Corruption and human rights in third countries: developments in EU external action since 2017

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BRIEFING

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ABSTRACT

In 2017, the European Parliament adopted a Resolution on corruption and human rights in third countries (hereinafter ‘EP 2017 Resolution’) which included a set of practical recommendations on corruption and human rights in EU external relations. This briefing analyses the progress made by EU actors in implementing those recommendations. It focuses on development and human rights tools addressed in the EP 2017 Resolution, including EU funded projects and programmes, technical cooperation, EU human rights dialogues and public diplomacy, as well as support for whistle-blowers and civil society organisations exposing corruption. It concludes that, while action has been taken on various fronts to support anti-corruption efforts in third countries following the recommendations, a more systematic approach to corruption and human rights could be taken in some areas. Cooperation between EU actors and enhanced capacity building on corruption and human rights are also key elements for a successful anti-corruption strategy in EU external action.
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1 Introduction


This briefing presents an overview of progress made on the 2017 EP recommendations concerning EU funded projects and programmes, technical cooperation, EU human rights dialogues and public diplomacy, support for whistle-blowers and civil society organisations exposing corruption. The study is based on desk research and consultation with stakeholders1. It includes tables and boxes summarising illustrative examples of EU action. It also provides an overview of all EU actors who are helping promote the fight against corruption in third countries (see Annex I).

2 Progress of EU action on corruption and human rights: 2017-2021

2.1 Monitoring of EU spending with CSOs and HRDs involvement

The EP 2017 Resolution highlighted the relevance of permanent and transparent monitoring of EU funded projects, accountability for misuse of funds and the need to involve local civil society organisations (CSOs) and human rights defenders (HRDs) in monitoring the implementation of contracts (para 16). The EU’s external funding monitoring is based on a ‘systematic collection of data on specified indicators to provide […] indications on the extent of progress and achievement in meeting objectives and progress in the use of allocated funds’2, in line with the definition from the Organisation for Economic Co-operation and Development’s (OECD) Glossary of Key Terms in Evaluation and Results Based Management (OECD, 2016).

This can be internal or external monitoring, depending on the instrument’s specific features. For the 2014-2020 Multiannual Financial Framework (MFF), Regulation (EU) 2236/2014 lays down common rules and procedures for financial external action instruments, including transparent monitoring and the involvement of CSOs. For the 2021-2027 MFF3, Regulation (EU) 2021/947 establishing the Neighbourhood, Development and International Cooperation Instrument (NDICI or Global Europe) devotes a detailed Chapter V to monitoring, reporting and evaluation, paying attention to the involvement of CSOs in the process. Despite this focus on monitoring and CSO involvement, concerns have been raised about the European Parliament’s more limited role in controlling the NDICI (Gavas and Pleek, 2021), compared with its powers in relation to preceding financial instruments (EPRS, 2019).

Civil society’s involvement in the monitoring process and beyond is strongly emphasised in the Guidelines for EU support to civil society in enlargement countries (2014-2020), which refer to the involvement of CSOs in ‘monitoring and evaluation processes’ to analyse ‘advancement towards targets’. The Guidelines for EU Support to Civil Society in the Enlargement Region (2021-2027) are currently being designed in

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1 The stakeholders consulted for this Briefing include representatives of the European External Action Service (EEAS); the European Commission Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and Directorate-General for International Partnerships (DG INTPA); the European Endowment for Democracy (EED); ProtectDefenders.eu; and Transparency International Europe.

2 See EC website.

consultation with civil society and refer to its involvement in the ‘formulation, implementation and monitoring of sector strategies for EU financial assistance’. This approach builds on the 2017 Council conclusions on EU engagement with civil society in external relations and on the 2014 Council conclusions on a rights-based approach to development cooperation.

As part of its structural engagement with civil society, since 2017 the EC has strengthened the involvement of CSOs and HRDs in: monitoring its projects on corruption and human rights in third countries; designing their instruments; and defining their priorities for annual or multiannual programming, indicators and checklists. Operationalising this approach requires EU delegations in third countries to work in close contact with those actors, ensuring that such engagement and consultation processes are meaningful. In line with the rights-based approach to development cooperation, CSOs’ involvement from the early stages of instrument design and shaping of calls for funding is also strengthened, thereby providing support, not only by giving voice to smaller organisations which may not initially have the capacity to apply for EU funds, but also by enabling them to become potential beneficiaries.

**Box 1. Examples of CSOs’ involvement**

**Involvement in monitoring**

An illustrative example is observed in Albania, where a regular dialogue is maintained between the EU and civil society supporting the fight against corruption, particularly within the judiciary, where a vetting system has been adopted (European Commission, 2020c). EU action in this regard included international monitoring operations with periodical meetings where civil society organisations could discuss with senior international monitors the way in which this project was being implemented, even questioning approaches that senior international magistrates were taking in the process. Civil society’s involvement is also key for the implementation of EU funded projects.

**Building CSOs capacity to become potential beneficiaries**

As part of the Civil Society Facility mechanism, the EU funded TACSO project (2018-2021) provides ‘Technical Assistance to Civil Society Organisations in the Western Balkans and Turkey’, including organisations working against corruption. Taiex (technical assistance) and Twinning (institutional cooperation) are also EU instruments providing support to beneficiaries of EU funding (European Commission, 2021g). In Lebanon, Taiex has supported anti-corruption efforts, including a workshop organised with the Office of the Minister of State for Combating Corruption, within which participants, including CSOs, could share their knowledge and experience in fighting corruption (EEAS, 2018).

Other EU tools, such as CSO Roadmaps and EU strategic evaluation reports (European Commission, 2020f; European Commission, 2020e) refer to corruption and could be useful to monitor EU support to anti-corruption efforts. However, that not being their main aim, references to corruption in those documents are not systematic. For example, only very few of the most recent CSO Roadmaps mention corruption.}

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4 Consultation with the EC.
5 Consultation with the EC.
6 Consultation with the EC.
7 In Ukraine, EU funds have supported a project implemented by the Innovation and Development Foundation. The project aims at connecting individuals and groups through technology to fight corruption. At a regional level, the SANCIUS project, funded by the EIDHR, is implemented by Transparency International in 21 countries, with a focus on democratic accountability and local CSO capacity building.
8 See for example EEAS & European Commission, 2013.
9 CSO roadmaps for Angola, Benin, Burkina Faso, Madagascar, Liberia, Zimbabwe, Ukraine and Peru. The rest of the roadmaps currently in place (39 roadmaps, including countries like Guatemala or Afghanistan, where the EU has actively supported anti-corruption efforts) do not mention corruption.
The EP 2017 Resolution also urged EU institutions to: perform audits on grants, loans and assistance packages; as well as undertake rigorous due diligence on recipient governments and organisations to avoid providing ‘rents’ to kleptocratic authorities and organisations, including peer review (para 17). EU budget audits performed by the European Court of Auditors (ECA)\(^{10}\) show that rigorous checks are in place and attention is increasingly being paid to examining specific aspects of EU external action supporting anti-corruption efforts (ECA, 2021c). The ECA’s watchdog role has been positively assessed by independent researchers who have highlighted its increasingly important function within the EU machinery (Pierre and De Fine Licht, 2019), together with its enhanced effectiveness, productivity and diversified outputs (Wille and Bovens, 2020). However, continued cooperation with the European legislature and judiciary is crucial in ensuring an impactful contribution (Wille and Bovens, 2021). Table 1 summarises ECA’s evaluation of EU financial instruments and anti-fraud systems currently in place, flagging the limited impact of EU financial support in some instances, as well as the need for coordination between actors and more transparency in disclosure of information. These are concerns also raised by independent experts (Cadilhac and Jones, 2018).

| EU financing instruments | ECA’s evaluation of the ‘Global Europe’ heading within the 2014-2020 MFF reported that internal control systems were effective (ECA, 2020a)\(^{11}\). In its 2018 and 2019 reports, the ECA also identified limitations in the external study that had been commissioned by the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) to estimate the level of error remaining following completion of all management checks to prevent, detect and correct errors across its entire area of responsibility (ECA, 2020a). It also found that measures to promote good governance and rule of law under the European Neighbourhood Instrument (ENI) had ‘not yielded significant improvement, partly due to the unstable context’ (ECA, 2020a). |
| Ongoing evaluations | The 2021-2025 ECA strategy reveals a particular concern in the protection of public money from fraud and corruption\(^{12}\). Many tasks that the ECA is currently undertaking are audit specific aspects of EU external action supporting anti-corruption efforts (ECA, 2021b). This includes ongoing audits on EU support to fight ‘grand corruption’ in Ukraine and to strengthen the rule of law in the Western Balkans. EU support to Ukraine under both the Association Agreement with the country and the European Neighbourhood Policy has focused, to a great extent, on supporting national efforts against corruption. The EU is Ukraine’s biggest donor, having allocated EUR 15 billion to the country between 2014 and 2020, with EUR 5 billion linked to anti-corruption provisions, according to the ECA. Those funds have supported new specialised anti-corruption institutions and a reform of the judicial system, as well as capacity building activities for anti-corruption. |

\(^{10}\) Those audits are performed in accordance with the 2018 Regulation on the financial rules applicable to the general budget. See also European Commission, 2021a.

