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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council - Compilation of comments

Following the invitation of the Presidency in the meeting of the COPEN WP on 26 February, delegations will find in the Annex the comments received from Member States on the above.

Contents

BELGIUM

Belgium is committed to supporting effective measures against corruption while ensuring these measures respect the principles of subsidiarity, proportionality, and national legal traditions. We advocate for clear, consistent, and balanced approaches that avoid unnecessary administrative burdens and maintain coherence with existing EU and international legal frameworks, the latter being our priority.

We would like to thank the Presidency and the Secretariat for their hard work and hope our contributions are helpful and constructive. Please find below our contributions on documents ST5065/25, ST1582/25, and ST5967/25.

Article 2 – Definitions

Belgium is flexible on the definitions in Article 2 but prefers the Council's General Approach. We could suggest the following:

- Art. 2(1): Maintain the definition of 'prevention of corruption' in the recitals, ensuring clarity and usefulness.
- Art. 2(2): Retain the inclusion of 'crypto assets,' clarifying or removing the 'financial or non-financial' distinction.
- Art. 2(2)(b): Include 'exercising a public service function,' maintaining reference to national law and considering 'mandated by or under the authority of a public authority.'
- Art. 2(2)(ii): Include 'or any other person exercising a public service function,' maintaining reference to national law for legislative roles and clarifying related terms.
- Art. 2(2)(iii): Revert to the General Approach, including EU officials and maintaining mention of privileges and immunities.
- Art. 2(6a): Remove the definition of 'conflict of interests,' addressing it in recitals or prevention measures.
- Art. 2(8a): Remove the definition of 'victim,' ensuring consistency with the Victims' Rights Directive.
- Art. 2(8b): Remove the definition of 'concerned public,' revising Article 23d for balance.

Article 3 – Prevention of corruption

Belgium prefers the Council's General Approach which allows for greater flexibility, finding the European Parliament's proposals excessively detailed and potentially overlapping with national laws. We advocate for measures that respect subsidiarity and national specificities, suggesting the transfer of detailed elements to recitals. There is a shared concern about the article's overreach into administrative, procurement, and disciplinary law, which is seen as disproportionate and beyond the scope of criminal cooperation. We suggest the following:

- Refining civil society 'involvement' to favour cooperation over direct strategic involvement. Article 3.6 is deemed too demanding, though promoting participation is acceptable.
- Targeting awareness campaigns to high-risk sectors while maintaining general public information.
- Moving specific examples of preventive measures to recitals.
- Shifting from 'regularly' to 'as needed' for flexibility.
- Focusing risk assessments on tasks and positions.
- Emphasizing practical, needs-based training.
- Clarifying 'community-based organizations' in recitals.
- Encouraging civil society participation while respecting national specificities.

Article 4 – Specialised bodies

Belgium finds the European Parliament's proposals overly detailed and potentially requiring institutional reforms beyond EU competence. We prefer to avoid excessive institutional changes while supporting the core objectives of prevention and enforcement against corruption. We emphasize functional, rather than institutional, independence, and have concerns about the scope of tasks and reporting requirements. The need for flexibility and adherence to national legal systems is paramount.

We would suggest to:

- Clarify functional independence in recitals, emphasizing that it does not preclude all ties with the government, but rather ensures the ability to act without undue interference.
- Replace 'autonomous decisions' with 'decisions taken on a case-by-case basis, without undue interference.'
- Specify independence levels in recitals, drawing inspiration from Article 6 of UNCAC.
- Allow Member States to designate existing bodies and multiple bodies for federal states.

- Clarify which information should be made public, limiting publication to annual reports and non-sensitive data.
- Prevention and repression functions should be clearly separated into distinct paragraphs.
- The creation of specialized victim protection bodies should be optional, considering the practical difficulties.

Article 5 – Resources

Belgium recognizes the need for adequate resources and is open to a more ambitious article than the General Approach but finds the European Parliament's demands excessive. We prefer a balanced approach that ensures sufficient resources for enforcement without budgetary injunctions to Member States which is inappropriate. However, we recognise the need for 'continual' resource allocation. We suggest removing the adverbs 'consistently proactively and continually' while reinforcing the idea of resource continuity in the recitals. Alternatively, we could suggest 'as consistently as possible'.

Article 6 – Training

Belgium supports practical, needs-based training that respects the independence of the judiciary but seeks to avoid overly burdensome obligations.

Article 7 – Bribery in the public sector

Belgium supports the Council's General Approach but is prepared to be flexible on the removal of the term 'undue' if necessary.

Article 8 – Bribery in the private sector

Belgium supports the Council's General Approach. The focus should remain on maintaining consistency with existing instruments. We are open to linguistic clarifications to ensure clarity.

