

Resolution on the communication from the Commission to the Council and the European Parliament on a Union policy against corruption (COM(97)0192 C4-0273/97)

A4-0285/98

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The European Parliament,

- having regard to the Communication from the Commission, COM(97)0192 - C4-0273/97,
- having regard to the Treaty on European Union, in particular Articles B, F, K.1(5) and (7) to (9), K.3(2) and K.6 thereof,
- having regard to the Treaty of Amsterdam signed on 2 October 1997, and in particular Articles 2 (ex Article B), 6 (ex Article F) and 29 (ex Article K.1) of the thereby amended Treaty on European Union,
- having regard to the report of the High-Level Group on Organised Crime, which was approved by the European Council meeting in Amsterdam on 16 and 17 June 1997, in particular Recommendation 6 of the Action Plan to combat organised crime ((OJ C 251, 15.8.1997, p. 1.)), which provides for the development of a comprehensive policy against corruption,
- having regard to the Convention on the protection of the European Communities' financial interests ((OJ C 316, 27.11.1995, p. 48.)) and to its Protocols, adopted by the Council on 27 September 1996 ((OJ C 313, 23.10.1996, p.2.)), on 29 November 1996 ((OJ C 151, 20.5.1997, p. 1.)) and on 19 June 1997 ((OJ C 221, 19.7.1997, p. 11.)) and to the Convention on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union, adopted by the Council on 26 May 1997 ((OJ C 195, 25.6.1997, p.1.)),
- having regard to the common position of 6 October 1997 defined by the Council on the basis of Article K.3 of the Treaty on European Union on negotiations in the Council of Europe and the OECD relating to corruption ((OJ L 279, 13.10.1997, p.1.)), the Second Joint Action of 13 November 1997 defined by the Council on the basis of Article K.3 of the Treaty on European Union on negotiations held in the Council of Europe and the OECD on the fight against corruption ((OJ L 320, 21.11.1997, p.1.)), and the common position of 25 May 1998 defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning human rights, democratic principles, the rule of law and good governance in Africa ((OJ L 158, 2.6.1998, p. 1.)),
- having regard to its numerous resolutions and opinions on aspects of the fight against corruption, in particular
 - . its resolution of 15 December 1995 on combating corruption in Europe ((OJ C 17, 22.1.1996, p. 443.)),
 - . its resolution of 15 November 1996 on the draft Council Act drawing up the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union ((OJ C 362, 2.12.1996, p. 321.)),
 - . its resolution of 20 November 1997 on the Action Plan to combat organised crime ((OJ C 371, 8.12.1997, p. 183.)),
 - . its opinion of 20 November 1997 on the draft joint action adopted by the Council on the basis of Article K.3 of the Treaty on European Union on making corruption in the private sector a criminal offence ((OJ C 371, 8.12.1997, p. 193.)),

. its resolutions of 17 February 1998 on the Commission's conduct in respect of alleged fraud and irregularities in the tourism sector ((OJ C 80, 16.3.1998, p. 36.)) and on the Court of Auditors' Special Report No 3/96 on tourist policy and the promotion of tourism, together with the Commission's replies ((OJ C 80, 16.3.1998, p. 38.)),

- having regard to the final declaration of the second summit of heads of state and government of the Council of Europe of October 1997, the 'Twenty guiding principles for the fight against corruption' adopted by the Committee of Ministers of the Council of Europe with Resolution (97) 24, and Resolution (98) 7 authorising the partial and enlarged agreement establishing the 'Group of states against corruption □* GRECO',

- having regard to the OECD Convention of 17 December 1997 on combating bribery of foreign public officials in international business transactions,

- having regard to the Communication from the Commission on 'Public Procurement in the European Union' (COM(98)0143),

- having regard to the Chair Conclusions from the Conference 'Achieving a Corruption-Free Commercial Environment - the EU's Contribution', which was co-hosted by the UK Presidency of the EU, the European Parliament and the Commission on 14-15 April 1998,

