



EUROPEAN PARLIAMENT

2009 - 2014

*Plenary sitting*

**A7-0250/2013**

5.7.2013

# REPORT

on corruption in the public and private sectors: the impact on human rights in  
third countries  
(2013/2074(INI))

Committee on Foreign Affairs

Rapporteur: Ana Gomes

PR\_INI

## CONTENTS

**Page**

The table of contents is empty because none of the paragraph styles selected in the Document Inspector are used in the document.

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on corruption in the public and private sectors: the impact on human rights in third countries

(2013/2074(INI))

*The European Parliament,*

- having regard to the United Nations Convention against Corruption (UNCAC), opened for signature in Merida on 9 December 2003,
- having regard to the Charter of the United Nations,
- having regard to the International Covenant on Civil and Political Rights,
- having regard to the International Covenant on Economic, Social and Cultural Rights,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the Organisation for Economic Co-operation and Development (OECD) Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, opened for signature in Paris on 17 December 1997, and to the recommendations supplementing it,
- having regard to the Joint Communication of the High Representative of the Union for Foreign Affairs and Security Policy and the Commission to the European Parliament and the Council of 12 December 2011 on ‘Human Rights and Democracy at the Heart of EU External Action – Towards a more effective approach’ (COM(2011)0886),
- having regard to the EU Strategic Framework on Human Rights and Democracy and the EU Action Plan on Human Rights and Democracy as adopted at the 3179th Foreign Affairs Council meeting of 25 June 2012,
- having regard to the Commission communication to the Council and the European Parliament of 8 May 2001 on ‘The European Union’s role in promoting human rights and democratisation in third countries’ (COM(2001)0252),
- having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 25 October 2011 on ‘A renewed EU strategy 2011-14 for Corporate Social Responsibility’ (COM(2011)0681),
- having regard to the Council compilation of documents ‘Mainstreaming Human Rights and Gender into European Security and Defence Policy’<sup>1</sup> and notably to the Council document ‘Generic Standards of Behaviour for ESDP Operations’ (doc. 8373/3/05),

---

<sup>1</sup> Council of the European Union, 2008  
RR\942791EN.doc

- having regard to the United Nations Millennium Declaration of 8 September 2000,
- having regard to the Global Action Plan ‘Keeping the promise: united to achieve the Millennium Development Goals’, adopted by the UN General Assembly on 10 October 2010,
- having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 27th February 2013 on ‘A decent life for all: Ending poverty and giving the world a sustainable future’ (COM(2013)0092),
- having regard to the report of the European Investment Bank (EIB) entitled ‘Policy on preventing and deterring corruption, fraud, collusion, coercion, money laundering and the financing of terrorism in European Investment Bank activities’ (“EIB Anti-Fraud Policy”) adopted in 2008,
- having regard to the Enforcement Policy and Procedures (EPP) of the European Bank for Reconstruction and Development (EBRD), which entered into force in March 2009,
- having regard to the Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy’ Framework (HR/PUB/11/04),
- having regard to its resolution of 7 July 2011 on EU external policies in favour of democratisation<sup>1</sup>,
- having regard to its resolution of 11 December 2012 on a digital freedom strategy in EU foreign policy<sup>2</sup>,
- having regard to the EU Guidelines on Human Rights Defenders as adopted at the 2914th General Affairs Council meeting of 8 December 2008,
- having regard to the ‘Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies (PMSCs) during armed conflict’, adopted in Montreux on 17 September 2008,
- having regard to the Council of Europe Criminal Law Convention on Corruption, opened for signature on 27 January 1999 and the Council of Europe Civil Law Convention on Corruption, opened for signature on 4 November 1999, and to resolutions (98) 7 and (99) 5, adopted by the Council of Europe’s Committee of Ministers on 5 May 1998 and 1 May 1999 respectively, establishing the Group of States against Corruption (GRECO),
- having regard to the Jakarta Statement on Principles for Anti-Corruption Agencies, adopted on 26-27 November 2012,

---

<sup>1</sup> OJ C 33 E, 5.2.2013, p. 165.

<sup>2</sup> Texts adopted, P7\_TA(2012)0470.  
PE510.547v02-00

- having regard to the Paris Principles for national human rights institutions<sup>1</sup>,
  - having regard to the OECD Guidelines for Multinational Enterprises<sup>2</sup>,
  - having regard to the International Labour Organisation (ILO) ‘Tripartite declaration of principles concerning multinational enterprises and social policy’<sup>3</sup>,
  - having regard to the UN Global Compact Initiative<sup>4</sup>,
  - having regard to the International Code of Conduct for Private Security Service Providers,
  - having regard to the Arms Trade Treaty, adopted at the United Nations Final Conference on the Arms Trade Treaty held in New York on 18-28 March 2013<sup>5</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A7-0250/2013),
- A. whereas corruption can be defined as the abuse of entrusted power for individual or collective, direct or indirect personal gain, and whereas acts of corruption include the crimes of bribery, embezzlement, trading in influence, abuse of functions and illicit enrichment, as defined by the UNCAC; whereas fraud, extortion, blackmail, abuse of discretionary powers, favouritism, nepotism, clientelism and illegal political contributions are closely linked to corruption; whereas corruption may be linked to organised crime operating under collective leadership alongside official structures, particularly where the authorities fail to enforce the law;
- B. whereas corruption perpetuates and aggravates unequal, unjust and discriminatory outcomes with regard to the equal enjoyment of human rights, be these civil, political and economic or social and cultural rights; whereas corruption can have negative repercussions on the environment and affects disproportionately the most disadvantaged and marginalised groups in society, namely by barring them from equal access to political participation, public services, justice, safety, land, jobs, education, health and housing, and whereas corruption affects in particular progress towards ending discrimination, gender equality and women’s empowerment, by limiting women’s capacities to claim their rights;
- C. whereas corruption may undermine economic development by obstructing business and investment on occasion;
- D. whereas corruption is part of the good governance principle, such as upheld and defined

<sup>1</sup> See UN General Assembly resolution A/RES/48/134.