\(^{11}\) In 2019, it audited EC compliance with eligibility conditions, but pointed out that regular ECA audits cannot cover ‘what happens beyond the moment the Commission pays aid to the recipient country, since such funds then merge with that country’s own budget resources’ (ECA, 2020a).

\(^{12}\) One of its strategic goals is to perform audits in strategic areas where it can add more value (Strategic Goal 2), including respect for democracy and the rule of law. Under this goal, the ECA plans to ‘contribute to combatting fraud against the EU budget’ through selected audits, ‘helping prevent fraud by examining (…) whether EU financed programmes are affected by weaknesses making them fraud prone’, and intensifying ‘audit work with the bodies in charge of the fraud detection and regularly assess(ing) their activities’ (ECA, 2021c).
The ECA audit will assess whether or not all this support has been effective in fighting grand corruption (see Audit preview, audit forthcoming, September 2021).

The European Commission’s strategy for ‘A credible enlargement perspective for an enhanced EU engagement with the Western Balkans’ included initiatives on the rule of law and against corruption, to be implemented by 2020. EU funds allocated to supporting the rule of law and fundamental rights in the Western Balkans between 2014 and 2020, mainly through the Instrument for Pre-Accession (IPA II), amounted to about EUR 0.7 billion, that is ca. 16% of EU bilateral assistance to the region. This audit will ‘assess how effective the EU’s measures to support the rule of law have been in the Western Balkans’ (See Audit preview, audit forthcoming, December 2021).

The ECA has also highlighted a limitation in the OLAF system, established in 1999 to fight fraud. In many cases where OLAF had issued financial recommendations for recovery, ‘the Commission did not recover the EU money concerned, either because it considered there was no legal basis for doing so or because it decided against issuing a recovery order’ (ECA, 2019c). The ECA noted that ‘in countries with unstable political and judicial systems, the chances of recovery through a criminal or civil (administrative judicial) procedure are quite clearly low and an OLAF investigation may often be the only way to investigate a fraud allegation’ (ECA, 2019c). As the ECA highlighted, a more detailed analysis by OLAF of cases resulting in successful recoveries and of the reasons for DGs not to proceed with recoveries (either totally or partially) would be necessary.

Cooperation between actors is also necessary to ensure successful intervention in this field. Since January 2021, OLAF’s cooperation with the European Public Prosecutor’s Office (EPPO) is regulated by the Revised Regulation 883/2013, which envisages OLAF and EPPO as complementary institutions, with OLAF focusing on the ‘measures necessary to recover defrauded money or on administrative measures to protect the budget from fraud’, and EPPO focusing on ‘conducting investigations to establish criminal responsibility’\(^13\). The EPPO initiated its operations in June 2021 and this coordination should be a priority for future action.

Concerning due diligence (para 17 of the Resolution), various legal avenues are in place to avoid providing ‘rents’ to kleptocratic authorities and organisations. EU financing agreements with third countries include a clause allowing the Commission to suspend or terminate agreements in the event of obligations being breached which relate to ‘respect for human rights, democratic principles and the rule of law’ (European Commission, 2020h). Contractual and financial procedures are also in place to prevent embezzlement or rent capture by specific groups (European Commission, 2020h)\(^14\). The European Investment Bank’s (EIB) Exclusion Policy regulates the ‘exclusion of entities and individuals found to have engaged in Prohibited

\(^13\) The ECA’s opinion on the Commission’s proposal on amending OLAF regulation on this matter can be accessed here, and its opinion on the EU anti-fraud programme is available here.

\(^14\) Under Art. 131 of the Financial Regulation (European Union, 2018a), the authorizing officer may suspend an award procedure and take the necessary measures, including the cancellation of the procedure, in case of irregularities or fraud. Under Art. 135 of the Financial Regulation, the European Commission’s Early Detection and Exclusion System (EDES) enables the exclusion of persons or entities posing a risk to the financial interests of the Union from participation in EU procurement or financial instruments.
Conduct from EIB-financed projects and other EIB-related activities for a certain period of time\textsuperscript{15}. Eligibility for EU budget support operations is conditional on having in place a credible and relevant reform strategy to improve public finance management (European Commission, 2017; European Commission, 2020a)\textsuperscript{16}. Beneficiary governments of budget support also need to adhere to EU fundamental values of human rights, democracy and the rule of law, as well as being actively engaged in the fight against corruption and fraud. Enhanced dialogue, delaying disbursements, reducing budget support and ultimately its suspension are possible measures if those conditions are not met (European Commission, 2017).

As occurs with human rights suspension clauses in international agreements, these avenues give the EU a legal basis for addressing governance issues with third countries ‘in various other, more constructive ways’, including political dialogues and the creation of incentives, which has been the preferred approach so far (Zamfir, 2019). In 2018 the EU reduced financial support to Moldova due to a ‘deterioration of rule of law and democracy’\textsuperscript{17}. Similar decisions have affected Mozambique\textsuperscript{18} and Malawi\textsuperscript{19}. Information about the use of those suspension clauses and alternative measures is scattered and not provided in a detailed and systematic way. This also in part applies to the EIB exclusion policy, for which EIB reports do not include information on ‘the number and scope of the decisions on suspension/interruption of payments and/or retrieval of loans or requests for anticipated reimbursement of loans as a consequence of prohibited conduct or other malpractices affecting the financed activities’ (European Parliament, 2021a), which the EP has called for. Although political sensitivities and confidentiality clauses may to some extent justify a less detailed disclosure of information on those decisions, a more transparent reporting system should be in place. The upcoming midterm review of EU Financial Regulation (European Commission, 2021f), albeit limited in scope, could be an opportunity to address some aspects of this issue, particularly concerning the courses of action established in the regulation.

One challenge identified in the use of these frameworks is that there may be circumstances where a number of different arrangements could apply, making a high level of cooperation necessary. For example, situations affecting the EU’s operations and financial interests would require cooperation between the European Commission’s Early Detection and Exclusion System (EDES) and the EIB exclusion policy (European Parliament, 2021a).

A more systematic use of other existing tools could also contribute to the avoidance of providing ‘rents’ to kleptocratic authorities and organisations. An illustration of this is budget support (see Box 2), where the mitigation of corruption and fraud risks is a key focus within the Risk Management Framework. Human rights dialogues form a valuable instrument for this risk assessment and CSO support is one of the strategies used to mitigate corruption risk. This is critical, as the reluctance of governments to be monitored by CSOs can make CSO’s effective and meaningful involvement a challenge.

\textsuperscript{15} It also allows the EIB to enter into \textit{negotiated settlements} with them.
\textsuperscript{17} See EC website.
\textsuperscript{18} The suspension of budget support to Mozambique in 2016 was based on massive corruption (see I. Zamfir, 2021).
\textsuperscript{19} The EU suspended budget support to Malawi in 2012, based on concerns on budgetary controls and public procurement, coupled with persistent macroeconomic stability and fiscal sustainability problems. Although engagement with the government continued through a structured policy dialogue on economic, public finance and anti-corruption reforms (with the World Bank and the IMF), given the limited progress in those reforms, the programme funds were de-committed in 2017. Since then, a roadmap with benchmarks has been used to maintain dialogue and encourage reforms to re-gain eligibility for budget support (Consultation with EC).
Box 2. Budget support: corruption risk assessment and mitigation

**What it is:** EU budget support is a key avenue for the EU to support efforts against corruption in third countries. According to the Worldwide Governance Indicators, countries receiving EU budget support are more successful in controlling corruption than other countries (European Commission, 2020a). Budget support funds, which contribute to a country’s national budget as a whole, take both top-down and bottom-up measures against corruption and fraud.

