

Directive on combating corruption

OVERVIEW

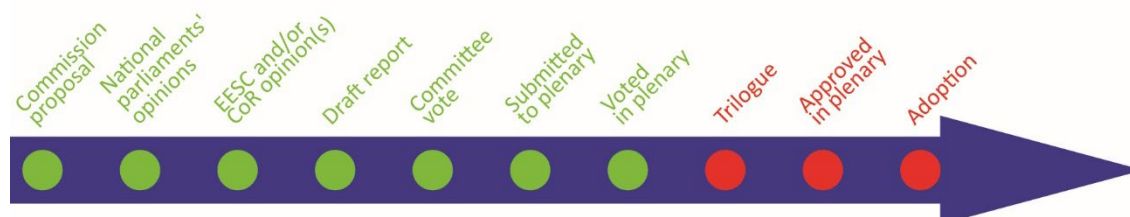
In May 2023, the European Commission presented an anti-corruption package, which includes a proposal for a directive on combating corruption. Based on Articles 83 and 82 of the Treaty on the Functioning of the European Union, the proposal defines criminal offences and sanctions relating to corruption, one of the 'areas of particularly serious crime with a cross-border dimension' for which the European Parliament and the Council may establish minimum rules by means of directives. The proposal seeks to update the fragmented EU legislative framework, including by incorporating international standards binding on the EU. It addresses corruption in both the public and private sectors.

In Parliament, the Committee on Civil Liberties, Justice and Home Affairs adopted its report in January 2024. The committee decision to enter into interinstitutional negotiations was confirmed by plenary in February 2024.

The Council confirmed its position in June. The new Parliament now needs to confirm its position before trilogue negotiations can take place.

Proposal for a directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final)

<i>Committee responsible:</i>	Civil Liberties, Justice and Home Affairs (LIBE)	COM(2023) 234 final 3.5.2023
<i>Rapporteur</i>		
<i>Former rapporteur:</i>	Ramona Strugariu (Renew, Romania)	2023/0135(COD)
<i>Shadow rapporteurs:</i>	To be appointed	
<i>Next steps expected:</i>	Trilogue negotiations	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')



Introduction

Corruption takes various forms, which may qualify as criminal offences in themselves, while also serving as an enabler of other crimes. The use of corruption is one of the key features of serious and organised crime in the EU where, according to the EU Agency for Law Enforcement Cooperation ([Europol](#)), 71 % of the most threatening criminal networks engage in corruption to facilitate criminal activities or obstruct law enforcement and judicial proceedings.¹

Corruption is believed to have a multifaceted negative economic, social and political impact. Even though this impact is very difficult to assess, attempts have been made to quantify the cost of corruption in the EU. According to a 2023 [study](#) by the European Parliamentary Research Service (EPRS), the estimated total cost of corruption risk in public procurement alone in the EU-27 between 2016 and 2021 was €29.6 billion; the total cost of corruption risk in contracts involving EU funds in the same period amounted to €4.3 billion.²

In a bid to find a common response to the problem, various interested parties, including the European Parliament, have made calls for the EU to assume a stronger role in addressing corruption. Aligning national criminal laws in how they define and sanction corruption offences has been one of the proposed avenues for reform. Answering these calls, in May 2023, the European Commission presented a [package](#) to strengthen the EU's anti-corruption legislative and policy framework. The package consists of:

- a [joint communication](#) of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy on the fight against corruption;
- a proposal by the High Representative to complement the common foreign and security policy (CFSP) toolbox of restrictive measures (sanctions) with a dedicated sanctions regime to fight serious acts of corruption worldwide; and
- a [proposal](#) for a directive on combating corruption by means of criminal law, based on Articles 83 and 82 of the Treaty on the Functioning of the European Union (TFEU).

The [proposed directive](#) establishes minimum rules concerning the definition of criminal offences and sanctions in the area of corruption, as well as measures to prevent and combat corruption at the national and EU levels. It covers corruption in both the public and private sectors. The proposal seeks to incorporate international standards that are binding on the EU, in particular those established by the 2003 [United Nations Convention against Corruption](#) (UNCAC). However, in some respects, the proposal exceeds these standards.

