REPORT

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

Committee on Budgetary Control

Rapporteur: Michèle Rivasi
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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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

The European Parliament,

– having regard to Articles 310, 317 and 325 of the Treaty on the Functioning of the European Union (TFEU),

– having regard to the Charter of Fundamental Rights of the European Union,


– having regard to its resolution of 14 February 2017 on the role of whistleblowers in the protection of EU’s financial interests³,


– having regard to the OLAF Report 2019⁷ and the 2019 Annual Activity Report of the OLAF Supervisory Committee,

having regard to the European Court of Auditors’ special report No 01/2019 entitled ‘Fighting fraud in EU spending: action needed’,

having regard to the European Court of Auditors’ special report No 06/2019 entitled ‘Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination’,

having regard to the European Court of Auditors’ review No 06/2020 entitled ‘Risks, challenges and opportunities in the EU’s economic policy response to the COVID-19 crisis’,

having regard to the Group of States against Corruption (GRECO), and its 21st general activity report (2020),

having regard to the study entitled ‘Public Integrity for an Effective COVID-19 Response and Recovery’, published by the OECD in April 2020,

having regard to the study entitled ‘Corruption in the times of Pandemia’, published in May 20208,

having regard to the report from the Commission to the European Parliament and the Council of 3 September 2020 entitled ‘31st Annual Report on the protection of the European Union’s financial interests – Fight against fraud – 2019’ (COM(2020)0363) and the accompanying staff working documents9,

having regard to Regulation (EU) 2020/2221 of the European Parliament and of the Council of 23 December 2020, amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy (REACT-EU)10,

having regard to the Emergency Support Instrument,


having regard to its position at second reading with a view to the adoption of a regulation of the European Parliament and of the Council establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/201413.

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having regard to Article 5(3) of the Treaty on European Union (TEU) and Protocol (No 2) on the application of the principles of subsidiarity and proportionality,

having regard to the Court of Auditors Opinion No 4/2020 concerning the proposal 2020/0101 (COD) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards exceptional additional resources and implementing arrangements under the Investment for growth and jobs goal to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy (REACT-EU); and on the amended proposal 2018/0196 (COD) for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument,

having regard to Europol’s press release of 5 June 2020, entitled ‘Europol launches the European Financial and Economic Crime Centre’,

having regard to Europol’s press release of 12 April 2021, entitled ‘Serious and organised crime in the EU: A corrupting influence’,

having regard to its resolution of 29 April 2021 on the assassination of Daphne Caruana Galizia and the rule of law in Malta,

having regard to its resolution of 7 July 2021 on the protection of the EU’s financial interests – combating fraud – annual report 2019,

having regard to its resolution of 10 June 2021 on the ongoing assessment by the Commission and the Council of the national recovery and resilience plans,

having regard to Rule 54 of its Rules of Procedure,

having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,

having regard to the report of the Committee on Budgetary Control (A9-0320/2021),

A. whereas financial and economic crime refers to illegal acts committed by an individual or a group of individuals to obtain economic or professional gain and includes, inter alia, corruption, fraud, coercion, collusion, obstruction, money laundering and financing of terrorism;

B. whereas the public health crisis caused by the COVID-19 pandemic, coupled with the subsequent economic emergency and social turmoil, has pushed the EU and the public authorities in Member States to provide for or to be involved in the management of extra funding and substantially and swiftly increase spending;

C. whereas the Recovery and Resilience Facility, with an envelope of more than EUR 670 billion, and REACT-EU, with an envelope of more than EUR 50 billion, are powerful tools to help EU countries recover; whereas, as early as spring 2020, the cohesion policy provided emergency response assistance to the value of EUR 11.2 billion in business support, EUR 7.6 billion in EU reallocations for health actions and EUR 4.1 billion in direct support for workers;

D. whereas on 2 April 2020, as part of the EU response to the COVID-19 outbreak, the Commission proposed to activate the Emergency Support Instrument (ESI);

E. whereas the decision on its activation was taken by the Council alone, without Parliament’s involvement in compliance with the provisions for activation as stipulated in Article 2(1) of Regulation (EU) 2016/369 (the ‘ESI Regulation’);

F. whereas NextGenerationEU is a temporary recovery instrument of some EUR 800 billion in current prices, established to support the EU’s recovery from the coronavirus pandemic and help build a greener, more digital and more resilient Europe;

G. whereas because of the pressing nature of the crisis, procurement procedures and means of control have been made more flexible in many places in order to expedite implementation;

H. whereas response plans do not give enough consideration to governance and the problem of illegal activities such as corruption and fraud, and measures to avoid non-fraudulent irregularities;