**Corruption Risk Assessment:** Corruption and fraud remain the highest perceived risks in all regions under the Risk Management Framework (RMF), and hence their mitigation continues to be a key priority (European Commission, 2020a). Human rights dialogues with third countries form a valuable instrument for assessing this risk (European Commission, 2017; European Commission, 2020a). Sectorial dialogues, such as those under Public Finance Management (PFM) (European Commission, 2020d) as well as agriculture, justice, security, environment and land issues, can also play a key role in assessing corruption and human rights risks at sector level. Their sectorial specificity allows them to tackle aspects of corruption that are unique to those sectors, hence taking a more technical approach.

**Corruption Risk Mitigation:** CSO support is one of the strategies used to mitigate corruption risks (e.g. by enabling participation in the budgetary and policy process). However, promoting an active role for CSOs in the implementation and evaluation of budget support, as well as in the design and implementation of the linked policy framework, remains a challenge, as some governments may see CSO involvement as ‘an interference and a threat’ (Martinez and Kukutschka, 2016). Exposing government officials to successful initiatives could be a way to overcome this challenge (Martinez and Kukutschka, 2016).

Another important dimension of EU action to avoid providing ‘rents’ to kleptocratic authorities and organisations is its asset recovery policy. As Transparency International (TI) has emphasised, the EU strategy to confiscate and return public assets misappropriated by foreign politicians, business magnates and their family members is crucial (Brillaud and Manzi, 2020; Brillaud, 2018). Hence ‘anti-corruption, rule of law and accountability mechanisms should be in place to provide oversight of recovered assets’ (Brillaud, 2020).

2.2 Grievance mechanisms against EU external action

The EP 2017 Resolution called on the EU to set up grievance mechanisms whereby people affected by its external actions can complain about human rights abuses and corruption cases (para 34). Complaints about maladministration, including transparency and management of public money as well as human rights related to EU external action, can be filed before the European Ombudsman, whose decisions have dealt with whistle-blower protection in an EU mission (Case 171/2019/NH) and protection by an EU delegation of a person who raised concerns about an EU funded project (Case 1234/2018/TM). The protection of whistle-blowers is also the focus of Directive (EU) 2019/1937, albeit this has been critiqued for not including EU staff within its scope. Although each EU institution has its own rules for the protection of whistle-blowers, the lack of harmonisation and the fact that such standards are below the Directive’s

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20 For a summary of literature on the effectiveness of budget support in controlling corruption, see G. Dijkstra, *Budget support, poverty and corruption: a review of the evidence*, EBA, 2018.

21 They are subject to external audits and Parliamentary control by the country’s institutions. At the same time, the EU assesses risks in each country (including corruption risks) and draws up mitigating measures accordingly.

22 An example of the specificities of corruption in a particular sector can be found in the Transparency International report on corruption and health (Transparency International, 2020).

23 A promising example is the Memorandum of Understanding between Switzerland and Uzbekistan for return of confiscated assets (see L. Pearson, 2020).
provisions has led Transparency International to call for rule revision by EU institutions, with a view of bringing them in line with the Directive (Aiossa, 2020).

In addition to general petition and complaint procedures within the EU24, complaints specifically regarding fraud can be filed with OLAF, via the Fraud Notification System, an online webform, or by post. OLAF will investigate whether the information provided justifies opening an investigation or coordination case and if so, will undertake any necessary action25. Concerning Global Europe/NDICI (2021-2027), Regulation (EU) 2021/947 establishes that External Action Guarantee agreements shall contain ‘clear and accessible complaints procedures for third parties that could be affected by the implementation of projects supported by the External Action Guarantee’. Information on complaints mechanisms will then be published on the website of the respective instruments. The programming phase of this instrument will ensure that effective complaints procedures are available.

Directive (EU) 2017/1371, which deals with the fight against fraud affecting the Union’s financial interests by means of criminal law, has contributed to providing new avenues for complaints on corruption, although it has yet to be transposed into all EU Member States’ national legislation. Considering corruption as a ‘particularly serious threat to the Union’s financial interests’ (para. 8), it creates obligations for Member States to take the necessary measures to ensure that fraud affecting the Union’s financial interests (Art. 3), money laundering and corruption (Art. 4) constitute criminal offences. This includes inter alia the use of false or incomplete statements for misappropriation of funds and non-disclosure of information by: EU officials; national officials of EU Member States or third countries; as well as any other person ‘assigned and exercising a public service function involving the management of or decisions concerning the Union’s financial interests in Member States or third countries’ (Art. 4). This Directive also sets up the framework for ensuring criminal liability of legal and natural persons at national level (Title III). By June 2020, 22 Member States had transposed it. The Commission had to send reasoned opinions to Ireland and Romania in December 2020 for their failure in this regard, resulting in the latter complying shortly thereafter. In July 2021, the EP called on all remaining Member States to act on the matter (European Parliament, 2021d).

A recent and promising legal development on grievance mechanisms is the new complaints system launched by the EU Commission in November 2020 to fight violations of sustainable trade commitments and trade barriers by third countries. It aims at streamlining internal processes to tackle non-compliance with Trade and Sustainable Development or Generalised System of Preference commitments (European Commission, 2021e).

The EIB Complaints mechanism also provides a sound basis for grievances, as explained in Table 2.

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24 It is possible to submit petitions to the European Parliament (Art. 227 TFEU), or to file complaints with the European Commission. This is only for breaches of EU law by EU Member States, so it would become relevant in this context only if an EU Member State is one of the funders of a programme, together with EU institutions, and the action or practice breaches EU law. Litigation before the General Court of the EU is also a possibility (Artt. 236, 265, 268, 340 TFEU). Redress can also be pursued in Member State institutions (national ombudsmen, courts, national equality bodies).

25 The complaints procedure itself is protected by safeguards and complaints procedures in case the investigation process within OLAF raises concerns (see OLAF, 2013; OLAF website on Complaints on OLAF investigations).
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Table 2. Grievance mechanisms of the European Investment Bank

<table>
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<tr>
<th>The mechanism</th>
<th>Its use</th>
<th>Challenges</th>
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<tr>
<td>If people in third countries are affected by projects which have EIB support, complaints regarding maladministration can be lodged via the EIB Complaints Mechanism (EIB-CM)26.</td>
<td>According to the latest available EIB-CM annual report, 68% of project-related fraud allegations received in 2020 concern projects situated outside the European Union. Most complaints were submitted by individuals and civil society organisations (EIB Group, 2020).</td>
<td>The EIB-CM is expected to cooperate with EPPO, a cooperation that will be key to the success of these two institutions’ mandates against corruption, particularly given the EIB’s limited mandate in this area.</td>
</tr>
<tr>
<td>Allegations of fraud, corruption, collusion, coercion, obstruction and money laundering in connection with EIB-financed activities or projects need to be filed with the Fraud Investigation Division (EIB-FID) or the OLAF. The EIB-FID accepts reports of allegations from any source, including members of the public, civil society organisations and the media27.</td>
<td>Data available show a constant increase in the number of allegations reported to the EIB-FID annually from 2015 to 201928, followed by a decrease justified partly due to COVID-19 and the restricted number of on-site monitoring missions29. A promising development is the introduction of a new system for following up on recommendations of the EIB-FID’s four units, as well as the inclusion of a specific section with recommendations and opinions in the quarterly status report submitted to the EIB Management Committee, Audit Committee and OLAF (EIB Group, 2020).</td>
<td>Although the annual reports contain relevant statistics and case studies30, detailed information on all cases is not available. While the correct balance needs to be struck between confidentiality31 and transparency, transparency could be enhanced through the publication of more disaggregated data on cases.</td>
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A key development on grievance mechanisms, although not corruption specific, is expected in the second semester of 2021, with the upcoming Commission proposal for an EU Directive on corporate due diligence. The EP’s proposed Directive includes an obligation for undertakings to provide grievance mechanisms, as well as the obligation for Member States to ensure that undertakings are enabled to provide such mechanisms. This Directive can potentially contribute to ensuring that grievance mechanisms are available for people suffering human rights abuses by European companies operating abroad, including those operating in the context of an EU supported project. It may reinforce the possibility of bringing claims to Member States’ courts which, given the difficulties for many victims to bring claims forward in host States, may be the only avenue for obtaining remedy (Marx, et al., 2019; Skinner, McCorquodale and De Schutter, 2013).

