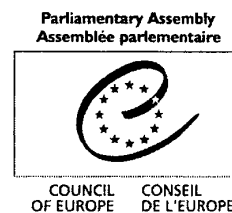


Parliamentary Assembly
Assemblée parlementaire



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Poverty and the fight against corruption in the Council of Europe member states

Report
Social, Health and Family Affairs Committee
Rapporteur : Mr Alain Cousin, France, Group of the European People's Party

Summary

The fight against corruption is an effective means of combating poverty, in particular in poor countries where corruption is a major obstacle to the social and economic development.

Corruption consequently affects the functioning of public services by creating political instability and by entailing serious consequences for the management of public funds because resources are often redirected to fuel parallel economies.

The Parliamentary Assembly notes that this phenomenon affects also the private sector as well as international governmental and non-governmental organisations.

The Assembly therefore recommends, inter alia, to the governments of members states to draw up or to reinforce the plans of action for managing finances in both public and private sectors and to take the appropriate administrative and disciplinary measures concerning in particular the management of public authorities and local and regional authorities.

A. Draft resolution

1. The Parliamentary Assembly notes that, despite the measures taken by Council of Europe member states, corruption is still very much present in certain European countries, where resources are often redirected to fuel parallel economies.
2. Corruption affects the functioning of public services with serious consequences for the management of public funds in general and for the judicial system in particular.
3. However, it can also be found in the private sector and creates many opportunities for misappropriation, with often disastrous consequences for the economic development of the country concerned.
4. Corruption therefore creates political instability precisely because of the ineffectiveness of the governments to fight against it and in the long term poses a threat to national and foreign investment.
5. The Assembly also regrets the fact that corruption is equally a problem in international governmental and non-governmental organisations.
6. As corruption is shrouded in secrecy, reliable and verifiable empirical data on its full extent are difficult to be obtained.
7. Corruption is also a major obstacle to economic and social development and to the eradication of poverty for many citizens and entails flagrant human rights violations affecting people's daily lives.
8. The Assembly takes note of the reply from the Committee of Ministers to Parliamentary Assembly Recommendation 1646 (2004) on "Improving the prospects of developing countries: a moral imperative for the world" as well as of the comments of the Group of States against Corruption (GRECO).
9. It believes that it is important for the governments of Council of Europe member states having not yet done so, to rapidly draw up practical plans of action not only for managing public finances but also for the administration of accounts in the private sector.
10. The Assembly therefore recommends that the governments of Council of Europe member states ask their public authorities and local and regional authorities to:
 - 10.1. simplify bureaucratic procedures so as to reduce waste in public spending, and to plan spending appropriately;
 - 10.2. lay down rules on disclosure by public officials of information concerning their income and assets;
 - 10.3. alert them to the link between corruption, socio-economic rights and social exclusion and poverty;
 - 10.4. make public authorities more accountable by publishing information concerning public funds and budgets;
 - 10.5. make it compulsory for public authorities to produce annual accounts showing the apportionment of public funds and budgets;
 - 10.6. establish strict rules on the award of procurement contracts, giving preference to public invitations to tender;
 - 10.7. ensure that public officials receive adequate and regular pay and enjoy career plans that are both just and fair;
 - 10.8. take the necessary steps to decentralise state institutions and grant local and regional authorities fiscal autonomy;

- 10.9. introduce more competition in major economic sectors;
- 10.10. guarantee the independence of the media.
11. The Assembly also recommends that the governments of member states:
 - 11.1. introduce efficient systems for processing complaints concerning corruption;
 - 11.2. take appropriate disciplinary action against people guilty of corruption, in both the private and public sectors;
 - 11.3. set up intensive, comprehensive training courses for judicial and law enforcement officials;
 - 11.4. increase the independence and transparency of the judicial system.
12. In the implementation of the recommendations set out in paragraphs 11 and 12 of this resolution, the Assembly invites member state governments to take account of the relevant Council of Europe anti-corruption standards and of the GRECO's recommendations in its first- and second-round evaluations.
13. The Assembly also invites those member states which have not yet done so to sign and ratify the treaties on fighting corruption and organised crime.
14. It also recommends that the national parliaments of member States:
 - 14.1. prepare legislation on the funding of political parties;
 - 14.2. appoint their own public auditor and public accounts committee;
 - 14.3. co-operate closely with civil society.