<sup>2</sup> OECD (2011), *OECD Guidelines for Multinational Enterprises*, OECD Publishing.

<sup>3</sup> International Labour Organisation, 2006 ISBN 92-2-119010-2 and 978-92-2-119010-3.

<sup>4</sup> New York, UN Headquarters, 26 July 2000.

<sup>5</sup> UN General Assembly A/CONF.217/2013/L.3.

by articles 9(3) and 97 of the Cotonou Agreement;

- E. whereas acts of corruption and human rights violations typically involve the misuse of power, lack of accountability and the institutionalisation of various forms of discrimination; whereas corruption is invariably more frequent where enforcement of human rights is lacking or absent, and whereas corruption often undermines the effectiveness of the institutions and entities which normally provide checks and balances and are intended to ensure respect for democratic principles and human rights, such as parliaments, law enforcement authorities, the judiciary, legal systems and civil society;
- F. whereas corruption is generally deeply entrenched in the mentality of the societies where it permeates, and whereas all efforts to combat it should focus first and foremost on the education system, targeting people at the earliest age possible;
- G. whereas states sometimes fail to act in preventing or punishing corruption in public and private sectors, in breach of their international obligations under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other relevant international and regional human rights instruments;
- H. whereas corruption distorts the size and composition of government expenditure, seriously harming the state's capacity to harness to a maximum its available resources in order fully to realise economic, social and cultural rights, and whereas corruption diverts large amounts of funding from investment in the economy, hindering the recovery of countries in economic hardship, including EU Member States;
- I. whereas corruption in high places can seriously undermine and destabilise the countries concerned and strike at the very heart of the State;
- J. whereas, according to the World Bank, corruption represents 5 % of global GDP (USD 2.6 trillion), with over USD 1 trillion paid in bribes each year; and whereas corruption adds up to 10 % of the total cost of doing business on a global basis and 25 % of the cost of procurement contracts in developing countries<sup>1</sup>;
- K. whereas the World Bank estimates that each year USD 20-40 billion, corresponding to 20-40 % of official development assistance, is stolen from public budgets in developing countries and hidden overseas through high-level corruption<sup>2</sup>;
- L. whereas from 2000 to 2009, developing countries lost USD 8.44 trillion to illicit financial flows, ten times more than what they received in foreign aid; whereas every year for the past decade, developing countries lost USD 585.9 billion through illicit flows; whereas the money stolen through corruption each year is enough to keep the world's hungry fed 80times over, while bribes and theft swell the total cost of projects to provide safe

---

<sup>1</sup> CleanGovBiz Initiative, OECD 2013.

<sup>2</sup> CleanGovBiz Initiative, OECD 2013..  
PE510.547v02-00

drinking water and sanitation around the world by as much as 40 %<sup>1</sup>;

- M. whereas corruption, by threatening the consolidation of democracy and enforcement of human rights, remains a fundamental cause and catalyst of conflict, widespread violations of international humanitarian law and impunity in developing countries, and whereas the status quo of corruption and illicit enrichment in positions of state power has led to power-grabbing and perpetuation of power as well as to the creation of new militias and widespread violence;
- N. whereas corruption in the judicial sector breaches the principle of non-discrimination, access to justice and the right to a fair trial and to an effective remedy, which are instrumental in the enforcement of all other human rights, and whereas corruption seriously distorts the independence, competence and impartiality of the judiciary and of the public administration, fostering distrust in public institutions, undermining the rule of law and giving rise to violence;
- O. whereas delivery of public services enables states to fulfil their international human rights obligations, ensuring the supply of water, food, health, education, housing, security and order as elements of human development, and whereas corruption in public procurement thrives in the absence of openness, transparency, information, competition, incentives, clear rules and regulations that are strictly enforced and also where there are no independent monitoring and sanctions mechanisms;
- P. whereas widespread corruption, lack of transparency, access to information and inclusive participation in decision-making prevents citizens from holding governments and political representatives to account in order to ensure that revenue related to resource and market exploration is used to ensure their human rights; whereas it is incumbent upon governments to do everything in their power to combat corruption in public and private companies;
- Q. whereas human rights defenders, media, civil society organisations (CSOs), trade unions and investigative journalists play a crucial role in the fight against corruption by scrutinising public budgets, monitoring the activities of governments and large – in particular multinational – companies, and the financing of political parties, offering capacity-building skills and expertise and demanding transparency and accountability; whereas journalists reporting on corruption and organised crime are increasingly targeted and harassed by organised crime groups, ‘parallel powers’ and the public authorities, especially in developing countries;
- R. whereas a free and independent press and media, both online and offline, are essential in ensuring transparency and scrutiny – both necessary to combat corruption – by providing a platform for the exposure of corruption and giving citizens and society access to information;
- S. whereas open data and open government empower citizens by giving them access to

---

<sup>1</sup> Illicit Financial Flows from Developing Countries Over the Decade Ending 2009, Global Financial Integrity.

information about governmental budgets and expenses;