Article 9 – Misappropriation

Belgium supports the Council's General Approach, emphasising the importance of financial consequences in defining misappropriation. While flexible on removing the 'advantage' criteria, we would like to maintain the 'damage' criterion. We are flexible about making the private sector misappropriation provision mandatory, with flexibility on the 10,000€ threshold.

Article 10 – Trading in influence

Belgium supports the Council's General Approach division of offenses for clarity but is flexible on alternative formulations like 'improper' instead of 'illicit'. We are open to including 'real or supposed influence'. The focus should be on clear definitions and avoiding over-criminalisation.

Article 11 – Abuse of functions

Belgium supports the Council's General Approach favouring the optional nature of public sector abuse of functions and the removal of private sector references. We emphasise the need to avoid over-criminalisation and disproportionate measures.

Article 12 – Obstruction of justice

Belgium supports the Council's General Approach and believe certain terms from EP's proposal might be more appropriate in the recitals rather than the main text. The focus should be on ensuring clarity and consistency in the legal definitions.

Article 12a – Illicit political financing

Belgium could support Article 12a, recognizing the importance of combating illicit political financing. However, we have concerns regarding technical aspects, including defining substantial contributions and impacts on national political landscapes. Clearer definitions are needed for effective implementation and to respect national legal systems.

Article 13 – Enrichment from corruption offences

Belgium supports the Council's General Approach, favouring an approach that requires direct or indirect proof of the criminal origin of assets. We are concerned about potential issues with the presumption of innocence and double incrimination that a 'significant disproportion' criterion raises. The focus should remain on avoiding an undue burden of proof and ensuring consistency with international standards.

Article 13a – Concealment

Belgium has strong reservations about the inclusion of this article, in the absence of a clearly demonstrated added value, we consider this article redundant with the Anti-Money Laundering Directive, which already covers the situations concerned. Furthermore, we perceive it as a superfluous attempt to integrate Article 24 of UNCAC, which is optional.

Article 13b – Misconduct in public office

Belgium cannot support the inclusion of Article 13b. We believe that this article oversteps the directive's scope, potentially infringing on subsidiarity and proportionality principles. Our concerns centre on its broad wording, which could encompass behaviours beyond the specific realm of corruption, and the potential overlap with existing provisions, particularly Article 11. While supporting the stance for deletion, we are open to discussion, however, any acceptance would be contingent upon precise definitions limited to the most serious cases related to corruption, especially concerning 'substantial damage,' and a clear distinction between disciplinary and criminal sanctions. This would ensure that the article does not mandate the automatic criminalisation of all derelictions of duty.

Article 14 – Incitement, aiding and abetting, and attempt

Belgium supports the Council's General Approach but could show some flexibility in the spirit of compromise. The focus should be on ensuring effective prosecution of corruption-related offenses while respecting national legal traditions and avoiding over-criminalisation.

Article 15 – Penalties and measures for natural persons

Belgium supports the Council's General Approach with a list of measures remaining optional that also maintains consistency with existing EU criminal law frameworks. While open to slightly longer prison sentences and more detailed non-criminal sanctions, we believe that the EP's proposals are excessive and disproportionate, we should avoid overly punitive measures. We are flexible about removing the threshold in paragraph 3. We have concerns about the mandatory nature of complementary penalties and the distinction between legal and natural persons.

Article 16 – Liability of legal persons

Belgium prefers the Council's General Approach emphasising the need to maintain consistency with existing EU criminal law frameworks. While open to slightly extending liability to those providing services on behalf of legal persons, we have concerns about potential paradigm shifts and excessive administrative burdens. The focus should be on ensuring effective liability without undermining established legal principles.

Article 17 – Sanctions for legal persons

Belgium is flexible but leans towards the General Approach which is horizontally consistent with criminal law directives, favouring a balance between punitive measures and proportionality. While open to slightly increased maximum fines and publication of sanctions, we emphasise the need for sanctions to be proportionate to the offense and the company's circumstances. We also have concerns about non-adversarial procedures and potential overreach.

Article 18 and 18a – Aggravating and mitigating circumstances

Belgium favours the General Approach's optional system which is horizontally consistent with criminal law directives. We should avoid overly detailed and prescriptive criteria that could hinder national practices. The focus should remain on maintaining consistency and avoiding undue complexity. We have concerns about self-incrimination and the need for clarity on terms like 'ingenious deception' are also important considerations. We also question the inclusion of compliance programs as a mitigating factor, emphasising the need to avoid rewarding entities for fulfilling legal obligations.