B. Explanatory memorandum by Mr Alain Cousin

I. Introduction

1. Fighting corruption is not just a moral issue, it is also an effective means of combating poverty.
2. Recent studies have shown that there is a direct link between the disastrous consequences of corruption and social problems linked to low standards of living. Consequently, the impact of corruption is greater in poor countries, where resources are redirected to fuel parallel economies.
3. Poverty can take several forms: material poverty, characterised by lack or shortage of resources and high unemployment, cultural poverty and insecurity. However, poverty is often made up of a combination of material, cultural, and health-related or even physical and emotional handicaps.
4. Poverty, and the needs and feelings of helplessness that go with it, can also lead to various types of anti-social behaviour, such as prostitution, theft, drug addiction and benefit fraud.
5. Corruption has existed since time immemorial and is referred to in the Old Testament. It is often financial in nature, involving the offer and acceptance of sums of money, is frequently linked with the management of public services and, in its various forms, affects all social classes, particularly the more disadvantaged ones.
6. It results in flagrant human rights violations and disrupts citizens' lives. It can also interfere with media freedom and often has a very serious impact on the judicial system.

II. Poverty and corruption: facts and figures

i. Definition of poverty and corruption

7. Poverty and corruption both refer to income and relate it to a country's per capita gross domestic product. Poverty can also and rightly be defined as a complex phenomenon. However, the definition of poverty is not just limited to economic aspects. In addition to the income factor, it can be measured in terms of education and health levels, health problems and income loss, crime and discrimination, or even in limited access to public and social services.
8. While there is no internationally agreed definition of corruption, it is generally taken to include the abuse of entrusted power by political leaders and the abuse of public office for private (or political party) gain.
9. The Multidisciplinary Group on Corruption (GMC), set up by the Committee of Ministers of the Council of Europe in September 1994, has agreed upon a provisional definition which takes a broader view and extends beyond the abuse of public office to include the private sector (see article 24 of the CoE Criminal Law Convention on Corruption).
10. Corruption comes in diverse forms, including interference in the preparation of laws, regulations, decrees, and other government policies by powerful individuals, groups or firms, working to their own advantage and undermining the development of a fair and competitive market economy.
11. Corruption can also be instigated by the administrative authorities to provide advantages to state and non-state operatives through the payment of "kickbacks" to obtain public procurement contracts or bribery to obtain preferential access to public services. This is widely referred to as "petty corruption".
12. General factors known to encourage or perpetuate corruption are lack of freedom of the press and the media, a malfunctioning judicial system (lack of autonomy), excessive bureaucratic regulations and insufficient statutory rules governing political finance and its enforcement in such areas as control of public financing of parties, limits on contributions and spending – including donations in kind – and rules on the disclosure of sources of funding, and regulations providing wide-ranging immunity for politicians.

13. The public contracting sector is one of the most exposed areas to corruption because it presents so many opportunities for bribery, kickbacks and so on. As privatised utilities are often monopolies, they require regulations on fair pricing, prompting those involved to seek to influence the relevant legislation. Annual tax payments, the exports/imports-sector, loan applications and the judiciary are other fields in which corruption often occurs.

14. Factors known to encourage excessive state control are high concentrations of national wealth, for instance in countries with major natural resources such as the oil fields in Azerbaijan or Russia. In countries where there was less of a break with the old communist systems when the transition to a democratic system began and less of an effort to develop sound public authorities and strong civil societies, half-baked political reforms led to economic distortion and inadequate mechanisms to make public officials accountable for their actions. This in turn created the right conditions for the state to take excessive control and the authorities to be corrupted.

ii. Interplay between poverty and corruption

15. The World Bank has described corruption as the most significant obstacle to economic and social development.

16. Most studies on corruption confirm that there is an indirect link between poverty and corruption. Corruption has direct consequences on economic factors and methods of government and this in turn leads to greater poverty.