I. whereas crisis creates opportunities for numerous violations of integrity and could intensify fraud and corruption, as well as non-fraudulent irregularities, particularly in public procurement, economic stimulus packages and public organisations;

J. whereas, according to the Court of Auditors, fraud prevention has not received enough attention and the Commission lacks comprehensive information on the scale, nature and causes of fraud; whereas the official statistics on detected fraud are not complete and the Commission has so far not carried out any assessment of undetected fraud;

K. whereas corruption is a major threat in the private and public spheres and has a disproportionate impact on the most vulnerable groups, as it causes a loss of resources that threatens long-term growth, social protection and equitable access to public services (including health, education and justice), all of which erode public trust, increase social inequalities and undermine the core values of the Union; whereas it is essential to better understand the causes of corruption in order to be able to fight effectively against this phenomenon and its harmful consequences;

21 Fighting fraud in EU spending: action needed (europa.eu)
L. whereas a rising number of organised crime groups are active in the EU, often with cross-border reach; whereas this phenomenon is becoming increasingly complex, with new criminal markets and modi operandi emerging as a result of globalisation and new technologies, which makes it possible to operate from anywhere in the world and at any time;

M. whereas technology brings new detection and monitoring capabilities, reducing the burden on investigators and enabling the design of smarter enforcement measures;

N. whereas the integrity of the Union financial system is dependent on the transparency of corporate and other legal entities, trusts and similar legal arrangements;

O. whereas the Commission has taken a number of measures to address risks related to corruption and the misuse of funds in the Union, including progress on its legislative proposals on anti-money laundering; whistleblower protection, public procurement and the European rule of law mechanism;

P. whereas according to the latest report from Transparency International and the World Health Organization Collaborating Centre (WHO CC)\(^{22}\), the European Commission is not entirely respecting its own commitments on transparency and international principles of ‘good practice’ on transparency of public contracts when it uses too much redaction to cover elements of text in the Advance Purchase Agreements (APA) contracts; whereas the Commission is, however, obliged by law to respect the provisions of the Financial Regulation, and a better and improved structure for a more rapid response from the Commission in future crises is necessary;

Q. whereas curbing corruption requires government ownership of reforms, public support, political commitment, international cooperation, and a joint effort with civil society and the private sector;

R. whereas in a situation of high expectation, severe pressure and unprecedented spending volumes, the responsibility for meeting this challenge rests with public officials, who need appropriate support to deal with both the increased professional standards and new difficulties in fulfilling their mission; whereas, furthermore, officials may not necessarily become promptly aware of conflict-of-interest situations;

S. whereas in a situation of high expectation, severe pressure and unprecedented spending volumes, it is essential that public officials respect their increased professional standards, including as regards risks arising from conflict-of-interest situations;

T. whereas there is evidence that professionalisation and adequate wages in public procurement positively influence public officials to refrain from corruption\(^{23}\);

U. whereas the Lisbon Treaty took the direction of reinforcing the role of the European Parliament, to bring about more coherence, parliamentary scrutiny and democratic accountability;


V. whereas the fight against corruption is essential for the protection of the financial interests of the EU and for the maintenance of citizens’ confidence in the EU institutions;

1. Acknowledges that the recent crises have confirmed the need to be able to mobilise investment and frontload financial support as from the very first years of recovery; is aware that in times of crisis resources have to be made available within tight deadlines and in rapidly changing circumstances; remarks that a significant amount of additional resources to be spent in a short amount of time increases the pressure on control systems; stresses, nevertheless, that rapid deployment of funds and swift adoption of legislative acts need to be complemented by adequate administrative measures; points out that the pressure to provide relief and the urge to use the resources in the shortest time possible could result in increased risk of corruption, fraud and other irregularities, and that such a situation requires efficient preventive measures and control management processes; reiterates that all procurement procedures must abide by the highest standards of openness, transparency and accountability;

2. Calls on the Commission and the Member States to include in their respective anti-corruption strategies targeted measures dedicated to spending public money in times of crisis; highlights, in this regard, that the rules on the protection of the financial interests of the Union apply equally also in the case of emergency support and emergency support instruments such as CRII, CRII+, REACT-EU and the Recovery and Resilience Facility (RRF);

3. Draws attention to the important role of preventive measures in anticipating and effectively responding to corruption risks in crisis situations and in strengthening anti-corruption and integrity policies, as well as the bodies that enforce them, and therefore in improving overall governance; believes, in this respect, that the COVID-19 crisis will sharpen our focus on governance in the years ahead as a result of the increased efforts to tackle the pandemic’s devastating effects and costs for people and economies;