Article 19 – Privileges or immunity from investigation and prosecution of corruption offences

Belgium supports the General Approach, recognising the constitutional sensitivity of privileges and immunities. We oppose the European Parliament's more detailed and restrictive approach as the focus of minimal harmonisation should be on ensuring effective prosecution while respecting national legal frameworks.

Article 21 – Limitation periods

Belgium supports the Council's General Approach. While open to slightly longer periods as a compromise, we emphasise the need to consider the severity of offenses and maintain horizontal coherence in criminal law directives.

Article 22 – Protection of persons who report offences or assist the investigation

Belgium opposes the European Parliament's proposals to extend protection to investigative journalists and introduce anonymous reporting. We believe that these proposals duplicate existing provisions in the Whistleblower Directive (2019/2037).

Article 23 – Investigative tools

Belgium favours maintaining the General Approach, we believe it provides effective yet proportionate investigative capabilities while respecting national procedural laws and avoiding excessive expansion of EU competences. We believe that the European Parliament's proposals are overly broad and potentially disruptive to national legal systems and raises concerns about the scope of investigative tools, particularly the EIO. The debate also highlights the need for clarity on the relationship between this directive and the Asset Recovery Directive.

Article 23a – Exchange of information

While Belgium already uses the SIENA system, the proposed expansion raises concerns of subsidiarity, the potential for high implementation costs, the protection of sensitive information, and the perceived incompatibility with the SIENA system's original purpose, which was primarily intended for police and law enforcement authorities. Therefore, we advocate for the deletion of this article.

Article 23b – Rights of victims and compensation for damage

Belgium expresses significant scepticism about its necessity and scope. We support a cautious approach since we see a redundancy in creating a 'lex specialis' when the 2012 Directive already serves as a 'lex generalis.' The concerns raised include legal uncertainty due to the broad scope, potential for excessive burdens on national procedures, and the lack of clarity on how to address the specific needs of institutional victims. We also believe that there is no need to single out victims of corruption. Therefore, we advocate for the deletion of this Article, relying on the existing Victims' Rights Directive currently negotiated.

Article 23c – National strategies

Belgium supports the inclusion of this Article with adjustments to ensure subsidiarity, provided it allows for sufficient flexibility to accommodate national specificities and does not impose a uniform strategy model. Key concerns revolve around the need for flexibility, the removal of specific references to 'resources' and 'periodic reviews,' and the need to make the text less prescriptive. We emphasise on the importance of leaving flexibility for Member States, particularly concerning the coordinating body. The focus should be on creating a framework that encourages effective national strategies while respecting the diverse approaches within Member States.

Article 23d – Rights for the public concerned to participate in proceedings

Belgium could support the inclusion of this Article provided it does not go beyond the provisions of the Environmental Crime Directive (ENVICRIME) which allows for public participation without overburdening national systems. We support the horizontal coherence in criminal law. The central issue is the definition of 'interested public' which potentially grant rights to individuals who are not direct victims. This raises an issue of legal uncertainty, potential for administrative overload, and incompatibility with existing national procedural rights.

Article 23e – Suspension or reassignment of a public official

Belgium considers this article to be outside the scope of EU competence, as it pertains to administrative or disciplinary law rather than criminal law. Our key concerns revolve around the lack of a solid legal basis at the EU level, the apparent infringement of the principle of subsidiarity, and the complexity arising from the diversity of national systems and categories of public officials. These issues should be left to the discretion of Member States. Therefore, we support the deletion of this article.

Article 23f – Exercise of discretionary powers

Belgium strongly opposes this article, recognising that it not only lacks added value but also poses a direct threat to the principle of prosecutorial discretion, upon which our national criminal justice system is founded. Our key concerns revolve around the ambiguity of terms like 'internal consultation,' the potential for this article to encroach upon national procedural law, and the belief that existing international conventions and national laws already adequately address the issue of discretionary powers.

Article 24 – Cooperation between Member States' authorities, the Commission, Europol, Eurojust, the European Anti-Fraud Office and the European Public Prosecutor's Office

Belgium supports the Council's General Approach, opposing an operational role for the Commission in this article. We believe we should avoid unnecessary reporting obligations and maintain consistency with existing legal frameworks. We share the concerns about potential overreach and duplication of efforts.

Article 24a – Platform on prevention and repression of corruption

Belgium supports the deletion of this Article. Our prevailing sentiment is that this platform would create unnecessary duplication with the existing European Anti-Corruption Network of Article 25. Our key concerns revolve around the potential overlap in efforts, the additional burden on national authorities, and the lack of demonstrated added value compared to existing mechanisms.

Article 25 – Commission support to Member States and their competent authorities

While flexible on the inclusion of civil society organisations, we haveconcerns about the lack of clarity on the coordinator's mandate and the potential for confusion (see below).