17. Corruption therefore has a chain effect: it acts as a drain on public funds, leading to a reduction in key budgets for public social services (health care, education, combating poverty) and increasing disparities in quality of life.

18. The public loses confidence in its government and puts less effort into productive activities.

19. This has a very serious impact on the general economic situation, as it undermines the confidence of national and foreign investors. Ultimately, this curbs company growth, particularly among small businesses, and contributes to increased unemployment, which poses a major obstacle to the eradication of poverty. Through bribery, corruption stimulates the growth of underground or parallel economies, leading to a reduction in tax revenue which could be used, for example, to stimulate economic development and for measures to combat or reduce poverty.

20. There is also, however, a direct link between poverty and corruption. The poor are much more affected by administrative corruption than the better off. Any bribes they have to pay represent a much greater share of their income, and this restricts their access to public services. Corruption in the judiciary affects the poor most as they are less financially able to defend their rights. Corruption can therefore lead to policies which raise the cost of living, from which the poor suffer the most.

21. So corruption fuels and exacerbates poverty and these links are complex. It affects standards of living and widens income gaps, as it impedes general economic and thus income growth. Moreover, it often occurs in or affects the education, infrastructure and employment sectors - public services where unimpeded access is vital for adequate living standards and thus for social cohesion and basic social and economic rights. Corruption poses a threat to social cohesion and democracy because it jeopardises the principles of equal justice and fair representation for all.

iii. Poverty and the fight against corruption in the Council of Europe member states

22. The most immediate and visible consequence of the process of setting up a market economy, establishing new political and social institutions and redistributing social assets in eastern and central Europe's new democracies and so-called transition economies has been a decline in living standards for many citizens. Poverty levels in all these countries have increased over the past decade. GDP has fallen by 15 percent and, despite a slight upturn, poverty rates have remained high because poor people's incomes have failed to recover and social safety nets are still inadequate.

23. Corruption is still very widespread in Europe therefore, especially eastern Europe. However, because it takes place in secret, we still lack reliable and verifiable empirical data on its real scope. A

high rate of court cases, for example, is not necessarily the sign of a high level of corruption, but may simply show that the judicial system works well. However, there can be no doubt as to the existence of corruption, as it is widely observed and experienced by members of the public who come into contact with the authorities, businessmen and officials.

24. Market reforms and perceptions of corruption are especially closely intertwined in the countries of the former Soviet Union. According to Transparency International's 2004 corruption-perception report, corruption in most central and eastern European countries is growing despite the ratification of the main international anti-corruption treaties. This is due to a casual approach to the implementation of legislation and a lack of efficient enforcement mechanisms.

25. "State capture" is particularly widespread and threatens the development of a fair and competitive market economy, which is the basis for growing per capita income and equitable access to public services. Moreover, when corruption prevents the completion of reforms this can create new opportunities for further corruption.

26. However, we have to add also that in most of these countries corruption is also rife in government and this has a direct impact on the situation of the poorest.

iv. Measures to combat corruption

27. To be effective, anti-corruption measures must not be unilateral and must cater for a country's specific structure and characteristics, taking into account the nature and scope of the corruption in question.

28. Some of the eastern and central European transition countries have implemented effective anti-corruption measures that could help to prevent poverty from increasing as a result.

29. In the Baltic States for example, laws have been adopted to combat illicit enrichment by public officials. Similarly, in Poland and the Slovak Republic, inquiries have been carried out on abuses in procurement, management of public assets, and other misappropriations of public funds.

30. Where it comes to developing a competitive private sector, Hungary, Poland, and the Czech Republic have provided examples of good practice by endeavouring to do away with unnecessary licenses and rules and setting up efficient regulatory bodies.