- having regard to Council Decision 98/344/EC of 27 April 1998 concerning the conclusion of the agreement amending the Fourth ACP-EC Convention of Lomé, signed in Mauritius on 4 November 1995 ((OJ L 156, 29.5.1998, p. 1.)),

- having regard to the conclusions of the Presidency at the European Council meeting of 15 and 16 June 1998 in Cardiff, which include a call for the Council to adopt the common position concerning corruption in the private sector by December 1998,

- having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on Legal Affairs and Citizens' Rights, the Committee on Budgetary Control and the Committee on Development and Cooperation (A4-0285/98),

A. whereas it is essential to ensure equally high standards of probity in all aspects of activity, whether in the public or private sector,

B. whereas corruption in the public sector endangers the functioning of the democratic system and thus undermines citizens' confidence in the integrity of the democratic rule of law,

C. whereas, further, even in the private sector corruption can have a corrosive impact on the fairness of free competition and on the credibility and financial conduct of businesses,

D. whereas there are numerous connections between corruption and organised crime, which can entail special dangers for the democratic rule of law and the market economy, particularly if organised crime succeeds with the help of corruption in penetrating public administration or the legal economy, because in so doing they gain access to important information and thus can increase their opportunity for exploiting legal structures for illegal purposes,

E. whereas corruption is a worldwide problem requiring comprehensive and wide-ranging measures to prevent and counteract it, which must be taken at world, European, national, regional and local level in a comprehensive, integrated and flexible strategy,

F. whereas corruption has in recent years become a central issue in the debate on legal policy at international level, and in that time there have been repeated calls for efficient, internationally applicable action against corruption from various bodies - albeit with varying emphasis - such as the OECD, the Council of Europe, the World Bank and the UN Conference on Trade and Development (UNCTAD), but also from private interest groups such as the International Chamber of Commerce and NGOs such as Transparency International,

G. whereas it is in the EU's vital interest - as the Commission has pointed out - to develop a

consistent anti-corruption strategy inside and beyond its frontiers that will also cover the fields of international trade and competition, and that of financial and technical assistance,

H. whereas this consistent European anti-corruption strategy is also needed because, although each of the EU Member States has anti-corruption measures of its own, they diverge markedly in their legal impact, range and practical application, resulting in a disparate and patchy anti-corruption system for the EU as a whole,

I. whereas - partly because of the increasing privatisation of public-sector activities and the growing pace of economic integration - anti-corruption measures must not be confined any longer to the national public sector, but every EU Member State must necessarily carry out a programme of legislative simplification and debureaucratisation, as well as adapting its sanctions system to the changing circumstances; whereas this must include the threat of criminal action against any improper influence on a decision-making process in connection with public or private activity at home or abroad, whether exercised by granting a pecuniary advantage (active bribery) or by accepting one (passive corruption, corruptibility),

J. whereas, for more efficient action to combat corruption, criminal penalties must be accompanied by penalties of an administrative, civil and disciplinary kind,

K. whereas the introduction of transparency, by simplifying the law and reducing red tape, and effective control mechanisms for all significant decision-making processes can as a general principle of democracy make a substantial contribution to preventing corruption, because it prevents creating the ideal conditions for corruption to spread and increases the probability of its discovery and punishment,

L. whereas corrupt practices significantly reduce the impact of aid by diverting funds and by leading towards the selection of projects which are less relevant to local realities and the selection of contractors who are less able to attain cooperation objectives efficiently; whereas a consistent European anti-corruption strategy should therefore also cover relations with third countries; this will include demanding, in all agreements with third countries for assistance, cooperation and development, compliance not only with the general principles of transparency and independent justice, but also with a good governance clause which, together with respect for human rights, democratic principles and the rule of law, must become an essential component of any future agreement; in addition, the application of these principles should be extended to all trade relations with third countries, partly to ensure that private companies do not counteract and thus undermine the EU's anti-corruption efforts,

