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DRAFT 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

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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 Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts¹,
- having regard to Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC²,
- 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 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive)⁴,
- having regard to Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU⁵,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012⁶,
- having regard to the OLAF Report 2019⁷ and the 2019 Annual Activity Report of the OLAF Supervisory Committee,

¹ OJ L 94, 28.3.2014, p. 1.

² OJ L 94, 28.3.2014, p. 65.

³ OJ C 252, 18.7.2018, p. 56.

⁴ OJ L 198, 28.7.2017, p. 29.

⁵ OJ L 156, 19.6.2018, p. 43.

⁶ OJ L 193, 30.7.2018, p. 1.

⁷ OLAF, 'Twentieth report of the European Anti-Fraud Office, 1 January to 31 December 2019', 2020.

- 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 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 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility¹¹,
- having regard to Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017¹²,
- 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,
- 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 its resolution of 7 July 2021 on the protection of the EU’s financial

⁸ Gallego, J., Prem, M. and Vargas, J.F., ‘Corruption in the times of Pandemia’, May 2020.

⁹ SWD(2020)0156, SWD(2020)0157, SWD(2020)0158, SWD(2020)0159 and SWD(2020)0160.

¹⁰ OJ L 437, 28.12.2020, p. 30.

¹¹ OJ L 57, 18.2.2021, p. 17.

¹² OJ L 107, 26.3.2021, p. 30.

¹³ Texts adopted, P9_TA(2021)0149.

interests – combating fraud – annual report 2019¹⁴,

- 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 Instrument¹⁵,
 - having regard to Europol’s press release of 5 June 2020, entitled ‘Europol launches the European Financial and Economic Crime Centre’¹⁶,
 - 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 (A9-0000/2021),
- A. whereas financial and economic crime includes 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 Member States’ governments to provide for extra funding and substantially and swiftly increase spending;
- C. 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);
- D. whereas the decision on its activation was taken by the Council alone, without Parliament’s involvement;
- E. 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;
- F. whereas because of the pressing nature of the crisis, procurement procedures and means of control have been relaxed in many places in order to expedite implementation;

¹⁴ Texts adopted, P9_TA(2021)0337.

¹⁵ OJ C 272, 17.8.2020, p. 1.

¹⁶ <https://www.europol.europa.eu/newsroom/news/europol-launches-european-financial-and-economic-crime-centre>

- G. whereas response plans do not give enough consideration to governance and problems of corruption;
- H. whereas crisis creates opportunities for numerous violations of integrity and could intensify fraud and corruption, particularly in public procurement, economic stimulus packages and public organisations;
- I. 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 fraud¹⁷;
- J. whereas corruption is a major threat in the private and public sphere and has a disproportionate impact on the poor and most vulnerable, increasing costs and reducing access to services;
- K. whereas a rising number of organised crime groups are active in the EU, often with cross-border reach;
- L. whereas technology brings new detection and monitoring capabilities, reducing the burden on investigators and enabling the design of smarter enforcement measures;
- M. whereas the integrity of the Union financial system is dependent on the transparency of corporate and other legal entities, trusts and similar legal arrangements;
- N. whereas according to the latest report from Transparency International and the World Health Organization Collaborating Centre (WHO CC)¹⁸, the European Commission is violating 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;
- O. whereas curbing corruption requires government ownership of reforms, international cooperation, and a joint effort with civil society and the private sector;
- P. whereas in a situation of high expectation, severe pressure and unprecedented spending volumes, public officials could be unfit to keep up with the increased professional standards needed, or not at ease with doing so; whereas, furthermore, officials may not necessarily become promptly aware of conflict-of-interest situations;
- Q. whereas there is evidence that professionalisation and adequate wages in public procurement positively influence public officials to refrain from corruption¹⁹;
- R. whereas the Lisbon Treaty took the direction of reinforcing the role of the European Parliament, to bring about more coherence and democratic accountability;
- 1. Acknowledges that the recent crises have confirmed the need to be able to mobilise

¹⁷ [Fighting fraud in EU spending: action needed \(europa.eu\)](https://ec.europa.eu/anti-fraud/sites/default/files/docs/body/identifying_reducing_corruption_in_public_procurement_en.pdf)

¹⁸ <http://ti-health.org/wp-content/uploads/2021/05/For-Whose-Benefit-Transparency-International.pdf>

¹⁹ https://ec.europa.eu/anti-fraud/sites/default/files/docs/body/identifying_reducing_corruption_in_public_procurement_en.pdf

