



Paris, le 14 février 2024

**POLITICAL OPINION
POLITICAL OPINION ON THE
PREVENTION OF AND THE FIGHT AGAINST
CORRUPTION IN THE EUROPEAN UNION**

The European affairs Committee of the French European Affairs Committee of the Senate,

Having regard to the Treaty on European Union, in particular Articles 2, 3, 5, 6, 9, 10, 11, 13,

Having regard to the Treaty on the Functioning of the European Union, in particular Articles 15, 295 and 298,

Having regard to Article 41 of the European Charter of Fundamental Rights of the European Union,

Having regard to the United Nations Convention Against Corruption (UNCAC), adopted on 31 October 2003,

Having regard to the Organisation for Economic Co-operation and Development (OECD) Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions of 21 November 1997,

Having regard to the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption of the Council of Europe, adopted on 27 January 1999 and 4 November 1999 respectively,

Having regard to the Council Act of 26 May 1997 drawing up, based on Article K.3 (2) (c) of the Treaty on European Union, the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union,

Having regard to Council Framework Decision 2003/568/JHA of 22 July 2003 on combatting corruption in the private sector,

Having regard to Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law,

Having regard to Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU and the agreement reached in trilogue on the money laundering package on 13 December 2023,¹

Having regard to Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union and the agreement reached in trilogue on 12 December 2023 on the proposal for a Directive of the European Parliament and of the Council on asset recovery and confiscation (proposal COM(2022) 245 final),

Having regard to the Proposal for a Directive of the European Parliament and of the Council on combatting 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 of 3 May 2023, COM(2023) 234 final,

¹ Proposals for Regulations COM(2021) 420 final, COM(2021) 421 final and Proposal for a Directive COM(2021) 423 final.

Having regard to the Proposal for a Directive of the European Parliament and of the Council of 12 December 2023 establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries and amending Directive (EU) 2019/1937, COM(2023) 637 final,

Having regard to communication COM(2020) 605 final of 24 July 2020 from the European Commission on the EU Security Union Strategy,

Having regard to communication COM(2021) 170 final of 14 April 2021 on the EU Strategy to tackle Organised Crime 2021-2025,

Having regard to the 2022 State of the Union address by Ursula von der Leyen, President of the European Commission, delivered on 14 September 2022, calling on us to "eradicate corruption at home",

Having regard to the Joint Communication from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy on the fight against corruption, presented on 3 May 2023, JOIN(2023) 12 final,

Having regard to the Communication from the European Commission to the European Parliament, the European Council, the Council, the Court of Justice of the European Union, the European Central Bank, the European Court of Auditors, the European Economic and Social Committee and the Committee of the Regions on a proposal for an interinstitutional ethics body of 8 June 2023, COM(2023) 311 final,

Having regard to Special Report no 13/2019 of the European Court of Auditors: "The ethical frameworks of the audited EU institutions: scope for improvement",

Having regard to the report of the Europol monitoring group on the activities of criminal networks in EU ports of 30 March 2023,

Having regard to the decisions of the European Ombudsman, particularly those dated 16 May 2022, 12 July 2022 and 20 December 2023,

On Strengthening the Culture of Integrity and the Rules for Preventing Corruption in the European Union

On Reinforcing the Prevention of Corruption in the European Union

Whereas Article 3 of the proposal for a Directive COM(2023) 234 final on combatting corruption requires EU Member States and institutions to establish and implement the following effective measures to prevent corruption: training and awareness-raising campaigns for those most at risk, transparency of administrative decisions, accountability requirements of public officials, strict rules on calls for tender for public contracts, the establishment of clear rules to prevent conflicts of interest, the criminalisation of corruption-related offences,

Supports the welcome requirements of this Article, which calls on the Member States to take measures to prevent corruption in both the public and private sectors; stresses that France has already introduced a national anti-corruption plan, and that the tasks of preventing corruption are already being carried out rigorously, on the one hand, by the French High Authority for Transparency in Public Life (HATVP), which is responsible for the ethics of public officials, collecting, publishing and examining public officials' declarations of interest and assets and overseeing interest representation activities, and, on the other hand, by the *Agence Française Anticorruption* (AFA), which is responsible for drawing up anti-corruption guidelines, raising awareness and providing training, and supporting public and private sector players in setting up anti-corruption procedures;

Calls for the criterion of independence imposed by Article 4 of the proposal on bodies specialising in combatting corruption to be upheld to guarantee high standards in this area in all the Member States; confirms that this criterion of independence is met both by the statutes of the HATVP, an independent administrative authority directed by a college of thirteen members appointed for a non-renewable and irrevocable term of six years, and by those of the AFA, a body attached to the Minister of Justice and the Minister for the Budget, run by a functionally autonomous judicial magistrate appointed for a renewable term of six years;

Agrees with the statement of principle in Article 4(1) that bodies responsible for the prevention of corruption should "provide public access to relevant information on the exercise of their activities" but calls for paragraph 2 to be expanded to stipulate that this same obligation only applies to bodies and authorities responsible for the prosecution of corruption-related offences, if this does not compromise the effectiveness of their investigations and prosecutions.