M. whereas the Commission delegations in third countries, acting in conjunction with specialised units to be set up within the Commission directorates-general responsible for development aid and with the Commission's anti-fraud coordination unit (UCLAF), have a major role to play in the efficient implementation of an anti-corruption policy,

N. whereas most regrettably - and in spite of harsh international criticism - many EU Member States are still encouraging corruption in private business activity, as they not only do not prohibit bribery in this area, but actually promote it indirectly by making it tax-deductible; considers that the legal and tax provisions of certain Member States which allow tax deductibility for bribes paid in third countries are totally contrary to the Treaty, particularly as regards the provisions concerning aid granted by Member States, since they distort or threaten competition by favouring particular undertakings or products; whereas the possibility of tax deductibility for bribes may be incompatible with the professed aims of the code of conduct for business taxation adopted by the Council on 1 December 1997 ((OJ C 2, 6.1.1998, p. 2)); whereas the Council must pay special attention to this problem when developing the code in future,

O. whereas many internationally active companies and those representing their interests, most especially the International Chamber of Commerce, are calling for a Europe-wide, comprehensive and consistent anti-corruption strategy in the private sector, partly in order to supplement the

various company self-regulating systems, the 'corporate codes of conduct', and safeguard their operation,

P. whereas there is a particularly urgent need to tackle corruption in the political sphere, by guaranteeing the transparency of political parties' general funding methods, thus impeding the corruption of politicians and political parties,

Q. whereas, in some Member States, state financing of political parties has been introduced precisely to avoid corruption,

R. whereas the European institutions' internal rules for safeguarding the transparency of the decision-making process, concerning in particular finance and financial transactions, are still inadequate,

S. whereas the Commission in particular, in view of its many areas of activity at risk from corruption, needs to have a coordinated, systematic anti-corruption plan,

T. whereas the measures that need to be taken to prevent and effectively tackle corruption - apart from the principle of free competition - also serve the interests of the citizen, who frequently has to bear the cost of over-priced, low-quality or even unnecessary goods, suffer from the impaired efficiency of authorities or administrative processes and, as a result of the destabilising of democratic structures, face personal risks that not infrequently lead to a restriction of civil liberties,

U. whereas in accordance with Article 29 (ex Article K.1) of the EU Treaty, in the wording amended by the Treaty of Amsterdam, preventing and combating bribery and corruption is an essential condition for gradually establishing an area of freedom, security and justice,

1. Strongly supports the Commission's call, in its Communication, for the development of practical and coordinated anti-corruption measures and asks it to put forward the specific proposals falling within its terms of reference as soon as possible;

2. Welcomes the Commission's proposals in its abovementioned Communication COM(98)0143 on the improvements to be made to public contracts in the European Union, since correct, transparent and non-discriminatory tender procedures impede corruption and other kinds of misuse of public resources; urges the Commission to put forward legislative proposals to clarify the conditions of access of tenderers to public procurement procedures, with the aim of eliminating any person convicted of corruption;

3. Calls on the Commission also to develop practical anti-corruption measures for other areas susceptible to corruption (such as the directive on accounting methods), to counteract the emergence of corruption-oriented 'cultures' by adequate training programmes for persons at risk or by wide-ranging campaigns to increase public awareness, and - once the Treaty of Amsterdam enters into force - to make immediate use of its right of initiative in the field of police and judicial cooperation in criminal matters to improve the fight against corruption in Europe, particularly by employing legal instruments other than Conventions;