Article 25a – Coordination of the Union strategy on combating corruption

Belgium has significant reservations about its necessity and the absence of a demonstrated added value compared to existing mechanisms. The prevailing view is that the creation of such a position would lead to excessive bureaucracy and increased administrative burden while offering limited tangible results. It raises questions about the coordinator's mandate, costs, and potential overlap and confusion with existing structures. Therefore, we support the deletion of this article.

Article 26 – Data collection and statistics

Belgium supports the Council's General Approach, opposing the European Parliament's proposals for increased data collection and reporting obligations. We have concerns about the feasibility and necessity of such detailed data collection, as well as the proposed deadlines.

Article 26a – EU Anti-Corruption Report

Belgium expresses significant reservations about its necessity and added value since this report would create unnecessary duplication with the existing Rule of Law Report. Our key concerns revolve around the overlap in reporting, the increased administrative burden, and the lack of a clear justification for establishing a separate annual report on corruption. We also have concerns about the practicality of the proposed three-month response deadline. Therefore, we advocate for the deletion of this article.

CROATIA

Articles 3 and Article 4

We remain in full agreement with the general approach and the EP proposals in this form are unacceptable.

The EP proposals introduce rules that relate to significantly different areas of corruption prevention and contain many unclear and undefined terms, which is completely unacceptable when it comes to defining obligations for Member States, which does not contribute to clarity or strengthening the preventive framework. By "throwing in" obligations that relate to significantly different areas of the preventive framework, all in the context of the vague concept of corruption prevention, we believe that this has gone too far in relation to the content and aim of the Directive.

Each of these areas (for example, prevention of conflicts of interest, representation of interests in public decision-making, integrity, transparency of public decision-making, financing of political parties, strategic framework, and so on) requires defining terms and defining obligations in accordance with a uniform definition of terms, which is not the subject of the Directive here. It is also not possible to start from the assumption that there is a uniform understanding of the content of these terms by the other member states, furthermore from the understanding of the meaning of these terms, obligations for the member states cannot be defined, because we do not know exactly what implementation and enforcement should look like.

Furthermore, many of these obligations imply significant funds, human resources, the establishment of new mandates, and potentially significant changes in the already established preventive and repressive framework for the prevention of corruption. We believe that it is not appropriate to introduce the same at this stage of the discussion on the Directive because we believe that we have not carried out analyzes of what such an expansion of the scope of the Directive would mean in the context of changing the legal and institutional framework of the member states.

In the context of all of the above, we notice a lack of reference to the established legal and institutional framework within the member states.

The same remark is applicable to Article 4.

NETHERLANDS

COMMENTS BY THE NETHERLANDS TO ARTICLES 3-6 AND 23 OF THE PROPOSAL FOR AN EU DIRECTIVE ON COMBATING CORRUPTION.

1. Introduction

During the COPEN (Corruption) meeting of February 26th 2025, Member States were requested to provide comments in writing to the Articles 3-6 and 23 of the proposal for a directive on combating corruption within the EU (ST 5065/25). With this document, the Netherlands responds to this request. The comments below should be read in addition to the remarks made by the Dutch delegation during the meeting on February 26th. They repeat our written input provided after the COPEN session of January 15th. We emphasise that discussions in parliament may lead to amendment, supplementation or withdrawal of (parts of) our comments.

2. Comments to articles 3-6 and 23

Article 3(1): The Netherlands considers it a positive development to expand both this and other articles to institutions, bodies, offices and agencies of the Union and supports these amendments. We are less favourable to the other proposals of the EP. The ways in which awareness is raised should be open to Member States and adjustable to the respective publics reached. The proposal of the EP is therefore too specific.

Article 3(2): The EP proposes to maintain the phrase 'the highest degree of transparency and accountability' and adds 'integrity'. While the Netherlands agrees that public administration should at all times strive to be as transparent, accountable and integer as possible, 'the highest degree' is not something that can be guaranteed at all times. We prefer the phrasing from the GA, stating 'adequate levels'. Additionally, while including 'integrity' is an admirable goal, we currently do see any added value to this inclusion. It is not appropriate to include integrity requirements which are by nature subjective into legislation. Furthermore, the proposals by the EP to this article touch upon the recruitment and promotion of public officials. This is a national matter that should not be part of an EU Directive.

Article 3(3): The general observation the Netherlands makes regarding preventive measures is that while they are crucial in the fight against corruption and including them in the Directive is therefore fitting, the manner in which member states choose to shape said preventive measures should remain open to fit each respective situation. The proposal of the EP is too specific and limits Member States to create measures they see fit.