On the Principle of Establishing a European Union Ethics Committee

Whereas the Member States and European institutions must, by virtue of Article 2 of the Treaty on European Union, respect democracy, human rights and the rule of law,

Whereas this obligation implies, for each institution and body of the European Union, guaranteeing the integrity of its members and staff, the transparency of its decisions, and an ability to account for its actions,

Whereas this obligation is even more important given that, since 2019, under the Treaties in force, the European Union's competence has been considerably extended to oversee both the digital and environmental transitions, to consolidate the Union's strategic autonomy in the wake of the Covid-19 pandemic and the invasion of Ukraine, and to ensure respect for the rule of law,

Whereas the aforementioned Special Report No 13 of the European Court of Auditors noted, as early as 2019, that although ethical rules had been put in place in the European Union institutions, they suffered from numerous weaknesses and did not comply with OECD standards, in particular as regards the ethical strategies to be followed, the procedures for verifying compliance with the established rules, the examination of their members' statements, the ethical whistleblowing mechanisms or the assessment of activities that members may pursue after leaving their position,

Whereas the European Ombudsman also highlighted these weaknesses in several enquiries carried out in 2022 and 2023, in particular concerning the acceptance, by a former Director-General of a European Commission department, of free air travel offered by a third country with which he was negotiating an agreement on behalf of the European Union, the lack of transparency of a Directorate-General of the European Commission concerning their relations with the tobacco industry, and the inadequate controls on European Commission staff who leave their positions to work in the private sector,

Whereas the Belgian authorities' investigation into the so-called "Qatargate" affair concerning several MEPs suspected of trading their votes for the benefit of third countries has demonstrated these shortcomings in the European Parliament,

Whereas, in accordance with a commitment made by the President of the European Commission, Ursula von der Leyen, in 2019, the Commission proposed on 8 June 2023 establishing a European Ethics Body on the basis of an interinstitutional agreement provided for in Article 295 of the Treaty on the Functioning of the European Union (TFEU)² concerning the institutions of the European Union referred to in Article 13 of the Treaty on European Union (TEU) (the European Parliament, the European Council, the Council of the European Union, European Commission, the Court of Justice of the European Union (CJEU), the European Central Bank (ECB), the European Court of Auditors, the European Economic and Social Committee and the European Committee of the Regions), with the European Investment Bank (EIB) also invited to participate,

Whereas this body would be set up to ensure an exchange of best practices between the above-mentioned institutions and to help them establish minimum ethical guidelines on a consensual basis,

² "The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature."

Considers that, in principle, the creation of a European Ethics Body is appropriate as a complementary body to the internal ethical rules and codes of conduct of each EU institution and body, as well as to the preventive and supervisory activities of the competent national authorities, the European Ombudsman, the European Court of Auditors, the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office;

Stresses, also, that this project forms a comprehensive response to corruption with the proposal for an anti-corruption directive, presented on 3 May 2023, and with the proposal for a directive establishing, in the internal market, harmonised rules on the transparency of lobbyists working for third countries and amending Directive (EU) 2019/1937, presented on 12 December 2023;

Observes, as does the European Ombudsman, that recent experience has shown that European Union institutions' self-regulation in the area of ethics is real but insufficient to guarantee their transparency or the integrity of their members;

Agrees that using an interinstitutional agreement as a legal instrument is an appropriate choice, since it was already used to set up a transparency register in 2021 common to the European Parliament, the Council of the European Union and the European Commission;

Adds, however, that the effectiveness of this instrument depends on the proposed ethics body's independence, the credibility of its missions and the allocation of adequate human and financial resources;

Regrets the very late date on which the European Commission presented such an initiative; notes that this timetable is now leading European negotiators to seek agreement on this project at all costs before the upcoming European elections, at the risk of agreeing to a compromise that lacks ambition and has little added value;

Recommends, finally, that the proposed ethics body be called the "European Union Ethics Committee" to ensure that it is easy to understand.

On the Scope of Powers Planned for the European Union Ethics Committee

On the Powers Provided for in the Interinstitutional Agreement and the Principle of Institutional Autonomy

Whereas Article 6(3) of the draft agreement specifies that the body's activities would not encroach on the competencies of the parties and would not affect their respective powers of internal organisation,

Whereas the Council of the European Union, drawing on the opinion of its legal services, considers that the delegations of the Member States sitting on the Council should not fall within the committee's remit, since they are already subject to the rules of professional conduct laid down in their respective national legislation,

Whereas, for its part, the Court of Justice of the European Union (CJEU) has proposed to take part in the committee's work as an observer, on the grounds that the ethical rules that the committee would establish cannot apply to the judges who make up the committee because of the independence required for the exercise of judicial power,

Whereas, as the draft stands, the committee's ethical guidelines would apply only to the members of the above-mentioned European institutions and bodies but not to their staff on the grounds that their status already makes them subject to their own ethical rules,

Notes that the European Commission considers the creation of a European Ethics Body charged solely with providing a forum for the exchange of ethical best practices and issuing consensual ethical guidelines for the participating EU institutions to be a significant "first step" towards strengthening European ethical standards; reiterates, however, that the European Parliament has demonstrated the urgent need to set up an independent European Ethics Body with investigative powers in order to restore the European Union's credibility;

Encourages, in terms of ethics, the exchange of best practices and the issuing of consensual guidelines, which can be done without necessarily setting up a new body, especially since the guidelines of the ethical codes of conduct already in place within each participating institution and body - transparency, integrity, independence, dignity, loyalty, discretion, honesty etc. - already converge to a large extent and can therefore easily be harmonised;

Notes, however, in line with the European Court of Auditors, the European Ombudsman and the European Parliament, that there is an urgent need to strengthen European institutions' ethical frameworks;

Calls, therefore, for the establishment of a European Ethics Committee with strengthened and easily identifiable supervisory prerogatives.