4. Calls on the Commission, within the context of its policy against corruption, to come forward with specific proposals aimed at combating more effectively corruption within the EU institutions - with due regard for the principles of transparency in decision-making, simpler law, less red tape, effective internal control, and clear responsibilities that are accessible to review by criminal, civil and administrative justice - addressing in particular:

a) the status of internal bodies within the EU institutions responsible for investigating allegations of internal corruption,

b) provisions covering the attribution of criminal jurisdiction over EU officials suspected of corruption,

c) cooperation between EU institutions and national investigative and judicial authorities in cases of alleged internal corruption,

d) the principle of official immunity and the mechanisms for its waiver,

e) the supervisory role of the Court of Auditors and the European Parliament;

5. Calls on the Commission to give effect to the 'essential principle' of good governance in its policy for cooperation with third countries by universally including special anti-corruption clauses in agreements, providing for dissuasive sanctions that are distinct from penal sanctions (the suspension or cancellation of agreements and funding, or the keeping of centralised registers) and strengthening the monitoring and assessment machinery within the Commission itself;

6. Demands that the Commission name explicitly those Member States which permit tax deductions for the bribery of foreign officials; calls upon the Commission to take appropriate action, possibly in form of legislative proposals, with the aim of abolishing tax deductibility of bribes paid to foreign officials;

7. Calls on the Commission to draw up a timetable indicating for each measure proposed the date by which it should be introduced; also calls on the Commission to submit this timetable to Parliament as soon as possible, and by the end of 1999 at the latest;

8. Calls on the Member States resolutely to advance the campaign against corruption at international level and take a credible and leading role in drafting and enforcing international commitments; this would mean their:

- removing from their legal systems and fiscal practices, at an early date and by 1 January 1999 at the latest, any opportunities to make the funding of bribery tax-deductible, without requiring the abolition of such practices to be combined, as happens in some Member States, with conviction of the bribing and bribed parties in a court of law;

- pushing forward the Council of Europe negotiations on the anti-corruption convention currently under discussion, so that it can be signed by the end of 1998;

- ratifying the following conventions by the end of 1998:

- Convention of 26 July 1995 on the protection of the European Communities' financial interests, with its Protocols of 27 September 1996, 29 November 1996 and 19 June 1997;

- Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or the Member States;

- OECD Convention of 17 December 1997 on combating bribery of foreign public officials in international business transactions;

9. Calls on the Council to comply without delay, and by the end of 1998 at the latest, with the guidelines on anti-corruption matters in the Action Plan for combating organised crime, approved by the European Council in Amsterdam on 17 June 1997; this will mean ensuring that the Council adopts the Joint Action on making corruption in the private sector a criminal offence, and in so doing gives due attention to Parliament's views as expressed in its abovementioned opinion of 20 November 1997;

10. Calls on the Council, the Commission and the Member States to give priority, as part of their responsibilities in the campaign against corruption, to the following areas and to ensure that the relevant precautionary measures are coordinated:

- preventing corruption, for instance by means of transparency, simplification and debureaucratisation in all important administrative decisions including financial control, codes of conduct in public administration and private industry, as far as possible abolishing bureaucratic procedures and guaranteeing transparency concerning the financial circumstances of ministers, MPs and people in administrative office who are exposed to risk;

- punishing corruption in all its guises (active and passive corruption, in the public and private sector, at home and abroad, committed by natural and legal persons; the laundering of money from

bribes); here care should be taken to ensure that the opportunities for administrative, civil and disciplinary sanctions are brought into play, alongside penalties under criminal law, in particular by providing for compensation of the damage done to the public budget;

- including the principles of responsible government, transparency and judicial independence as a condition for concluding trade agreements and agreements on assistance, cooperation and development between the EU and third countries;

11. Calls on all political parties, at local, regional, national and European level, to make their financial conduct - especially in the case of political parties' donations - transparent so as to preclude any suspicion of corruption; calls further on all political institutions to ensure that politicians and other decision-makers cannot misuse their professional immunity as a shield from criminal prosecution when there are grounds for suspicion of corruption;

12. Instructs its President to forward this resolution to the Council, the Commission, and the governments and parliaments of the Member States and the applicant countries.