Additionally, the proposals of the EP in subs c, d, e, f and g cause concern on our side. Articles 3(3)(c) and 3(3)(d) concern the collection of information on public officials, including conflicts of interest and asset disclosure and verification. While we support the requirements for the reporting of this information internally to the specific organisation said public officials are employed by, article 3(3a) continues to require all information in 3(3)(a-f) to be made available across the EU. We strongly object to this proposal. Especially with the EP's suggestion to broaden the definition of public official, these measures would result in private financial information of over 140.000 civil servants in the Netherlands to be made public. The impact on the personal lives and right to privacy of all European civil servants is highly undermined by this suggestion. The European Parliament should also take into account the personal sphere of the civil servant, as well as their neutral position (not political in the Netherlands) and the work context of the civil servant, where aggression and threats are becoming more present each day.

Article 3(3)(e): The Netherlands does not support including the requirement of a transparency register in this Directive. We note that the Directive of the Defence of Democracy Package already requires such a register. In this context, the Netherlands has expressed certain concerns. We believe that a discussion on such a register is first required at the political level within the context of the Defence of Democracy Package. Additionally, the final suggestion in this segment, concerning the movement of public officials, intervenes with the Dutch right of free choice of labour, included in our constitution. While we agree that cooling down periods for public officials and elected officials serve their purpose and should be considered by the Member States, the Netherlands would like to preserve the possibility of Member States to develop their own legislation on this subject and to decide what measures are proportionate to their respective situations.

Article 3(3)(f): we do not support including in the Directive the requirement to eliminate administrative barriers and regulatory complexity. While it is admirable to strive towards this, and we agree that member states should attempt this at all times, achieving this cannot be an absolute requirement.

Article 3(3)(g) mentions residence and investor citizenship schemes. While we understand the risk of the situation, the decision to grant citizenship is a decision that belongs to a Member State. The EU cannot prohibit such rules completely. This requirement falls outside the scope of this Directive.

Article 3(3a): We refer to the comments in 3(3)(c-d).

Article 3(3c): this article touches upon the financing of political parties. Because this intervenes with the democratic process of the individual Member States, this matter should be left to the Member States and should not be the subject of an EU instrument. Therefore, we would like for this provision to be deleted.

Article 3(4): It is currently unclear to us what the high risk areas are that the article references and how they will be determined. We would like to hear from the EP what their views are on this. Specifically regarding 3(4)(a), we refer to our input at 3(3)(e). Discussing conduct to be followed after the performance of a public function may intervene with the right to a free choice of labour, part of the Dutch Constitution. While we support the underlying idea of this article, we would like ensure that Member States are free to create their own measures to prevent a conflict of interest caused by future employment.

Article 3(4b): In general, the Netherlands can support this proposal. However, we would like to remove 'increased' from the phrase 'increased professional standards' because this would imply that no national standard was considered sufficient before implementing the Directive. This is not the case.

Article 3(5)(1): This article includes an annual risk assessment. We consider this frequency to be too high and prefer the phrasing from the GA where we concluded to have risk assessments 'regularly'. We do not object to the publication of the results of this assessment, unless this would affect national security or the functioning of the sector in question. This should be made explicit within the provision. Finally, while we can support taking into account the results of the Rule of Law report in this assessment, we do not support including the EU anti-corruption report because we are very critical on creating such a report. As we have expressed during previous COPEN sessions, we feel that this review should be part of the Rule of Law cycle rather than an additional review process.

Article 3(5)(2): We do not agree with this suggestion. It is not up to the government to create rules of procedure for the private sector. We can advise on subjects identified in paragraph 3(5)(2)(b). Therefore, we do not see added value in including this paragraph in addition to the one preceding it.

Article 3(5a): While we support the general notion of transparency, the Netherlands is of the opinion that such general topics should be dealt with in the relevant EU instruments (among others the EU Directive on public procurement) and not in the Directive. In other words, the Directive should not create separate rules for corruption offences for topics which are already the subject of other EU legislation. This is similarly applicable to proposals by the EP for articles 3(3)(e) and 3(3b) above, 4(2a), 22, 23(1a), 23b and 23d.

Article 3(6): If we can preserve the 'as appropriate' phrase from the GA and the Commission, we can support the proposals of the EP in this article.

Article 3(6a): Incorporating adequate preventive measures is the responsibility of the private sector itself. The government can act as advisor on this subject and provide guidance. It is unfitting that the government should be involved in the actual creation of procedures such as codes of conduct and other internal control mechanisms. We do not support this addition.