Existing situation

Whereas corruption is primarily dealt with by individual Member States, the EU has long sought to develop a policy and legal framework, adopting several instruments to tackle this phenomenon directly and indirectly. Historically, the EU first addressed corruption in the context of the protection of its financial interests, an area where it had more legal options than elsewhere. Accordingly, in the mid-1990s, it adopted two 'hard law' instruments: the [Convention on the protection of the European Communities' financial interests](#) ('PIF Convention') and the [Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union](#), both still in force.

Successive Treaty reforms have gradually enhanced the EU's competence in police and judicial cooperation in criminal matters. This has allowed the EU legislator to go beyond the narrow area of protecting EU financial interests when addressing corruption. The [Council Framework Decision 2003/568/JHA](#) on combating corruption in the private sector illustrates these increased EU legislative prerogatives. Under this decision, Member States are required to introduce effective, proportional and dissuasive criminal penalties for active and passive bribery.

At present, [Article 325 TFEU](#) provides the legal basis for the protection of the EU's financial interests against fraud and other illegal activities (including corruption). Moreover, corruption is listed as a 'euro-crime' (also dubbed 'EU crime') for which Parliament and the Council may establish minimum rules and sanctions by means of directives under [Article 83 TFEU](#). This Treaty provision has already served as the legal basis for adopting, in 2017, Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (the '[PIF Directive](#)'), which replaced the above-mentioned PIF Convention for the Member States bound by the directive. The PIF Directive includes a definition of EU financial interests and was the first-ever EU legal instrument to provide a definition of 'public official'.

At EU level, a number of instruments also address corruption indirectly, including three directives that harmonise national public procurement provisions: Directives [2014/23/EU](#), [2014/24/EU](#) and [2014/25/EU](#). They contain detailed provisions on publicity and transparency at various stages of the procurement cycle and on abnormally low-priced tenders. They list corruption among the grounds for excluding economic operators from participation in a procurement procedure. Other such instruments are the [EU anti-money laundering directives](#), which have helped to increase the transparency of financial flows across the EU. Adopted in 2015, [Directive \(EU\) 2015/849](#) (the Fourth Anti-Money Laundering Directive) criminalised the laundering of the proceeds of a now extensive catalogue of offences ('predicate offences'), including corruption. Effective protection of whistle-blowers is yet another key element of the broader EU anti-corruption framework. [Directive \(EU\) 2019/1937](#) on the protection of persons who report breaches of Union law provides whistle-blowers with secure reporting channels and ensures their protection against retaliation.³

Overall, the existing EU anti-corruption framework is not comprehensive, as it covers only the provisions relating to bribery in the private sector, as well as the rules established by the two conventions and by a few instruments addressing corruption only indirectly. With the EU being a party to international conventions, this raises questions concerning the fulfilment of legal obligations resulting from them, in particular as regards the criminalisation of certain activities and the prevention of corruption (see the 'Comparative elements' section below).⁴ Moreover, in the [explanatory memorandum](#) to the proposal, the Commission points to enforcement gaps at the national level and obstacles to cross-border cooperation. It also enumerates specific challenges faced by national authorities, which include the excessive length of prosecution, short statutes of limitations, rules on immunity and privileges, as well as limited availability of resources, training and investigative powers.⁵

Comparative elements

International anti-corruption conventions, standards and guidelines have been adopted by various international organisations including the [Council of Europe](#), the Organisation for Economic Co-operation and Development ([OECD](#)) and the United Nations (UN). These instruments are the result of what has become global cooperation based on the consensus regarding the detrimental effects of corruption.

The 2003 UNCAC was the first international anti-corruption convention whose provisions extended beyond criminal law. It has a quasi-global reach and is still the most comprehensive international legal instrument addressing corruption. Both the EU and all its Member States are [parties](#) to the UNCAC. The convention covers five main areas, including 'preventive measures' and 'criminalisation and law enforcement'. Whereas UNCAC does not provide for a general definition of corruption, it requires criminalising certain activities, such as bribery in the public sector, misappropriation, money laundering and obstruction of justice. Moreover, its signatories are encouraged to consider criminalising other acts – bribery in the private sector, abuse of functions, trading in influence, concealment and illicit enrichment (the latter, subject to the state parties' constitutions and the fundamental principles of their legal systems). With respect to legal persons, the UNCAC mandates establishing the liability of such persons that may be of criminal, civil or administrative nature. Regarding prevention, the convention provides for a broad catalogue of actions that state parties

are required to take, such as promoting integrity, honesty and responsibility among public officials, involving civil society in anti-corruption efforts, developing anti-corruption strategies, and establishing independent preventive anti-corruption bodies.