31. As the correlation between poverty and corruption is generally considered a complex one and corruption is often one of the factors that compounds poverty, poverty-alleviation programmes alone will rarely be successful. To be effective, these programmes have to be backed up by anti-corruption measures. Since administrative corruption occurs at the interface between public institutions and citizens, anti-corruption measures also have to be applied at local and regional level if an all-embracing, successful approach to poverty eradication is to be achieved.

32. Anti-corruption measures and poverty-reduction strategies therefore need to be linked in order to be effective and secure improvements in both areas.

33. Greater economic growth, more equitable income distribution, better governance, improved government services in areas such as health and education, and increased public trust in government should all be goals that we aim to achieve by placing institutional restraints on power as well as creating and reinforcing political accountability, civil society participation and a competitive private sector at national, regional and local level.

34. Decentralisation, which has now been implemented in most of the central and eastern European transition countries, is one means of improving public sector efficiency and making it more responsive to poor people, provided that decentralised authorities have strong administrative capacity and accountability mechanisms. If these conditions are not met, corruption may even increase, and restrict access to basic social services, as in the Baltic States.

v. *Conclusion and recommendations*

35. The Parliamentary Assembly recommends that the governments of the member States of the Council of Europe draw up practical action plans for the management of public finances and makes the following specific recommendations:

a. at central government and local and regional authority level:

- simplify bureaucratic procedures to reduce wasteful public spending and the opportunities for corruption and misappropriation of funds, so that proper spending plans can be drawn up;

- lay down rules on disclosure by public officials of information concerning their income and assets to help identify conflicts of interest;

- alert public authorities to the link between corruption and social exclusion and poverty to help them to appreciate that corruption is not a "petty crime" but a serious infringement of democratic rules and basic social rights;

- make public authorities' actions more accountable by publishing information concerning public funds and budgets and making it compulsory for public authorities and officials to produce annual accounts describing the apportionment of public funds and budgets;

- establish rules on the award of procurement contracts (preferably through public invitations to tender) to reduce the opportunities for "kickbacks";

- provide incentives for public officials to perform their duties correctly and refrain from corruption, by ensuring that their pay adequately reflects their responsibilities and raising motivation through merit-based recruitment and promotion;

- decentralise state institutions and grant local and regional authorities fiscal autonomy while increasing participation and introducing central mechanisms to ensure accountability and protect against local power imbalances;

- introduce more competition in major economic sectors by lowering barriers to entry and requiring competitive restructuring;

- guarantee the independence of the media;

b. in the courts:

- introduce efficient systems to process complaints of corruption by members of the public concerned;

- set up intensive, comprehensive training courses for judicial and law enforcement officials such as prosecutors and the police to enable them to make better use of legal provisions on detection, seizure and confiscation of the proceeds of corruption;

- increase the credibility of the judicial system by making judges more independent and accountable and bringing their responsibilities into line with their existing budget and capacity.

The Parliamentary Assembly also recommends that the national parliaments of member States:

- prepare legislation on the funding of political parties;

- appoint their own public auditor and public accounts committee with power to require the release of government documents;

- strengthen civil society participation by assigning it tasks such as devising action plans to fight corruption or monitoring government performance in this respect.

C. Appendix

Situation in some Council of Europe member states

Albania

According to Transparency International's 2004 Corruption Perceptions Index, corruption perception in Albania ranks among the highest in the world (on a scale from 0-10 it scored 2.5). Albania is also one of the poorest countries in Europe. Its GDP per capita was approximately 1345 Euros in 2001, which is far below the average for member states of the EU and the OECD. Moreover, high unemployment (more than 18 per cent) and a lack of development of legitimate businesses in the private sector have created an environment in which an extensive "informal economy" has grown up over recent years. Surveys referred to by the government and carried out with the support of the international community, show that the judiciary, the customs services, the national privatisation agency and the health service are among the most corrupt. However, corruption is also a problem in the tax authorities and the security sector (police). The authorities consider that the most common form of corruption in Albania is bribery.