Article 4(1): As mentioned for article 3(3), the Netherlands considers preventive measures to be crucial in the fight against corruption. However, what measures are chosen and how they are put in place should remain the responsibility of each Member State. The proposal of the EP is too specific and limits Member States to create measures they see fit. Furthermore, the Netherlands considers the approach proposed by the EP to negatively impact the creation of a culture of integrity. By placing responsibility for integrity outside of organisations, the feeling of integrity as a shared responsibility of all public officials is prevented. Finally, as stated above, the Netherlands is very critical to the suggestion that asset declarations of public officials are collected and overseen by a central body. These records should be kept and monitored internally only.

Article 4(2): The proposal of the EP (second sentence of the article) addresses the way in which investigative authorities execute their tasks. We consider it undesirable to define their duties in this manner of detail. Especially because the level of investigation, evidence gathering and inter-agency cooperation is highly dependent on the specific case at hand. We would like to see the second sentence removed. Similar concerns are applicable to paragraph 4(3)(da) and 4(3a).

Article 4(3)(a) and (aa): Both the Public Prosecution Service and preventive authorities must be able to exercise their tasks and powers without undue influence, as outlined in the General Approach (Art. 4(3)(a)). However, the European Parliament's current positions seems to still refer to (full) autonomy. Such full autonomy is both impossible and undesirable, due to the fact that in the Netherlands the Minister of Justice (PPS) and Minister for the Interior and Kingdom Relations (preventive authorities) are ultimately responsible for these authorities. This ministerial responsibility allows Parliament to hold the relevant Minister politically accountable, e.g. in the case of an incident.

Article 6(1), 6(1a) and 6(2): We would like to maintain the emphasis on the provision of training as given in the GA. If the wording from the GA can be kept (including 'without prejudice to…), we do not object to the additions proposed by the EP. As a minor remark we would change the order of 'officials to be able to prevent and identify different forms of corruption' to 'identify and prevent'. With regards to 6(1a), we note the requirements for institutions, bodies, offices and agencies of the Union are currently different from those proposed in 6(a). This should be the same.

Article 23(1): We wish to preserve the wording from the GA stating the that investigative tools are 'proportionate' as well as the addition 'Where appropriate…'. We do not object including the proposal from Parliament in the text as agreed upon in the GA.

Article 23(1b): Taking into account the rapid development of digital tools, we consider it unrealistic to ensure constant availability of not just tools but also capabilities to use said tools.

FINLAND

ST 5065/25 (Articles 3 to 6 and Article 23)

As a general comment Finland wishes to reiterate the support to the General Approach. We reiterate what we have said orally and provided in written (22 January 2025). In this document we will made reference to only some of those points. We also clarify some of our comments. Finland wishes to maintain a general scrutiny reservation.

Article 3 (Prevention of corruption)

Paragraph 3: It is unclear for us if the list of preventive measures proposed by the EP is meant to be mandatory or optional. We do not support mandatory list of preventive measures.

We can be flexible with subparagraphs (a) and (b). For subparagraphs (c) and (d) we have concerns. We cannot accept establishment of sanctions for failure to report substantial assets or interests. "*Verification*" on subparagraph (d) should be removed as it goes too far. Could in here be "*asset disclosure according to national law"*? Requiring asset disclosure of all public officials raises concerns for us.

Subparagraph (e) seems to be soft law kind of rules. This cannot be regulated in detail. We do not support of bringing it to the level of an article. The last part of the subparagraph (e)(ii) goes too far ("*including the proactive publication of lobby meetings*"). We could support adding some transparency on lobbying activities to the recitals. We do not support adding subparagraph (e)(iii) or (e)(iv).

We do not support adding subparagraph (e)(v) as this is a measure of national competence. What is proposed is also too broad, and it is not clear what is stated in the subparagraph. This subparagraph raises concerns also in light of our Constitution, which provides for the right to work for everyone.

Subparagraph (f) raises questions on how this elimination can be done, and how far-reaching elimination is meant to be done. We do not support the addition.

We do not support adding subparagraph (g) as this is also a measure of national competence.

Paragraph 3a: We do not support the proposed addition.

Paragraph 3c: We are concerned of this addition. In our view, regulating transparency in the funding of candidatures for elected public officials and political parties does not fall within the scope of this instrument. These are measures outside of the EU's competence, which fall within national competence/ institutional and administrative autonomy of Member States.

Paragraph 4: We do not support the proposed addition on subparagraph (a). We also cannot support adding intelligence agencies to subparagraph (b). National security is outside of the EU's competence. We also wish to point that the independence of the courts cannot be interfered with.

Paragraph 4b: We do not support such an addition at an article level, we think this does not fall within the scope of this instrument. But as a compromise, we think this might be considered to be added in the recitals.