Parliament's starting position

Recognising that corruption represents a major threat to EU security, Parliament set up, as early as 2012, a [Special Committee on Organised Crime, Corruption and Money Laundering](#) (CRIM committee). The committee made numerous recommendations, [endorsed](#) by Parliament in 2013 and [revisited](#) in 2016, among them a call for harmonising conflict of interest rules across the EU.

In 2021, Parliament adopted a [resolution](#) on the evaluation of preventive measures for avoiding corruption, irregular spending and misuse of EU and national funds in emergency fund and crisis-related spending areas. Parliament asked the Commission to promote EU-wide harmonisation of definitions of corruption offences, a call concretised in a 2022 [recommendation](#), whereby it demanded that the Commission put forward a proposal for an EU anti-corruption directive based on Article 83 TFEU.

On multiple occasions, Parliament has examined systemic challenges to the rule of law and deficiencies in the fight against corruption across the EU. For example, in January 2024, it [criticised](#) the Slovakian government's plans to dismantle the Special Prosecutor's Office without engaging in a meaningful public debate or following a proper democratic process. Meanwhile, Parliament has not shied away from addressing alleged cases of corruption in its own ranks, as illustrated by its [December 2022](#), [February 2023](#), and [12](#) and [13](#) July 2023 resolutions seeking to strengthen transparency, accountability and integrity in the EU institutions. In the February 2023 resolution, it noted that 'internal monitoring and alert mechanisms of the EU institutions have dramatically failed to detect ongoing corruption', and that 'additional safeguards against corruption, such as a [declaration of assets](#) by Members at the beginning and the end of each mandate', should be considered.

According to a 2023 EPRS study, substantial benefits could be drawn from targeted EU action to address corruption, building on positions taken by the European Parliament; advancing the EU's legislative framework on corruption, strengthening enforcement of existing legislation and reinforcing the mandate of relevant agencies, combined with promoting quality in and control of public procurement, could generate up to an estimated €58.5 billion per year.

Source: [Stepping up EU efforts to tackle corruption – Cost of non-Europe report](#), EPRS, 2023.

Council starting position

The Council of the EU has not called specifically for harmonising corruption offences across the EU. However, in its conclusions, the Council has addressed corruption in various contexts, such as [sport](#), [development efforts](#) and [organised crime](#). The 2021 [conclusions](#) setting the EU's priorities for combating serious and organised crime under the 2022-2025 European Multidisciplinary Platform Against Criminal Threats (EMPACT) sought to address, as one priority, high-risk criminal networks, in particular those 'undermining the rule of law by using corruption'.

Preparation of the proposal

In her [2022 State of the Union address](#), President Ursula von der Leyen announced that the Commission would present measures the following year, to update the EU legislative framework for combating corruption. She specified that this would entail raising 'standards on offences such as illicit enrichment, trafficking in influence and abuse of power, beyond the more classic offences such as bribery'.

The proposal was shaped by the general strategies addressing EU internal security. The [EU security union strategy](#), covering the 2020–2025 period, stressed the links between corruption and organised crime; the [EU strategy to tackle organised crime](#) (2021–2025) envisaged the Commission assessing the existing EU anti-corruption rules, to determine whether they were up to date with evolving criminal practices and to ensure they covered all relevant corruption offences.

