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on budgetary management of European Union pre-accession funds in the areas of judicial systems and the fight against corruption in the candidate and potential candidate countries
(2011/2033(INI))

Committee on Budgetary Control

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on budgetary management of European Union pre-accession funds in the areas of judicial systems and the fight against corruption in the candidate and potential candidate countries

(2011/2033(INI))

The European Parliament,

- having regard to the European Commission’s Communications on Enlargement Strategy and Main Challenges for the years 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013,
- having regard to the multiannual indicative financial frameworks, multiannual indicative planning documents, national programmes and project fiches negotiated between the Commission and the respective candidate and potential candidate countries,
- having regard to Special Report No 12/2009 of the European Court of Auditors on the effectiveness of the Commission’s projects in the area of justice and home affairs for the Western Balkans,
- having regard to Special Report No 16/2009 of the Court of Auditors on the Commission’s management of pre-accession assistance to Turkey,
- having regard to Special Report No 14/2011 of the Court of Auditors on whether EU assistance has improved Croatia’s capacity to manage post-accession funding,
- having regard to Special Report No 18/2012 of the Court of Auditors on EU assistance to Kosovo¹ related to the rule of law,
- having regard to the Commission’s ‘Thematic Evaluation on Judiciary and Fundamental Rights in Turkey’ of October 2012,
- having regard to the Commission’s ‘Thematic Evaluation of Rule of Law, Judiciary Reform and Fight against Corruption and Organised Crime in the Western Balkans’ – Lots 2 and 3 of May 2012 and February 2013,
- having regard to the Commission’s information note of March 2013² on the use of pre-accession funds in the areas of judicial systems and the fight against corruption in the countries of the Western Balkans and Turkey,
- having regard to the 2012 Progress Reports for the candidate and potential candidate countries,

¹ This designation is without prejudice to positions on status, and is in line with UN Security Council Resolution 1244 and the ICJ opinion on the Kosovo declaration of independence.

² Annex 1 to the Commission’s replies to Written Questions Nos E-011447/2012, E-011448/2012, E-011449/2012, E-011661/2012, E-011662/2012, E-011663/2012, E-011664/2012 and E-011665/2012.

- having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Foreign Affairs (A7-0318/2013),
- A. whereas potential candidate and candidate countries should continue their efforts to improve their judicial systems and fight against corruption if this is deemed necessary for accession, even when they have become EU Member States; whereas at the 1999 Helsinki Summit, the European Council gave Turkey the status of candidate country for EU membership and the EU-Turkey Accession Partnership was adopted in 2001, and whereas at the 2003 Thessaloniki European Council the Stabilisation and Association Process was confirmed as the EU policy on the countries of the Western Balkans region, thus making them eligible for EU accession; whereas the Instrument for Pre-Accession Assistance (IPA) is not the only means through which the EU is supporting rule of law reform in Bosnia and Herzegovina and Kosovo, as support for law sector reform in Kosovo is also provided by EULEX and a police mission was conducted in Bosnia and Herzegovina between 2003 and 2012;
- B. whereas the enforcement of the rule of law, notably through judicial reform, and the fight against corruption and organised crime in the countries of the Western Balkans and Turkey are considered by the Commission as top priorities, and whereas starting from 2012 the ‘New Approach’ has been applied under the enlargement policy tackling justice reforms and home affairs early in the accession process through the establishment of a new negotiation methodology including clear priorities and conditionalities in the areas of Chapters 23 and 24, thus aiming at a better prioritisation of financial assistance under IPA II;
- C. whereas the European Union delivers financial assistance to candidate and potential candidate countries through the Instrument for Pre-Accession Assistance (IPA) which replaced the programmes TPA, PHARE and CARDS as of 2007, and whereas, with the exception of Iceland, all candidate and potential candidate countries benefit from EU pre-accession funds in the framework of the reform of their judicial system and the fight against corruption;
- D. whereas the new pre-accession instrument IPA II must be more strategic, efficient and better targeted than its predecessors in order to achieve more sustainable results in improving the readiness of these countries for membership, and where possible favouring the sector approach in order to support comprehensive reform strategies by the beneficiary countries;
- E. whereas EU support for reforms relating to the rule of law in Bosnia and Herzegovina and Kosovo is not limited to IPA assistance – in Bosnia and Herzegovina, a police mission was conducted between 2003 and 2012, and support to Kosovo was also provided in the form of the EU Rule of Law Mission in Kosovo (EULEX) which was deployed in 2008 – and whereas with a total of over 2 000 staff on 1 July 2013 (of which over 730 were seconded by EU Member States) and with an annual budget of just over EUR 100 million (June 2012-June 2013), EULEX has a substantial role in supporting Kosovo institutions in the field of the rule of law, including on judicial reform and the fight against corruption;