4. Believes that the rule of law is an essential precondition for compliance with the principle of sound financial management of emergency funds as part of the EU budget; recalls that the rule of law applies at all times, including in times of crisis, and that emergency measures must ensure compliance with the rule of law and the principles of proportionality and necessity, and that they must be time-limited and regularly scrutinised for their impact;

5. Highlights that emergency situations, especially health and safety crises, also impact the functioning of public authorities and create opportunities for violations of integrity, which can lead to the misuse of funds and corruption at a time when public resources are already under pressure; encourages the Commission to address the resilience of the EU institutions in such situations in order to protect emergency funds;

6. Reiterates the need to increase the overall transparency of the economic and financial environment of the Union, as the prevention of economic and financial crimes cannot be effective unless criminals are prevented from seeking shelter for their acts through non-transparent structures;
7. Emphasises in this regard that the EU – both its institutions and the Member States – cannot afford to lose precious resources at the best of times, and even less so during and after the pandemic;

8. Acknowledges all the efforts undertaken by the Commission to increase transparency, control and anti-corruption reforms in the Member States through its enhanced rule of law toolbox; expresses its concern, however, that the implementation of these reforms has met a certain resistance in some Member States, which can be explained in most cases by legislative or institutional gaps or, in very specific ones, by the fact that they affect the personal interests of the law-makers and government officials in charge of enforcing them; insists that any actual or potential conflicts of interest affecting law-makers and government officials must be prevented and that Member States must put in place robust anti-corruption frameworks;

9. Recalls that more effort needs to be put into ex ante controls as regards the traceability of funds, especially in cases where such controls and evaluations have been carried out under exceptional measures; reiterates that governments and other public authorities need efficient and transparent reporting, independent ex post audits and accountability procedures, as well as open channels of communication with civil society and the private sector, to ensure that money and measures are indeed helping the people who need it most; points out the importance of providing up-to-date, transparent and reliable information to the public during crisis situations;

10. Emphasises the critical role of civil society organisations and investigative journalists in denouncing corruption; regrets, therefore, that during the COVID-19 pandemic, several Member States adopted measures that hampered public access to documents and that media professionals experienced difficulties and unjustified denials, as well as pressure and threats concerning access to public documents; believes that it is important to keep citizens both informed of and engaged in the fight against corruption, as well as fully protected from negative personal and professional consequences, especially in whistleblowing cases; reiterates, in this regard, the need for the swift implementation of Directive (EU) 2019/1937 on whistleblower protection;

11. Underlines that citizen participation in public decision-making is key to a successful response in emergency situations; urges the Member States to develop comprehensive crisis management plans in order to prepare for similar situations in the future and to include safeguards for civil society’s role as public watchdog; recalls that public access to documents in a machine-readable format is a key component in ensuring transparency and scrutiny of public spending; calls on the Commission to provide the right platforms for engagement and recalls the current possibilities to report alleged cases of fraud to the European Public Prosecutor’s Office (EPPO) and the European Anti-Fraud Office (OLAF);

12. Notes that in the midst of an economic, security or health-related crisis, governments have a tendency to make contracting procedures more flexible in order to promptly respond to that crisis; stresses the fact that the EU Public Procurement Directive already allows for much quicker and less administratively burdensome procedures and that Member States’ governments should manage these procedures in the framework of the legal requirements in place; highlights that any relaxation of procedures and
simplification measures, which may be necessary during crisis situations to prevent costly errors and non-fraudulent irregularities due to the complexity of rules, should be complemented by specific guidance and closely scrutinised via ex post mechanisms;

13. Welcomes the coordinated and decisive action at EU level resulting in the adoption of a wide package of initiatives, NextGenerationEU, targeting the consequences of the disruptive COVID-19 pandemic for citizen’s health and businesses across the EU; stresses, however, that the unprecedented increase in EU funding is prone to increased risks of corruption and fraud, and brings additional challenges in terms of monitoring and accountability; calls on the Commission and the Member States to reinforce and implement effective anti-corruption policies;

14. Recalls, with a view to ensuring the transparency, accountability and efficiency of EU spending, the importance of the monitoring and audit systems under the shared management funds; reiterates that Parliament has an essential role in scrutinising the stimulus package and that the Commission must keep it regularly informed of its implementation;

15. Notes that the RRF24, the key instrument at the heart of NextGenerationEU, makes it possible to offer Member States grants (of up to EUR312 billion) and loans (of up to EUR 360 billion)25 for public investments and reforms aimed at addressing structural weaknesses and making Member States’ economies more resilient, while focusing on sustainable transition, digital transformation, economic, social and territorial cohesion, institutional resilience and the Pillar of Social Rights;