The Commission had earlier examined the implementation of the Council Framework Decision 2003/568/JHA on combating corruption in the private sector. The most recent [implementation report](#) of 2019 noted a clear improvement in the level of its transposition since the previous [implementation report](#) of 2011. It observed, however, that while several Member States had amended their legislation, the very few convictions for private-sector corruption across the EU suggest these laws had not been enforced sufficiently. In 2021, the Commission presented a [report](#) on the implementation of the PIF Directive. Regarding corruption, the report noted that in several Member States, an additional aspect – 'breach of duties' – was required to consider a conduct as active or passive corruption. The Commission argued that this significantly narrowed the scope of the directive's definitions of corruption, by making prosecution dependent on proving such a breach of duty. Moreover, with respect to 'passive corruption', some Member States did not apply criminal sanctions to public officials 'refrain[ing] from acting in accordance with [the public official's] duty', contrary to the requirements of Article 4(2)(a) of the directive. In 2022, the Commission presented the second [report](#) on the implementation of the PIF Directive, which, however, did not elaborate on the corruption-related provisions.

Seeking to go beyond these specific evaluations, the Commission mandated an external [study](#) to assess the existing EU anti-corruption laws and policies. The study, published in 2023, found that 'the lack of a coherent European framework including provisions for all corruption-related crimes identified by international standards constitutes a source for legislative and operational challenges in tackling cross-border corruption cases'. It analysed three policy options addressing these challenges and supported the one providing for minimum rules combined with 'soft measures'. The proposal on minimum rules would cover the definition of corruption offences and sanctions, as well as enhancing investigation and prosecution of such offences (through harmonising approaches to immunity and statutes of limitation and to enablers of corruption, such as conflicts of interest and 'revolving doors'⁶). The accompanying 'soft measures' would aim at preventing corruption by e.g. enhancing the collection of corruption data and setting up dedicated anti-corruption authorities at both the EU and national levels.

Moreover, the Commission consulted and received input from the Member States, EU agencies and international organisations. This included sending two questionnaires to the Member States, the first one to inquire about anti-corruption bodies and criminal justice data on bribery offences, and the second one about national provisions on corruption offences, the maximum length of imprisonment linked to them, and limitation periods in place. The answers to the second questionnaire showed that the definitions of offences differed considerably, and that not all corruption offences defined by the UNCAC were covered by national legislation, with some only partly covered. For illicit enrichment, 17 Member States reported not having such an offence in their legislation, some of them pointing to money laundering or asset confiscation legislation addressing the related conduct. The sanctions and limitation periods varied significantly, as well.⁷

Moreover, the Commission published a [call for evidence](#) that gathered 361 contributions. However, the initiative was not accompanied by an impact assessment, which the Commission explained by the fact that the initiative aimed 'to introduce existing international commitments into EU law, leaving little margin for alternative courses of action' and was 'not likely to have significant economic, environmental nor social impacts and costs, or impacts entailing significant spending'.

The changes the proposal would bring

The proposed directive replaces Council Framework Decision on combating corruption in the private sector and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the EU, as well as amending the PIF Directive. Based on Articles [83](#) and [82\(1\)\(d\)](#) TFEU, the proposal defines criminal offences and sanctions relating to corruption, one of the 'areas of particularly serious crime with a cross-border dimension' for which Parliament and the Council may establish minimum rules by means of directives. It requires that Member States impose 'effective, proportionate and dissuasive criminal penalties' for a range of criminal activities, such as bribery (both public and private), misappropriation, trading in influence, abuse of function, obstruction of justice, and enrichment from corruption offenses.

The proposal requires that maximum penalties for **natural persons** be set at a minimum of 4, 5 or 6 years, depending on the type of offence; this is higher than the penalty of a maximum of at least 1 to 3 years of imprisonment mandated by the Framework Decision 2003/568/JHA on combating corruption in the private sector. Individuals convicted for corruption offences may also incur additional penalties listed in the proposal. They are not necessarily of a criminal nature and include fines, the removal from a public office, deprivation of the right to stand for elections, exclusions from access to public funding and other penalties.

Moreover, the proposal requires that Member States ensure that **legal persons** can be held liable for the criminal offences defined in it. The 'effective, proportionate and dissuasive sanctions' to be applied do not have to be of a criminal nature. Again, the proposal lists specific sanctions, which include, among other things, fines with a minimum level of the maximum limit, the temporary or permanent exclusion from public procurement procedures, and the judicial winding-up of the legal person. In addition to defining criminal offenses, the proposal seeks to eliminate any means of avoiding prosecution for corruption. For example, it mandates minimum limitation periods of 8 to 15 years, depending on the type of offence.