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;

2. Is of the opinion that such crises provide an opportunity and a need to strengthen anti-corruption and integrity policies, and therefore improve 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;
3. 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;
4. 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;
5. Expresses its concern, however, that transparency, control and anti-corruption reforms have met a certain resistance in some Member States, which has been explained by the fact that they affect the personal interests of the law-makers and government officials in charge of enforcing them;
6. Recalls that governments need efficient and transparent reporting, independent ex post audits and accountability procedures, and open channels of communication with civil society and the private sector to ensure that the funds and measures are helping the people who need it most;
7. Is of the opinion that ex post controls and evaluations should be strengthened wherever ex ante controls and evaluations are not feasible;
8. Believes that it is important to keep citizens engaged in the fight against corruption and fully protected from negative personal consequences; calls on the Commission to provide the right platforms for engagement;
9. Notes that in the midst of an economic, security or health-related crisis, governments have a tendency to relax contracting procedures; 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 not manage these procedures outside of the legal requirements;
10. Insists, however, that in order to curb the potential negative effects of these policies in

terms of graft, top-down accountability tools such as audits should by default accompany any relaxation of contracting rules, as flexibility and reactivity should not come at the expense of public accountability and performance;

11. 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 citizens' health and businesses across the EU;
12. Notes that the Recovery and Resilience Facility (RRF)²⁰, the key instrument at the heart of NextGenerationEU, makes it possible to offer Member States grants (of up to EUR 312 billion) and loans (of up to EUR 360 billion)²¹ for public investments and reforms aimed at addressing structural weaknesses and making Member States' economies more resilient;
13. Believes that sound financial management should be pursued and that absorption should not be prioritised over value for money considerations;
14. 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;
15. Is of the opinion that more transparency, coupled with technology and data science, could also help to identify and reduce corruption; in this sense, 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 the problematic economic operators and the private individuals (or natural persons) linked to them in both 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;
16. Insists on the need to strengthen EDES and its scope in the context of a forthcoming targeted revision of the Financial Regulation;
17. Regrets the fact that OLAF does not have full access to the Arachne Risk Scoring Tool;
18. Calls on the Commission to evaluate the response to the COVID-19 pandemic, to look at how corruption affected the outcome and whether integrity was upheld or undermined, and to report back to Parliament on the main findings;
19. Finds it lamentable 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; 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

²⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0241>

²¹ Both in 2018 prices.

and full accountability of the use of the resources with the public interest;

20. 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 all public procurement contracts (using public money) should be publicly available, published on a dedicated website and with the minimum of redaction;
21. Deplores the fact that, despite its strong links to the EU budget, the activation of the ESI as part of the EU response to the COVID-19 outbreak was done without full respect and observance of Parliament's prerogatives as co-legislator and final supervisor of the EU budget;
22. Objects vehemently, moreover, to 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 Advance Purchase Agreements (APA) contracts, amounting to around EUR 2.5 billion for six APA contracts;
23. Urges the Commission 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 full and unlimited scrutiny by Parliament, especially concerning major economic, security or health crisis-related spending areas;
24. Calls on the Commission and the Member States to work together towards the adoption of robust National Anti-Fraud Strategies (NAS), 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.);
25. Insists on the need for collaborative work among the European Public Prosecutor's Office (EPPO) and other EU bodies such as Eurojust, Europol and the European Anti-Fraud Office (OLAF) to carry out criminal investigations and prosecutions within the respective mandate/remit;
26. 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;
27. Welcomes, in this regard, the possibility for the EU to join GRECO as a full member;
28. 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; suggests, therefore, that the Commission, together with the Member States, develop a framework that aspires to the highest standards in terms of legality, ethics, transparency, security, privacy and accountability so that public trust and confidence in the use of this tool is

preserved;

29. Takes the view that a centralised procurement administration to which contractors and contracting authorities are obliged to systematically report highly detailed project data and progress (in a standardised format) should be created, in order to facilitate data collection and treatment on an EU level;
30. Believes that data platforms can strengthen oversight mechanisms and enhance effective information-sharing with other government departments;
31. 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;
32. Encourages the Member States to make good use of EU funding and programmes, and, with the help of OLAF, to train staff to understand fraud types, trends, threats and risks, corruption and other illegal activities affecting the EU's financial interests;
33. Instructs its President to forward this resolution to the Council and the Commission.