- F. whereas since 2007 regional projects supporting cooperation between beneficiaries in different countries and horizontal projects addressing the shared needs of several beneficiaries are eligible for funding under IPA multi-beneficiary programmes;
1. Recalls that the fight against corruption and organised crime is one of the most important priorities for any candidate or potential candidate country wishing to fulfil its European perspective;
 2. Reiterates the importance of an independent judiciary, of the protection and promotion of fundamental rights and of an effective fight against corruption in strengthening the rule of law and democracy; welcomes the EU's new negotiating approach, which firmly anchors these core areas at the heart of the accession process and includes an early opening of Chapters 23 and 24 on the basis of clear and detailed action plans, stimulating the establishment of the necessary legislation, institutions and solid track records of implementation; stresses the need for setting transparent and fair benchmarks for the entire process that can translate the criteria into concrete steps towards accession;

Budgetary and financial management

Judiciary reform

3. Notes that since 2001 EU pre-accession assistance to Turkey in the area of judiciary reform has amounted to EUR 128 938 935 for 30 projects, of which EUR 66 645 666 was paid out as of 31 December 2012; highlights that at present nine projects have been completed, 11 are ongoing and 10 are to be started¹;
4. Acknowledges that the Commission initiated a recovery procedure in February 2012 regarding two completed projects developed in Turkey, i.e. Construction of three Courts of Appeal Houses in Ankara, Erzurum and Diyarbakır² and Support to the establishment of Courts of Appeal in Turkey³; takes note that EUR 21 767 205.29 was recovered in April 2012 and that the amount corresponds to the payments made by the Commission for both projects; notes that the Commission's decision for a full recovery was challenged by the external evaluators; calls on the Commission to provide by December 2013 detailed information regarding this issue and explain the choice of a full recovery;
5. Notes that since 2005, EU pre-accession assistance to the countries of the Western Balkans in the area of judiciary reform has amounted to EUR 240 064 387.48 for 124 projects, of which EUR 85 749 243.96 was paid out as of 31 December 2012; highlights that at present, 53 projects have been completed, 47 are ongoing and 23 are to be started⁴;

Table 1: Pre-accession assistance in the Western Balkans countries in the area of judiciary reform covering PHARE, CARDS and IPA projects

Country	Total EU pre-accession	Payments as of 31/12/12	Number of	Status of projects
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¹ Annex 1 to the Commission's replies to Written Question Nos E-011447/2012, E-011448/2012, E-011449/2012, E-011661/2012, E-011662/2012, E-011663/2012, E-011664/2012 and E-011665/2012.

² Project TR0501.07, EU contribution: EUR 22 500 000, payments on 31/12/2012: EUR 20 559 457.71

³ Project TR0401.02, EU contribution: EUR 1 400 000, payments on 31/12/2012: EUR 1 207 747.58

⁴ Ibid.

	assistance (in euro)	(in euro)	projects	To be started	Ongoing	Completed
Albania	46 954 563.08	12 681 306.32	17	2	14	1
Bosnia and Herzegovina	35 918 893.00	14 148 643.76	26	4	13	8
Croatia	34 443 208.36	12 356 399.21	17	4	6	7
FYROM	11 295 000.00	3 236 000.00	13	2	1	10
Kosovo	63 613 000.00	25 641 584.77	15	6	6	3
Montenegro	4 790 085.00	3 406 910.19	9	0	2	7
Serbia	43 049 638.04	14 278 399.71	27	5	5	17
Total	240 064 387.48	85 749 243.96	124	23	47	53

Fight against corruption

6. Notes that since 2001 EU pre-accession assistance to Turkey in the area of the fight against corruption has amounted to EUR 6 160 000 for 5 projects, of which EUR 1 661 732 was paid out as of 31 December 2012; highlights the fact that at present one project has been completed, two are ongoing and two are to be started;
7. Takes note that since 2005 EU pre-accession assistance to the countries of the Western Balkans in the area of the fight against corruption has amounted to EUR 55 160 227.76 for 45 projects, of which EUR 16 060 007.57 was paid out as of 31 December 2012; highlights the fact that at present 18 projects have been completed, 17 are ongoing and 10 are to be started¹;

Table 2: Pre-accession assistance in the Western Balkans countries in the area of the fight against corruption covering PHARE, CARDS and IPA projects

Country	Total EU pre-accession assistance (in euro)	Payments as of 31/12/12 (in euro)	Number of projects	Status of projects		
				To be started	Ongoing	Completed
Albania	3 500 000.00	3 184 112.00	2	0	1	1
Bosnia and Herzegovina	4 553 791.00	1 878 730.36	16	1	9	6
Croatia	9 684 397.12	3 753 821.95	9	2	2	5
FYROM	14 647 000.00	1 182 000.00	5	3	0	2
Kosovo	6 500 000.00	1 394 670.10	4	2	1	1
Montenegro	6 391 722.00	2 690 106.00	5	1	2	2
Serbia	3 383 317.64	1 976 567.16	4	1	2	1
Total	55 160 227.76	16 060 007.57	45	10	17	18