- T. whereas whistleblowers are vital in exposing corruption, fraud, mismanagement and human rights abuses, despite high personal risk, and whereas lack of protection against retaliation, controls on information, libel and defamation laws, and inadequate investigation of whistleblowers' claims can all deter people from speaking out, and can often compromise their personal safety as well as that of their families; whereas the EU has a duty to protect them, in particular by making the most effective use possible of cooperation instruments such as the European Instrument for Democracy and Human Rights (EIDHR);
- U. whereas emergency situations and incoming aid offer opportunities for corruption due to the nature of the activities and the complexity of actions and actors executing them, and whereas these 'opportunities' include bribery, obstruction, extortion faced by aid agency staff, misconduct by aid agency staff, fraud, false accounting, diversion of aid received, and exploitation of the needy, and fuel a widespread sense of despair with regard to public authorities of any kind; whereas the misappropriation of humanitarian aid is a serious violation of international humanitarian law;
- V. whereas 25 % of all investigations initiated by the European Anti-Fraud Office (OLAF) regard European external aid to third countries, and whereas EUR 17.5 million have been recovered as a result of these investigations<sup>1</sup>;
- W. whereas EU aid to developing countries might be wasted without a system which does not include proper checks and balances in the beneficiary countries and the full independent monitoring of the integrity system which accompanies the use of funds;
- X. whereas the European public banks, being EU institutions (EIB) or whose majority of shareholders are EU Member States (EBRD), have allegedly been involved in corruption scandals in their operations outside of the European Union;
- Y. whereas aid donors and international financial institutions (IFIs), such as the World Bank and the International Monetary Fund (IMF), should foster effective governance reform in debtor countries and contribute to an effective fight against corruption, also by critically assessing and addressing the demonstrated risks of corruption and degradation of human rights associated with many measures imposed in the context of structural adjustment programmes (SAPs), such as the privatisation of state-owned businesses and resources;
- Z. whereas trafficking in human beings relies heavily on complex, corrupt networks that cut across all branches of government, public administration, law enforcement and the private sector in countries of origin, transit and destination of the victims, and whereas corruption weakens the actions of actors fighting trafficking, due to the corruption of police and judicial staff and in the procedures for the arrest and prosecution of traffickers and the provision of legal aid and witness protection to victims of trafficking;
- AA. whereas corruption and misconduct by armed forces, the defence sector, law

---

<sup>1</sup> OLAF Annual Report 2011  
PE510.547v02-00

enforcement authorities and peacekeeping forces causes serious risks to the lives, physical integrity, protection, liberty, and rights of citizens in developing countries, and whereas the defence sector and defence procurement continue to be characterised by unacceptable levels of corruption and are particularly shielded by secrecy on the basis of national security; whereas public procurement for the supply of security equipment should be closely scrutinised;

AB. whereas the use of private military and security companies (PMSCs) by both public and private actors has grown exponentially over the past twenty years, and whereas, due to the nature of their activities, PMSCs are particularly vulnerable to corruption and have been accused of serious human rights abuses, despite operating mostly in a realm outside strict regulation, without the accountability to the public that is generally demanded of the armed forces;

AC. whereas the level of implementation, use and efficiency of the mutual legal assistance and asset recovery mechanisms under Chapters IV and V of the UNCAC remain low among States Parties to the UNCAC, and whereas those States Parties are yet to fully meet their obligations under Chapter IV ('International Cooperation') and V ('Asset Recovery') of the Convention regarding international cooperation and, more specifically, are yet to sufficiently meet their mutual legal assistance obligations under Article 46 of UNCAC;

AD. whereas the poorly regulated and opaque global trade in conventional arms and ammunition fuels conflict, corruption, poverty, human rights abuses and impunity;

AE. whereas grand corruption in developing countries occurs mostly with the complicity and even the assistance of certain businesspeople, lawyers, financial institutions and public officials in developed countries, including in EU Member States, and whereas, in blatant disregard for anti-money laundering regulation at EU and international level, these institutions and corporations have provided the channels to launder the proceeds of corruption in developed and developing countries, to create opaque structures and to hide assets in the 'secrecy jurisdictions';

AF. whereas a human rights-based approach to anti-corruption policies reinforces general awareness that, in addition to public funds, citizens' individual rights and opportunities are affected by corruption; whereas the close association of the international anti-corruption and human rights movements will raise public awareness and demand for openness, accountability and justice, and whereas linking acts of corruption to human rights violations creates new possibilities for action, especially where corruption can be challenged using existing national, regional and international mechanisms to monitor compliance with human rights;

### *Coherence between internal and external policies*

1. Believes that the EU can only become a credible and influential leader in the fight against corruption if it addresses the problems of organised crime, corruption and money laundering within its own borders in an adequate manner; welcomes, in this regard, the

‘EU Anti-corruption Report’ to be issued by the Commission; hopes that the identification by the Commission of areas vulnerable to corruption in Member States will help step up anti-corruption efforts, facilitate the exchange of best practices, identify EU trends, and stimulate peer learning and further compliance with EU and international commitments; invites the Commission to present EU policy initiatives in the area of anti-corruption such as an EU Action Plan against Corruption;’

2. Welcomes, in this regard, the renegotiation of the Savings Taxation Directive, meant effectively to end banking secrecy; considers that strengthening the regulation of, and transparency as regards, company registries and registers of trusts in all EU Member States is a prerequisite for dealing with corruption, both in the EU and in third countries; believes that EU rules should impose an obligation to register all legal structures and their beneficial ownership data, and to publish this information online, electronically tagged and in a searchable format, so that it can be accessed without charge;
3. Is of the opinion that the EU should follow the example of the United States in enacting the Sergei Magnitsky Rule of Law Accountability Act of 2012 and adopt similar legislation at EU level, as an emblematic and operational framework establishing the link between corruption and breaches of human rights; calls, therefore, on the Council to adopt a decision establishing a common EU list of officials involved in the death of Sergei Magnitsky, in the subsequent judicial cover-up and in the ongoing and sustained harassment of his family; adds that this Council Decision should impose targeted sanctions on those officials, such as an EU-wide visa ban and a freezing order on any financial assets that they or their immediate family may hold inside the European Union; calls on the Commission to draw up an action plan, with a view to creating a mechanism for listing and imposing similar targeted sanctions against officials of third countries (including police officers, prosecutors and judges) involved in grave human rights violations and judicial ‘manipulations’ against whistleblowers, journalists reporting on corruption and human rights activists in third countries; stresses that criteria of inclusion on the list should be built up on the basis of well-documented, converging and independent sources and convincing evidence, allowing for mechanisms of redress for those targeted;