16. Welcomes the delegation of powers to the Commission for the establishment, by means of a delegated act, of a scoreboard to closely monitor the implementation of the recovery and resilience plans of the Members States;

17. Recalls that the scoreboard will serve as a basis for the recovery and resilience dialogue and that the Commission should update it biannually; calls on the Commission, in this regard, to ensure that the progress achieved in the implementation of the milestones and targets set out is monitored thoroughly and strictly in line with the Recovery and Resilience Facility (RRF) Regulation, on the basis of the established common indicators and reporting methodology; recalls moreover that the RRF is bound by conditions that guarantee the transparent use of the money disbursed and that should prevent corruption or fraud, double funding or conflicts of interest, and believes that controls should be extended also to costs actually incurred by the final beneficiaries; welcomes the fact that, thanks to the European Parliament, Member States are now obliged to provide information on final recipients;

18. Encourages EU and national authorities to take on board input by local and regional authorities when developing and implementing emergency and recovery measures;

19. Notes that Parliament insisted, in its resolution on the views of Parliament on the ongoing assessment by the Commission and the Council of the national recovery and resilience plans, on robust transparency and accountability by the Commission, the

25 Both in 2018 prices.
Member States and all implementing partners in the implementation process;

20. Calls on the Commission to thoroughly monitor the potential risks to the EU’s financial interests and not to proceed with any payments if the milestones linked to measures to prevent, detect and correct corruption and fraud are not met; calls, moreover, on the Commission to immediately inform the budgetary authorities about all situations where funds are not paid out due to allegations of misuse, corruption, fraud or breaches of rule of law, and where Member States do not have sufficient anti-fraud systems in place;

21. Believes that sound financial management should be pursued and that absorption, while remaining an important objective, should not be prioritised over performance, value for money considerations and the EU added value of programmes, and that, in case of irregularities, recoveries should be ensured by means of financial corrections;

22. Calls on the Member States to integrate corruption risk assessments throughout programme design and delivery phases, in the areas of economic stimuli and subsidies; notes that risk situations should be addressed comprehensively, using a whole-of-government approach where possible;

23. Is of the opinion that more transparency, coupled with technology and data science, is instrumental in preventing and reducing corruption; calls on the Commission and the Member States, in this regard, to make full use of the available tools, such as the Early Detection and Exclusion System (EDES), Arachne and the Irregularities Management System (IMS) to effectively and efficiently identify the problematic economic operators and the private individuals (or natural persons) linked to them in both direct and indirect management;

24. Highlights the added benefits that information sharing can bring to fighting corruption; urges the Commission and the Member States to make sure that this is done through a digital, interoperable and standardised system for data collection, and encourages Member States to exchange information both among themselves and with the relevant EU bodies (in particular the European Court of Auditors (ECA), OLAF, the EPPO and Europol) to cooperate more closely, especially in crisis situations, with a view to improving data collection, enhancing the effectiveness of controls and securing the recovery of misused funds;

25. Stresses that it is vital to know who is benefiting from EU funds in order to prevent corruption, irregular spending and the misuse of funds; regrets that currently, data for the identification of economic operators and their beneficial owners is either not easily or not at all accessible; believes that the establishment of a single, interoperable database displaying the direct and ultimate beneficiaries of EU subsidies would represent an important step towards remedying this situation;

26. Emphasises that beneficiaries must be identifiable across Member States and independent of funds, including those both under direct and shared management; underlines that the database should be limited to necessary information and that information may be published in accordance with the standing jurisprudence of the

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Court of Justice of the European Union (CJEU); urges the Member States to cooperate with the Commission in order to create such a single, centralised database to trace the flows of EU money flows;

27. Insists on the need to strengthen EDES and its scope in the context of a forthcoming targeted revision of the Financial Regulation; calls on the Commission to extend the scope of EDES to funds under shared management, with due respect for the principles of proportionality and appropriateness;

28. Regrets the fact that OLAF and the ECA do not have full access to the Arachne Risk Scoring Tool and are obliged to request access to Arachne’s risk calculation on a case-by-case basis, which complicates the process of information exchange, thereby hampering the detection of and reaction to emerging risk patterns; deems it necessary to find a solution for granting OLAF and the ECA access to the Arachne Risk Scoring Tool; is of the opinion that integrating Arachne in national management and control systems should be mandatory for all managing authorities;