8. Emphasises the Commission's new approach to address justice reforms and home affairs issues early in the accession process; observes however that on average only 3.13% of the total EU pre-accession envelope for 2007-2012 was devoted to justice and only 0.52% to the fight against corruption; notes that for the same period the total amount allocated to all policy areas covered by chapters 23 and 24 (Judiciary and Fundamental rights and Justice, Freedom and Security) is approximately 7.41% of the total pre-accession assistance; notes

¹ Ibid.

further that approximately 16.29% of funds allocated to Component I aim at strengthening the rule of law in candidate and potential candidate countries;

9. Acknowledges that the IPA 2007 project ‘Support to the capacities in the Ministries of Justice in Bosnia and Herzegovina for Strategies Planning, Aid Coordination and EU Integration’ had its contract suspended; calls on the Commission to provide detailed information regarding the suspension of the contract and the state of play of the project by December 2013;

Funding, enlargement priorities and co-financing

10. Emphasises the Commission’s new approach to addressing justice reform and home affairs issues early in the accession process; observes, however, that on average only 2.87 % of the total EU pre-accession assistance envelope for the period 2007-2013 is devoted to justice and only 0.52 % to the fight against corruption;

Table 3: Level of funds invested in specific projects with focus on judiciary reform and the fight against corruption compared with the total EU pre-accession assistance envelope in candidate and potential candidate countries for the period 2007-2012¹

Country	Total EU pre-accession assistance envelope	Funds invested in judiciary reform	%	Funds invested in the fight against corruption	%
Albania	591 200 000,00	46 954 563,08	7.94	3 500 000,00	0.59
Bosnia and Herzegovina	655 300 000,00	35 918 893,00	5.48	4 322 690,00	0.66
Croatia	998 000 000,00	28 124 764,60	2.81	9 552 355,11	0.96
FYROM	615 100 000,00	8 903 000,00	1.45	13 285 000,00	2.16
Kosovo	635 300 000,00	63 613 000,00	10.01	6 500 000,00	1.02
Montenegro	235 600 000,00	4 377 111,00	1.86	6 391 722,00	2.71
Serbia	1 385 400 000,00	43 049 638,04	3.11	3 383 317,64	0.24
Turkey	4 799 000 000,00	79 287 735,00	1.65	4 810 000,00	0.10

11. Notes that the level of co-financing by domestic authorities differs widely from one country to another, with Croatia and Turkey co-financing most of their projects and Serbia having all its projects fully covered by the EU pre-accession assistance; is of the opinion that co-financed projects, especially in the areas of the judiciary and the fight against corruption, bring a higher degree of ownership from the beneficiaries; calls therefore on the Commission to increase, under IPA II, the number of projects co-financed by domestic authorities;

12. Is of the opinion that the level of pre-accession assistance invested in judiciary reform and the fight against corruption does not reflect the priority set by the Commission in this respect; given the importance of judiciary and corruption-related issues, the severity of the problems faced in the field, as well as the positive spillovers and synergies that other

¹ The statement on the averages for the total pre-accession envelope for 2007-2012 devoted to justice and the fight against corruption reflects the allocation to these areas up to February 2013.

sectors would benefit from if judiciary and anti-corruptions reforms were duly completed and implemented, urges the Commission and the beneficiary countries to allocate a more substantial and adequate level of funding to these two sectors; notes nevertheless that other factors, such as country-specific structured dialogues on the rule of law and the judiciary, have a substantial impact on the efficiency of the EU pre-accession assistance in the reform of judicial systems and the fight against corruption; recognizes therefore that the share of overall financing is not the only criterion for the efficiency of the EU efforts to strengthen the rule of law and anti-corruption practices;

13. Regrets the fact that funding under IPA I appears to be limited when set against the importance of these areas; observes, however, the weak absorption capacity of IPA I in the area of the rule of law in some candidate and potential candidate countries; considers it essential to improve the management of pre-accession funding in this area under IPA II, and stresses that progress in meeting specific objectives relating to an independent and efficient judiciary, the rule of law and combating corruption, including their implementation, should be monitored and assessed on the basis of quantitative and qualitative indicators; considers it also important to provide for a performance incentive under IPA II in order to reward performance in making substantial progress in meeting the objectives specified in the strategy papers;
14. Regrets that the Commission does not have a tool to provide an execution rate in an automated manner for the EU pre-accession projects and emphasises that knowledge on execution rate is crucial in order to monitor the efficient implementation of projects and, therefore, in order to point out potential bottlenecks at an early stage; calls on the Commission to centralise data on a 6 monthly basis on the execution rate of the projects for which EU pre-accession assistance is allocated;
15. Notes that cooperation on the reform of judicial systems and the fight against corruption also takes place at the political level with country-specific structured dialogues on the rule of law and the judiciary set up with candidate and candidate countries;

General remarks

16. Stresses that the effectiveness of pre-accession projects implemented in the areas of the judiciary and the fight against corruption depends primarily on the authorities' political will to adopt and fully implement the reforms; deplores that in most candidate and potential candidate countries there is a lack of strong political support for putting in place effective reforms regarding the fight against corruption and organised crime or a fully independent judiciary; points out that candidate and potential candidate countries receive EU pre-accession assistance in order to bring their legal systems – both the legislative framework and in practice – in line with European standards;