#### *Accountability and transparency of external aid and public budgets*

4. Fully supports the EU’s commitment to embrace and mainstream throughout its development policies the concept of democratic ownership, that is, the effective and full participation of people in the design, implementation and monitoring of development strategies and policies of donors and partner governments; is of the opinion that such policy fosters involvement of programme beneficiaries and therefore contributes to greater monitoring and accountability in the fight against corruption; encourages the Commission and the Member States to apply the principle that their development aid programmes should be conditional on observance of international anti-corruption norms, and to introduce an anti-corruption clause into public procurement contracts as recommended by the OECD; requests that the Commission continue to foster high levels of aid transparency in digital, machine-readable formats and to use a common standard to ensure comparability both with other donors, and also, more particularly, in line with the needs of

recipient governments;

5. Stresses that, to ensure that the blending facilities expand the effectiveness of development finance, the governance of those instruments needs to be reviewed, with the aim of granting greater transparency in project selection criteria and accountability to society as a whole; recalls that establishing a critical number of minimum requirements for project selection, monitoring and evaluation could facilitate comparability and a coherent basis for information on the performance of operations; notes that progress and development impact of projects should be systematically reported to justify the use of aid resources by blending facilities, not only to the donors and the European financial institutions involved, but also to the general public;
6. Takes the view that the Commission should impose the highest levels of integrity in the procurement processes for implementation of EU-funded projects, in particular by promoting greater accessibility to calls for tender for local organisations; stresses that a human rights-based approach to procurement benefits from the participation of a broader range of actors, namely those affected by the bidding process (such as associations of land-owners as well as disadvantaged groups); considers that a human rights-based approach to procurement also encourages authorities to empower disadvantaged groups to compete in procurement processes themselves and broaden the criteria against which companies are assessed in procurement processes; recalls that monitoring results of projects in cooperation with civil society and holding local authorities accountable is essential to determine whether EU funds are used appropriately; urges the Commission not to grant projects to contractors whose beneficial owners are not known, or who have a corporate structure that enables them to easily engage in transfer-pricing;
7. Urges the EU to further transparency by supporting the creation of a global system to track aid pledges, in order to be able to hold donor countries to their promises of aid and to hold them accountable for the projects, institutions or groups that they support;
8. Recalls, moreover, the need to prevent corrupt techniques such as inflation of project costs, payments for fictitious projects and workers, inappropriate and corrupt use of economic and/or industrial offsets, outright stealing of state funds, inflated travel expenses and bribes, among other things, in the implementation of EU-funded projects; insists, therefore, on the need to monitor the entire length of the EU-funding chain, including policy-making and regulation, planning and budgeting, financing, fiscal transfers, management and programme development, tendering and procurement, construction, operation and maintenance, and payment for services;
9. Suggests that the Commission publicise the reporting mechanisms within OLAF regarding misuse of EU funds among participants in public tenders and beneficiaries of EU aid, and produce policy guidelines on the treatment of information provided by whistleblowers regarding those abuses in third countries, allowing for a proper follow-up, feedback and protection against retaliation, paying particular attention to the situation of the most vulnerable population groups, especially women, in many developing countries as they are particularly prone to be the targets of corruption and to cooperate in exposing it, but also to be more vulnerable and stigmatised for cooperating;

10. Stresses that the EU must emphasise the importance of implementing the right to participation and the right to access information and mechanisms of public accountability such as open data as core principles of democracy in all platforms of dialogue with third countries, including in bilateral relations and at the highest level; stresses that freedom of the press and media, both online and offline are vital in this regard; suggests that the EU finance projects in third countries to support the enforcement of these principles, especially in countries going through democratisation processes, ensuring gender mainstreaming, making sure that such processes involve civil society, especially human rights defenders, trade unions, women and particularly vulnerable groups, and assisting in the formulation of laws for the effective protection of whistleblowers;
11. Notes, in this regard, that the EU must lead by example; insists that the EU and its Member States should actively engage in international initiatives for greater budget transparency, such as the Open Government Partnership, the Open Budget Initiative and the International Aid Transparency Initiative, so as to promote such engagement from partner countries as imperatives of international human rights standards;
12. Calls on the Commission to propose an extension of the definition of human rights defenders in the EU Guidelines on Human Rights Defenders to include anti-corruption activists, investigative journalists and, notably, whistleblowers;
13. Points out that the EU, as a world leading donor, should follow and expand recent instances of linking the delivery of EU external aid to budget reforms towards greater transparency, access to data and participatory processes, and to harmonise guiding principles in this regard with other donors; is of the opinion that the EU should establish clear and public benchmarks and criteria, in an incentive-based approach, for recipient governments to open up their budget processes and incorporate transparency, public participation and oversight components into their efforts, through training or technical assistance; urges the EU to promote and support the development of an enabling environment for oversight bodies in developing countries (including parliaments, courts of auditors, CSOs and the media) to carry out their core functions and therefore fight corruption;
14. Points out, on the other hand, that the EU should use the framework of ‘advanced partnerships’ with third countries to press in an effective manner those regimes that suffer from endemic corruption to adopt reforms to implement the above-mentioned principles; takes the view that political dialogue, pressure and cooperation from the EU towards the need for reform should be visible and transparent, and should integrate adequate and ambitious monitoring mechanisms; takes the view that the EU should publicly condemn the enactment of laws which restrict the freedom of the media and the activities of civil society as cornerstones of accountability and that it should draw up strategies to adapt relations with those countries so as to foster reform in a visible way; stresses the need for clearly defined and observed human rights clauses in agreements with third countries that would allow any partnership agreement to be suspended in the face of gross human rights violations;
15. Supports increased transparency of decision-making on investments of European public