In line with the UNCAC, the proposal encompasses measures to enhance not only combating but also **preventing corruption**. Member States are thus required to raise public awareness on the harmfulness of corruption (e.g. through awareness-raising campaigns and research and education programmes), ensure transparency and accountability in public administration, and provide for effective rules for the disclosure and verification of public officials' assets. They should promote the participation of civil society, non-governmental organisations and community-based organisations in anti-corruption activities.

Furthermore, it requires Member States to establish bodies or organisation units specialised in the prevention and repression of corruption. Such entities need to be independent and have sufficient human, financial, technical and technological resources, as well as the necessary powers to exercise their tasks. They should be transparent and known to the public.

The proposal seeks to strike a balance between any **privileges and immunities** from investigation and prosecution granted to national public officials and the possibility of addressing corruption offences effectively. Therefore, it requires that Member States take measures to ensure that such privileges and immunities can be lifted through a clear and transparent process established by law.

Under the proposal, Member States are required to ensure that [Directive \(EU\) 2019/1937](#) (the EU Whistle-blowers Directive) is applicable to the reporting of corruption offences. Anyone reporting corruption offences and 'providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences' should be granted the necessary protection and support in the context of criminal proceedings.

Advisory committees

In October 2023, the European Economic and Social Committee (EESC) adopted an [opinion](#) on the 'Update on the Anti-corruption legislative framework'. The EESC noted that considering the scope of the proposal, its legal basis should also include [Article 84 TFEU](#) (crime prevention) and [Article 87 TFEU](#) (police cooperation). It also inquired about a possibility of creating a parallel legal framework for the EU legal system – that could take form of a Council decision – arguing that the obligations deriving from the UNCAC also apply to the EU, as a party to the convention. Moreover, the EESC recommended introducing more precise rules on the Member States' obligations with respect to conflicts of interest, as well as rewording the provision on 'effective rules regulating the interaction between the private and the public sector' (Article 3) so as to oblige the Member States to adopt a legal framework on lobbying.

The European Committee of the Regions (CoR) adopted an [opinion](#) on the EU anti-corruption framework in November 2023, proposing several amendments to the proposal. The CoR modified the definition of public official (Article 2) to cover Union officials and national officials of a Member State or of a third country, 'whether appointed or elected, permanent or temporary, paid or unpaid'. It also extended this definition to 'any other person assigned and exercising a public service function in a Member State or in a third country, vested with public authority or subject to the control or supervision of public authorities', as well as 'any person working in enterprises owned by the state, regional or local government, or in asset management foundations and privately owned companies performing public service functions'. Moreover, the CoR proposed that the Member States should be required to provide adequate resources not only to national authorities but also to regional and local authorities dealing with corruption offences. Furthermore, the CoR added a new Article 15a requiring that Member States take measures to provide clear definitions for pardons, amnesties and acts of grace for the offences covered by the directive and determine the mechanisms and circumstances governing their application.

National parliaments

The [deadline](#) for the submission of reasoned opinions on subsidiarity grounds was 26 July 2023. The Italian and Swedish Parliaments submitted opinions, and the Czech, French, Austrian and Portuguese parliaments exchanged with the Commission. Some of them questioned the proposal's compliance with the subsidiarity principle. The [Italian Chamber of Deputies](#), for example, expressed the view that contrary to UNCAC, the proposal assimilates 'radically dissimilar criminal phenomena', thereby 'conflating genuine UNCAC obligations with simple recommendations' made by the UNCAC for non-mandatory offences. The Chamber further argued that a very broad scope of the proposal raised doubts about its compliance with the stated legal basis, i.e. Article 83 TFEU granting the EU the power to establish only minimum rules for the definition of criminal offences and sanctions.