Paragraph 5: Annually is too often, and it should be removed. We do not support the list of measures as such. On the other hand, we are also thinking, could some of the measures mentioned in this paragraph be moved to the proposed new Article 23c on national strategy? The risk-based approach could be reflected in that article. Subparagraph (5)(ba) we do not support.

Paragraph 5a: We are concerned of this addition and oppose it. We believe that the EU's competence in this matter is questionable and should be further examined. It should be highlighted that the paragraph mentions several sensitive issues, such as government budgets. Can the proposed addition be considered appropriate in the light of the objectives of the Directive?

In addition, there are already, for example, directives on public procurement (2014/24/EU) and on open data and the re-use of public sector information (2019/1024/EU). Has an analysis been made of whether there is overlap with these directives, and what is the added value of this paragraph? Also, we would like to have clarification on what "*open data format*" means in here? We are also concerned of the financial implications.

Paragraph 6: We do not support such an addition. Perhaps in the recitals, but the wording should include e.g. "*should strive to*" or "*where appropriate*".

Paragraph 6a: We oppose the addition. We do not want to create new obligations of this kind with this instrument.

Article 4 (Specialised bodies)

We support the GA at this point and oppose the proposed additions and changes to art 4. The proposed changes and additions to art. 4 raises concerns for us. We would like to point out that no impact assessment has been carried out by the Commission and that the Member States have different practices for preventing, repressing and investigating corruption. The requirement of specialised bodies or units is not acceptable to us. It should be enough that there are bodies or units tasked with the prevention or repression of corruption.

Paragraph 1: We oppose the proposed mandatory list of tasks. We highlight that there should be left more flexibility to the MS. It should also be clarified what is meant by the enforcement of sanctions here. Subparagraph (d) goes too far in our opinion.

Paragraph 2: We strongly oppose the proposed addition because it interferes with the organizational structure of the Member States' criminal investigation and justice system. It is also unclear for us why the enforcement of sanctions is included in here.

Paragraph 2a: Related to this paragraph is the question who according to Article 23b proposed by the EP are the victims. If victims are natural persons, Victims' Rights Directive applies. We do not support introducing additional provisions on this issue in this Directive.

Paragraph 3: We would like to point out that the formulation reached in the GA was the result of long negotiations. We strongly oppose the proposed changes and additions to paragraph 3. It is important to us that the wording "where relevant" is included in the paragraph like it is in the GA.

We need a clarification on what is meant by phrase "independent from the government". We would like point out that the government authorities are organized under administrative branches of different ministries e.g. Police and Prison and Probation Service of Finland. Government authorities have their own tasks and are independent but not autonomous in a way that the courts or the Prosecution service.

In our view, the paragraph should at least be amended to mention "*as appropriate*".

We would also like to have clarification on point (aa) "*managed by executive member*", what is meant by that? We strongly oppose adding subparagraph (aa), it goes too far. We oppose adding subparagraphs (ca), (cb), (cc), (cd) and (da) as well.

Paragraph 3a: We wish to highlight that there are already many different platforms for cooperation, such as the EU Network Against Corruption and EPAC. We do not support adding proposed paragraph 3a.

Article 6 (Training)

We wish to maintain flexibility in regard to the regularity of training. We suggest that instead of ensuring training at regular intervals, the training should be conducted on an as-needed basis.

Paragraph 2: It is important for us that in the paragraph it is referred to the independence of the judiciary in the same way as agreed in the General Approach. In Finland, mandatory training obligations cannot be imposed on prosecutors and judges, and we cannot support wording that suggests that the directive would create such obligations.

Article 23 (Investigative tools)

Paragraph 1: The reference made to Directive 2014/41/EU regarding the European Investigation Order in criminal matters is not acceptable. We support the wording of the GA.

Paragraph 1a: We believe that there is no need for such a provision in light of Article 27 of this Directive read in conjunction with Article 2(1)(f) of Directive on asset recovery and confiscation (2024/1260). However, if it is considered that a separate provision is needed, we may consider that, but we highlight that the wording proposed by the EP is not acceptable. The possible provision must be drafted in accordance with the established wording which has been used in earlier instruments (e.g. Article 10 of Directive on Environmental Crimes, Article 10 of PIF Directive), as follows:

1a. Member States shall take the necessary measures to ~~ensure that their competent authorities~~ **enable the [tracing, identifying,] freezing and confiscation** ~~freeze or confiscate~~, **[**as appropriate**,] of instrumentalities and proceeds from the criminal offences referred to in Articles […]. Member States bound by** Directive **2014/42/EU of the European Parliament and of the Council shall do so in accordance with that Directive.**

~~[OJ: Please insert in the text the number of the Directive in PECONS 3/4 (2022/0167 (COD)) and insert the number, date, title and OJ reference of that Directive in the footnote - Directive on asset recovery and confiscation COM(2022) 245 final] , the proceeds derived from the commission or contribution to the commission of any of the offences referred to in this Directive.~~

In particular, the obligation towards of the MS must be that they *enable* freezing and confiscation. The concrete decisions on freezing and confiscation are made by independent authorities and no obligations can be imposed to MS in this regard.