29. Calls on the Commission to evaluate the response to the COVID-19 pandemic on several fronts, including as regards preventive anti-corruption measures, analysis of empirical evidence and the rate of payment claims absorption, to look at whether corruption affected the outcome and whether integrity was upheld or undermined, and to report back to Parliament on the main findings to allow it (as the discharge authority) to include a dedicated chapter on emergency funds and crises-related spending in the 2020 discharge;

30. Regrets the fact that the Commission makes extensive use of the redaction tool to cover parts of the APA contracts; insists, notwithstanding the sensitivity of the information, that such details are important in improving accountability and the global response to the virus; calls on the Commission to better address transparency and accountability aspects in response to future crises, thereby contributing to enhancing public trust, fuelling public debate and promoting EU values; notes that the Commission applies Article 38(3)(d) of the Financial Regulation, referring to the case where disclosure of data risks harming the commercial interests of the recipients, and calls for proportionality of effective scrutiny and full accountability of the use of the resources with the public interest;

31. Believes that if relevant data on public procurement were to be made publicly available for analysis, freely and easily accessible, in an open and standardised format, together with data on court convictions and on company registries, this could significantly foster the prevention and detection of potential cases of corruption; is of the opinion, therefore, that relevant information concerning all public procurement contracts (using public money) should be publicly available, published on a dedicated website and with the minimum of redaction, in full compliance with data protection and other legal requirements;

32. Notes that, in line with Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union, the decision to activate the ESI is to be taken by the Council on the basis of a Commission proposal; criticises, however, the fact that, despite its strong links to the EU budget, the activation of the ESI was done without full
respect and observance of Parliament’s prerogatives as budgetary authority and final supervisor of the EU budget;

33. Regrets the fact that, despite several attempts to get a clear overview, the Committees on Budgets and on Budgetary Control are not given access to relevant data on the EU funds spent under the ESI to finance the APA contracts, amounting to around EUR 2.5 billion for six APA contracts;

34. Acknowledges that the Joint Procurement Agreement allows the Member States and EEA and other countries to jointly negotiate better terms for supplying medical equipment; calls on the Commission to assess, with a view to establishing good practices for future crises, the efficiency and effectiveness of the Joint Procurement Agreement and the rescEU stockpiling of medical equipment; urges the Commission, moreover, to put in place a solid and transparent EU public procurement framework, when funds from the EU budget are fully or partially involved, that would allow for comprehensive scrutiny by Parliament, especially concerning major economic, security or health crisis-related spending areas;

35. Urges the Commission to propose a review of the Financial Regulation to include a solid legal basis for the mandatory use of open and standardised public procurement data, and to make budgetary control IT systems mandatory, public and interoperable with national databases;

36. Calls on the Commission and the Member States to work together towards the adoption of robust National Anti-Fraud Strategies (NAFS), that offer the benefit of coordinating the actions of several entities and guaranteeing optimisation of resources and coverage of all the areas of interest (expenditures under indirect and shared management, national funds, etc.); notes that by the end of 2020, 14 Member States had adopted NAFS and 5 had launched procedures to do so; notes that this represents progress compared to 2019 but regrets the fact that not all Member States have yet adopted NAFS or intend to do so; is concerned that the existing strategies vary in scope and depth and need to be updated in this regard;

37. Urges the Member States to harmonise and align their standards and calls on the Commission to initiate infringement procedures against Member States refusing to do so; calls on the Commission to support Member States to improve their strategies to ensure the existence of robust NAFS throughout the Union;

38. Considers it important that the Commission assess not only the existence but also the effectiveness of NAFS in its upcoming report on the rule of law; is of the opinion, moreover, that future reports on the rule of law should build on good practices and provide country-specific recommendations on how to address the concerns identified or remedy breaches, including deadlines for implementation, where appropriate, and benchmarks to be followed up on; considers that the measures adopted in response to the COVID-19 pandemic and which an impact on the rule of law should also be looked into;

39. Recalls that the protection of the Union’s financial interests is of utmost importance and

that continuous, strong efforts in this regard are necessary at all levels;

40. Insists on the need for collaborative work among EPPO and other EU bodies such as Eurojust, Europol and OLAF to carry out criminal investigations and prosecutions within the respective mandate/remit; emphasises the crucial role of the aforementioned institutions and bodies during emergency situations and crises to fight those who take advantage of EU funds, and acknowledges, in this regard, the working arrangements signed between them; stresses that efficient collaboration is only possible when EU bodies have political support and are equipped with sufficient human and financial resources;