money, namely in projects of the EIB and the EBRD which may have an adverse impact on human rights; urges the EIB and the EBRD to strengthen their anti-fraud and anti-corruption policies in order to ensure full transparency of investments outside of the European Union; stresses the need for the EIB and the EBRD to affirm their willingness to avoid risky investments, especially through financial intermediaries, and to adopt a risk-based approach and improved assessments of the human rights impact of the projects they support, in addition to conducting sound human rights and integrity due diligence of all of their clients' operations; takes the view that particular attention should be paid to ensuring public participation, as well as free prior and informed consultation of communities affected, at all stages of the planning, implementation, monitoring and evaluation of projects financed; urges the Member States and the Commission to use their influence as exclusive members of the EIB, and as major shareholders of the EBRD, to foster significant reform of these institutions to allow greater democratic scrutiny of their decisions and accountability;

16. Considers that international financial institutions, like the IMF and the World Bank Group, should conduct a corruption risk assessment in the measures proposed to debtor countries through SAPs, in addition to an assessment of the impact of the latter on human rights; takes the view that SAPs should include reforms to improve governance and transparency; insists that adequate, well-resourced and independent systems of oversight should follow the implementation of the programmes, carrying out frequent audits and inspections; adds that particular attention should be paid to land-grabbing, forced evictions, defence procurement, separate defence budgets and the financing of military and paramilitary activities in debtor countries; calls on the Member States to use their influence as members of the IMF and the World Bank to push for greater transparency and participatory mechanisms in the negotiation of SAPs and other financing programmes and to foster greater democratic scrutiny of their decisions and accountability;
17. Calls on bilateral and multilateral financial institutions, including the World Bank Group, IMF, regional development banks, export credit agencies and private sector banks, to require extractive companies and governments to comply with the 'Publish What You Pay' requirements and/or EITI standards on transparency of payments as a pre-condition for all project support;
18. Welcomes the G20 Seoul Anti-Corruption Action Plan, and believes that the momentum created should be sustained so as to ensure a coordinated international effort meant to combat corruption in key areas;

### ***Corruption and development policies***

19. Emphasises that the poorest people in developing countries, being heavily reliant on public services, are hurt disproportionately by petty corruption, including so-called 'quiet corruption' whereby public officials fail to deliver services or inputs that have been paid for by the government (as in the cases of absentee teachers in public schools or absentee doctors in primary clinics);
20. Stresses that corruption creates obstacles to foreign direct investment (FDI) and

discourages external actors from engaging in economic cooperation with developing countries;

21. Believes that fighting corruption, including tax havens, tax evasion and illicit capital flights, is part of a broader effort to promote good governance, which is defined as one of the key priorities to enhance the effectiveness of EU development policy in the 2011 Agenda for Change (COM(2011)0637); emphasises the need for the full and immediate enforcement of the UN Convention against Corruption;
22. Points out that all efforts to combat corruption should be accompanied by support for programmes meant to prevent corruption through education and awareness-raising campaigns;
23. Recalls the commitments undertaken through the Busan Partnership for Effective Development, and calls on the EU and its Member States to implement them in order to intensify the joint efforts to fight corruption and illicit money flows;
24. Believes that ensuring the consistency of development policies is essential in order to tackle and eradicate corruption; emphasises as well that EU assistance in the areas of fiscal governance and action on tax fraud, under the Development Co-operation Instrument (DCI) and the European Development Fund (EDF), needs to be increased;

#### ***Improving Member States' jurisdiction***

25. Requests Member States amend their criminal laws, where necessary, to establish jurisdiction over individuals of any nationality found on their territory who have committed acts of bribery or embezzlement of public funds, regardless of where the crime occurred, as long as the proceeds of those criminal activities are found in the Member State in question or have been laundered there, or the person has a 'close connection' with the Member State, namely through citizenship, residence or beneficial ownership of a company headquartered or with subsidiaries in the Member State;
26. Points out, however, that Member States should exercise cautious judgement when providing information to third countries on individuals accused of corruption, embezzlement or tax evasion, so as not to implicate human rights defenders unjustly, as was done in the case of Ales Bialiatski;
27. Takes the view that defamation/libel laws may deter people from reporting corruption in third countries; urges all Member States, therefore, to lead by example and to de-penalise defamation/libel laws in their legal systems, at least for cases where allegations of organised crime, corruption and money laundering in Member States and abroad are at issue;
28. Urges the Member States, as recommended by the UNCAC, to adopt legislative and other measures to establish intentionally committed illicit enrichment – that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income – as a criminal offence;