Judicial reform

17. Welcomes those changes that bring the legal and institutional framework more in line with the EU acquis, as well as the modernisation of the institutional set-up of the judiciary; acknowledges, for instance, the positive impact on the impartiality and efficiency of courts of introducing the Case Management System (CMS), though its functioning and effectiveness are sometimes hindered by over-ambitious objectives such as in Kosovo;

18. Invites the Commission to work on a clearer definition of the scope of projects in the areas of judicial systems and the fight against corruption, which would allow for more consistent monitoring and reporting in these areas;
19. Stresses that Parliament should be actively involved in the supervision of the allocation and spending of pre-accession funds in the candidate and potential candidate countries in all areas, including judicial systems and the fight against corruption; stresses, therefore, that Parliament should be kept informed about the implementation of the IPA and the allocation of funds for candidate and potential candidate countries;
20. Recalls that the rule of law is the cornerstone of democracy and a pre-condition for a functioning market economy, and stresses the need to see judicial reforms in a wider context; insists on the fact that the justice system should be fully independent, more predictable, efficient and fair in order to ensure that the people and the business community trust the judiciary; stresses in this respect the need to establish the random distribution of cases in all courts and to ensure timely justice together with the unification of jurisprudence, the publication of, and easy access to, all judicial decisions immediately after adoption, as well as the advantages, including financial advantages, of using e-justice; points out that adequate and continuous training of judges, prosecutors and clerks is essential; notes that the 'New Approach' should focus on these issues in the context of the accession negotiations;
21. Considers it essential to link EU financial assistance more closely to the priorities of enlargement policy, especially in relation to the rule of law, in order to improve the independence, accountability, impartiality, professionalism, transparency and efficiency of the judicial systems; stresses that predictable and sufficient funding is a key precondition for sustainable judicial reforms; underlines the importance of continuous professional training for judges, prosecutors and officials; calls for further financial assistance to and engagement with relevant civil society actors in order to enhance the transparency of the judiciary and improve its long-term capacities, as well as those acting as watchdogs or whistle-blowers as regards misuse of funds;
22. Deplores the fact that the impact and sustainability of the EU financial assistance is largely impeded by a lack of predictable justice systems and predictable and sufficient domestic funding;
23. Notes that the 'New Approach' intends to focus on these issues in the context of the accession negotiations;

Fight against corruption

24. Notes that corruption is a major challenge for the majority of candidate and potential candidate countries; is concerned that in several countries of the Western Balkans, progress reports note that the linkages established between criminals, organised crime networks and political elites during the conflicts in the region have been carried over into today's societies; is deeply worried by the phenomenon of 'state capture' which is present in some of those countries;
25. Notes that genuine implementation and concrete results in fighting corruption, in

particular in the cases of high-level political corruption and corruption in the judiciary, are still a big challenge and that a convincing track record of prosecution and conviction cases should be built up in order to measure the progress; welcomes the fact that the ‘New Approach’ will focus on these issues in the context of the accession negotiations; stresses the need for better planning and funding of anti-corruption activities, based on the cooperation of a broad range of stakeholders; calls on the Commission to develop a longer-term and broad-based strategic perspective of EU funding for civil society organisations which are working in transparency and anti-corruption areas at both national and European levels; notes that the ‘New Approach’ intends to focus on these issues in the context of the accession negotiations;

26. Wishes to see a track record of unbiased and successful prosecutions and court rulings in the field of combating corruption, including in high-profile cases, in order to enhance citizens’ trust in the rule of law and public institutions; invites the relevant authorities to improve interinstitutional cooperation, especially with law enforcement structures, raise public awareness and develop capacities for planning, enforcing and monitoring anti-corruption rules and activities, as well as to cooperate closely with the Group of States against Corruption (GRECO) and to engage closely with independent state bodies such as anti-corruption agencies; calls for the implementation of strategies to prevent and combat corruption nationally and internationally;
27. Believes that freedom of the press and media and digital freedom represent a crucial check on power and an important component in the fight against corruption, both by providing a platform for freedom of expression and by providing the public with access to information; calls, therefore, for these freedoms to be actively pursued through programmes under the IPA aimed at governments, citizens and press and media outlets;
28. Is concerned that EU pre-accession assistance is not always used in a consistent manner due to the lack of a regional approach and strategy; underlines, for instance, that whereas in Croatia EU pre-accession assistance funded an anti-corruption agency with investigative powers, in Kosovo it funded an anti-corruption agency without such powers, thus raising doubts as to its efficiency; calls therefore on the Commission to establish a clear regional strategy in order to avoid funding contradictory models in candidate and potential candidate countries;