On the Principle of Institutional Autonomy and the Need to Respect the Rule of Law

Recalls that Article 13 TEU stipulates that "*each institution [of the European Union] shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them*"; stresses, however, that this principle of institutional autonomy and balance must go hand in hand, under the same Article 13, with the necessary "promotion" by those institutions of "*its values*" and with the equally necessary "*mutual sincere cooperation*";

Notes more generally that these institutions must act with respect for democracy, human rights and the rule of law, values of the European Union enshrined in Article 2 of the Treaty on European Union (TEU) from which the principles of integrity and transparency derive; stresses that the Court of Justice of the European Union has recently confirmed the binding nature of the obligations arising from the principles embodying these values: "*Article 2 TEU is not merely a statement of policy guidelines or intentions, but contains values which are an integral part of the very identity of the European Union as a common legal order, values which are given concrete expression in principles containing legally binding obligations...*"³;

Recalls also that, through a very "constructive" interpretation of the division of competences between the Member States and the European Union laid down in the Treaties, the European institutions have established an annual cycle of the rule of law which now leads the European Commission to evaluate the independence of the judiciary, freedom of the press, the effectiveness of the fight against corruption and even the functioning of parliamentary assemblies in each Member State, and to issue recommendations to them;

Whereas the credibility of these institutions' examination of each Member State's full compliance with the principle of the rule of law depends on their own compliance with that principle; notes, moreover, the possibility for each of the above-mentioned institutions to delegate some of its prerogatives to the European ethics committee for this purpose in application of the "Meroni doctrine" established by the CJEU in 1958,⁴ provided that this delegation is explicit, that it concerns powers mentioned in the Treaties, and that the committee's prerogatives are precisely defined; adds that such a delegation would not call into question the institutional balance provided for in the Treaties, since the Committee would not intervene in the European standard-setting process and its decisions would always be subject to review by the CJEU;

³ CJEU, Grand Chamber, European Commission/Poland, 5 June 2023, C-204/21.

⁴ CJEC, 13 June 1958, Meroni and co., Metallurgiche, società in accomandita semplice v High Authority of the European Coal and Steel Community, 10-56.

Underlines, therefore, the possibility, on these legal bases, of providing for the establishment of a European Ethics Committee with supervisory powers.

On the Nature of the European Union Ethics Committee's Powers

Considers it useful for the European Union Ethics Committee to collect and keep up-to-date, relevant information on the ethical standards that apply to the participating institutions;

Recommends that the committee's role in raising awareness of ethical issues and in training the members and staff of participating institutions be more explicitly stated;

Requests that the aforementioned committee be granted, on the one hand, the power to take up matters on its own initiative concerning the application of the ethical rules in force, based either on public information or on an individual request and, on the other hand, investigative powers to enable it to examine the reality of the facts; considers that, on this basis, the committee should be able to issue – non-public – opinions to help resolve problematic individual situations and, if necessary, public recommendations⁵ as general ethical guidelines for the appointing authority of the institution concerned, which would remain the sole decision-maker;

Hopes that, under this procedure, persons reporting a breach of European Union law will benefit from the guarantees provided for in Directive (EU) 2019/1937,⁶ in particular that their anonymity will be preserved;

⁵ Under the proposed arrangements, the committee's opinions relating to individual situations would remain confidential, whereas the recommendations, which would draw lessons from the aforementioned individual situations to establish guidelines that would apply to all European institutions, would have to be made public.

⁶ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

Specifies that, in the interests of efficiency and administrative rationality, granting the committee investigative powers would not necessarily imply setting up a new investigative body, since such an investigation could be conducted with the operational support of the European Ombudsman, the European Court of Auditors and the European Anti-Fraud Office;

Considers it necessary to make the committee the sole body responsible for collecting, storing, making public and verifying the declarations of interests and, where they exist, of assets of the members of the participating European institutions, similar to the existing declarations system in France and the HATVP's task of verifying these declarations and making them public;

Calls for the requirement to submit a declaration of interests to be extended to the directors and directors-general of the participating institutions' departments;

Invites consideration to be given to extending the obligation to disclose assets to all members and managerial staff of the above-mentioned institutions at the beginning and end of their term of office;

Notes that the European Ombudsman has condemned the negative consequences on the quality and transparency of the drafting of European legislation of the massive phenomenon of "revolving doors" whereby former MEPs, members and staff of the European Commission leave their positions for the private sector; supports, therefore, the need to entrust the committee with the task of monitoring the mobility of members and staff of the participating institutions and bodies to the private sector or to institutional structures responsible for representing the interests of third countries;

Recommends that the European Ethics Committee should be tasked with acting as the secretariat of the common transparency register provided for in the interinstitutional agreement of 20 May 2021 and with monitoring the obligations of lobbyists who apply to register or are registered; considers that, to that end, the staff of the concerned institutions currently responsible for maintaining that register could be seconded to the committee;

Considers, finally, that as part of the annual monitoring of the rule of law, the European Ethics Committee should draw up and present a report on respect for the rule of law by the institutions of the European Union themselves, in the performance of their respective tasks, in particular as regards their compliance with the rules on transparency, the fight against conflicts of interest and the prevention of and fight against corruption;

Requests that any breach of the obligations laid down in the interinstitutional agreement should be subject to sanctions by the institution concerned, corresponding to their severity, and suggests that the European Ethics Committee should consider harmonising the sanctions laid down by each institution; finally, reiterates that any finding of a criminal offence by the committee in the course of its investigative work must result in the competent judicial authority being informed.

On the Institutions Falling within the Remit of the Ethics Committee

Confirms that the national delegations to the Council of the European Union do not fall within the remit of the European Ethics Committee since they are subject to their Member State's body of ethical rules;

Considers it appropriate that the President of the European Council and the High Representative of the European Union for Foreign Affairs should be subject to opinions and recommendations from the European Ethics Committee;

Notes the CJEU's wish to sit on the Committee purely as an observer, since it will have to rule on any appeals against the European Ethics Committee's recommendations and cannot therefore be both judge and jury; calls, at the same time, on the Court to update its internal rules and to maintain the presence of its own ethics officer in order to comply with the highest ethical standards;

Calls for the remit of the European Ethics Committee to be extended to the staff of the participating EU institutions, which will involve a slight adjustment to their status.