### ***Capacity building of anti-corruption institutions***

29. Welcomes the Jakarta Statement on Principles for Anti-Corruption Agencies of November 2012; encourages the EU and Member States to go further and build momentum at international level on the need to address the lack of effectiveness in tackling corruption of the anti-corruption institutions created in many developing countries, mostly due to their institutional arrangements, lack of functional independence from the executive power, lack of political support, the sourcing of their finances, their rules for selecting and appointing officers and their enforcement powers;
30. Calls on the EU and the Member States to initiate the development of international standards on the independence and effectiveness of anti-corruption authorities, drafted intergovernmentally with the aim of final adoption by the UN General Assembly, and being equivalent to, and with the same robust scope as, the Paris Principles for national human rights institutions; emphasises that these principles should be used as benchmarks of accountability through peer review performance assessments;
31. Calls on the Commission to consolidate the cooperation pursued with other donors, and with the International Organisation of Supreme Audit Institutions, to develop capacities of Supreme Audit Institutions in aid recipient countries, in order to implement the International Standards for Supreme Audit Institutions in developing countries;
32. Urges the EU and its Member States to foster and show support for the creation of an International Commission Against Corruption established by an international treaty or by a Protocol to the UNCAC, which would give rise to an international body of criminal investigators endowed with equivalent powers of national law enforcement and prosecution authorities to investigate and prosecute crimes of corruption in domestic territories of the signatory States, and being able also to indict individuals in national criminal courts;
33. Invites the EU Member States to support the establishment of a UN Special Rapporteur on financial crime, corruption and human rights with a comprehensive mandate, including an objectives-oriented plan and a periodic evaluation of the anti-corruption measures taken by States; invites those Member States that have signed but not yet ratified the Council of Europe Criminal Law Convention on Corruption, opened for signature on 27 January 1999, to ratify it at the earliest possible date;

### ***Corporate responsibility***

34. Draws attention to the existence of a handbook based on the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which allows companies to take effective internal control, and ethical and compliance measures, in order to prevent and detect cross-border corruption;
35. Requests all EU enterprises to fulfil their corporate responsibility to respect human rights in line with the UN Guiding Principles; welcomes the Commission's readiness to develop human rights guidance for small and medium-sized enterprises; calls on the EU Member

States to develop their own national plans for the implementation of the UN Guiding Principles and to insist on the need for partner countries, too, to adhere to internationally recognised corporate social responsibility standards, such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite declaration of principles concerning multinational enterprises and social policy;

36. Calls for the development of more effective transparency and accountability standards for EU technology companies in connection with the export of technologies that can be used to violate human rights, to aid corruption or to act against the EU's security interests;
37. Notes that most initiatives for improving corporate practice in third countries, especially in conflict zones, such as the UN Global Compact and UN Guidelines on Business and Human Rights, do not establish common ground and proper enforcement of the guidelines, relying on companies' voluntary initiative to comply with them; calls on the EU to take the lead in international efforts to establish such normative standards, at least within EU jurisdiction, focusing on accountability for directors of transnational corporations and redress mechanisms for victims;
38. Urges the Commission to propose legislation requiring EU companies to ensure that their purchases do not support perpetrators of corruption, conflicts and grave human rights violations, namely by carrying out checks and audits on their raw materials supply chains and publishing the findings; takes the view that mandatory due diligence by EU companies, in line with the guidelines published by the OECD, would boost European businesses and make EU human rights and development policies more coherent, especially in areas plagued by conflict;
39. Re-emphasises the need for the EU and the Member States to take appropriate measures, including under criminal law, to monitor and eventually sanction companies based on their territory which are involved in corruption in third countries; calls on the Commission to formulate a public list of companies which have been convicted of corrupt practices or whose company officials are being indicted for corrupt practices in Member States or third countries; is of the opinion that such listing should prohibit those companies from participating in public procurement processes or benefit from EU funds in EU Member States or third countries in the case of conviction, and until a final court decision of exoneration; highlights the fact that 'blacklisting' can be effective in dissuading companies from engaging in corrupt activities and provides a good incentive for them to improve and reinforce their internal integrity procedures;
40. Welcomes the agreements reached between the European Parliament and the Council requiring companies in the extractive sector and loggers of primary forests to disclose payments to governments on a country and project basis; urges governments of all partner countries to require equivalent disclosure of payments of transnational companies registered or listed on financial markets in their jurisdiction; urges the EU to promote this standard of reporting in the context of its relations with partner countries; takes the view that the Commission, in the forthcoming revision of the legislation in question, should consider widening the scope of country-by-country reporting, so as to include

transnational companies of all sectors and the reporting of more information, such as sales, assets, employees, profits and taxes;

### *Peace and stability operations*

41. Stresses that corruption often fuels crime and contributes to conflict and fragility, and takes the view that fighting corruption should be given greater weight in EU's conflict prevention efforts and in its actions to deal with situations of fragility;
42. Stresses the crucial role of high standards of integrity among peacekeeping forces within the UN and the AU, namely in the context of the African Peace Facility; supports the claims for reform of the UN integrity measures system, namely the need to consolidate all investigations of misconduct by officials – including investigations in the field – into one internal oversight entity; calls, therefore, on the UN to take steps to ensure that those who are victimised by peacekeepers have the right to remedy, and to improve reporting mechanisms and the whistleblower protection policy;
43. Stresses the need to develop and update the Generic Standards of Behaviour and the Code of Conduct for EU CSDP missions, to adequately reflect efforts against corruption both in missions and in mission areas; calls on the EU and its Member States to take steps to ensure that those who are victimised by European personnel in peace and rule of law missions have an effective right to remedy; urges the Council to set up safe and adequate reporting mechanisms and an effective whistleblower protection policy; stresses that these mechanisms must be gender-sensitive;
44. Welcomes initiatives like the Montreux Document and the International Code of Conduct for Private Security Service Providers (ICoC); welcomes the European Union's recent support for the Montreux Document and the high and growing number of endorsements by EU Member States; highlights, however, that there needs to be better enforcement of established principles; calls on all EU Member States to further develop their national law and regulation in line with the standards set out in the Montreux Document and recommends that they and the EU only enter into contracts with PMSCs that uphold the initiatives' principles; calls on the EU and its Member States to support the creation of the oversight mechanism of the ICoC, which should be a compliance body capable of handling complaints and issuing dissuasive sanctions (including modifications to contracts requiring additional constraints, issuance of official warnings, financial penalties and temporary or permanent removal of the PMSC from the ICoC system) in order to ensure compliance with, and ultimately hold PMSCs accountable for, their commitments under the ICoC;
45. Requests that the EU and the Member States support the creation of an international framework to regulate the activities of PMSCs, establishing a level playing field so that host states have the authority to regulate PMSCs and contracting states may use their power to protect human rights and prevent corruption; emphasises that such a framework must include dissuasive sanctions for violations, accountability for violators and effective access to remedies for victims, in addition to a licensing and monitoring system to require all PMSCs to submit to independent audits and participate in compulsory training of all