Implementation of projects

29. Notes that pre-accession projects have a time span of between one and 3.5 years; acknowledges, based on the external thematic evaluations, that such deadlines are challenging, if not overambitious, given the wide scope of most projects and their numerous and often complicated components; given the complexity of reforms in the areas of justice and the fight against corruption, and the time consumed solely in pre-programming activities, recommends that the Commission takes adequate measures within the framework of IPA II programming and projects which would lead to a longer timescale (five to seven years), incorporating predetermined and periodical reviewing exercises which would allow for more flexible adjustments, including the financial envelope;
30. Is concerned about the chronic delays incurred in the implementation of projects and,

ultimately, their efficiency; notes, for instance, that projects in Turkey incur on average a one-year delay before contracts are executed, because of bottlenecks in tendering and contracting, while in Croatia contracts for PHARE programmes were signed on average more than one year later than scheduled, just a couple of days prior to the contracting deadline established in the Financial Agreement;

31. Is further concerned that the complexity of pre-accession assistance rules and their rigidity whenever new activities need to be included in a project eventually create a counterproductive incentive to repeat an activity or to accept an unsatisfactory project design; is nevertheless of the opinion that the right balance between flexibility serving project efficiency and the need to avoid irregularities and ensure best value for money still needs to be found and calls on the Commission to act in this respect under IPA II;
32. Is of the opinion that preparatory ("pilot") activities should always be carried out in cases of broad projects prior to their full deployment in order to identify and mitigate potential shortcomings, limit avoidable delays and difficulties and measure the achievable results;
33. Notes that a more comprehensive sectoral approach in the areas of judiciary reform and the fight against corruption would entail positive changes, such as better focused national reform efforts, enhanced donor coordination and better interaction between individual projects; calls on the Commission to ensure that sectoral approaches are introduced in accordance with the guidelines on sectoral approaches in pre-accession assistance and that the capacities of the beneficiary countries to draw up and implement meaningful sectoral strategies are enhanced; calls on the Commission to continue to provide guidance on the implementation of the sectoral approach during the planning and programming stages of IPA II; considers that in most countries neither institutional set-up nor budgeting processes are at a level suitable for sectoral budget support and calls on the Commission to promote the necessary institutional and procedural improvements in the beneficiary countries;
34. Emphasises that cooperation and coordination with other donors and international financial institutions is of paramount importance to avoid duplication, ensure aid effectiveness and foster capacity building in the candidate countries and potential candidates countries; regrets that judiciary reform and the fight against corruption do not fall within the scope of the Western Balkans Investment Framework, which is a joint initiative by the EU, international financial institutions, bilateral donors and the governments of the Western Balkans to strengthen the coherence of donors' support; calls on the Commission and its partners to establish a mechanism in the same spirit as the Western Balkans Investment Framework whereby cooperation and coordination in the field of judiciary reform and the fight against corruption will be strengthened, and to keep the Parliament informed of all progress made;

Performance and sustainability

35. Acknowledges that, following its audit of pre-accession projects for the period 2001-2005, the European Court of Auditors stated that project sustainability could be improved if: (i) beneficiary involvement was increased; (ii) no projects were launched without a maintenance plan; (iii) the Commission monitored distribution more closely and evaluated the use of EU-funded equipment and infrastructure; and (iv) the delivery of technical

assistance was adequately complemented by active encouragement for institutional change; underlines the fact that despite improvements under the IPA programme some weaknesses still remain, notably in terms of stakeholder involvement and maintenance, and notes, for instance, that during the 2011 programming process in Turkey the beneficiaries were hardly involved in the last 12 months;

36. Takes note that pre-accession projects are based on project fiches which present their overall and specific objectives, the activities intended to be implemented, their timeframe, costs and means of implementation and the indicators against which the success of the projects can be measured;
37. Points out that Article 30 of the financial rules applicable to the annual budget of the Union (Regulation No 966/2012 – Financial Regulation) requires SMART objectives to be established for all policy measures covered by the EU budget and to be set out in the annual activity reports as part of the activity-based budgeting and management processes;
38. Observes that project fiches have improved over time with the inclusion of more and better-designed SMART objectives as well as specific indicators for the different components of a project; is, however, concerned that external evaluation reported that some projects lacked focus due to inappropriate indicators, with SMART indicators not always suited to the justice sector; insists on the need for designing qualitative indicators capable of measuring the long-term impact of the projects; calls on the Commission to continue to issue guidance on the utilisation of performance indicators to be used for programming, monitoring and evaluation purposes for the 2014-20 financial framework in relation to IPA II; is of the opinion that specific indicators in the sector of Justice, Liberty and Security should be developed and used in line with the more strategic approach under IPA II;
39. Is of the opinion that high quality training is a vital aspect of judicial reform and welcomes the fact that over 30 % of TAIEX activities are devoted to Justice, Freedom and Security, but questions the relevance of the objective indicators defined in the project fiches, which are used to measure the added value of training activities; points out that indicators such as ‘quality and quantity of training activities carried out by trainers’ or ‘trained judicial advisors satisfied with the training’ mainly focus on output and overlook outcomes; points out, for instance, that the fact that participants state in a questionnaire that training will influence their work is not in itself an impact indicator; calls, therefore, on the Commission to further fine-tune its training-related indicators and to organise a thorough impact assessment of the training activities implemented in the candidate and potential candidate countries;
40. Deplores the fact that relevant baseline data serving as a starting point to measure improvement is often missing, thereby preventing the measurement of changes attributable to pre-accession projects;
41. Observes that support for legislative reforms is one of the most common pre-accession projects; notes that institutional frameworks are now in line with European standards, but is concerned that the sustainability of those changes in laws and frameworks in candidate and potential candidate countries is at risk due to the lack of an overall strategy as noted by external evaluators; notes in particular that bylaws and complementary regulations are