On the Independence of the European Union Ethics Committee

Whereas, under the terms of the Communication from the European Commission, the European Ethics Committee would consist of one full member and one alternate member per participating institution and body, appointed for a period of five years, with the full members rotating their chair on an annual basis,

Whereas five independent experts, selected by the participating institutions' mutual agreement based on their experience, independence and professional qualities, will also sit on the committee as observers for a period of three years, renewable once,

Whereas the European Ethics Committee would be located on the premises of the European Commission, would have an annual budget of €600,000 and would have a secretariat headed by the European Commission and composed of two full-time staff and, where necessary, the relevant heads of unit of the participating institutions and bodies,

Whereas many new agencies have been created by the European Union since 2019,

Notes that the European Commission intends to provide the European Union Ethics Committee with limited resources, in line with the modest tasks it intends to assign to it and with the European Union's current budgetary constraints;

Regrets that the Ethics Committee would in fact be totally dependent on the European Commission's premises and logistical resources and, as a result, would fall far short of the standards of independence that this same Commission demands of the Member States, in particular in its proposal on the fight against corruption; observes, therefore, that the credibility of this Committee would be very low;

Reaffirms its attachment to the European Union's ability to control its budgetary commitments and considers that it is possible, by redirecting the budgets provided for in the Multiannual Financial Framework 2021-2027 for the "cohesion, resilience and values" programme and for the European public administration, to allocate sufficient funding to ensure the Ethics Committee can function in a satisfactory manner;

Suggests reversing the Committee's rules of composition as proposed by the European Commission to guarantee the Committee's freedom of action by appointing:

- five experts as permanent committee members chosen by mutual agreement between the participating institutions because of their experience, professional qualities and independence;

- one representative from each of the participating institutions, supported by an alternate representative, with observer status who will attend when their institution is involved;

Welcomes the constructive warnings issued by the European Ombudsman about breaches of European ethical rules, which also constitute cases of mismanagement, and considers that the European Ombudsman should be able to sit on the Committee *intuitu personae*;

Recommends that the term on the Committee of the experts and representatives from each institution be harmonised at five years;

Calls for the term of committee members to be irrevocable and non-renewable;

Considers it necessary, in this context, for the Committee to systematically entrust the examination of individual requests to those members who sit as independent experts to ensure the process remains thorough and that there is no conflict of interest;

Recommends that the Committee, as soon as it takes up its duties, adopt its own rules of procedure, including procedures to ensure its members apply the principles of independence, integrity, dignity and transparency, and appoint a compliance officer from among its members to deal with any ethical issues that may arise for its members;

Recommends removing the subordinate relationship provided for in the draft interinstitutional agreement between the Committee's secretariat and the European Commission; hopes that the secretariat will be headed by one of the committee's permanent staff, with sufficient hierarchical authority to coordinate the tasks entrusted to the heads of unit of the participating institutions; considers that this secretariat should also be able to call on the assistance of officials seconded from these institutions and bodies, as allowed by the European Union's staff regulations;⁷

Recommends, furthermore, that the Committee be allocated its own premises.

On the Relations between the European Ethics Committee and other Relevant Authorities

Calls for the establishment of permanent and confidential exchanges of information between the European Union Ethics Committee and the relevant national authorities, modelled on those established in France for the HATVP, to allow the committee to verify the veracity and relevance of the declarations of interest submitted to it⁸;

Recommends that the Committee, as soon as it is created, should join the "European Network of Public Ethics (ENPE)" established by the French High Authority for Transparency in Public Life (HATVP) to foster effective cooperation between the authorities responsible for public ethics in the Member States;⁹

⁷ Article 37 (Title III, Chapter II, Section 2) of the statute (Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community)

⁸ Tax information, land registers, data held by national authorities responsible for implementing ethical rules.

⁹ This network includes the authorities for thirteen Member States: Austria, Belgium, Cyprus, Croatia, Czech Republic, France, Greece, Italy, Lithuania, Malta, Portugal, Romania, Slovakia, and Slovenia.

Calls for the establishment of institutionalised cooperation between the European Ombudsman, the European Court of Auditors and the European Anti-Fraud Office (OLAF), on the one hand, and the Committee, on the other, so that it can benefit from their support in its investigations while respecting their respective remits;¹⁰

Recommends a structural reform of OLAF, which is responsible both for combatting fraud at the European level and for internal administrative investigations inside EU bodies and agencies, to make it legally and functionally independent of the European Commission by withdrawing its tasks of representing and preparing standards for the European Commission, by allowing its Director to be appointed by common agreement between the Council, the Commission and the European Parliament, and by empowering it to initiate anti-fraud actions and administrative investigations on its own initiative or in response to an individual request;

Calls for provisions to be made for the Ethics Committee to be able to refer cases to the European Public Prosecutor's Office without delay if it finds that a criminal offence has been committed which is likely to harm the European Union's financial interests.

On Other Essential Reforms

On the European Parliament's Internal Ethical Reforms in the Wake of "Qatargate"

Whereas, in December 2022, the revelations of the so-called "Qatargate" scandal concerning allegations of corruption involving certain MEPs, who had agreed to "monetise" their votes for the benefit of third countries eager to influence certain votes in Parliament, undermined the work of the European Parliament and cast doubt on the integrity of all public officials throughout the European Union,

Welcomes, therefore, the European Parliament's efforts to upgrade its ethical standards by adopting the "14 points" set out by its President, Roberta Metsola, in January 2023;

¹⁰ In practice, this cooperation could be put in place – under existing treaties – by amending these authorities' statutory texts.

Welcomes, in particular, the easier access to information on MEPs' activities, the greater transparency of MEPs' declarations of interest and the introduction of an internal protection regime for whistleblowers.