personnel in human rights;

***International cooperation and assistance***

46. Recommends that Member States enhance the implementation of Chapters IV (International Cooperation) and V (Asset Recovery) of UNCAC, especially to grant more efficiency to mutual legal assistance requested by third countries, notably by interpreting domestic legislation in a way which facilitates the assistance requested, by de-linking confiscation from conviction in the requesting state for the purposes of providing mutual legal assistance, and by providing their legal systems with the requisite human and financial resources so that cases can be handled properly and swiftly; urges the EU to prioritise this issue of great relevance in third countries going through democratisation processes, namely by addressing legal barriers and the lack of willingness to cooperate from financial centres within the EU, which often maintain an unresponsive and inefficient mutual legal assistance regime;
47. Is of the opinion that the standard human rights clause introduced in all agreements with third countries should also include a commitment towards the protection and promotion of good governance;
48. Encourages the Commission to propose in the next revision of the Cotonou Agreement the respect of good governance as an essential element of the Agreement and to widen the scope of the definition of corruption, allowing the sanctioning of breaches of the good governance clause in all serious circumstances, and not only when related to economic and sectoral policies and programmes on which the European Union is a significant partner in terms of the financial support;
49. Welcomes the decision of the EU-Egypt and EU-Tunisia Task Forces to finalise a roadmap for the return of the illicitly acquired assets which are still frozen in a number of third countries; urges the EU and its Member States to adhere fully to the existing international norms governing asset recovery, such as Chapter V of UNCAC, the asset recovery action plan as developed by the G8 Deauville Partnership with Arab Countries in Transition, and the new legislative framework developed by the Council on 26 November 2012; considers that asset-recovery provisions will support the efforts of countries to redress the worst effects of corruption, and urges the EU and its Member States to make significant efforts aimed at facilitating the return of misappropriated assets stolen by the former regimes to the people of Arab Spring countries; stresses the importance of a human rights-based approach to the treatment of asset recovery and sovereign debt by states emerging from regimes where corruption is endemic; supports initiatives for auditing external and internal sovereign debt with a view to detect corruption and its impact on human rights; calls on the Member States to support debt audit initiatives;
50. Calls on the EU and the Member States to provide legal and technical assistance to developing countries that wish to recover stolen assets (or assets accumulated illegally by dictatorships) that are held in the territory of the European Union;
51. Points out that corruption in the arms trade represents a large proportion of the corruption

present in global transactions; welcomes the Arms Trade Treaty (ATT) adopted by the UNGA on 2 April 2013 establishing common binding standards and criteria to assess international weapons transfers; welcomes the commitment of the Member States to sign the Arms Trade Treaty at the earliest possible date, and calls on them to take a lead as well in the UN efforts for the rapid ratification and implementation of the International Arms Treaty by all UN member states; encourages the EU to ensure greater vigilance in relation to European arms manufacturers' exports and to combat opaqueness in the arms trade sector, especially in relation to the use of intermediaries and economic/industrial offsets, in line with the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;

52. Instructs its President to forward this resolution to the Council, the Commission and the European External Action Service, to the governments and parliaments of the EU Member States, of the candidate states and of associated countries, to the Council of Europe, to the African Union, to the International Monetary Fund, to the World Bank, to the European Investment Bank, to the European Bank for Reconstruction and Development and to the United Nations.

25.6.2013

## OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Foreign Affairs

on corruption in the public and private sectors: the impact on human rights in third countries (2013/2074(INI))

Rapporteur: Michal Tomasz Kaminski

### SUGGESTIONS

The Committee on Development calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Stresses that corruption in the public and private sectors undermines democracy, governance and the rule of law and weakens state institutions, thus impairing the ability of governments to fulfil their human rights obligations, particularly with regard to the economic and social rights of the most vulnerable and marginalised groups;
2. Believes that corruption is not just bribery of public officials but also, among other things, tax avoidance and tax evasion which, carried out under secrecy, undermine the public interest;
3. Notes that the fight against corruption in the public and private sectors can also have an influence on political stability;
4. Emphasises that the fight against corruption is impossible without free and easy access to justice for all citizens;
5. Recognises that corruption misallocates resources and is detrimental to sustained economic growth and poverty reduction, and is one of the obstacles to the achievement of the Millennium Development Goals; recalls that the cost of corruption is estimated at over 5 % of global GDP, far exceeding the value of global official development assistance, and that bribes paid yearly are thought to be equivalent to the GDP of Africa, while, at the same time, some 1.4 billion people worldwide still live in poverty; condemns corruption as it violates the principles of equality and non-discrimination, in particular when it means that access to basic services such as health, education or water is dependent on bribes, and notes that corruption is one of the causes of food insecurity, as it diverts public resources

allocated for food to individuals for private gain;