often missing, changes in roles and responsibilities are not made clear, and staff are not properly trained and thus cannot apply the new laws as intended; insists that support for judiciary reform and the fight against corruption must be long-term and comprehensive with evaluation criteria covering the whole process from the production of new frameworks, laws, bylaws and regulations to actual prosecution in high-level cases;

42. Notes that the performance and sustainability of multi-beneficiary programmes have not yet been evaluated; calls on the European Court of Auditors to include these projects in the scope of a future Special Report on the pre-accession assistance in candidate and potential candidate countries;

Monitoring and evaluation

43. Acknowledges that the Commission assesses the impact and sustainability of pre-accession programmes through results-oriented monitoring (ROM) reports, but regrets that those reports are not made publicly available; is of the opinion that the Commission's Progress Reports (PR) should reflect on the findings of the ROM reports and provide an assessment of the programmes and their impact once implemented; urges the Commission therefore to introduce a chapter on the inclusion of ROM conclusions in each PR;
44. Points out that the number of ROM (results-oriented monitoring) reports is uneven across countries, ranging from 31 for Albania to none for Bosnia and Herzegovina, Croatia, Montenegro and Serbia; points out, furthermore, that countries using the decentralised implementation system (DIS) are not required to carry out external ROM, and therefore that little independent performance tracking takes place in Croatia; calls on the Commission to ensure regular and thorough independent external monitoring of programmes financed with EU pre-accession assistance in all candidate and potential candidate countries;
45. Is concerned that ROM reports are considered to be structurally biased in favour of positive ratings and that they are inappropriate for longer-term performance monitoring; stresses that monitoring should track sector performance and not just project results; urges the Commission to develop a comprehensive monitoring action plan including evaluation tools other than ROM reports, such as sector performance assessment frameworks with SMART indicators, in order to make comprehensive monitoring of project outcomes possible over time; would like to be informed on progress made before the end of 2014;
46. Recalls Parliament's call on the Commission to assess the impact and results achieved through the allocation of EU funds in the reform of the judiciary and the fight against corruption in candidate and potential candidate countries¹; welcomes the publication by the Commission in 2012/2013 of an evaluation on Judiciary and Fundamental Rights in Turkey and an evaluation of Rule of Law, Judiciary Reform and Fight against Corruption and Organised Crime in the Western Balkans; regrets nevertheless that the evaluation on Turkey did not include a review of the projects related to the fight against corruption;
47. Is aware that the European Court of Auditors is currently preparing a Special Report on EU pre-accession assistance in Serbia; strongly recommends that projects implemented in

¹ P7_TA(2011)0059, P7_TA(2011)0151, P7_TA(2011)0091

the areas of judiciary reform and the fight against corruption be included in the scope of the performance audit;

Transparency

48. Is of the opinion that a database listing all of the projects funded under pre-accession assistance programmes should be established and made publicly available; calls on the Commission, therefore, to develop measures to increase the transparency of legal arrangements and to design a system whereby all beneficiaries of EU funding are published on the same website, independently of the administrator of the funds, and on the basis of standard categories of information to be provided by all Member States in at least one working language of the EU;
49. Notes the Commission's commitment to address these issues by 2015 through the publication of information on IPA assistance in line with the International Aid Transparency Initiative which established common standards for the electronic publication of timely, comprehensive and forward-looking information on resources provided through development cooperation; emphasises that such an initiative will only prove fruitful if information is regularly updated; urges the Commission therefore to update the database monthly as planned;

Country-related remarks

Albania

50. Welcomes the improvements that EU support has brought both in the legal and institutional framework and the infrastructure of the judiciary in Albania; is concerned, however, about the insufficient reporting of results on the actual use, implementation and concrete impact of all these transformations;
51. Recognises the results in terms of adoption of strategic documents in the field of anti-corruption; is seriously concerned, however, about the low effectiveness of measures undertaken in the area; stresses that in 2012 Albania ranked as Europe's most corrupt country; calls on the Commission and the Albanian authorities to urgently reassess the implementation of the anti-corruption strategy and action plans in this country;

Bosnia and Herzegovina

52. Deplores the lack of application of some of the enhanced capacities of the judiciary in Bosnia and Herzegovina; is concerned that, in its 2009 audit, the Court of Auditors noted the lack of funding for operations and maintenance of the acquired infrastructure entailing a risk that improvements will lack sustainability;
53. Is seriously concerned about the limited performance of the anti-corruption agency in Bosnia and Herzegovina and the lack of reporting on the specific results of EU funding in the area of the fight against corruption;