On the Regulation of Lobbyists' Activities

Points out that the Proposal for a Directive COM(2023) 637 final defines interest representation activities as those aimed at influencing the formulation or implementation of European policies or regulations or the decision-making processes of European institutions by organising meetings, events or conferences, by requesting hearings or exchanges with key players on European issues, or by carrying out targeted communication campaigns;

Welcomes the establishment, in 2021, of the transparency register common to the European Parliament, the Council of the European Union and the European Commission to identify lobbyists seeking to influence these institutions and to encourage them to be genuinely transparent, in particular by requiring them to make public the interests they represent;¹¹

Underlines the importance of the increased transparency on lobbyists at the European level since the establishment of the common transparency register; confirms the relevance of the code of conduct imposed on lobbyists who wish to register and remain on the register in order to come into contact with members of the European Parliament, the Council of the European Union and the European Commission; recalls that this code prohibits those concerned from attempting to obtain information or decisions dishonestly, from damaging European institutions and from inciting members of those institutions to infringe the ethical frameworks that apply to them;

¹¹ Name and form of the entity; interests represented; name of the person in charge of the entity; number of people carrying out the activity; objectives, areas of interest; organisations of which the registered person is a member; the targeted EU regulatory proposals or initiatives; membership of European Commission expert groups; names of people authorised to have access to the European Parliament; financial information (people contributing to the entity's operating costs; any European subsidies; costs of any intermediaries; income from each client).

Considers it necessary to entrust the monitoring of this register to an independent body, namely the Ethics Committee, given that the nature of the monitoring activities entrusted to its secretariat for the register remains insufficient since they are not public and the resources allocated to them appear to be inadequate;

Is also concerned, alongside the European Parliament, about the risk of interest representation activities being exploited by third countries seeking to weaken the decisions of the Member States and the European Union;

Takes note of the European Commission's late presentation on 12 December 2023 of the above-mentioned proposal COM(2023) 637 final, the stated aim of which is to establish harmonised European rules on the transparency of interest representation carried out on behalf of third countries;

Supports the idea of stricter supervision of lobbyists' activities at the European level, but questions the true scope of the proposed system, which seems in reality to reduce existing controls without replacing them with a credible procedure;

Regrets the risk of distortion and legal complexity that could result from introducing a text specifically devoted to interest representation on behalf of third countries, given that the natural or legal persons carrying out this activity generally represent interests from both Member States and third countries, and that any breaches of the ethical rules of the target institutions or of the anti-corruption legislation of Member States may benefit private parties established in a Member State;

Considers, moreover, that Article 114 of the Treaty on the Functioning of the European Union, concerning the strengthening of the internal market, does not constitute a sufficient legal basis for a proposal which also seeks to regulate an activity which has a direct influence on the decisions of democratically elected bodies, since it could potentially concern interest representation activities in Member State parliaments and governments, which do not fall within the scope of the aforementioned Article 114;

Calls, at the very least, for this legal basis to be supplemented by a reference to Article 2 of the Treaty on European Union, on the values of the European Union;

Questions the many restrictions on the information to be provided to national authorities responsible for monitoring lobbyists proposed by Article 16, which would limit the scope of requests for information¹² on the activities of lobbyists acting on behalf of third countries; considers these restrictions to be contrary to the stated general interest objective of better monitoring and evaluating the actual activities of lobbyists;

Considers disproportionate the obligation placed on the relevant authorities of the Member States to communicate with each other by the digital platforms managed by the European Commission, as set out in the proposal for a Regulation COM(2023) 636 final attached to the proposal for a Directive COM(2023) 637 final;

Regrets the latitude this proposal gives the European Commission to specify, by means of a delegated act,¹³ the list of information that lobbyists who wish to be entered in the European register should provide, to collect data on the registration of lobbyists acting on behalf of third countries in each Member State, and to coordinate the activities of national authorities responsible for monitoring lobbyists by setting up an advisory group,¹⁴ the usefulness of which has not been demonstrated;

¹² A national supervisory authority may request information from a lobbyist if it has information that the lobbyist has not complied with the registration procedure or provided inaccurate information when registering. In other cases, this national authority could make requests for information, either from a lobbyist who has received more than €1 million in payments, on an annual basis, from a single entity in a third country during the previous financial year, or from a lobbyist acting on behalf of a third country who has spent at least €8.5 million on interest representation activities in the European Union or €1.5 million in a Member State over the previous five years.

¹³"A legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act."

¹⁴ This advisory group would include representatives from the European Commission and each Member State. Representatives of the European Parliament and the member states of the European Free Trade Association (EFTA), i.e. Iceland, Liechtenstein, Norway and Switzerland, may also attend as observers.

Requests that the proposal for a directive should explicitly refer to the institutions of the European Union, in particular the Council, the European Parliament and the European Commission, and to their transparency register, in light of these institutions' shortcomings in monitoring lobbyists;

Disapproves of the mechanism provided for in Article 4 of the proposal, which in fact aims not to harmonise but to standardise the procedure for registering lobbyists acting on behalf of third countries in Member States by prohibiting Member States from adopting stricter provisions or maintaining a single control system for all interest representation activities, all the more since the planned standardisation would use the "lowest common denominator" and would lead to lobbyists registering in the "least demanding" Member State to receive a sort of "European certificate" for lobbyists acting on behalf of third countries;

Notes that the need for transparency in dealings with lobbyists working on behalf of third countries does not require such standardisation;

Considers that each Member State, in order to safeguard the nation's essential interests, must retain its freedom of choice in recognising or refusing to recognise lobbyists, particularly in the fields of national security and national defence;

Calls, therefore, for a substantial overhaul of the proposal for a directive to consist of a harmonisation of the applicable national procedures, on the basis of the following: the deletion of Article 4, which provides for maximum harmonisation; an obligation to register the lobbyists in question; an obligation to set up and maintain a transparency register of lobbyists and to implement the recommendations of the annual report on the rule of law in combatting corruption in each Member State; a harmonisation of the applicable criteria modelled on current French rules; an obligation of loyal cooperation and exchange of information between the relevant national authorities on lobbyists within the framework of the existing European network initiated by the HATVP; and a full and complete integration of European Union institutions and their transparency registers into the proposal.