41. Criticises the fact that the Commission ignored Parliament’s call to expand the EPPO staffing plan and that it did not implement the 2020 conciliation agreement; reiterates the need for increased resources and staff for both the EPPO and OLAF in order to facilitate the fight against corruption, fraud, irregular spending and the misuse of funds;

42. Alerts that organised criminal groups operate without borders and that, increasingly, they acquire assets in Member States other than those in which they are based and in third countries;

43. Calls for increased effective international cooperation on taking of evidence, mutual recognition, service of documents, and confiscation and freezing of assets, with a view to giving the competent authorities the means to trace, freeze, manage and confiscate the proceeds of crime; calls on the Commission, therefore, to support and promote the Union-wide harmonisation of definitions of corruption offenses and to make better use of the existing data sets and methodology to develop new ones in order to obtain comparative data from across the EU on the treatment of corruption cases;

44. Calls for greater cooperation between the representatives of national authorities and OLAF in order to ensure that the investigations carried out in relation to fraud to the detriment of the EU budget are duly considered;

45. Underlines that the Group of States Against Corruption (GRECO) has made comprehensive recommendations to Member States with respect to the use of public money in crisis and emergency situations; calls on all Member States to fully implement these recommendations, thereby enhancing transparency and accountability; welcomes, in this regard, the possibility for the EU to join GRECO as a full member;

46. Welcomes the package of legislative proposals presented by the Commission to strengthen the EU’s rules on anti-money laundering and countering the financing of terrorism; calls for the efficient and consistent implementation of the future framework, which anticipates emergency situations where stability and security in the EU may be compromised;

47. Observes with concern Europol’s conclusion that criminals are digital natives, which means that virtually all criminal activities now feature some online component and that many crimes have fully migrated online; is concerned that new technologies also allow traditional crimes to continue to be committed in a non-traditional way, from anywhere in the world and at any time; calls on the Commission and the Member States to make a decisive investment and a strong political commitment to meet these new challenges;
48. Is of the opinion that advances in the field of AI present a major opportunity for the public sector to detect and prevent fraud, for instance by strengthening the Commission’s central analytical capacity, as IT tools can easily scrape, link and analyse the necessary data and detect potential irregularities, fraud and corruption; calls on the Commission and the Member States to put into use a single integrated, interoperable information and monitoring system, including a single data-mining and risk-scoring tool to access and analyse the relevant data and increase control reliability, with a view to a generalised application, including with the help of the Technical Support Instrument;

49. Notes that the collection of data on those ultimately benefitting, directly or indirectly, from Union funding under shared management and for projects and reforms supported by the RRF, including data on beneficial owners of the recipients of the funding, is necessary to ensure effective controls and audits, and that the rules related to the collection and processing of such data should comply with the applicable data protection rules;

50. Highlights the benefits that digital land registers bring to transparency of ownership and to preventing and fighting corruption; welcomes the Commission initiatives to implement such programmes across the EU; calls on the national authorities to collaborate with the Commission towards the extensive implementation of these programmes;

51. Takes the view that a centralised information and monitoring system should include procurement requirements with EU-wide, country-by-country, publicly available data for contractors and contracting authorities to systematically report specific project data, progress in achieving milestones and the direct and ultimate beneficial owners (in a standardised format); believes that such a system should be created in order to facilitate data collection, interoperability and treatment at EU level, and to ensure effective controls and audits; underlines that the system should be limited to necessary information and that it should be possible to publish information in accordance with the standing jurisprudence of the CJEU; points out, however, that an intermediate level could be introduced at national level (i.e. decentralised collection point) in order to facilitate the data collection exercise, taking into consideration language differences and local characteristics (such as regional responsibilities);

52. Suggests the use of financial disclosure / assets declaration systems for the prevention, detection and investigation and/or prosecution of corruption with a view to promoting accountability and awareness among public officials, thereby avoiding conflicts of interest;

53. Believes that data platforms can strengthen oversight mechanisms and enhance effective information sharing with other government departments;

54. Believes in the benefits of professionalisation and adequate wages in public procurement, namely that having specialised, well trained and well paid public procurement staff who share their expertise, knowledge and (market) intelligence, also across Member States’ borders, is a positive practice to be implemented together with other corruption prevention techniques;

55. Encourages the Member States to make good use of EU funding and programmes; calls
on national authorities to collaborate with OLAF towards training staff with respect to the different fraud types, trends, threats and risks, corruption and other illegal activities affecting the EU’s financial interests;

56. Instructs its President to forward this resolution to the Council and the Commission.
OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Budgetary Control