Croatia

54. Notes the progress achieved by Croatia in some areas of judicial reform and their implementation and that their sustainability was ensured through follow-up projects;
55. Notes some positive developments in the field of the fight against corruption presented in the annual progress reports for Croatia; is, however, concerned about the risk that the measures adopted prior to the country's accession to the European Union are not irreversible and sustainable; stresses, for instance, that it is unclear which institution plays the lead role in overseeing all the anti-corruption reforms, that the members of the Commission on Conflict of Interest were only appointed in early February 2013 casting doubts on its actual operability and results, and that politically motivated appointments to ministries and the supervisory boards of companies are still ongoing and are in fact increasing;

Kosovo

56. Notes that the lack of control by the Pristina-based Kosovan authorities over the northern part of the territory means that IPA projects such as the 'Legal Education System Reform' project intended to cover all of Kosovo have generally had a negligible impact in the north;
57. Is seriously concerned that the Court of Auditors has not found EU assistance in Kosovo in the field of the rule of law to be sufficiently effective; recognises that specific circumstances in Kosovo, such as the low starting point for building up the rule of law and the insufficient priority accorded to this area by the Kosovan authorities, explain to a certain extent the limited effectiveness of EU action; stresses, nevertheless, the existence of areas where improvements should be expected from the Commission and the EEAS:
- better definition of capacity-building objectives and their link to specific benchmarks against which progress could be assessed,
 - better coordination of external and internal objectives,
 - better coordination between EU institutions and their coordination with the Kosovan authorities and the international community, ensuring that EULEX operates with the full authorised number of staff and that they are deployed for the necessary time period and have the appropriate skills to be effective, and
 - ensuring that policy dialogues with the Kosovan authorities focus particularly on strengthening the rule of law and are linked to incentives and priority conditions;
58. Is particularly concerned by the lack of tangible progress in the field of the fight against corruption in Kosovo; considers that corruption is a major challenge and a serious obstacle for the functioning of the public institutions;

FYROM

59. Welcomes the progress achieved in the legislative framework for judiciary reform and the positive changes in terms of efficiency and impartiality made by the installation of the Automated Court Case Management Information System; recognises FYROM's active

approach to reforming its judiciary and its position as front-runner in the area;

60. Is concerned that no reporting is available on the effectiveness of IPA projects on anti-corruption in FYROM;

Montenegro

61. Welcomes the improvement of regional cooperation in the areas of the police and judicial cooperation, strengthening the legal framework required to ensure the independence of the judiciary and enhancing the efficiency of the judiciary in Montenegro; is concerned about weak donor coordination and the low sustainability ratings of projects;

62. Notes that corruption is a serious concern in Montenegro; recognises the efforts undertaken by Montenegro in the fight against corruption and welcomes, in particular, the strengthening of the Directorate for Anti-Corruption Initiative brought about by the EU funding;

Serbia

63. Is worried that the independence of the judiciary remains a serious concern in Serbia, especially because of undue political influence; regrets further that the new legislation is neither consistently nor properly enforced, thus putting at risk its efficiency;

64. Welcomes the positive evaluation of the project "Support to the establishment of the Anti-Corruption Agency" and notably the fact that the project should have a significant impact on all the targets groups and society in general; insists, however, on the need for constant monitoring in order to ensure that political developments do not hinder the project;

Turkey

65. Acknowledges that projects implemented in the area of the judiciary give reasonable evidence of sustainability and welcomes the political willingness of the Turkish authorities to continue the reform process initiated, as demonstrated by the increased budgetary allocation for judicial training; notes nevertheless a number of weaknesses in the design of projects, such as the absence of baseline data and the lack of SMART indicators, that need to be addressed in order to allow a proper assessment of the impact of the pre-accession projects;

66. Notes that the EU financial assistance in the area of the fight against corruption started quite recently with the 2006 Ethics for the Prevention of Corruption in Turkey; acknowledges the information from the Commission that no EU funds could be programmed prior to the establishment of an independent single anti-corruption body and the adoption of a National Anti-Corruption Strategy; notes that the aforementioned project is considered as moderately satisfactory, but that it lacked SMART indicators;

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67. Instructs its President to forward this resolution to the Council, the Commission, the Court

of Justice of the European Union, the European Court of Auditors, the OLAF Supervisory Committee and OLAF.