On the Need to Monitor the Funding of European Political Parties and Foundations

Whereas, in accordance with Article 10 of the Treaty on European Union and Article 12 of the Charter of Fundamental Rights of the European Union, European political parties and the foundations attached to them contribute to European political awareness and to expressing the will of European Union citizens,

Whereas the fulfilment of this mission now requires better regulation of the status and funding of these political groups given the high risk of foreign interference and vulnerability to corruption,

Whereas such political groups may not, under European Union law, accept funding either from a Member State or from a third country, or from a company over which such a public authority may exercise influence, or from a "*private entity established in a third country*" or from "*persons from a third country who are not entitled to vote in elections to the European Parliament*",

Whereas the funding of political parties by legal entities is totally prohibited in certain Member States, including France,

Reaffirms that, in order to fulfil their mission of expressing the will of the citizens of the European Union by earning their trust, European political parties must be transparent about their funding and eschew any funding that would exert financial pressure on their independence, a position already expressed in the Senate's European Resolution No 122 of 21 March 2022¹⁵;

¹⁵ Senate European Resolution no 122 (2021-2022) of 21 March 2022 on the proposal for a Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising, COM(2021) 731 final, and the proposal for a Regulation of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations (recast), COM(2021) 734 final.

Reiterates, therefore, its opposition to the provision in the proposal for a Regulation on the statute and funding of European political parties and European political foundations (COM(2022) 734 final) which would allow European political parties to receive, up to a limit of 10% of the total contributions paid by their members, financial contributions paid by member parties having their headquarters in a country that is a member of the Council of Europe, in that it would encourage foreign interference in their operations and in their freedom of action;

Questions once again the appropriateness of allowing European political parties to be funded by legal entities, given the need to safeguard the integrity of the European elections against any attempt at manipulation.

On Combatting Corruption

On the Proposal for a Directive on Combatting Corruption

Whereas, according to the Corruption Perceptions Index (CPI) drawn up by the non-governmental organisation *Transparency International*, eleven EU Member States, including France, are ranked among the twenty countries seen as being the least corrupt in the world,

Whereas, however, the European Commission conservatively estimates at €120 billion the annual cost of corruption to the economies of EU Member States,¹⁶

Whereas the European police cooperation agency Europol has demonstrated that 60% of organised crime networks operating in the European Union use corruption to infiltrate the public sector and private companies,¹⁷

Whereas Communication COM(2023) 800 final, the Rule of Law Report 2023 includes a number of recommendations to improve the prevention of and fight against corruption and conflicts of interest in certain Member States and to regulate interest representation activities,

¹⁶ Explanatory statement on the proposal for a directive on the fight against corruption, p 1.

¹⁷ Serious and Organised Crime Threat Assessment (SOCTA) of 12 April 2021.

Whereas in 2023, according to Eurobarometer, 70% of citizens in EU Member States and 65% of European businesses believed that corruption was widespread in their country,

Stresses the importance of effective political, legal and operational cooperation between Member States, at the international level and within the European Union, to prevent and combat corruption;

Affirms that the fight against corruption must be a permanent political priority for the Member States and the European Union as corruption undermines public confidence in democratic institutions, weakens the authority of the state, and takes advantage of the freedoms of the internal market;

Notes with interest the European Commission's monitoring of the rule of law, which provides a useful snapshot of the situation in each Member State on an annual basis with regard to the organisation of its judicial system, the fight against corruption, freedom of the press and media pluralism, and institutional issues;

Notes that the European Commission's fourth report on the rule of law explicitly identifies the sectors most exposed to the risk of corruption – healthcare, construction, town planning, port activities, environmental protection, protection of cultural heritage, and energy – and makes recommendations to the Member States on how to prevent and combat corruption, calling on them to draw the necessary conclusions without delay;

Welcomes, in this context, the European Commission's proposal for a directive to harmonise corruption-related offences and penalties at the European level;

Calls on the European co-legislators to adopt this reform without delay to demonstrate their political will in this area;

Regrets, however, that the current European Commission has presented this proposal for a directive as one of the last reforms of its term of office, thus denying it the opportunity to be examined within a satisfactory timeframe; also deplores the poor quality of the French translation of the English text, which uses an incorrect register of language and terms that are insufficiently precise for a text with normative implications, such as "*d'agents de haut niveau*", "*d'appareil judiciaire*" and "*divulgation*" when referring to conflicts of interest;

Regrets also the lack of an impact assessment to accompany this proposal, which constitutes a regrettable failure to meet the requirements of transparency and democratic scrutiny that flow directly from the rule of law; reiterates its position of principle that the European Commission should always include such an impact assessment when it presents a new legislative initiative and should take account of the time needed to draw up such an assessment in its working timetable;

Acknowledges the validity of the legal basis chosen for the proposal for a directive, namely Article 83(1) of the Treaty on the Functioning of the European Union, which allows the European Parliament and the Council, acting through directives, to "establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime", including corruption, but, to provide a better basis for the text's provisions on preventing corruption, proposes adding a reference to the provisions of Article 41 of the European Charter of Fundamental Rights on citizens' right to good administration and Articles 2 and 3 of the Treaty on European Union on the values of the European Union;

Supports the principle of harmonising corruption-related offences at the European level so that the United Nations Convention against Corruption (UNCAC) can be incorporated into European Union law;

Would like Article 2 to explicitly confirm the application of the proposed directive to the President of the European Council, the High Representative of the European Union for Foreign Affairs and Security Policy, European Commissioners and Members of the European Parliament.