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

Rapporteur for opinion: Tomáš Zdechovský

SUGGESTIONS

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

1. Acknowledges that crisis measures can have a direct impact on the balance between the different powers of the state and recognises that governments and local authorities may be forced to adopt emergency measures with less public consultation than would generally be expected in order to prevent grave economic and social crises from undermining democracy and the rule of law; believes that those measures should always be limited in time, proportionate, necessary and never be used as a pretext for changing the balance of powers more permanently; recalls that great importance should be given to upholding an effective system of checks and balances and to respecting the rule of law, fundamental rights and democratic accountability for all actions taken in response to an emergency;

2. Recalls that, regardless of the method of implementation, Member States have to respect these principles whenever they implement the Union budget; considers the effective prevention and prosecution of fraud, corruption and conflicts of interest to be preconditions for compliance with sound financial management as enshrined in Article 317 TFEU; recalls further that strategies against corruption, irregular spending and misuse of Union funds should be comprehensive and transparent;

3. Stresses the need to put in place effective mechanisms to monitor the implementation of emergency funding to ensure that all emergency funding reaches its intended beneficiaries and is in full compliance with transparency requirements, fundamental rights, the rule of law and other legal obligations, notably sound financial management; believes, therefore, that public funding must always be traceable to meet the requirements in terms of accountability, transparency and monitoring of funding; expresses its concern about a certain level of resistance in some Member States concerning anti-corruption measures and transparency reforms, which can partly be
explained by the personal interests of some lawmakers and government officials; calls on the Member States and the relevant Union bodies, within the scope of their competences, to carry out independent investigations into reports of non-compliance with funding rules and expects the Commission to make use of its powers to suspend or recover Union funding in cases where non-compliance has been established;

4. Underlines that the emergency response to the current COVID-19 crisis has created a favourable environment for increased criminal activities and, specifically, for corruption, as confirmed by prominent high-level cases in some Member States; considers, therefore, that responses to this crisis from international organisations, states and private entities should also include mechanisms for preventing and detecting corruption; believes that the response to the COVID-19 crisis must abide by the highest standards of openness, transparency, accountability and law enforcement, as essential components of rule of law-based democratic governance;

5. Calls on the Member States and the Commission to carefully review the policies they enacted during the COVID-19 crisis and to enhance existing mechanisms and protocols and define new ones for any future emergency spending, in order to increase the level of transparency of public spending, with a particular focus on preventive measures; notes that the Commission can exercise *ex-ante* and *ex-post* control over EU funds; regrets, in this respect, the reluctance of the Commission to use the means at its disposal, notably the measures provided for in the rule of law conditionality regulation, which entered into force on 1 January 2021;

6. Underlines further the need for *ex ante* verification of anti-corruption legislation and practices in Member States; calls on the Commission to include anti-corruption milestones in its proposals for Council decisions on the approval of the assessment of the recovery and resilience plans in cases where a risk of misuse of funds exists; stresses the fact that Directive 2014/24/EU of the European Parliament and of the Council on public procurement1 (‘EU Public Procurement Directive’) already allows for quick and less administratively burdensome procedures and that Member States’ governments should not manage these procedures outside of the legal requirements;

7. Points out that corruption, in general, undermines the functioning of the state and public authorities at all levels and is one of the key enablers of organised crime, and even more so in times of crisis; emphasises that independent institutions, such as independent judiciary and prosecutors, effective anti-corruption frameworks and transparency and integrity in the exercise of state power can strengthen legal systems and trust in public authorities and democratic processes; calls on all Member States to develop or update their national anti-corruption strategies with dedicated sections on public spending in times of crisis and to conduct a comprehensive evaluation of the equipment and human resources needs of law enforcement authorities, taking into account the rapid evolution and diversification of irregular and illegal public spending, and to provide them with the necessary resources, including IT tools, to enhance their capability to prevent and fight corruption; believes that various forms of transnational corruption affect not only the integrity of national economies, but also impact the economy on a European and international scale, and thus reiterates the need to increase the overall transparency of

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the economic and financial environment of the Union;

8. Stresses that the incorrect management of public funds and ineffective responses to a crisis may intensify growing distrust in government; believes that the public has the right to be informed and to be provided with up-to-date, transparent and reliable information and data during crises; regrets that during the COVID-19 pandemic, several Member States adopted measures that hampered public access to documents, particularly for media professionals; recalls the role of the free press as a key component of a functional democracy and stresses the importance of protection mechanisms at national and European level in order to preserve and strengthen free media; believes that public availability of relevant, non-confidential data on public procurement and convictions in a machine-readable format could significantly foster the prevention and detection of potential cases of corruption; considers, therefore, that all public procurement contracts awarding public funding should be published with minimum redaction on a dedicated, publicly accessible website in an open and standardised format to allow for analysis and thereby ensure transparency and scrutiny of public spending;

