



2020/2222(INI)

12.10.2021

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Budgetary Control

on the evaluation of preventive measures for avoiding corruption, irregular spending and misuse of EU and national funds in case of emergency funds and crisis-related spending areas
(2020/2222(INI))

Rapporteur for opinion: Tomáš Zdechovský

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Acknowledges that crisis measures can have a direct impact on the balance between the different powers of the state and recognises that governments and local authorities may be forced to adopt emergency measures with less public consultation than would generally be expected in order to prevent grave economic and social crises from undermining democracy and the rule of law; believes that those measures should always be limited in time, proportionate, necessary and never be used as a pretext for changing the balance of powers more permanently; recalls that great importance should be given to upholding an effective system of checks and balances and to respecting the rule of law, fundamental rights and democratic accountability for all actions taken in response to an emergency;
2. Recalls that, regardless of the method of implementation, Member States have to respect these principles whenever they implement the Union budget; considers the effective prevention and prosecution of fraud, corruption and conflicts of interest to be preconditions for compliance with sound financial management as enshrined in Article 317 TFEU; recalls further that strategies against corruption, irregular spending and misuse of Union funds should be comprehensive and transparent;
3. Stresses the need to put in place effective mechanisms to monitor the implementation of emergency funding to ensure that all emergency funding reaches its intended beneficiaries and is in full compliance with transparency requirements, fundamental rights, the rule of law and other legal obligations, notably sound financial management; believes, therefore, that public funding must always be traceable to meet the requirements in terms of accountability, transparency and monitoring of funding; expresses its concern about a certain level of resistance in some Member States concerning anti-corruption measures and transparency reforms, which can partly be explained by the personal interests of some lawmakers and government officials; calls on the Member States and the relevant Union bodies, within the scope of their competences, to carry out independent investigations into reports of non-compliance with funding rules and expects the Commission to make use of its powers to suspend or recover Union funding in cases where non-compliance has been established;
4. Underlines that the emergency response to the current COVID-19 crisis has created a favourable environment for increased criminal activities and, specifically, for corruption, as confirmed by prominent high-level cases in some Member States; considers, therefore, that responses to this crisis from international organisations, states and private entities should also include mechanisms for preventing and detecting corruption; believes that the response to the COVID-19 crisis must abide by the highest standards of openness, transparency, accountability and law enforcement, as essential components of rule of law-based democratic governance;
5. Calls on the Member States and the Commission to carefully review the policies they enacted during the COVID-19 crisis and to enhance existing mechanisms and protocols

and define new ones for any future emergency spending, in order to increase the level of transparency of public spending, with a particular focus on preventive measures; notes that the Commission can exercise *ex-ante* and *ex-post* control over EU funds; regrets, in this respect, the reluctance of the Commission to use the means at its disposal, notably the measures provided for in the rule of law conditionality regulation, which entered into force on 1 January 2021;

6. Underlines further the need for *ex ante* verification of anti-corruption legislation and practices in Member States; calls on the Commission to include anti-corruption milestones in its proposals for Council decisions on the approval of the assessment of the recovery and resilience plans in cases where a risk of misuse of funds exists; stresses the fact that Directive 2014/24/EU of the European Parliament and of the Council on public procurement¹ ('EU Public Procurement Directive') already allows for quick and less administratively burdensome procedures and that Member States' governments should not manage these procedures outside of the legal requirements;
7. Points out that corruption, in general, undermines the functioning of the state and public authorities at all levels and is one of the key enablers of organised crime, and even more so in times of crisis; emphasises that independent institutions, such as independent judiciary and prosecutors, effective anti-corruption frameworks and transparency and integrity in the exercise of state power can strengthen legal systems and trust in public authorities and democratic processes; calls on all Member States to develop or update their national anti-corruption strategies with dedicated sections on public spending in times of crisis and to conduct a comprehensive evaluation of the equipment and human resources needs of law enforcement authorities, taking into account the rapid evolution and diversification of irregular and illegal public spending, and to provide them with the necessary resources, including IT tools, to enhance their capability to prevent and fight corruption; believes that various forms of transnational corruption affect not only the integrity of national economies, but also impact the economy on a European and international scale, and thus reiterates the need to increase the overall transparency of the economic and financial environment of the Union;
8. Stresses that the incorrect management of public funds and ineffective responses to a crisis may intensify growing distrust in government; believes that the public has the right to be informed and to be provided with up-to-date, transparent and reliable information and data during crises; regrets that during the COVID-19 pandemic, several Member States adopted measures that hampered public access to documents, particularly for media professionals; recalls the role of the free press as a key component of a functional democracy and stresses the importance of protection mechanisms at national and European level in order to preserve and strengthen free media; believes that public availability of relevant, non-confidential data on public procurement and convictions in a machine-readable format could significantly foster the prevention and detection of potential cases of corruption; considers, therefore, that all public procurement contracts awarding public funding should be published with minimum redaction on a dedicated, publicly accessible website in an open and standardised format to allow for analysis and thereby ensure transparency and scrutiny

¹ OJ L 94, 28.3.2014, p. 65.

of public spending;