On the Resources Allocated to the National Authorities Responsible for Identifying and Punishing Corruption-Related Offences

Supports the principle of providing the relevant national authorities with the resources they need to carry out their tasks of identifying, prosecuting and punishing corruption-related offences, but stresses that Article 5 of the proposal for a directive cannot impose such a requirement, given that, under the Treaties, the purpose of a directive is to impose on the Member States an obligation of result and not of means, and that a review by the Court of Justice of the European Union under Article 5 of the means made available by the Member States would be unjustified in the light of the principles of subsidiarity and proportionality.

On the Classification and Criminal Punishment of Corruption-Related Offences

Considers that harmonising how corruption-related offences are defined on the basis of the aforementioned UN Convention and how they are classified under criminal law, as provided for in Articles 7 to 14 of the proposal, is a significant step forward in the fight against corruption since the differences between Member States' national legislation are currently being exploited by the criminal networks that employ corruption and contribute to distortions of competition between Member States to the benefit of the least stringent;

Stresses, in particular, the importance in the proposal of identifying "influence peddling", which should help to avoid a new "Qatargate" and to more effectively combat attempts at corruption linked to foreign interference at the European level;

Considers that "obstruction of justice", as referred to in Article 12, should not constitute a new criminal offence but be assessed in the light of offences already defined in Member States' national legislation, such as in France: passing on confidential information about an investigation into corruption, threats made against investigators or magistrates in charge of prosecutions, perjury or witness tampering, as referred to in Articles 434-7-1 to 434-23-1 of the French Criminal Code;

Specifies that the "*non bis in idem*" principle by which no person may be prosecuted twice for the same offence applies in the case of a public official prosecuted for "enrichment from corruption offences", as referred to in Article 13, if they have intentionally acquired, possessed or used property which they know to have been derived from the commission of one of the aforementioned offences or if they were previously involved in the commission of this offence;

Approves the proposed criminal sanctions for natural persons who have committed an offence related to corruption, which should ensure that these sanctions are effective, proportionate and dissuasive;

Supports the recognition at the European level of the criminal liability of legal persons for offences related to corruption established by Article 16 of the proposal for a directive, such liability being recognised under French law in Article 121-2 of the Criminal Code, where an offence has been committed on behalf of that legal person and the offender is one of its directors or representatives;

Notes that this article proposes to extend a legal entity's liability to cases where a member of its staff has committed an offence relating to acts of corruption due to a lack of supervision or control on its part, an extension in line with France's international commitments, such as the Council of Europe's Criminal Law Convention on Corruption¹⁸;

Notes that the current European Commission has introduced similar provisions to make it easier for legal entities to incur criminal liability in the area of environmental crime,¹⁹ and is considering doing the same to combat human trafficking;²⁰

¹⁸ Article 18 of this Convention calls on the Parties to allow a legal person to be held liable where a lack of supervision or control has made it possible for an employee to commit an offence (active corruption, influence peddling, etc.). The liability of legal persons for lack of supervision and control was also introduced by the 2009 OECD Recommendation adopted following the 1997 OECD Convention on Combatting Bribery of Foreign Public Officials.

¹⁹ Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC of 15 December 2021, COM(2021) 851 final.

²⁰ Proposal for a Directive of the European Parliament and of the Council laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council

Notes with interest the introduction of a review clause to assess the reform's relevance; considers, however, that the planned 48-month period for this review is too long and recommends that it be set at two years;

Solemnly calls, above all, on the Government to preserve both the "conditional" criminal liability of French local authorities and their agglomerations, which are only criminally liable for offences committed in the exercise of activities that may be the subject of public service delegation agreements,²¹ and the specific criminal liability regime for local elected representatives in the event of unintentional offences, introduced by the "Fauchon Law",²² which only allows them to be held liable *"if it is established [that they] have either manifestly and deliberately violated a particular duty of care or safety laid down by law or regulation, or committed a serious offence that exposed others to a particularly serious risk [that they] could not have been unaware of."*

On Aggravating and Mitigating Circumstances

Notes that, among the aggravating circumstances of corruption-related offences, Article 18 includes the case in which the offender has obtained a considerable advantage and the case in which considerable damage results from the offence; specifies that such an advantage or damage must exceed €100,000 in accordance with the definition set out in Article 7 of Directive (EU) 2017/1371²³.

Directive 2002/90/EC and Council Framework Decision 2002/946 JHA, COM(2023) 755 final.

²¹ Article 121-2 of the French Criminal Code.

²² This criminal liability regime is now set out in Article 121-3 of the French Criminal Code.

²³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

On the Limitation Periods

Notes that the limitation periods for corruption-related offences laid down in Article 21 of the proposal for a directive, set at fifteen years for offences of corruption in the private sector and obstruction of justice, and ten years for offences of corruption in the public sector, embezzlement, influence peddling and abuse of functions, are excessively long; calls, therefore, for these periods to be harmonised with the period laid down in Article 8 of the French Code of Criminal Procedure for similar offences (six years).