5.9.2013

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Budgetary Control

on budgetary management of European Union pre-accession funds in the areas of judicial systems and the fight against corruption in the candidate and potential candidate countries (2011/2033(INI))

Rapporteur: Jelko Kacin

SUGGESTIONS

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

1. Recalls that the fight against corruption and organised crime is one of the most important priorities for any candidate or potential candidate country wishing to fulfil its European perspective;
2. Reiterates the importance of an independent judiciary, of the protection and promotion of fundamental rights and of an effective fight against corruption in strengthening the rule of law and democracy; welcomes the EU's new negotiating approach, which firmly anchors these core areas at the heart of the accession process and includes an early opening of Chapters 23 and 24 on the basis of clear and detailed action plans, stimulating the establishment of the necessary legislation, institutions and solid track records of implementation; stresses the need for setting transparent and fair benchmarks for the entire process that can translate the criteria into concrete steps towards accession;
3. Considers it essential to link EU financial assistance more closely to the priorities of enlargement policy, especially in relation to the rule of law, in order to improve the independence, accountability, impartiality, professionalism, transparency and efficiency of the judicial systems; stresses that predictable and sufficient funding is a key precondition for sustainable judicial reforms; underlines the importance of continuous professional training for judges, prosecutors and officials; calls for further financial assistance to and engagement with relevant civil society actors in order to enhance the transparency of the judiciary and improve its long-term capacities, as well as those acting as watchdogs or whistle-blowers as regards misuse of funds;

4. Wishes to see a track record of unbiased and successful prosecutions and court rulings in the field of combating corruption, including in high-profile cases, in order to enhance citizens' trust in the rule of law and public institutions; invites the relevant authorities to improve interinstitutional cooperation, especially with law-enforcement structures, raise public awareness and develop capacities for planning, enforcing and monitoring anti-corruption rules and activities, as well as to cooperate closely with the Group of States against Corruption (GRECO) and to engage closely with independent state bodies such as anti-corruption agencies; calls for the implementation of strategies to prevent and combat corruption nationally and internationally;
5. Regrets the fact that funding under IPA-I appears to be limited when set against the importance of these areas; observes, however, weak absorption capacity of IPA-I in the area of the rule of law in some candidate and potential candidate countries; considers it essential to improve the management of pre-accession funding in this area under IPA-II, and stresses that progress in meeting specific objectives relating to an independent and efficient judiciary, the rule of law and combating corruption, including their implementation, should be monitored and assessed on the basis of quantitative and qualitative indicators; also considers it important to provide for a performance incentive under IPA-II in order to reward performance in making substantial progress in meeting the objectives specified in the strategy papers;
6. Believes that freedom of the press and media and digital freedom represent a crucial check on power and an important component in the fight against corruption, both by providing a platform for freedom of expression and by providing the public with access to information; calls, therefore, for these freedoms to be actively pursued through programmes under the IPA aimed at governments, citizens and press and media outlets;
7. Stresses that Parliament should be actively involved in the supervision of the allocation and spending of pre-accession funds in the candidate and potential candidate countries in all areas, including judicial systems and the fight against corruption; stresses, therefore, that Parliament should be kept informed on the implementation of the IPA and the allocation of funds for candidate and potential candidate countries.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	4.9.2013
Result of final vote	+: 54 -: 0 0: 0
Members present for the final vote	Sir Robert Atkins, Bastiaan Belder, Elmar Brok, Tarja Cronberg, Mário David, Susy De Martini, Mark Demesmaeker, Michael Gahler, Marietta Giannakou, Ana Gomes, Takis Hadjigeorgiou, Anna Ibrisagic, Liisa Jaakonsaari, Anneli Jäätteenmäki, Tunne Kelam, Nicole Kiil-Nielsen, Evgeni Kirilov, Wolfgang Kreissl-Dörfler, Eduard Kukan, Krzysztof Lisek, Marusya Lyubcheva, Willy Meyer, Francisco José Millán Mon, Annemie Neyts-Uyttebroeck, Raimon Obiols, Kristiina Ojuland, Pier Antonio Panzeri, Ioan Mircea Pașcu, Tonino Picula, Mirosław Piotrowski, Cristian Dan Preda, Libor Rouček, Tokia Saïfi, José Ignacio Salafranca Sánchez-Neyra, Nikolaos Salavrakos, Jacek Saryusz-Wolski, Werner Schulz, Davor Ivo Stier, Charles Tannock, Eleni Theoharous, Geoffrey Van Orden, Nikola Vuljanić, Sir Graham Watson, Karim Zéribi
Substitute(s) present for the final vote	Göran Färm, Roberto Gualtieri, Elisabeth Jeggle, Emilio Menéndez del Valle, Doris Pack, Jean Roatta, Marietje Schaake, Alf Svensson, Janusz Władysław Zemke
Substitute(s) under Rule 187(2) present for the final vote	Dubravka Šuica

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.9.2013
Result of final vote	+: 24 -: 0 0: 0
Members present for the final vote	Marta Andreasen, Jean-Pierre Audy, Inés Ayala Sender, Zigmantas Balčytis, Zuzana Brzobohatá, Andrea Češková, Martin Ehrenhauser, Jens Geier, Ingeborg Gräßle, Bogusław Liberadzki, Monica Luisa Macovei, Jan Mulder, Monika Panayotova, Crescenzo Rivellini, Paul Rübig, Petri Sarvamaa, Bart Staes, Søren Bo Søndergaard
Substitute(s) present for the final vote	Karin Kadenbach, Ivailo Kalfin, Markus Pieper, Olle Schmidt, Joachim Zeller
Substitute(s) under Rule 187(2) present for the final vote	Michael Gahler, Iosif Matula, Theodor Dumitru Stolojan