26 Once a complaint is considered admissible, the EIB-CM may decide that further inquiry is needed and initiate a compliance review or propose a mediation to resolve any conflict between the disputing parties. After internal and external stakeholders are consulted, the EIB-CM issues a final report with its findings, outcome, and recommendations to be sent to the complainant. The European Ombudsman acts as an external complaint mechanism for EIB activity. Internal and external appeal mechanisms are available if the complainant is not satisfied with the outcome (EIB Group, 2019).
27 Those allegations are investigated in accordance with the EIB investigation procedures and the Anti-Fraud Policy, aligned with the UNCAC.
28 Between 2015 and 2019, there was a constant increase in the number of allegations received by IG/IN. However, the first half of 2020 saw a decrease in the number of cases reported, which is believed to be at least partly due to the COVID-19 crisis and the limited number of EIB Group staff conducting monitoring missions on site.
29 The number of cases closed (195) was slightly higher than the number of cases opened in 2020 (183), and 177 cases were active at the end of the year (EIB Group, 2020).
30 Some of the cases resulted in additional requests of information (enlargement countries), exclusion of candidates from calls for tenders (EU Southern Neighbourhood), or disqualification from procurement processes (Sub-Saharan Africa, Caribbean and Pacific, Asia and Latin America) (EIB Group, 2020).
31 The EIB justifies this based on the Group’s ‘duty to respect both professional secrecy in compliance with relevant laws and legislation and the confidentiality of its investigative process’ (EIB Group, 2020).
2.3 Inclusion of corruption in EU human rights dialogues and in public diplomacy

The EP 2017 Resolution called on the EU to promote anti-corruption measures and effective mechanisms for public participation and public accountability in all relevant human rights dialogues and consultations with third countries (para 23). It called on EU delegations not only to make use of public diplomacy to denounce cases of corruption and impunity, but also to include reports on corruption in briefings to the European External Action Service (EEAS) and Member States. As appropriate, EEAS and EU Delegations should also include a specific benchmark on the link between corruption and human rights in the Human Rights and Democracy Country Strategy papers. EU special representatives should regard this topic as a priority (para 31).

Looking at the highest level of EU public diplomacy, an analysis of speeches and statements from the High Representative and their spokesperson since the Resolution’s adoption on 13 September 2017 shows that only very few of those statements refer explicitly to corruption. From information available, it is difficult to conclude whether the lack of mentions of corruption in those statements is due to diplomatic sensitivities, or because the problem has not been raised at the highest level, but rather dealt with by the EU delegations in third countries with more technical competence. Information available on the EEAS website about EU delegations’ activities seems to point in that direction, mainly in connection with EU funded programmes.

Statements from the High Representative (HR/VP) at international fora mention corruption more systematically. This is aligned with the EU’s key role in taking forward an anti-corruption agenda as part of its multilateral action, including accession negotiations and trade agreements, as well as its participation in international and regional fora fighting corruption and promoting human rights. Table 3 highlights a selection of initiatives that the EU is taking forward in multilateral fora which relate to corruption and human rights.

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32 Out of more than 100 speeches and statements from the HR/VP or his spokesperson publicly available since the EP Resolution’s adoption on 13 September 2017, only a few refer explicitly to corruption; 1 on the European human rights sanctions regime, mentioning just briefly the possibility of including corruption in that regime, and 5 others referring to public diplomacy in specific countries: 1 on Russia, 3 on Ukraine (EEAS, 2017b; 2018e; 2021d) and 1 on the latest political developments in Afghanistan.

33 Examples include statements of EU delegations or ambassadors in Albania, Afghanistan, Benin, Botswana, Indonesia, Jordan, Kenya, Kosovo, Malawi, Montenegro and Sierra Leone.

34 See EU Statement at the UN High Level Debate on the 15th Anniversary of the Adoption of UNCAC (23 May 2018); EU Opening Statement at the Conference of States Parties to the UNCAC (16-20 December 2019); EU Statement at the 75th Session of the UNGA at the UN 6th Committee (19 October 2020).
### Table 3. EU initiatives in multilateral fora

| **UNCAC** | The EU is a party to the UN Convention against Corruption (UNCAC), which covers, *inter alia*, the prevention of corruption (chapter II), repatriating funds of illicit origin (chapter V), protection of whistle-blowers (chapter III) and international cooperation initiatives (chapter IV). As a party to the Convention, one of its key contributions is participation in United Nations Office on Drugs and Crime’s (UNODC) working groups, as the Intergovernmental Working Group on Asset Recovery, where in addition to an EU representation there are also contributions from European actors such as the European Union Agency for Criminal Justice Cooperation (Eurojust) or the European Union Agency for Law Enforcement Cooperation (Europol), directly involved in corruption prevention, judicial integration or international cooperation activities. Its commitment under this framework materialises in a variety of initiatives and programmes, including training, judicial cooperation and mutual legal assistance. In addition, under its EU Strategy to tackle Organised Crime 2021-2025, the EC includes as a key action the reinforcement of international cooperation with third countries and international organisations in matters related to organised crime, including corruption (also through the EEAS). |
| **GRECO** | The EU has been an observer at the Council of Europe Group of States Against Corruption (GRECO) since 2019. The EU contributes financially to joint programmes with GRECO and supports legal cooperation. Discussions are ongoing in regard to the EU potentially becoming a full GRECO member in the future (Milicevic, 2021). |
| **UN** | The EU also played an important role in the adoption of the United Nations (UN) General Assembly resolution against corruption (A/RES/74/276, June 2020). Concerning human rights fora, a recent and relevant development was the initiative by Poland and Austria (as part of a broader group of countries) to present a Resolution on the negative impact of corruption on human rights during the June 2021 session of the UN Human Rights Council. This initiative is supported by the EU. |
| **SDGs** | The EU also plays an active part in discussions within the framework of UN Sustainable Development Goals (SDGs) and related initiatives, including SDG 16, which is relevant to anti-corruption efforts and supports initiatives by other international organisations. For example, it has contributed to the North Atlantic Treaty Organization’s (NATO) ‘Building Integrity’ programme to help NATO partners in the EU’s Neighbourhood prevent corruption in the defence and security sectors. |

There are currently around 60 EU human rights dialogues and consultations in place with third countries (European Union, 2021b). Corruption and its link to human rights, including the situation of HRDs and journalists uncovering corruption, have featured prominently in human rights dialogues since 2017 (EEAS, 2019a; 2020b; 2021a). However, the EEAS has emphasised that any agenda of human rights dialogues with third countries must be tailored to the most relevant current topics for each country so as to maximise effectiveness. It is considered inadvisable to ‘standardise’ such agenda and systematically include corruption or any other topic systematically in every dialogue35. The nature of human rights dialogues leads to a flexible approach that adapts to the specificities of each national context. However, such approaches should ensure that the dimensions of corruption closely connected to human rights are systematically covered in human rights dialogues. In addition, other instruments may be more suitable to

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35 Consultation with EEAS.
address more technical dimensions of corruption or CSO involvement in anti-corruption efforts (e.g. Risk Management Frameworks, multiannual programming documents, CSO Roadmaps).  

EU Delegations and Member States’ embassies have also increasingly referred to corruption in their briefings to the EEAS and Member States. Moreover, corruption and human rights are steadily becoming areas of greater concern for EU Special Representatives. Regarding the Human Rights and Democracy Country Strategy papers, according to the EEAS there has been growing emphasis on corruption in the design of Country Strategies for the 2015-2019 EU Action Plan on Human Rights and Democracy (hereinafter ‘EU Action Plan’ or ‘Action Plan’), particularly in African and Eastern European countries. A significant example is Mexico, where in 2019 the EU Delegation and Member States set up a group on human rights, integrated *inter alia* by a subgroup on ‘torture, corruption impunity and enforced disappearance’. The 2020-2024 Action Plan includes dedicated attention to corruption, on which it places more emphasis than its predecessor. The process of identifying human rights and democracy country strategies for the 2020-2024 Action Plan, which is ongoing, provides an opportunity for EU delegations to propose thematic priorities to the EEAS and Member States, looking at the link between corruption and human rights.

Table 4 presents some prominent recent examples of EU human rights dialogues including anti-corruption, good governance and human rights as priorities. It also includes EU diplomatic statements or initiatives supporting anti-corruption efforts.