9. Notes that many governments have benefited from emergency assistance and top-up Internal Security Fund (ISF) money for border surveillance; deplores the lack of transparency of the Commission and Member States towards Parliament; condemns in particular the refusal by the Croatian Government to provide Parliament with key documents regarding additional funding provided to Croatia for border surveillance; highlights that this refusal impedes Parliament in carrying out its scrutiny role;

10. Welcomes the critical role of civil society organisations in fighting corruption; emphasises that the success of any emergency response greatly depends on the active participation of all actors in society; believes that the current COVID-19 crisis has highlighted the importance of maintaining a robust system of citizen participation in public decision-making; notes the particular importance of the protection of whistleblowers who report suspicions of corruption; is concerned by recent reports from the Whistleblowing International Network (WIN) and Transparency International that 14 Member States have either not started or made minimal progress towards implementing the EU Directive on Whistleblowing, in the light of its transposition deadline of 17 December 2021; regrets that, during the COVID-19 crisis, several Member States adopted emergency legislation imposing restrictive measures on the activities of civil society; urges Member States to develop comprehensive crisis management plans in order to prepare for similar situations in the future and to include safeguards for the role of civil society;

11. Underlines the essential role of the European Public Prosecutor’s Office (EPPO) within the EU framework for preventing and fighting corruption; calls on the remaining non-participating Member States to collaborate with and eventually join the EPPO; highlights that Member States can benefit from valuable expertise by actively collaborating with the EPPO; recalls the need to ensure proper human and budgetary resources for the proper functioning of the EPPO;

12. Acknowledges the current role of artificial intelligence and big data and their future potential in fighting corruption and the misuse of public funds; calls on the Commission
and the Member States to make full use of the available tools, such as the Early Detection and Exclusion System (EDES), Arachne and the Irregularities Management System (IMS), to effectively and efficiently identify problematic economic operators and the natural persons linked to them both in direct and indirect management; encourages Member States to exchange information both among themselves and with the Commission and to cooperate more closely with a view to improving data collection and enhancing the effectiveness of controls; regrets the fact that the European Anti-Fraud Office (OLAF) does not have full access to the Arachne Risk Scoring Tool; reiterates its calls on the Commission to make the use of Arachne mandatory for EU funding); points out that all publicly available information and data should be easily accessible; points out that information and data must be processed in compliance with the norms concerning data protection and the right to privacy of individuals; stresses that enforcement authorities have to be ahead of criminals who increasingly use new technologies and seize any opportunity to expand their illegal activities, online or offline;

13. Recalls that the Group of States against Corruption (GRECO) issued several recommendations concerning the use of public money in crisis situations, in the context of the COVID-19 pandemic notes that in its 21st general activity report, GRECO states that governments should rigorously manage the corruption risks that have emerged due to the need to take extraordinary measures to combat the COVID-19 pandemic; calls on the Member States to follow all of the GRECO recommendations, as well as its guidelines, and welcomes the possibility of the EU joining GRECO as a full member;

14. Calls on Member States and the Commission to review and, where appropriate, strengthen national and Union bodies, legal procedures and practices against various forms of corruption; insists on the need for closer cooperation between the competent Union bodies, namely the EPPO, Eurojust, Europol and OLAF, within their respective mandates, when carrying out criminal investigations into and prosecutions of corruption; recalls, in this respect, the importance of effective information flows and enhanced communication between the different relevant national authorities and between Union bodies; calls for closer cooperation between the EU, its Member States, intergovernmental organisations, notably the United Nations, and non-governmental organisations in the fight against corruption.
**INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION**

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### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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

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

Légende des signes utilisés:

+ : pour  
- : contre  
0 : abstention
## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

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| **Members present for the final vote** | Matteo Adinolfi, Olivier Chastel, Caterina Chinnici, Lefteris Christoforou, Corina Crețu, Ryszard Czarnecki, Martina Dlabajová, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Pierre Karleskind, Joachim Kuhs, Ryszard Antoni Legutko, Younous Omarjee, Tsvetelina Penkova, Markus Pieper, Sabrina Pignedoli, Michèle Rivasi, Petri Sarvamaa, Vincenzo Sofo, Michal Wiezik, Angelika Winzig, Lara Wolters, Tomáš Zdechovský |
| **Substitutes present for the final vote** | Maria Grapini, Ramona Strugariu, Viola Von Cramon-Taubadel |
### FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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**Key to symbols:**

+ : in favour
- : against
0 : abstention