Bulgaria

According to Transparency International's 2004 Corruption Perceptions Index, corruption perception in Bulgaria, while not among the highest, is still substantial (on a scale from 0-10 it scored 4.1) According to the 2001 GRECO evaluation report, Bulgaria's corruption is linked to its situation as a country in transition. Data on corruption and corruption research are scarce. Anti-corruption strategies lack measures for prevention and public awareness-raising. More progress is needed in the implementation of laws to combat corruption. The judicial system would appear to require an overall review, including clarification as to the functions of its various components and an assessment of their effectiveness, particularly with regard to the co-ordination of its investigating authorities. Criminal proceedings are slow and the number of corruption cases brought to trial is relatively low in relation to the estimated level of corruption.

Czech Republic

On Transparency International's 2004 Corruption Perceptions Index, the Czech Republic ranks relatively low (on a scale from 0-10 it scored 4.2). According to the 2002 GRECO evaluation report, while a government program for combating corruption has been introduced, a report on corruption has been prepared and changes in criminal law and procedure have been made, certain issues still have to be addressed. The main problem is the discrepancy between an environment vulnerable to, and affected by, corruption and the low number of corruption prosecutions. It would seem that police and prosecutors fail to investigate and prosecute such crime effectively and so there is a risk that small-scale or "everyday" corruption will be increasingly tolerated, undermining the economic, social and political foundations of Czech society.

Moldova

The Republic of Moldova is deeply affected by corruption (it scored 2.3 on TI's Corruption Perceptions Index). A number of legislative and institutional reforms have been made to bring Moldova into line with international standards in this area and make anti-corruption efforts more effective. A new criminal code and code of criminal procedure have been adopted and a national centre for the fight against economic crime and corruption has been opened. According to GRECO's 2003 evaluation report, however, other reforms appear to be being slowed down or blocked by the severe lack of funds available for their implementation. There is also a mood of resignation among the public, which undermines the effectiveness of the Moldovan authorities' anti-corruption measures. This seems to be due to a lack of information on action taken, resources deployed and results obtained, which causes a lack of trust in the public authorities. There is also a widely held belief in Moldovan civil society that there are very close links between local organised crime and some of the representatives of the authorities most directly involved in preventing and combating organised, economic and financial crime. The media and civil society are concerned about the openness with which certain illegal activities are carried out (including trafficking in women and drugs, tax evasion

and smuggling) and this appears to bear out their belief that there are close links between organised crime and the public authorities.

Poland

Corruption in Poland is still a matter of concern. In Transparency International's 2004 Global Corruption Barometer, corruption was still perceived as a major problem in political parties, the legislature, the judiciary, the police and the private sector. According to the 2004 GRECO evaluation report, Poland has taken appropriate steps in recent years to establish an appropriate legislative framework to enable the relevant authorities to cope with issues relating to cases of corruption in general, corruption in the public services and corruption in corporate activities. The "Law on Liability of Collective Entities", which entered into force in November 2003, goes a long way to meeting the standards laid down in Article 18 of the Criminal Law Convention on Corruption. However, there is still not enough appropriately trained staff to implement the provisions on seizure and confiscation of the proceeds of corruption fully.

The GRECO report also criticises Poland's unilateral approach to combating corruption, concentrating exclusively on the national level and neglecting the local and/or decentralised levels. Neither is there any independent system to conduct an impartial assessment of the impact of anti-corruption policy at all levels of the public sector.

Romania

On Transparency International's 2004 Corruption Perceptions Index, Romania has a very low ranking (on a scale from 0-10 it scored 2).

According to the 2001 GRECO evaluation report, successive Romanian governments have made considerable efforts to prevent and combat corruption. Romania has signed and in some cases already ratified various treaties on the fight against corruption and organised crime, and has played an active role in implementing several evaluation programmes. Domestically, these efforts have resulted in the introduction of a relatively extensive and exhaustive legislative framework, providing the authorities responsible for preventing and combating corruption with a number of useful tools to perform their tasks more effectively. Reference should also be made to Law N°78/2000 on the prevention, detection and punishment of corruption offences, and the considerable work being carried out to update regulations in all other sensitive areas (tax evasion, money laundering, financing of political parties, public procurement). Nonetheless, corruption still exists, particularly in the institutions most involved in fighting corruption, namely the police and the justice system. Moreover, Romanian citizens seem to have lost confidence in their public institutions and political leaders, authorities and officials. This distrust is an obstacle to the success of measures adopted to prevent and fight corruption.