6. Stresses that corruption often fuels crime and contributes to conflict and fragility, and takes the view that fighting corruption should be given greater weight in EU's conflict prevention efforts and in its actions to deal with situations of fragility;
7. Emphasises that the poorest people in developing countries, as they are heavily reliant on public services, are hurt disproportionately by petty corruption, including so-called 'quiet corruption' whereby public officials fail to deliver services or inputs that have been paid for by the government (as in the cases of absentee teachers in public schools or absentee doctors in primary clinics);
8. Stresses that development aid can help support the fight against corruption by encouraging change, ensuring the transparency of aid flows, promoting political dialogue on governance issues and backing efforts by partner countries to tackle corruption; emphasises the importance of the International Aid Transparency Initiative (IATI), which is the international standard on the publication of aid flows;
9. Calls for transparent and fair trade, and for an equitable investment policy to fight against illicit financial flows, without which the quality of governance – including the ability to collect taxes – is undermined, and the rights of the population – such as the right to education and healthcare – cannot be upheld;
10. Stresses that corruption is a global phenomenon that needs to be prevented, punished and eradicated, and that the EU needs a common approach to fighting both the external and the internal dimensions of corruption in order to limit the use of EU development aid in non-transparent way; calls, in this context, for greater accountability and traceability regarding the use of EU aid money, and for the establishment of a framework for initiating legal proceedings against EU and foreign companies suspected of engaging in corruption in third countries;
11. Is of the opinion that fighting corruption presupposes the eradication of tax havens, tax evasion and illicit capital flights from developing countries through the introductions of legislation that obliges transnational corporations automatically to disclose the profits made and taxes paid in every developing country in which they operate;
12. Draws attention to the existence of a handbook based on the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which allows companies to take effective internal control, ethical and compliance measures in order to prevent and detect cross-border corruption;
13. Stresses the important role that national parliaments and civil society organisations can play in holding their respective governments to account by monitoring government revenues and the tax payments and investment contracts of transnational corporations; calls on developing countries to create favourable conditions for parliaments and civil society organisations to play their watch-dog role;
14. Suggests that particular efforts be made, with the help of existing specialised international

bodies, to step up the fight against corruption in emerging and developing countries with a view to introducing the reforms needed to be able to detect and prevent corruption in close cooperation with those states;

15. Notes the worrisome increase in the volume of capital flight from developing countries, whereof the proceeds of corruption is thought to amount to around 3 % of the estimated illicit financial flows, and recalls that only 2 % of these illicit flows are repatriated to their countries of origin;
16. Stresses that corruption creates obstacles to foreign direct investment (FDI) and discourages external actors from engaging in economic cooperation with developing countries;
17. Stresses that corruption increases inequality and breeds poverty by perpetuating tax evasion; notes with concern that corruption costs African economies USD 148 billion per year and is responsible for losses of up to 50 % of tax revenue of the countries concerned, which in most cases is higher than their entire foreign debt; underlines that aid is also tainted by corruption, with huge sums finding their way into foreign bank accounts;
18. Calls on the EU and the Member States to provide legal and technical assistance to developing countries that wish to recover stolen assets (or assets accumulated illegally by dictatorships) that are held in the territory of the European Union;
19. Believes that fighting corruption, including tax havens, tax evasion and illicit capital flights, is part of a broader effort to promote good governance, which is defined as one of the key priorities to enhance the effectiveness of EU development policy in the 2011 Agenda for Change (COM(2011)0637); emphasises the need for the full and immediate enforcement of the UN Convention against Corruption;
20. Recalls the commitments undertaken through the Busan Partnership for Effective Development, and calls on the EU and its Member States to implement them in order to intensify the joint efforts to fight corruption and illicit money flows;
21. Believes that ensuring the consistency of development policies is essential in order to tackle and eradicate corruption; emphasises as well that EU assistance, under the Development Co-operation Instrument (DCI) and the European Development Fund (EDF), in the areas of fiscal governance and action on tax fraud needs to be increased.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	24.6.2013
<b>Result of final vote</b>	+: 24 -: 0 0: 0
<b>Members present for the final vote</b>	Thijs Berman, Michael Cashman, Leonidas Donskis, Charles Goerens, Catherine Grèze, Mikael Gustafsson, Eva Joly, Michał Tomasz Kamiński, Norbert Neuser, Bill Newton Dunn, Maurice Ponga, Jean Roatta, Keith Taylor, Patrice Tirolien, Anna Záborská
<b>Substitute(s) present for the final vote</b>	Kriton Arsenis, Agustín Díaz de Mera García Consuegra, Fiona Hall, Edvard Kožušník, Krzysztof Lisek, Csaba Óry, Patrizia Toia
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Luigi Berlinguer, Claudiu Ciprian Tănăsescu

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	27.6.2013
<b>Result of final vote</b>	+: 28 -: 0 0: 2
<b>Members present for the final vote</b>	Bastiaan Belder, Michael Gahler, Ana Gomes, Anna Ibrisagic, Liisa Jaakonsaari, Anneli Jäätteenmäki, Jelko Kacin, Tunne Kelam, Nicole Kiil-Nielsen, Eduard Kukan, Vytautas Landsbergis, Marusya Lyubcheva, Ria Oomen-Ruijten, Bernd Posselt, Hans-Gert Pöttering, Tokia Saïfi, José Ignacio Salafranca Sánchez-Neyra, Nikolaos Salavrakos, Marek Siwiec, Charles Tannock, Eleni Theoharous, Geoffrey Van Orden, Boris Zala
<b>Substitute(s) present for the final vote</b>	Marietje Schaake, Traian Ungureanu, Ivo Vajgl, Janusz Władysław Zemke
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Leonidas Donskis, Danuta Jazłowiecka, Gabriel Mato Adrover