**Table 4: Examples of EU dialogues and diplomatic initiatives supporting anti-corruption efforts**

<table>
<thead>
<tr>
<th>Country</th>
<th>EU dialogue/diplomatic initiative supporting anti-corruption efforts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>The EU Delegation to Afghanistan organised annual anti-corruption conferences bringing together experts, policy makers, CSOs and international partners engaged in anti-corruption efforts in the country since 2015 (<a href="#">EEAS, 2020a</a>). In 2018, the EU Delegation to Afghanistan launched its 2018 Anti-Corruption Campaign, aimed at ‘highlighting the impact of corruption’ in development, economic growth and elections (<a href="#">EEAS, 2018b</a>). The EU was also a member and co-chair of the <em>Ambassadorial Anti-Corruption Group on Good Governance, Anti-Corruption and Rule of Law</em>. Future cooperation between the EU and Afghan authorities will undoubtedly be affected by the political developments of August 2021. The EU has expressly conditioned ‘cooperation with any future Afghan government […] on a peaceful and inclusive settlement and respect for the fundamental rights of all Afghans, including women, youth and persons belonging to minorities, as well as respect for Afghanistan’s international obligations, commitment to the fight against corruption and preventing the use of Afghanistan’s territory by terrorist organisations’ (<a href="#">EEAS, 2021e</a>).</td>
</tr>
<tr>
<td>Benin</td>
<td>The government receives EU assistance through PALIRED, a programme of support to fight impunity and strengthen the rule of law, which was implemented by Transparency International and Social Watch. The Head of Cooperation in the EU delegation to Benin was involved with the programme’s launch in October 2019, expressing the EU’s support to national efforts against corruption (<a href="#">EEAS, 2019d</a>).</td>
</tr>
</tbody>
</table>

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36 See section 2.1.
37 Consultation with EEAS.
38 The criteria for the selection of examples in this table are that i) the human rights dialogue is recent; ii) corruption was an important part of the human rights dialogue; iii) there were elements indicating a human rights approach to corruption discussions.
39 Co-chaired by the EU and the UK, it is convened every two months and comprised of the Heads of Mission for the UN Assistance Mission in Afghanistan, Denmark, Germany, Japan, the United States, Australia, Canada, Italy, Norway, the World Bank, NATO’s Senior Civilian Representative, and the Combined Security Transition Command (Afghanistan, UK and EU).
<table>
<thead>
<tr>
<th>Country</th>
<th>Summary</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guatemala</td>
<td>The EU delegation leads a ‘Filter Group’, which includes representatives of EU Member States, Switzerland, Canada, the United States, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations High Commissioner for Refugees (UNHCR) country offices. This group supports the work of HRDs in Guatemala, including those exposing corruption cases. The EU has not only facilitated dialogue between the government and civil society groups, but also promoted the approval of a national HRDs Protection Policy (EEAS, 2021b).</td>
<td></td>
</tr>
<tr>
<td>Jordan</td>
<td>At the launch of a Twinning project by the EU and Jordan’s Anti-Corruption Commission in May 2021, the EU Ambassador to Jordan, Maria Hadjitheodosiou, stated that ‘the EU is proud to be in position to support Jordan’. She also emphasised the importance of integrity as ‘essential for building strong institutions resistant to corruption’ (EEAS, 2021c).</td>
<td></td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>The EU-Kyrgyz Republic human rights dialogue was held in September 2020, covering <em>inter alia</em> judicial reform, national human rights institutions, freedom of expression and good governance. It took place at a time of pressure and harassment, during which journalists and HRDs were targeted, following the uncovering of a large-scale corruption network (EEAS, 2021b).</td>
<td></td>
</tr>
<tr>
<td>Peru</td>
<td>The annual EU-Peru dialogue on human rights and democracy took place in October 2020, following an EU Election Observation Mission’s arrival for the legislative elections in January. The human rights dialogue focused on the National Human Rights Plan, including the fight against corruption as one of the most pressing issues. The EU also organised and chaired its annual dialogue with HRDs and annual structured dialogue with CSOs (EEAS, 2021b).</td>
<td></td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>The EU delegation to Sierra Leone supports government efforts against corruption, including its National Anti-Corruption Strategy. In 2019, for example, the EU representative to Sierra Leone (Mr. Mats Liljefelt, Head of Cooperation) participated in launching the 4th Generation National Anti-Corruption Strategy, expressing the EU’s support in the country’s fight against corruption (EEAS, 2019e).</td>
<td></td>
</tr>
<tr>
<td>Ukraine</td>
<td>The EU has continued promoting human rights in Ukraine as part of its annual human rights dialogue and the EU delegation to Ukraine has issued various statements condemning human rights issues, including the security challenges to which anti-corruption activists remain disproportionately exposed (EEAS, 2021b).</td>
<td></td>
</tr>
</tbody>
</table>

In February 2021, the Revised EU Guidelines on Human Rights Dialogues with Partner/Third Countries were adopted (European Union, 2021b). Although these guidelines do not mention corruption explicitly, they emphasise that human rights dialogues are key to implementing EU external human rights policy in line with its new 2020-2024 Action Plan, which includes corruption as part of the strategy for ‘Building resilient, inclusive and democratic societies’. Under this priority, the EU is planning to assist efforts against corruption in third countries by supporting ‘public administration reform, effective anti-corruption strategies and legal frameworks, including whistle-blowers protection, specialised bodies, parliaments, independent media and civil society, and developing anti-corruption guidelines’. It is also aiming to support ratification and implementation of the UN Convention Against Corruption. In addition, under its priority ‘Promoting a global system for human rights and democracy’, the EU is looking to work with the business sector on ‘upholding and promoting human rights, anti-corruption measures and best practices on corporate social responsibility, due diligence, accountability and access to remedies in a participative manner’ (European Commission, 2020g).
Box 3. Capacity building for EU delegations on corruption and human rights

Given the active involvement of EU delegations in supporting anti-corruption efforts in third countries, it is important to ensure the technical expertise of delegation members to discuss corruption issues and propose solutions or initiatives for the specific national contexts in which they operate\(^{40}\). The Public Expenditure and Financial Accountability Assessment programme (PEFA) is a two day course offered to European Commission staff in EU delegations and at headquarters. A regular assessment of the effectiveness of this training and an enhanced training programme on corruption and its link to human rights should be pursued.

Working Better Together as Team Europe is a tool to help EU Delegations work better with Member States and third countries. It provides practical guidance and recommendations based on experience in joint programming and implementation and serves as an initiative for exchanging views and ideas on promising practices. A chapter of this initiative focusing on corruption and human rights could contribute to ensuring that EU delegations are better informed and trained on specific challenges at the intersection between corruption and human rights when they design their action in support of anti-corruption efforts in third countries.

2.4 EU financial support for anti-corruption measures

The EP 2017 Resolution called on the EU to finance anti-corruption initiatives and effective mechanisms for public participation and public accountability (para 23). The Resolution also urged the EC and EEAS to devise joint programming on promoting human rights and combatting corruption. This should aim particularly at improving transparency and fighting impunity as well as supporting anti-corruption agencies and impartial National Human Rights Institutions (NHRI) that are actively involved in countering corruption (para 27).

OECD data show that the EU allocated USD 35,756 million of Official Development Assistance (ODA) to anti-corruption organisations and institutions in 2017. The amount increased to USD 40,225 million in 2018 and decreased to USD 37,361 million in 2019. Overall, African countries have been the main beneficiaries (46% of EU ODA in 2017). However, in 2019 assistance to Latin America increased significantly (from 6% in 2018 to 24% in 2019), mainly on the back of growing support to Guatemala (OECD Database)\(^{41}\).

Under the 2015-2019 EU Action Plan on Human Rights and Democracy, one of the EU’s priorities was promoting the establishment of ‘specialised bodies in the field of anti-corruption which hold public institutions accountable’, as well as strengthening anti-corruption bodies’ capacity and expertise. As mentioned in Section 2.3, chapter 2 of the 2020-2024 Action Plan refers more explicitly to corruption, including as a priority providing ‘comprehensive assistance to prevent and fight against corruption by supporting public administration reform, effective anti-corruption strategies and legal frameworks, including whistle-blowers protection, specialised bodies, parliaments, independent media and civil society, and developing anti-corruption guidelines’ (Council of the European Union, 2020). It also refers to supporting ‘the ratification and implementation of the UN Convention against Corruption’. Support to NHRI in partner countries is an area of action covered in both EU Action Plans.

The financial instruments operationalising these action plans have increasingly supported initiatives and institutions against corruption in third countries. Cooperation in support of democracy under the European Instrument for Democracy and Human Rights (EIDHR) included projects supporting the

\(^{40}\) See proposal 9 on capacity building for democracy support in Africa in C. Hackenesch, J. Leininger, and K. Mross, What the EU should do for democracy support in Africa. Ten Proposals for a New Strategic Initiative, Friedrich Ebert Stiftung (FES), June 2020.

