Corruption in the public and private sectors: the impact on human rights in third countries

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The European Parliament adopted a resolution on corruption in the public and private sectors: the impact on human rights in third countries.

Parliament recalled, according to the World Bank, corruption represents 5% of global GDP (USD 2.6 trillion), with over USD 1 trillion paid in bribes each year and that it adds up to 10% of the total cost of doing business on a global basis and 25 % of the cost of procurement contracts in developing countries.

It also noted that each year USD 20-40 billion, corresponding to **20-40% of official development assistance, is stolen from public budgets in developing countries**.

Parliament deplores that from 2000 to 2009, developing countries lost USD 8.44 trillion to illicit financial flows, ten times more than what they received in foreign aid. It stressed that the **money stolen through corruption each year is enough to keep the world's hungry fed 80 times over**.

With this in mind, Parliament believed that **the EU can only become a credible and influential leader in the fight against corruption if it addresses the problems of organised crime, corruption and money laundering within its own borders in an adequate manner**.

Although welcoming, in this regard, various initiatives taken at European level including the renegotiation of the Savings Taxation Directive, meant effectively to end banking secrecy, Parliament considered that these actions are not sufficiently ambitious and that the EU should follow the example of the United States in enacting the Sergei Magnitsky Rule of Law Accountability Act of 2012 and adopt similar legislation at EU level by establishing a common EU list of officials involved in the death of Sergei Magnitsky. This Council Decision should impose targeted sanctions on those officials, such as an EU-wide visa ban and a freezing order on any financial assets that they or their immediate family may hold inside the European Union.

Members also called on the Commission to draw up an **action plan**, with a view to creating a mechanism for listing and imposing similar targeted sanctions against officials of third countries (including police officers, prosecutors and judges) involved in grave human rights violations and judicial ‘manipulations’ against whistleblowers, journalists reporting on corruption and human rights activists in third countries.

Accountability and transparency of external aid and public budgets: Parliament supported the EU’s commitment to embrace and mainstream throughout its development policies the concept of democratic ownership, that is, the effective and full participation of people in the design, implementation and monitoring of development strategies and policies of donors and partner governments. Such a policy fosters involvement of programme beneficiaries and therefore contributes to greater monitoring and accountability in the fight against corruption. To ensure that the blending facilities expand the effectiveness of development finance, the **governance** of those instruments needs to be reviewed. It therefore called on the Commission **to impose the highest levels of integrity in the procurement processes for implementation of EU-funded projects**. This approach would benefit all concerned, including associations of land-owners as well as disadvantaged groups.

Parliament also urged the EU to further transparency by supporting the creation **of a global system to track aid pledges**, in order to be able to hold donor countries to their promises of aid and to hold them

accountable for the projects, institutions or groups that they support. It suggested that the Commission publicise the reporting mechanisms within OLAF regarding misuse of EU funds among participants in public tenders and beneficiaries of EU aid.

Several other measures were proposed such as:

- greater transparency on the beneficiaries of funding;
- enhanced controls;
- an extension of the definition of human rights defenders in the EU Guidelines on Human Rights Defenders to include anti-corruption activists, investigative journalists and, notably, whistleblowers;
- initiatives from the international financial institutions (IMF, World Bank) to evaluate the risk of corruption and bolstering transparency (for example, the "Publish What You Pay" initiative).

Corruption and development policies: emphasising that the poorest people in developing countries, being heavily reliant on public services, are hurt disproportionately by petty corruption, Parliament called for greater consistency in development policies stressing that **EU assistance in the areas of fiscal governance and action on tax fraud** needs to be increased under its development funding instruments.

Parliament believes that fighting corruption, including tax havens, tax evasion and illicit capital flights, is part of a broader effort to promote good governance, which is defined as one of the key priorities to enhance the effectiveness of EU development policy.

Improving Member States' jurisdiction: Parliament requested the Member States to amend their criminal laws, where necessary, to **establish jurisdiction over individuals of any nationality found on their territory who have committed acts of bribery or embezzlement of public funds**, regardless of where the crime occurred.

It also urged the Member States, as recommended by the UNCAC, to adopt legislative and other measures to establish **intentionally committed illicit enrichment** – that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income – as a criminal offence.

Capacity building of anti-corruption institutions: Parliament called on the EU and the Member States to initiate the development of international standards on the independence and effectiveness of anti-corruption authorities, drafted intergovernmentally with the aim of final adoption by the UN General Assembly. It urged the EU and its Member States to foster and show support for the creation of an International Commission Against Corruption established by an international treaty or by a Protocol to the UNCAC, which would give rise to an international body of criminal investigators endowed with equivalent powers of national law enforcement and prosecution authorities to investigate and prosecute crimes of corruption in domestic territories of the signatory States, and being able also to indict individuals in national criminal courts. It also invited the Member States to support the establishment of a UN Special Rapporteur on financial crime, corruption and human rights.

Corporate responsibility: Parliament requested all EU enterprises to fulfil their corporate responsibility to respect human rights in line with the UN Guiding Principles. It called for the development of more effective transparency and accountability standards for EU technology companies in connection with the export of technologies that can be used to violate human rights.

It also urged the Commission to **propose legislation requiring EU companies to ensure that their purchases do not support perpetrators of corruption, conflicts and grave human rights violations**. It reiterated the need for the EU and the Member States to take appropriate measures to monitor and eventually sanction companies based on their territory which are involved in corruption in third countries. A public list of companies which have been convicted of corrupt practices or whose company officials are

being indicted for corrupt practices in Member States or third countries should be published. Members also welcomed the agreements reached between the European Parliament and the Council requiring companies in the extractive sector and loggers of primary forests to disclose payments to governments on a country and project basis and called for this practice to be extended.

Peace and stability operations: Parliament stressed that corruption often fuels crime and contributes to conflict and fragility of countries. It called, therefore, on the UN to take steps to ensure that those who are victimised by peacekeepers have the **right to remedy**, and to improve reporting mechanisms and the whistleblower protection policy.

Parliament also called on the Union and its Member States to support:

- the creation of the oversight mechanism of the International Anti-Corruption Code of Conduct;
- the creation of an international framework regulating the activities of military and private security companies, that would include dissuasive sanctions.

International cooperation and assistance: Parliament recommended that Member States enhance the implementation of Chapters IV (International Cooperation) and V (Asset Recovery) of UNCAC, especially to grant more efficiency to mutual legal assistance requested by third countries.

It encouraged the Commission to propose in the next revision of the Cotonou Agreement the respect of good governance as **an essential element of the Agreement** and to widen the scope of the definition of corruption, allowing the sanctioning of breaches of the good governance clause in all serious circumstances, and not only when related to economic and sectoral policies and programmes on which the European Union is a significant partner in terms of the financial support

Welcoming the initiatives taken in the context of the Arab Spring (recovery of dictators' assets), Parliament called on the Union and its Member States to provide legal and technical assistance to developing countries that wish to recover stolen assets (or assets accumulated illegally by dictatorships) that are held in the territory of the European Union.

Lastly, it encouraged the Union to ensure greater vigilance in relation to European arms manufacturers' exports and to combat opaqueness in the arms trade sector, especially in relation to the use of intermediaries and economic/industrial offsets.