Reporting committee : Social, Health and Family Affairs Committee

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Members of the Committee: Mr Marcel **Glesener** (Chair), Mrs Christine **McCafferty** (1st Vice Chair), Mrs Patrizia Paoletti Tangheroni (2nd Vice Chair), Mrs Helena Bargholtz (3rd Vice Chair), MM. Vicenç **Alay Ferrer**, Giuseppe Arzilli, Jorodd **Asphjell**, Miguel Barcelo Perez, Miroslav Benes, Andris Berzins, Jaime **Blanco**, Božidar Bojovic, Mrs Marida Bolognesi (alternate: Mrs Marisa **Abbondanzieri**), Mrs Monika Bruning, MM. Saulius **Bucevicius**, Igor Chernyshenko (alternate: Mrs Svetlana **Smirnova**), Doros Christodoulides (alternate: Mr Marinos **Sizopoulos**), Dessislav Chukolov, Mme Minodora **Cliveti**, MM. Telmo Correira, András Csaky, Imre Czinege, Mrs Helen D'Amato (alternate: Mr Joseph **Falzon**), MM. Dirk **Dees**, Stepan **Demirchayan**, Karl Donabauer (alternate: Ewald **Lindinger**), Ioannis Dragassakis, Sören Espersen, Claude Evin (alternate: Jean-Marie **Bockel**), Paul **Flynn**, Mrs Margrét Frimannsdóttir, Mrs Doris **Frommelt**, MM. Jean-Marie **Geveaux**, Stepan **Glävan**, Mrs Claude Greff (alternate: Alain **Cousin**), MM. Igor Glukhovskiy (alternate: Victor **Kolesnikov**), Ali Riza **Gülçiçek**, Michael **Hancock**, Mykhailo **Hladiy**, Mrs Sinikka **Hurskainen**, MM. Rafael Huseynov, Mustafa **Ilicali**, Mrs Halide **Incekara**, Mr Denis **Jacquat**, Mrs Katerina **Konečná**, M. Bohdan **Kostynuk**, Mrs Marie-José **Laloy**, MM. Slaven Letica (alternate: Mme Ruza **Lelić**), Jan Filip Libicki, Gadzhly Makhachev (alternate: Yuri **Kovalev**), Bernard **Marquet**, Paddy **McHugh**, Mrs Ljiljana Miličević, M. Philippe Monfils (alternate: Mr Luc **Goutry**), Mrs Nino Nakashidzé, Mr Nikolaos Nikolopoulos (alternate : Mrs Krinio **Kanellopoulou**), Mr Conny **Öhman**, Mrs Vera **Oskina**, Mrs Lajla **Pernaska**, MM. Fiorello Provera, Cezar Florin **Preda**, Anatoliy Pysarenko, Mrs Adoración Quesada, Mrs Valentina Radulović-Sćepanović, MM. Andrea Rigoni, Walter **Riester**, Mrs Marlene Rupprecht (alternate: Mr Wolfgang **Wodarg**), Mrs Maria de Belém **Roseira**, Mr Walter **Schmied**, Mrs Anna Sobecka, Mrs Darinka **Stantcheva**, Mrs Ewa Tomaszewka (alternate: Mrs Janina **Fetlinska**), MM. Oleg **Tulea**, Alexander **Ulrich**, Milan **Urbani**, Bart **van Winsen**, Mrs Ruth-Gaby Vermot-Mangold (alternate: Mr John **Dupraz**), Angela **Watkinson**, Mrs Gisela **Wurm**, Mr Andrej **Zernovsksi**, Mrs Barbara Žgajner-Tavs (alternate: Mrs Mojca **Kucler-Dolinar**), N. ..., N. ...

NB. The names of those members present at the meeting are printed in bold

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