\(^{41}\) For more detailed information about each instrument, see I. Zamfir, Support for democracy through EU external policy. New tools for growing challenges, EPRS, European Parliament February 2021; and V. Lilianova, Understanding EU financing for external action, EPRS, European Parliament February 2021.
development of accountable institutions, the organisation of elections, support for national parliaments, as well as the development of independent and quality media. EIDHR Global Calls were launched for ‘projects promoting accountability, transparency, scrutiny and a review of the implementation of public policies’ (EEAS, 2020b) and for projects supporting ‘civic activism and participation by leveraging digital technologies’ (EEAS, 2019a).

Further projects have been initiated with civil society and partner organisations on corruption, the fight against illicit financial flows, accountability and transparency. Other key instruments on corruption and human rights in the previous MFF were the European Neighbourhood Instrument (ENI), the Development Cooperation Instrument (DCI), the European Development Fund (EDF), the Instrument Contributing to Stability and Peace (IcSP) and the Instrument for Pre-Accession Assistance (IPA), which provides support for judicial reform, rule of law, good governance, human rights protection and anti-corruption projects in EU candidate countries. EU budget support and the State Building Contract (SBC) also support anti-corruption efforts in third countries.

Table 5: Examples of anti-corruption efforts in third countries supported with EU funds

<table>
<thead>
<tr>
<th>Country</th>
<th>Initiative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>The fight against corruption, reform of the judiciary and protection of human rights are some of the priorities for EU action, supported with IPA funds, covering the establishment of a vetting system for the appointment of judges (European Commission, 2020c).</td>
</tr>
<tr>
<td>Ghana</td>
<td>The EU funds an Anti-Corruption, Rule of Law and Accountability Programme aimed at promoting good governance by reducing corruption and improving accountability standards. This programme involves national institutions (e.g. Attorney General Office, Director of Public Prosecutions, Commission of Human Rights, Judiciary) and has funded capacity building trainings on corruption for investigators, judges and prosecutors (EEAS, 2021a).</td>
</tr>
<tr>
<td>Nigeria</td>
<td>The EDF has supported the Rule of Law and Anti-Corruption (RoLAC) project, addressing criminal justice reform, tackling corruption in public procurement and the criminal justice system, as well as improving citizen, CSOs, media and private sector engagement, providing a comprehensive response in the fight against corruption (EEAS, 2019c).</td>
</tr>
<tr>
<td>North Macedonia</td>
<td>The EU has provided financial support for corruption prevention through IPA funds to the national commission, with the aim of contributing to a more effective national policy. This action was part of a broader partnership for development with the country (European Commission, 2020c).</td>
</tr>
<tr>
<td>Guatemala</td>
<td>The EIDHR has supported the fight against corruption and impunity through social accountability processes. Despite international support, the government decided not to renew the Guatemalan International Commission Against Impunity and instead to continue the fight against corruption by using national mechanisms (European Commission, 2020c).</td>
</tr>
<tr>
<td>Madagascar</td>
<td>EU action in 2020 focused on transparency and the fight against corruption, aiming at building a resilient, inclusive and democratic society via support for institutions, NGOs.</td>
</tr>
</tbody>
</table>

The criteria for the selection of examples in this table are that i) anti-corruption efforts of third country institutions or civil society organisations were supported with EU funds; and ii) there was a human rights dimension to the project.

Consultation with EC. See also EC webpage on IPA II financial assistance to North Macedonia.
and civil society (e.g. Bureau Independent Anti-Corruption, Poles Anti-Corruption, Ministry of Justice, Court of Auditors) (EEAS, 2021a).

Morocco
EU action under the ‘EU-Morocco Action Plan implementing the advanced status’ (2013-2020) included cooperation in the fight against corruption and the rule of law. Prior to 2019, the lack of a Moroccan anti-corruption body led the Commission to address corruption through its budget support programmes on justice or digitalisation of procedures under the PACC (Programme d’appui à la croissance verte et la compétitivité au Maroc) (ECA, 2019b). In December 2019, the Head of the National Commission for Integrity and Anticorruption was appointed. The High Council of the Judiciary and the Public Prosecutor’s Office have also become fully operational, which is expected to have a positive impact in the fight against corruption (EEAS, 2021b).

Ukraine
The EU Anti-Corruption Initiative (EUACI), funded by the EU and Denmark, supports efforts to reduce corruption in Ukraine. It comprises three components, focusing on: anti-corruption institutions; CSO capacity building; and increasing the culture of integrity in the business sector, civil society and the media. It provides substantial support to anti-corruption efforts at central and local levels (EEAS, 2021a).

Turkey
Democracy and governance have constituted a priority sector in IPA assistance to Turkey since 2014, including support for improving anti-corruption tools. The effectiveness of those funds has been questioned by the ECA, which in 2018 found that spending on EU pre-accession assistance to Turkey under IPA I objectives had ‘barely addressed (...) the fight against high level corruption and organised crime’ and pressed the Commission to find better ways of targeting funds from 2018 onwards, thereby enhancing its sector approach when assessing which efforts to support, whilst at the same time increasing the use of conditionality (ECA, 2018). The EC has stated that ‘conditionality will be the centrepiece of programming’ for IPA III and that supporting actions linked to ‘good governance will be envisaged’ (European Commission, 2020j).

Regional initiatives
Regional initiatives are also financed by these instruments to support anti-corruption efforts. An example of this is EL PACCTO (Europe Latin America Programme of Assistance against Transnational Organised Crime), a DCI-funded initiative supporting Latin-American countries in fighting transnational organised crime, with corruption, money laundering and human rights as priority cross-cutting areas. Also relevant is the EU support to third countries in the Mediterranean via the EuroMed Justice Programme, aimed at strengthening ‘strategic and operational cooperation in judicial and criminal matters in the Euro-Mediterranean region’.

Democratic governance and human rights are among the basic principles underpinning the Regulation on Global Europe (European Union, 2021a), which will fund EU cooperation with third countries from 2021 to 2027. This instrument, which prescribes a rights-based approach as mandatory (EEAS, 2021a), is now in its programming phase, during which EU institutions are running consultations with CSOs. In addition, budget arrangements for the new Instrument covering Pre-accession Assistance (IPA III) were agreed upon by the EP and the Council in June 2021. Programming priorities will be established over the coming months. These processes provide an opportunity to include explicit programmes supporting anti-corruption institutions and initiatives in third countries.

44 See EUACI website.
45 See EC website.
46 Eurojust website. See also Euromed Justice Programme’s website.
The EP 2017 Resolution also called on the EU and Member States to step up their judicial cooperation programmes with third countries to exchange best practices and effective tools in the fight against corruption (para 27). Since then, the EU has continued its judicial cooperation efforts. Its 2011-2020 European judicial training strategy has provided support to the European Judicial Training Network (EJTN), which provides training to judges on independence and judicial ethical issues in line with the UNODC Judicial Ethics Training Tools. The EU has engaged in multiple initiatives in multilateral fora, sharing best practices and participating in cooperation initiatives (see Section 2.6).

2.5 EU support to CSOs and HRDs exposing corruption

The EP 2017 Resolution called on the Commission and EEAS to channel further funds to assist with enacting and implementing protection programmes addressed to CSO members, including anti-corruption associations and human rights movements, journalists, bloggers and whistle-blowers that expose and denounce corruption cases and human rights violations. This includes support from EU human rights delegations, which maintain close contact, ensuring their international visibility and protection, as well as triggering safe channels for reporting wrongdoings (para 29). The EP recommended that the European Endowment for Democracy (EED) and the EU HRD mechanism (Protectdefenders.eu) should focus specific programmes on the protection of anti-corruption activists who also contribute to upholding human rights (para 33). The relevance of support and protection to civil society organisation and human rights defenders uncovering corruption was also emphasised in the 2019 Council conclusions on democracy, with references to electoral processes, journalists and HRDs.

EU funding has increasingly supported CSOs and HRDs uncovering corruption since 2017, EIDHR being the main instrument operationalising EU action in this area. In October 2018, the Commission adopted new strategic priorities for EIDHR over the 2018-2020 period, enhancing emphasis on the protection of at-risk HRDs and actions addressing shrinking democratic, civic and civil society spaces. In 2019, the EIDHR allocated 25% of its funds to ‘supporting human rights and HRDs in situations where they are most at risk’, a rate which was 15% higher than in the period 2014-2017 (EEAS, 2020b).

The EP 2017 Resolution insisted that any future update of the EU guidelines on HRD, for instance development aid or implementation, should include explicit references and measures for fostering human rights protection as well as combating corruption (para 29). These guidelines have not been revised since 2008.