Second, the wording on "*contribution* to the commission of … the offences" is not clear. A reference must be made to individual Articles of the Directive instead.

Paragraph 1b: We are not in favour of adding proposed paragraph 1b.

SWEDEN

Written comments from Sweden concerning the Directive on combating corruption

Sweden would like to thank the Presidency for the opportunity to provide written comments on document 5065/25 following our last meeting on 26 February 2025. Below you will find our comments on EP amendments to Articles 3–6 and 23.

Article 3 – Prevention of corruption

Paragraphs 1 and 2. We oppose the amendments, which do not provide for enough flexibility for the Member States, and instead we support the general approach. Among other issues, it is important that "adequate levels" should remain in the second paragraph.

Paragraphs 3–3c. A detailed mandatory list of preventive tools is a red-line for SE and we oppose the EP proposal in paragraph 3. We also oppose the newly added paragraphs 3a–c. The general approach offers a reasonable compromise regarding preventive tools.

Paragraph 4. We oppose the amendments and support the general approach. The requirement for regular follow-ups is too far-reaching. Issues relating to setting wages should not be regulated in the Directive.

Paragraph 4a. We do not have any objections at this stage to such measures with regard to Union officials.

Paragraph 4b. We do not see any added value with this paragraph and therefore oppose it.

Paragraphs 5, 5a, 6 and 6a. Mandatory regular assessments, including sector-oriented, and follow-up measures to such assessments is a red-line for us. We therefore oppose all the amendments and consider the general approach to be a reasonable compromise.

Article 4 – Specialised Anti-corruption bodies or organisational units

Paragraph 1. The amendment includes obligations for the Member States that are too detailed and does not sufficiently take into account that several authorities at different levels, not necessarily specialised in anti-corruption, carry out some of the measures listed. The deletion of 'specialised' in the general approach should be maintained. We therefore oppose the amendment.

Paragraph 2. The added value of regulating the tasks of repressive authorities (police, prosecutors, etc.) in detail is questionable. We therefore oppose the amendment.

Paragraph 2a. We oppose that victims' rights issues are regulated in this directive.

Paragraph 3. We oppose the amendments, which do not distinguish between the independent decision-making of national authorities with regard to preventive and repressive measures. In the former case, decision-making can often include measures that do not involve the exercise of public authority against individuals. For this reason, the wording of the general approach should be maintained ("where relevant, take decisions..."). In general, the paragraph is too detailed.

Paragraph 3a. Not all bodies/units referred to are tasked with international cooperation. We can however support such a provision if it is made conditional in some way ("where relevant" or similar).

Article 5 – Resources

We oppose the amendments. The wording of the general approach ("shall ensure") is a reasonable solution and is in line with Article 17 of the Environmental Crime Directive. For the same reason, "consistently proactively and continually" should not be included, and – additionally – this wording does not provide any added value.

Article 6 – Training

The Article should be drafted in line with other directives (the Victims' Rights Directive, the Environmental Crime Directive and the Directive on Combating Violence against Women).

Paragraph 1. We oppose the amendment. The requirement of adequate resources for and the provision of training is too far-reaching and would encompass a vast number of authorities and national officials. It is sufficient to require that training is provided, as reflected in the general approach.

Paragraph 1a. The paragraph should be drafted in line with paragraph 1 as suggested above ("take the necessary measures to provide training…")

Paragraph 2. Provisions that seek to regulate courts and judges and make certain training mandatory for those institutions and officials is a red-line for us. It should be sufficient to "provide" or "make available" such training (cf. the Victims' Rights Directive and the Directive on Combating Violence against Women), thereby respecting the independence of courts and judges. We therefore oppose the amendments.

Article 23 – Investigative tools

The Article should be drafted in line with the Environmental Crime Directive, as reflected in the general approach.

Paragraph 1. The reference to the EIO Directive is unclear. If the intention of the EP is to say that the EIO Directive is applicable to corruption offences in the Anti-Corruption Directive the reference is superfluous. If the EP has another intention with its proposed amendment it needs to be clarified.

Paragraph 1a. A reference to the Directive on asset recovery and confiscation is made in recital 16 of the general approach. It is not necessary to mention the Directive in the operative part of the Directive.