TI Luxembourg engaged the Ministry of Justice in discussions starting mid-2010 whereby the Ministry of Justice requested and TI Luxembourg suggested that TI Luxembourg set up an ALAC. TI Luxembourg however requested assistance from the Luxembourg Government and was promised originally an office and personnel and then later just an office. Neither of these promises have been kept although many constructive meetings have been taking place from March 2010 to the end of last year.*

*After our appearance at the OECD evaluation of Luxembourg in February 2011, the contact with the Ministry of Justice essentially broke down. We tried to obtain information from the Ministry of Justice requested as a result of our cooperation on the OECD Progress Report 2011. We were denied such information in a quite non-constructive way. Although we applied at the same time for a meeting to sort out our difficulties no answer was given to TI Luxembourg.*

*We then learnt from Kelly McCarthy who is acting on behalf of TI-S in relation to the OECD Global Progress report 2011 that a representative of the Ministry of Justice, with whom we have been in contact, was willing and indeed later provided TI-S with basic information the Ministry of Justice refused to provide to TI Luxembourg.*

*As result, the Board of Directors of TI Luxembourg decided at its meeting of 5<sup>th</sup> April 2011 to file a last resort appeal to the Luxembourg Government requesting financial assistance such that TI Luxembourg would be able to organize the material and human resources required to keep up and sustain its workload. At the same time, the Board of Directors decided to suspend with*

*immediate effect all non-essential activities and all participation in projects. These projects include but are not necessary limited to:*

- *ALAC*
- *NIS*
- *OECD Progress report 2011*
- *Enhancing and corporate reporting 2012*
- *Cooperation on whistleblowing study*
- *Requests from other NGOs in term of studies and assistance with bribery cases*
- *All purely national projects launched or in the process of being launched by TI Luxembourg.*

*While I am very saddened to report the above, I hope that our last ditch effort will yield the required success in order for TI Luxembourg to carry out the work it was designed to do. In the eyes of the Board it does not make any sense to continue as some sort of alibi for the Luxembourg Government if on the other hand TI Luxembourg is stripped of its possibilities to get the groundwork done.*

*If the Government does not react in a satisfactory manner to the requests submitted by TI Luxembourg, TI Luxembourg will have to put to its membership the question of stopping its activity and liquidating the structure.*

*I am obviously available to discuss this letter with TI-S.*

*Yours sincerely,*

*Yann Baden*

*Cc : Sara Morante (by mail)*

*»*

### III. Appendices

1. Application for the National Chapter in Formation status of TI.
2. National Chapter in Formation agreement
3. Interview with the *Luxemburger Wort* “Mehr Licht ins Dunkel” published in the edition of 26 August 2010
4. Interview with *Le Quotidien* “Objectif Transparence” published in the edition of 27 August 2010
5. Interview with the *Luxemburger Wort* “Korruptioun amplaz vun Transparenz” published in the edition of 18 September 2010
6. Interview with the *Luxemburger Land* “Sentinelles aux petits pieds” published in the edition of 15 October 2010
7. Interview with *Le Quotidien* on the theme of “conflict of interests” “Le conflit d’intérêts n’est ni mauvais ni bon” published in its edition of 10 November 2010
8. Interview with the *Luxemburger Land* “How we do business”
9. On 12 November 2010, the “*Feier Krop*”, a weekly satiric newspaper in Luxembourg, published an article on TI Lux and its activities in the context of the publication of the Corruption Perception Index (CPI) 2010 by TI, “Willkommen Transparency Luxembourg, die Arbeit ruft !”.
10. Conference of 2 February 2010 : The Luxembourg Financial Center : the pursuit of excellence through ethics and integrity” organized by LIGFI
11. Press release of 24 August 2010 on the affiliation to TI
12. Press release of 9 December 2010 on the International Corruption Day and the draft legislation n°6104
13. The new Law of 13 February 2011 on protecting whistleblower published on 18 February 2011
14. Minutes of the exchange of view with the legal commission of 10 November 2010