The EP 2017 Resolution urged the EU to support researchers working on open-source investigation and digital collection of evidence regarding corruption, in order to expose corrupt officials and ensure accountability (para 24). It also called on the EU to fund research into distributed ledger applications aiming not only to improve the transparency of government asset sales along with track and trace donor money in EU foreign aid, but also to assist in addressing voter fraud (para 25).

The EU’s contribution to supporting open-source investigation techniques and digital collection of evidence concerning corruption occurs mainly through the funding of training courses. The EU Programme HERCULE III (2014-2020) has financed a Digital Forensics and Analysts Training, including Open-Source Intelligence Instruction, which in May and June 2021 was offered to law enforcement officials in EU Member States and certain third countries. The EU has also supported this type of training through multilateral initiatives. Training on Open Source Intelligence has been funded in countries such as Azerbaijan (in 2019) under the EU/Council of Europe Partnership for Good Governance II Project on ‘Strengthening anti-money laundering and asset recovery in Azerbaijan’. Research projects on Blockchain Technology have also attracted significant EU funding, with a potential positive impact on anti-corruption efforts.
Box 4: Featured EU funded mechanisms

The European Endowment for Democracy (EED)

Under the ENI, the EU supports EED, which provides fast, flexible funding to local civic and political pro-democracy actors. It provides demand-driven technical and financial support for the promotion of democratisation and human rights in those countries where actors may not have access to other EU funding schemes, ‘due either to the nascent nature of their work or to their difficult legal and political environments’ (EDD, 2019).

Through its demand-driven and context-based support, EED provides funding to anti-corruption initiatives in most of the countries where it operates.

An illustrative example of the EDD’s impact in the fight against corruption with a human rights approach is its work supporting anti-corruption CSOs and activists in Ukraine (Automaidan, DEJURE Foundation, Anti-Corruption Action Centre and Manifest Mira are just some of those organisations) (EDD, 2019, 2020, 2021).

The EED also contributes to protecting media freedom and freedom of information in countries such as Lebanon, where the Gherbal Initiative monitors, with its support, enforcement of the 2017 Right to Access Information Law, as a contribution to fighting corruption in the country.

In addition to these activities, which indicate a continuation of efforts to counter corruption, a remarkable initiative is the independent evaluation of EED’s work, completed in June 2021 in compliance with the EED statutes and the June 2017 decision of the Board of Governors. This evaluation focuses on assessing the relevance, efficiency, effectiveness, impact and sustainability of EED’s support. It includes country case studies on Moldova, Serbia, Turkey and Lebanon together with thematic case studies on EED’s support to sensitive countries and the media. It includes a specific focus on gender, EED’s experience with expanding to new countries/regions and its response to the COVID-19 crisis. The contents are not publicly available.

EU HRD mechanism (Protectdefenders.eu)

The EU HRD mechanism provides direct material and financial support to human rights defenders who may be in imminent danger or under threat, even risking their own lives in uncovering public corruption, or corruption cases in economic projects of big multinational corporations. It also provides financial support for capacity building and training programmes with longer-term impact in the fight against corruption.

In 2019, the EU HRD mechanism received renewed funding in 2019 for three more years. Since then, at-risk human rights defenders, journalists and whistle-blowers denouncing corruption are recognised as categories of specific attention for the EU HRD mechanism. It has provided direct material and financial support to HRDs and journalists who are actively fighting corruption in countries including Honduras, Bolivia and Pakistan, reinforcing security for their family and their activities, to the point of arranging for relocation when necessary.

Initiatives with longer term impact have been supported in countries such as Burundi, Brazil or Cambodia. In Burundi, several Burundian HRDs have been able to establish a network in exile and continue denouncing corruption. In Brazil, a grass-roots media outlet denouncing governmental corruption was established and strengthened in Rio de Janeiro’s favelas. In Cambodia, support has been provided for an organisation working to uncover corruption and human rights violations by enabling digital communications through secure channels such as encrypted emails and protect them against cyber threats.

47 Consultation with EDD
48 Consultation with Protect Defenders.
3 Conclusions: main findings and recommendations

The connection between corruption and human rights has been broadly acknowledged by international bodies\textsuperscript{49}, EU institutions\textsuperscript{50} and independent experts\textsuperscript{51}. Corruption prevents the enjoyment of human rights as it blocks or diverts resources that could be used for their promotion\textsuperscript{52}. Furthermore, certain forms of corruption are closely linked to: specific human rights abuses – e.g. discrimination (\textit{Transparency International, 2021}), judicial corruption and the right to a fair trial (Clooney and Webb, 2021); repression of journalists or human rights defenders uncovering corruption; and freedom of expression/media freedom (Cotler, 2020).

EU actors have made progress in the areas flagged by the EP 2017 Resolution, with particular emphasis on financial support to anti-corruption efforts and protection of CSOs and HRDs exposing corruption. Progress is also observed in the monitoring of EU funds and grievance mechanisms, although it is difficult to establish whether that is a continuation of previous efforts or the result of a new approach. Enhanced transparency, cooperation between EU actors and a meaningful involvement of CSOs will be key to continue advancing EU action on the EP recommendations. The programming of EU financial instruments provides an opportunity to align them to the EP 2017 Resolution.

The following recommendations are submitted for consideration by the Subcommittee on Human Rights (DROI):

- Support the inclusion of programmes funding anti-corruption institutions and initiatives in NDICI-Global Europe and IPA III programming:
  - ensuring CSOs meaningful involvement in the monitoring of those programmes;
  - including effective grievance mechanisms;
  - place particular emphasis on flexible responses such as the European Endowment for Democracy (EED) or the EU HRD mechanism, which allow for demand-driven support to organisations and activists who may not fall under the scope of other funding calls.
  - Continue calling on EU Member States who have not yet transposed the Directive on the Fight against Fraud to the Union’s Financial Interests by means of Criminal Law (\textit{Directive (EU) 2017/1371}) to do so.
  - Call for EU actors to take a more transparent and disaggregated approach to: disclosure of information about audits; the use of suspension clauses (EU Budget support, EIB Exclusion Policy, EDES); and the implementation of OLAF financial recommendations for the recovery of defrauded money.


\textsuperscript{52} According to UN human rights treaty bodies, corruption and mismanagement of resources are ‘obstacles to the allocation of resources to promote equal rights’ (Human Rights Treaty Bodies, Contributions to the 2030 Agenda for Sustainable Development, May 2016, p. 7).
Call for EU actors to enhance cooperation with the EPPO and monitor how that cooperation is operationalised.

- Support the valuable work of EU delegations against corruption in third countries, *inter alia* by calling for enhanced capacity building on tools and methods to tackle corruption in human rights dialogues as well as diplomacy in specific geographic and political contexts. This should include initiatives facilitating the exchange of best practices between EU delegations on risk assessment, protection of HRDs and engagement with third country anti-corruption institutions and CSOs.

- Revise the EP’s protection to whistle-blowers to be in line with the EU Directive on Whistle-blower Protection and call on other EU institutions to do likewise.

- Include corruption and human rights issues in legislative discussions ahead of the upcoming EU directive on corporate due diligence, with particular attention to grievance mechanisms.

- Consider the need to revise EU Guidelines on human rights defenders and establish a more formal monitoring process of their implementation.

- Consider measures that could enhance protection of human rights defenders exposing and denouncing corruption in third countries, including visa considerations to facilitate their mobility.

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Annex I: EU actors promoting the prevention and the fight against corruption in third countries

The EU has a mandate to promote the rule of law and human rights (Artt. 2, 3.5, 21 TEU; Art. 205 TFEU). Under this framework, the 2011 Communication of the European Commission on the fight against corruption in the EU emphasised the EU’s commitment to countering corruption in all internal and external EU policy fields (European Commission, 2011). The European Consensus on Development acknowledges the negative effects of corruption in derailing sustainable development and identifies the promotion of accountable institutions as a priority.

The EU supports third countries against corruption through technical assistance, diplomatic action and financial support (Zamfir, 2021a). It also takes an active part in multilateral efforts against corruption (e.g. United Nations Office on Drugs and Crime – UNODC, Council of Europe - CoE, GRECO) and the G20 where the EU works to make further progress in preventing and countering corruption). In its legislative and policy making/standard-setting role, EU legislation, guidelines and frameworks on external action aim at enhancing the prevention of human rights violations, the respect, protection and realisation of human rights in third countries, protection of human rights defenders (HRDs) and the accountability of European businesses operating in those countries54. In carrying out their mandate against corruption in third countries, EU institutions’ bodies and agencies with a mandate against corruption are required to do so taking a human rights-based approach, complying with the principle of policy coherence for development (Artt. 205, 208 TFEU, see also Art. 21 TEU). There are two dimensions to the fight against corruption through EU external action: the active support of third countries and their actors; as well as the measures to prevent corruption in the delivery of EU aid and cooperation. This Annex presents the main EU institutions, bodies and agencies with competences in these areas55.

