

## **EU funds spending: public procurement, publicity, monitoring and corruption risks**

Ana Gomes  
Member of the European Parliament  
Group of the Progressive Alliance of Socialists and Democrats

*Safeguarding EU funds against fraud & corruption through the civil control mechanism of Integrity Pacts*  
*February 17, 2014, Budapest, Hungary*

On Monday 3rd the European Commission published its first ever bi-annual anti-corruption report on each of the 28 EU countries, citing public procurement and obscure political party financing as among the most pervasive challenges to fighting corruption in the EU. Public procurement contracts, equivalent to one-fifth of the total EU economy, are said to be the worst affected with up to a quarter of their value lost to corrupt practices. An EU-wide barometer survey suggests that 76 percent of Europeans think corruption is wide spread and more than half believe it has increased in the past three years. This report, along with many others published before by Transparency International, depict a worrying scenery in EU Member States: lack of regulation of conflicts of interest, revolving doors and influence peddling, long delays in bringing investigations to court, incapacity of the prosecutors to produce evidence, inadequate and lenient sanctions for the corrupt are all too common.

No sanctions or EU legislative initiatives specifically tailored to crack down on corruption are foreseen, though, despite the fact that the report confirms what we all knew - that corruption crimes cross borders, distort competition and internal market rules. I believe and have defended that we need stronger mechanisms to fight it at the level of the EU, not only monitoring what the Member States are doing or not doing, but demanding concrete action from the authorities - the EU needs its own anti-corruption action plan. I am glad that, despite the resistance from some Member States, the Commission has made a proposal to create an European Public Prosecutor. And I do so because I believe that the coordination and the pressure from the European authorities in Member States can have a very positive impact on the outcome of the investigations of corruption and fraud, reducing, namely, the risks of politicization of the investigations. Let me give you a glaring example: the Tecnoforma case.

In 2012 I reported to OLAF a case of alleged fraudulent use of EU funds, in addition to mismanagement and influence peddling with regards to those funds, as revealed by the Portuguese media involving the company Tecnoforma and the NGO CPPC, in which Mr. Pedro Passos Coelho, current Prime Minister of Portugal, and Mr. Miguel Relvas, former Minister for Parliamentary Affairs, were involved.

Tecnoforma was involved in a EU funded scheme to train municipality officers for airport security in places where airport facilities never operated nor were there plans to authorize them to operate. Mr. Passos Coelho, at the time consultant and manager of Tecnoforma, attracted a lot of business to the company exclusively funded by the European Social Fund, administered at the time by Miguel Relvas, then Secretary of State for the Local Administration, and member of the same political party. During the time that Mr. Relvas administered the Fund, Tecnoforma acquired 63% of all projects funded by the programme in the center of Portugal and earned about 76% of the total amount attributed to private entities.

CPPC was linked to Tecnoforma, operated in its offices and was supposed to implement cooperation projects in African countries, however, the projects it carried out, funded by the European Social fund, never actually materialized outside Portuguese territory and favored Tecnoforma's business interests.

Following my complaint, OLAF launched an investigation in coordination with the Portuguese Attorney General, which is still ongoing. The fact that EU funds were in question and that OLAF was involved was, to my belief, crucial to motivate a serious investigation on the part of authorities, which, I hope, will result at least in a serious and comprehensive explanation of what really happened and whether this kind of promiscuity between public and private interests can continue to be ignored. I could give you many examples of cases of corruption, fraud and money laundering involving high level political personalities which, left to the demise of the national authorities' investigations, are always left unanswered. We don't ever seem to find out the truth and, let's not forget, that this cloud of impunity is very, very dangerous to democracy.

While I welcome the anti-corruption report from the Commission and I take it as a genuine concern, I must also stress that the Commission, which is part of the Troikas, did nothing to fight corruption and fraud in countries which requested financial rescue. The Memorandum of Understanding for financial assistance signed with my country, Portugal, did not mention corruption once. Throughout the implementation of the programme, the Commission has turned a blind eye to many on-going scandals and practices in Portugal, despite specific complaints brought to its attention. The Troikas had a clear opportunity to push for reforms to combat corruption and fraud but glaringly failed to act. Civil society in Portugal is, to my knowledge, barred from participation in public procurement. Independent monitoring simply doesn't seem to exist, aside from the Court of Auditors, which gets the files after the procedures have finished. Before the bailout, I myself and the local chapter of TI met with the representatives of the Commission, the ECB and the IMF to warn them about all the corruption risks in the measures that we could anticipate. If all kinds of privatizations were imposed by the Troika, why hasn't the Commission, at least, ensured that some kind of civil monitoring, or integrity pacts were implemented? Quite the contrary, in Portugal, the Troika has always turned a blind eye and blessed opaque privatizations (which are now being subject to criminal investigation), not to mention the safeguarding of profits of corruption through tax amnesties granted by the Portuguese Government in 2012 and 2013, which ensured secrecy and impunity to individuals and companies who had stashed money in tax havens.

But not all is bad news. The European Parliament and the Council have recently agreed on the revision of the directives on public procurement and concessions. Both of them are a step forward for greater simplicity and transparency. The Commission should actively promote civil monitoring of procurement in the transposition and implementation of the directives and actively work with and support civil society in Member States to ensure a vigilant watch. We are also reviewing the Anti-Money Laundering Directive. I, along with many other colleagues in the whole political spectrum, have proposed amendments to create a public register of beneficial owners of companies. This is extremely important to prevent the use of shell companies to hide the proceeds of criminal activities.

I would like to end by addressing the issue of blacklisting. In my report on the impact of corruption on human rights, the European Parliament called on the Commission work on the formulation of a EU blacklist of companies convicted or being indicted for corrupt practices in Member States as a way of prohibiting those companies from participating in public

procurement or benefit from EU funds in EU Member States. Open calls for such blacklisting have been made in other levels and it's time the Commission starts opening up a debate about it. I am aware that Mr. Kessler from OLAF has acknowledged that the Commission does not have an effective blacklisting system for corrupt companies. He has also expressed reservations about the compatibility of such blacklisting with human rights. In my opinion, there are many ways to overcome these reservations. Human rights should be respected and enforced but not instrumentalized to allow impunity to go on. This list could be formulated by the Commission, based on sufficient evidence provided by Member States' authorities with participation of civil society. In my opinion, convictions of corruption should not be required to include a company on the blacklist - because they are so rare. Rather, the list could be regularly reviewed and the targeted companies should have a mechanism to seek de-listing and contesting the evidence provided. Companies should be barred from participation in procurement until they prove to the Commission that they have put in place internal integrity procedures and sanctions to avoid further malpractice.

We have elections coming up in May and for the first time we will have candidates for the Presidency of the Commission appointed by EU political groups. I hope that the issue of what each one of them proposes to fight corruption in the EU and until where the Commission is willing to go is a hot one in the campaign. I count on civil society to ask the right questions, mobilize citizens and actively participate in the campaign.