The Swedish [Riksdag](#) considered that the proposed provision on supplementary sanctions or measures, providing that natural persons convicted of corruption offences could be deprived of the right to stand for elections, clearly conflicted with the subsidiarity principle. This view was shared by the [Czech Senate](#), which argued that the EU has no competence under Article 83 TFEU to establish new types of penalties not enshrined in laws of all EU Member States, as is the case for the deprivation of the right to stand for elections, a matter of the general conditions under electoral laws, entirely outside EU competence. Moreover, the Czech Senate considered the decision-making process for lifting the immunities granted to national officials as falling under national constitutional law. The Austrian [National Council](#) and [Federal Council](#) also challenged the EU competence in this field, considering that the relevant provision may be encroaching on the autonomy of national and regional parliaments.

Stakeholder views⁸

[Transparency International](#) – which describes its mission as acting 'to stop corruption and promote transparency, accountability and integrity at all levels and across all sectors of society' – presented a [position](#) on the proposal in August 2023. It welcomed the initiative, commending the mandatory nature of several offences, as well as the inclusion of aggravating circumstances, minimum limitation periods and preventative measures. At the same time, it proposed a number of additions and improvements grouped under four themes: ending impunity, holding legal persons accountable, adopting preventative measures, and cooperating internationally.

To end impunity, Transparency International recommends addressing [grand corruption](#) to combat the most serious corrupt behaviour, prescribing measures to ensure victims of corruption are sufficiently represented and compensated, and recognising the involvement of a high-level official as an aggravating circumstance. Legal persons should be held accountable by subjecting non-trial resolutions (negotiated settlements through which a vast majority of foreign bribery cases are resolved⁹) to certain key principles. Moreover, the liability of such persons should be engaged by the acts of any associated persons, not only those in leading positions, as proposed by the Commission. Legal persons should only be able to use anti-bribery and corruption programmes as a mitigating circumstance if these were in place before the offence was committed. Preventatively, national laws on lobbying and on the financing of political parties should be improved. As for international cooperation, EU agencies should be authorised to conduct investigations of wrongdoing affecting international organisations or courts that have a seat in any EU Member State if these institutions have made such requests. Following the adoption of the LIBE report (see the 'Legislative process' section below), Transparency International [noted](#) that some of its recommendations were reflected in the report.

In its November 2023 [statement](#) on the proposed directive, the [European Criminal Bar Association](#) (ECBA) presented a different perspective, emphasising the need to uphold high standards for procedural safeguards, due process and fair trials when tackling corruption. It stressed that:

- Member States should maintain the level of procedural rights protection, meeting at least the minimum standards established in the [EU directives](#) on the rights of suspects and accused;
- the reversal of the burden of proof must not infringe on fundamental rights, especially the presumption of innocence (the ECBA therefore opposes the new offence of illicit enrichment);
- legal entities should be better incentivised to perform actions – such as introducing corporate compliance programmes – that may be considered as mitigating circumstances;
- there should be more clarity on how to take into account non-criminal sanctions already applied when sentencing for a criminal offence.

Legislative process

In the European Parliament, the proposal was referred to the Committee on Civil Liberties, Justice and Home Affairs (LIBE), which appointed Ramona Strugariu (Renew Europe, Romania) as rapporteur. The Committee on Budgetary Control (CONT) acted as associated committee, with Caterina Chinnici (EPP, Italy) serving as rapporteur (reappointed in July 2024 under the new legislature). The Committee on Legal Affairs (JURI), designated as the committee for opinion, opted not to provide one.

The rapporteur presented her draft report in September 2023. The CONT committee presented its [opinion](#) (as part of the associated committee procedure) in November 2023, proposing multiple amendments to the Commission proposal. The LIBE committee adopted its [report](#) on 31 January 2024, with 63 votes in favour, 2 vote against, and 2 abstentions. The Committee decision to enter into interinstitutional negotiations was confirmed by plenary in February 2024.

The Committee report put forward various amendments to the Commission's proposal. It proposed extending the definition of 'national official' to include 'any other person assigned or exercising a public service function' and 'any person entrusted with tasks of public interest or in charge of a public service'. In addition, it recommended including EU decision-makers, such as the President of the European Council, Commissioners and Members of the European Parliament (MEPs), in the category of 'high-level officials'. The category would also cover military officials, senior executives of state-owned corporations, and managing officials of political parties whose members or candidates are members of a parliament.