On the Other European Priorities for Combatting Corruption

On the Need for Greater European Operational Cooperation to Combat Corruption More Effectively

Whereas, according to the European Union Agency for Law Enforcement Cooperation (Europol), the proceeds of organised crime in the European Union are estimated at €110 billion, 70% of criminal networks operating in the European Union use money laundering techniques, and 60% of them resort to corruption,

Whereas corruption is most often a "silent" offence ancillary to other serious criminal offences, such as drug trafficking, money laundering, terrorism or espionage,

Whereas organised crime networks have growing influence in certain Member States and a new stranglehold on major European ports, first and foremost Antwerp, Rotterdam and Hamburg, through massive corruption of "port workers" in order to unload and sell drugs,

Whereas the services for identifying and punishing corruption in France are effective, first and foremost the *Office Central pour la Répression de la Grande Délinquance Financière* (Central Office for the Punishment of Serious Financial Crime) of the Judicial Police and the Tracfin financial intelligence unit attached to the Ministry of the Economy, Finance and Industrial and Digital Sovereignty,

Stresses the vital, pivotal role of Europol and its European Financial and Economic Crime Centre in supporting investigations by the relevant services of the Member States through logistical support, data processing and participation in joint investigation teams;

Supports the European Union's roadmap for the fight against drug trafficking and organised crime, presented by the European Commission on 18 October 2023, which provides for the facilitation of financial investigations to "follow" the money of criminal networks and help dismantle them; in this context, approves the agreement reached between the European Parliament and the Council this past 12 December on the proposal for a directive on asset recovery and confiscation,²⁴ which should strengthen the mechanisms for recovering assets²⁵ and extend the possible scope of confiscations;²⁶

Supports, also, the consolidation of the European regulatory framework on the fight against money laundering, agreed in trilogue last 13 December,²⁷ which introduces a reinforced mechanism for reporting irregularities and establishes a new European authority for countering money laundering and financing of terrorism (AMLA); notes the powers conferred on this authority allowing it to directly monitor certain types of credit and financial institutions, including crypto-asset service providers, if they are considered high-risk or engage in cross-border activities, and supports the Paris bid to host this authority's headquarters;

²⁴ COM (2022) 245 final.

²⁵ Asset recovery offices will be responsible for tracing and identifying assets of criminal origin in support of asset tracing investigations carried out by national authorities and the European Public Prosecutor's Office. They will also carry out tasks involving the tracing and confiscation of products that are the subject of a freezing or confiscation order issued by a body in another Member State.

²⁶ Member States must take measures to allow for assets to be frozen so that the instrumentalities and proceeds of a criminal offence can be confiscated. The competent authorities will now be able to confiscate unexplained wealth and criminal assets that have been transferred to a third party to avoid confiscation.

²⁷ Proposal for a Regulation of the European Parliament and of the Council establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010 of 20 July 2021, COM(2021) 421 final; Proposal for a Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing of 20 July 2021, COM(2021) 420 final; Proposal for a Directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system

Notes the urgent need for greater European cooperation between the relevant political and judicial authorities and operational services to break the "chains of corruption" set up by drug trafficking networks in major European ports; calls for the rapid deployment of the "European Port Alliance", which should meet this objective by allowing a realistic, on-site assessment of the state of vulnerability and the criminal threat, to strengthen security and curb criminal networks' influence; stresses the need to involve French ports, including Le Havre, Marseille, Dunkerque and Calais, in this mechanism to prevent trafficking and related corruption from being diverted to these ports.

On the European Public Prosecutor's Office's Efforts to Prosecute Offences Against the European Union's Financial Interests

Whereas the European Public Prosecutor's Office, established by Council Regulation (EU) 2017/1939 of 12 October 2017²⁸ and in operation since 1 June 2021, is an independent European judicial body responsible for prosecuting offences against the European Union's financial interests, which may take the form of VAT or public procurement expenditure fraud, misappropriation of European funds, money laundering or acts of corruption,

Notes with interest the encouraging initial results of the European Public Prosecutor's Office, which had opened 1,117 investigations by 31 December 2022, including 116 into money laundering and 87 into corruption; calls for greater attention to be paid to public procurement procedures, which, according to the European Public Prosecutor's Office's 2022 activity report, are at particular risk of corruption;

for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 of 20 July 2015, COM(2015) 423 final.

²⁸ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO').

Calls for the full powers of the European Public Prosecutor's Office to be safeguarded in the measures resulting from the negotiations on the proposal for a directive COM(2023) 234 final on combatting corruption; encourages the relevant authorities in the Member States and European institutions to step up their operational cooperation with the European Public Prosecutor's Office to fight corruption with systematic reports, similar to the working arrangement signed on 17 January 2024 between the Public Prosecutor's Office and the French Treasury's Directorate-General to combat possible attacks on the European Union's financial interests in the implementation of the French national recovery and resilience plan (PNRR), which is the French version of the European Recovery and Resilience Facility (RRF).²⁹

On Incorporating the Fight Against Corruption into the Priorities of the European Union's Common Foreign and Security Policy (CFSP) and Respect for the Acquis of European Law by Countries Applying for Membership of the European Union

Notes with satisfaction that the fight against corruption is confirmed as one of the priorities of the CFSP and of the EU's enlargement and neighbourhood policies in the joint communication from the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy of 3 May 2023;

Duly records the conclusions of the European Council of 14-15 December 2023, which opened negotiations for accession to the European Union with Ukraine, Moldova and, subject to progress in meeting the accession criteria, with Bosnia-Herzegovina; recalls that Albania, Georgia, Kosovo, North Macedonia, Montenegro, Serbia and Turkey are also candidates for accession;

²⁹ The RRF allows the European Union to raise funds to help Member States implement reforms and investments in line with European priorities. For this, it makes available €723.8 billion (at current prices) in the form of loans (€385.8 billion) and grants (€338 billion). Under the PNRR, France has applied for European funding of around €40 billion.

Stresses that the advisability of any enlargement of the European Union must be assessed in the light of the "Copenhagen criteria", which subject candidate countries to the threefold requirement of stable institutions respecting democracy, the rule of law and human rights, a viable market economy and the adoption of the community acquis, and is subject to the European Union's capacity to take in new members;

Notes, in the light of the European Commission's latest evaluation reports, that the fight against corruption, which is one of the conditions for stable democratic institutions that respect the rule of law, remains a major challenge for these countries; encourages these candidate countries, therefore, to adopt the community acquis on preventing and combatting corruption and to implement it without delay, and calls on the European Union institutions to support them in this through appropriate political, legal and human resources.