9. Notes that many governments have benefited from emergency assistance and top-up Internal Security Fund (ISF) money for border surveillance; deplores the lack of transparency of the Commission and Member States towards Parliament; condemns in particular the refusal by the Croatian Government to provide Parliament with key documents regarding additional funding provided to Croatia for border surveillance; highlights that this refusal impedes Parliament in carrying out its scrutiny role;
10. Welcomes the critical role of civil society organisations in fighting corruption; emphasises that the success of any emergency response greatly depends on the active participation of all actors in society; believes that the current COVID-19 crisis has highlighted the importance of maintaining a robust system of citizen participation in public decision-making; notes the particular importance of the protection of whistleblowers who report suspicions of corruption; is concerned by recent reports from the Whistleblowing International Network (WIN) and Transparency International that 14 Member States have either not started or made minimal progress towards implementing the EU Directive on Whistleblowing, in the light of its transposition deadline of 17 December 2021; regrets that, during the COVID-19 crisis, several Member States adopted emergency legislation imposing restrictive measures on the activities of civil society; urges Member States to develop comprehensive crisis management plans in order to prepare for similar situations in the future and to include safeguards for the role of civil society;
11. Underlines the essential role of the European Public Prosecutor's Office (EPPO) within the EU framework for preventing and fighting corruption; calls on the remaining non-participating Member States to collaborate with and eventually join the EPPO; highlights that Member States can benefit from valuable expertise by actively collaborating with the EPPO; recalls the need to ensure proper human and budgetary resources for the proper functioning of the EPPO;
12. Acknowledges the current role of artificial intelligence and big data and their future potential in fighting corruption and the misuse of public funds; calls on the Commission and the Member States to make full use of the available tools, such as the Early Detection and Exclusion System (EDES), Arachne and the Irregularities Management System (IMS), to effectively and efficiently identify problematic economic operators and the natural persons linked to them both in direct and indirect management; encourages Member States to exchange information both among themselves and with the Commission and to cooperate more closely with a view to improving data collection and enhancing the effectiveness of controls; regrets the fact that the European Anti-Fraud Office (OLAF) does not have full access to the Arachne Risk Scoring Tool; reiterates its calls on the Commission to make the use of Arachne mandatory for EU funding); points out that all publicly available information and data should be easily accessible ; points out that information and data must be processed in compliance with the norms concerning data protection and the right to privacy of individuals; stresses that enforcement authorities have to be ahead of criminals who increasingly use new technologies and seize any opportunity to expand their illegal activities, online or offline;

13. Recalls that the Group of States against Corruption (GRECO) issued several recommendations concerning the use of public money in crisis situations, in the context of the COVID-19 pandemic notes that in its 21st general activity report, GRECO states that governments should rigorously manage the corruption risks that have emerged due to the need to take extraordinary measures to combat the COVID-19 pandemic; calls on the Member States to follow all of the GRECO recommendations, as well as its guidelines, and welcomes the possibility of the EU joining GRECO as a full member;
14. Calls on Member States and the Commission to review and, where appropriate, strengthen national and Union bodies, legal procedures and practices against various forms of corruption; insists on the need for closer cooperation between the competent Union bodies, namely the EPPO, Eurojust, Europol and OLAF, within their respective mandates, when carrying out criminal investigations into and prosecutions of corruption; recalls, in this respect, the importance of effective information flows and enhanced communication between the different relevant national authorities and between Union bodies; calls for closer cooperation between the EU, its Member States, intergovernmental organisations, notably the United Nations, and non-governmental organisations in the fight against corruption.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	12.10.2021
Result of final vote	+ : 49 - : 9 0 : 4
Members present for the final vote	Magdalena Adamowicz, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Maria Grapini, Andrzej Halicki, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Fabienne Keller, Peter Kofod, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Javier Zarzalejos
Substitutes present for the final vote	Olivier Chastel, Tanja Fajon, Jan-Christoph Oetjen, Philippe Olivier, Anne-Sophie Pelletier, Thijs Reuten, Rob Rooken, Maria Walsh

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

49	+
ID	Peter Kofod
NI	Laura Ferrara, Martin Sonneborn
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Sara Skyttedal, Elissavet Vozemberg-Vrionidi, Maria Walsh, Javier Zarzalejos
Renew	Olivier Chastel, Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Maria Grapini, Marina Kaljurand, Juan Fernando López Aguilar, Javier Moreno Sánchez, Thijs Reuten, Birgit Sippel, Bettina Vollath
The Left	Pernando Barrena Arza, Cornelia Ernst, Anne-Sophie Pelletier
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Terry Reintke, Diana Riba i Giner, Tineke Strik

9	-
ECR	Jorge Buxadé Villalba, Patryk Jaki, Nicola Procaccini, Rob Rooken, Jadwiga Wiśniewska
ID	Nicolas Bay, Marcel de Graaff, Philippe Olivier
NI	Milan Uhrík

4	0
ID	Nicolaus Fest, Annalisa Tardino, Tom Vandendriessche
The Left	Clare Daly

Légende des signes utilisés:

+ : pour

- : contre

0 : abstention