The report is more specific than the Commission proposal regarding sanctions for natural persons. It differentiates between offences, setting the minimum level of maximum penalties at 3, 6 and 7 years depending on the type of the offence, instead of the 5 years the Commission set for all offences under the directive. It also encompasses more detailed rules on conflicts of interest, lobbying and 'revolving doors'. Moreover, the report introduces new categories of offences, such as intentional concealment and continued retention of corruptly acquired assets, misconduct in public office, and illicit political financing. The report requires that Member States adopt and periodically review national strategies on preventing and combating corruption, developed in consultation with civil society and a range of stakeholders. As for the EU-level strategy on combating corruption, the report recommends that an EU anti-corruption coordinator be established to assist the Commission in promoting the consistent application of the directive and to improve coordination and coherence of the efforts undertaken by all actors involved. Moreover, the Commission is required to produce a yearly EU anti-corruption report. The report places significant emphasis on the rights of victims and the public involved, in particular with respect to compensation and participation in the proceedings. Whereas the Commission only briefly referenced residency by investment schemes in one of the proposal's recitals, the report requires introducing effective measures to ban both residency by investment and citizenship by investment schemes.

On 14 June 2024, the Council agreed its [position](#) on the proposal that had been examined by the Working Party on Judicial Cooperation in Criminal Matters under the Swedish, Spanish and Belgian Presidencies. Discussions within the Council focused on several issues, notably the definitions of corruption offences and the prevention of corruption. The Council defined 'high level officials' in a general manner as 'public officials who are entrusted with key executive, administrative, legislative or judicial functions in accordance with national law' rather than by enumerating various positions the way the Commission did.

The Council also made some adjustments to the definitions of offences, in particular regarding the 'abuse of functions' offence (limiting it to the public sector) and 'enrichment from corruption offences' (specifying that it relates to situations where the property is derived from an offence committed by another public official, and thus differentiating it from the 'self-laundering' offence provided for in Article 3(5) of [Directive \(EU\) 2018/1673](#)). Regarding the prevention of corruption, the Council placed significant emphasis on the need to respect Member States' institutional and administrative autonomy, while in the context of privileges and immunities, it stressed the need for full respect of national constitutions and constitutional principles.

The new Parliament now needs to confirm its position before trilogue negotiations can take place.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Bąkowski P., [Combating corruption in the European Union](#), EPRS, European Parliament, December 2023.

Fernandes M. and Jančová L., [Stepping up the EU's efforts to tackle corruption – Cost of non-Europe Report](#), EPRS, European Parliament, January 2023.

OTHER SOURCES

European Parliament, [Combating corruption](#), Legislative Observatory (OEIL).

ENDNOTES

- ¹ Europol, [Decoding the EU's most threatening criminal networks](#), May 2024, p. 53; Europol, [Serious and Organised Crime Threat Assessment \(SOCTA\) 2021](#), pp. 26-27.
- ² M. Fernandes and L. Jančová, [Stepping up EU efforts to tackle corruption – Cost of non-Europe report](#), EPRS, European Parliament, 2023, p 7.
- ³ For a more detailed presentation of the EU anti-corruption legislative and policy framework see: P. Bąkowski, [Combating corruption in the European Union](#), EPRS, European Parliament, 2023, pp. 5-7.
- ⁴ To implement the UNCAC effectively, all signatories must undergo a peer review as part of the [implementation review mechanism](#) (IRM). The review process for the EU was launched in 2021, starting with a [self-assessment](#); see: European Commission, [The EU moves forward with its implementation review of the UN Convention against Corruption](#), [press release](#), 17 November 2023.
- ⁵ European Commission, proposal for a directive on combating corruption, [COM\(2023\) 234](#), p. 2 (explanatory memorandum).
- ⁶ The term 'revolving doors' refers to the private sector hiring staff, elected officials and senior managers having worked in the public sector; see S. Kotanidis, [Rules on 'revolving doors' in the EU: Post-mandate restrictions on members of EU institutions and parliamentarians in Member States](#), EPRS, European Parliament, April 2024.
- ⁷ [ibid.](#), pp. 11-13.
- ⁸ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.
- ⁹ International Bar Association, [Non-trial Resolutions of Bribery Cases Subcommittee](#), website, August 2023.

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