The European Parliament (EP) fulfils legislative and budgetary functions, including granting discharge for the execution of the EU budget (319 TFEU). It also fulfils political control and consultation functions (Art 14 TEU, Artt. 223-234, 314 TFEU). Furthermore, it provides strategic guidance on financing instruments and scrutinises their programming process. It must also be consulted on key aspects of the common foreign and security policy (Art. 36 TEU). The EP has corruption-specific competences in these three areas: in its legislative role, it contributes to the adoption of legal instruments relevant to the fight against corruption; at the budgetary level, its functions include decisions on the money spent to support anti-corruption efforts; at the monitoring and scrutiny level, the EP has the power to monitor how EU funds are being spent, and to scrutinize the work of the European Commission supporting anti-corruption efforts. The EP is also the EU institution electing the European Ombudsman, which provides a grievance mechanism against corruption (Art. 228 TFEU).

The European Commission (EC) has legislative initiative powers and proposes new legislation to the Council and the EP (Art. 17 TEU; Artt. 234, 244-250, 290, 291 TFEU). It also executes the budget and manages programmes on corruption and human rights, as well as more general programmes contributing to the prevention and fight against corruption, promoting the rule of law and good governance, or democratic governance. It also manages sectorial budget support programmes where the fight against corruption and the rights-based approach are mainstreamed. Corruption-specific EC priorities are enshrined in the European Consensus for Development, the European Neighbourhood Policy (JOIN(2015) 50 final)56 and the

54 See Sections 2.2, 2.5 and 3.
55 The European Investment Bank (EIB) is relevant as to how corruption is tackled within the management of its funds (Sections 3.1 and 3.2 of this report), but its work mainly relates to funding for infrastructure and development projects, not governance related projects, which are the focus of this Briefing. Therefore, the analysis does not include the EIB.
56 See also the Eastern Partnership policy beyond 2020 (JOIN (2020) 7 final) and the renewed partnership with the Southern Neighbourhood (JOIN(2021) 2 final).
Enlargement Policy ([COM(2020) 660 final]). Within this framework, under their respective areas and regions of competence the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and the Directorate-General for International Partnerships (DG INTPA) implement financing instruments, using various implementation modalities (direct, indirect through partner countries, indirect through international organisations or Member States). DG NEAR ‘takes forward EU neighbourhood and enlargement policies’ whilst DG INTPA develops and carries out EC policies on external action and implements development, governance and human rights instruments in other third countries.

The [European External Action Service (EEAS)] is responsible for running EU Delegations, thereby building diplomatic relations with third countries, which include the use of human rights dialogues (Art. 221 TFEU). It also contributes to the ‘programming and management cycle’ of external action instruments with the EC (Art. 9(3), [Council Decision establishing the EEAS](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012D0440)). Within its mandate, the EEAS and EU delegations in third countries address corruption issues in human rights dialogues and diplomatic negotiations with authorities of those countries ([2020-2024 Action Plan](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0039)) and have the power to support anti-corruption efforts of civil society in third countries ([Guidelines for EU Support to Civil Society in the Enlargement Region (2021-2027)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021D0439)). The High Representative for Foreign Affairs and Security Policy ‘shall ensure consistency of EU external action’ (Art 18(6) TEU) and contributes to the shaping of foreign and security policy agreements with third countries (218(3) TFEU).

The [Council of the EU](https://www.consilium.europa.eu/en) exercises legislative and budgetary functions. It also has policymaking and coordinating functions (Art. 16 TEU; Artt. 237-243 TFEU). Within those functions, the Council has corruption-specific competences: in its legislative role, it contributes to the adoption of legal instruments relevant to the fight against corruption; at the budgetary level, its functions include decisions on the money spent to support anti-corruption efforts; at the policy level, the Council has the power to adopt conclusions relevant to the fight against corruption. Its Working Party on Human Rights ([COHOM](https://www.consilium.europa.eu/en)) ‘deals with human rights aspects of EU external relations’, coordinating the position of EU Member States in multilateral fora (e.g. United Nation General Assembly – UNGA, United Nations Human Rights Council - UNHRC) and overseeing the implementation of human rights guidelines and human rights dialogues with third countries.

The [European Court of Auditors (ECA)](https://www.eca.europa.eu/en) inspects all aspects of the EU budget’s implementation (Artt. 285-287 TFEU), assessing whether EU finances have been ‘managed soundly’ and ‘in compliance with the applicable regulations’57, including EU funds supporting anti-corruption initiatives in third countries. Those audits are performed in accordance with the [2018 Financial Regulations](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018R0922). Its methodology includes specific provisions on the fight against fraud, which embeds corruption aspects, under the title ‘Helping to fight fraud against the EU budget’59. It performs its functions through four areas of work: annual reports on the EU budget and European Development Funds; the publication of special reports more oriented to performance and compliance issues; the publication of reviews more oriented to ECA’s knowledge and experience on specific issues; and the publication of opinions on laws with a significant impact on EU

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58 Article 236 establishes that ‘in third countries, the Commission shall support the respect for the rule of law, the development of parliamentary control and audit and anti-corruption capacities and the increase of transparency and public access to information’. Financing agreements with third countries shall contain, inter alia, ‘an obligation for the third country to provide the Commission with reliable and timely information’ and ‘a right for the Commission to suspend the financing agreement if the third country breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption’ (European Union, 2018a).
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financial management. ECA works in coordination with OLAF, informing it of any potential case of fraud and corruption in the use of EU funds.

The European Anti-Fraud Office (OLAF) is the EC service investigating ‘fraud against the EU budget, corruption and serious misconduct within EU institutions’. In cooperation with third-country and international authorities, the OLAF conducts investigations on cases of fraud and corruption related to EU funds in third countries. OLAF is also key in investigating complex transnational fraud cases and tracing the proceeds of fraud. It works together with national and international authorities who recognise it as a ‘trusted partner with unique expertise in managing cases of fraud and corruption with EU funds’, thereby ‘ensuring that the EU budget is well protected’.

The European Public Prosecutor’s Office (EPPO) is competent to investigate, prosecute and bring to judgment crimes against the EU budget, including fraud and corruption (Art. 4, Council Regulation (EU) 2017/1939).

Europol is the EU law enforcement agency. Its mandate focuses on supporting and strengthening action by law enforcement authorities in EU Member States and their mutual cooperation in ‘preventing and combatting serious crime’, including money-laundering activities, crimes against the financial interests of the Union and corruption (Regulation (EU) 2016/794).


The European Ombudsman (Art. 228 TFEU) investigates complaints about maladministration by EU institutions and bodies, including issues related to EU external action.

The European Investment Bank provides long-term project funding, guarantees and advice within and outside the EU. Its funds contribute to the implementation of projects in third countries, including development projects. It also contributes to implementing the EU development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach (Art. 209 TFEU). Outside the EU, it finances local private sector development, social and economic infrastructure and climate action projects, while reflecting EU external policy. For intra-EU matters, the Fraud Investigations Division is the independent investigation office focusing on integrity and governance issues to mitigate the risks associated with fraud and corruption.

The European Endowment for Democracy (EED) is an ‘independent grant-making organisation’ established by the EU and its Member States as ‘an autonomous International Trust Fund to foster democracy’ in the European Neighbourhood, the Western Balkans, Turkey and other third countries. It provides funding to anti-corruption initiatives and contributes to protecting civil society actors (human rights activists, journalists, etc) uncovering corruption in the countries where it operates.

The EU HRD mechanism (Protectdefenders.eu) is a consortium of 12 non-governmental organisation (NGOs) active in the field of human rights, whose mission is to ‘protect defenders at high risk and facing the most difficult situations worldwide’. Funded by the EU, it operates a permanent and rapid response mechanism to provide assistance and practical support to human rights defenders, their families and their
work (including provision of emergency grants, temporary relocation programmes, grant-making for local human rights organisations, capacity development, monitoring and advocacy). The EU HRD mechanism provides direct material and financial support to human rights defenders who may be in imminent danger or under threat, even risking their own lives in uncovering public corruption, or corruption cases in economic projects of big multinational corporations. It also provides financial support for capacity building and training programmes with longer-term impact in the fight against corruption.