



Tirana Declaration on Human Rights, Democracy and the Fight against Corruption

Presented on 2 December 2020

On the eve of the 2020 OSCE Ministerial Council Meeting, civil society organisations united in the Civic Solidarity Platform call on the OSCE and its participating states to radically step up the fight against corruption. Too many persons in official positions cannot resist to abuse their position for personal enrichment, for example by manipulating public procurement procedures. In large parts of our region this has become an endemic characteristic of governance that requires a concentrated and determined pushback.

Cynicism towards government and distrust towards politicians has been growing in the face of a political and public sector that is governed by greed. Citizen street protests that have grown in a series of countries however show that people are still motivated to turn into action their anger over corruption.

Grand corruption, the large scale siphoning off of public resources, directly violates human rights by limiting possibilities for the state to uphold its obligation to fulfill social economic rights. Groups that are discriminated on the basis of e.g. gender, ethnic origin, age or disability can be expected to suffer the greatest impact from programmes on social economic rights being underfunded.

Corruption of the political sector by businesses also happens in a number of situations through the funding of election campaigns, and (usually in a much less transparent way) also by offering to politicians the prospect of future lucrative positions in business.

So-called petty corruption, where citizens are forced to directly pay public servants to obtain certain services or to get a preferential treatment, has a similarly discriminatory effect as these groups often do not have the means to pay the bribe. Payment in the form of sexual services (a form of "sextortion") is an even worse corrupt abuse of power.

In situations in which a high degree of power over people's well-being lies in the hands of civil servants, as is for example the case with law enforcement officers, with staff of detention facilities and members of the judiciary, the temptation (from both sides) to engage in corruption becomes even higher. Think of decisions about detention, about privileges in detention, about prosecution,

about crossing borders. Organised trafficking in persons, a serious, wide-spread human rights abuse, would not take place if it were not for systematic corruption among officers supposed to check migration and labour conditions.¹ Personnel at all levels in these sectors should obviously be recruited, selected, trained, coached and evaluated in ways that guarantee their integrity.

Corruption in arms trade is a common practice, side-lining provisions e.g. of the Arms Trade Treaty and comprehensive and transparent assessments of arms to reduce the misuse of small arms and light weapons especially impacting women and men in conflict zones and facilitating human rights violations.

Indirectly, organized corruption leads to a further series of human rights abuses. The need for corrupt officials to cover up their crimes requires them to control any process that may lead to them being deposed. Moving towards a kleptocratic state therefore requires a move to an autocratic mode of governance in which the judiciary and the mass media are under control of the government, and political opposition and critical civil society marginalized to the extent possible.

The work of anti-corruption activists or journalists who uncover corruption is one of the most dangerous forms of civic activism. We remember those who in recent years in our region have fallen victim to murder, with strong evidence of the involvement of security, law enforcement or political figures: Pavel Sheremet², Katya Gandziuk³ and Vadym Komarov⁴ in Ukraine, Nikolai Andrushchenko⁵ and Dmitry Popkov⁶ in Russia, Jan Kuciak⁷ In Slovakia and Daphne Caruana Galizia in Malta. This does not count those who survived attacks, who were forced to flee their country or the numerous cases of imprisonment or other ways of judicial harassment. Some countries have gone through a process of thorough investigation of those ultimately responsible for the crimes, in other places such a process is non-existent or the subject of persistent campaigning by civil society and journalist colleagues.

The globalized nature of the financial system and the ease with which property can be acquired outside one's own country is making grand corruption a truly transnational challenge. Parts of the economic sector, the political field and civil society are under threat of secondary corruption, as enablers of the primary kleptocrats. This internationalization at the same time opens a number of possibilities to fight corruption and related money laundering.

¹ <http://www.oecd.org/gov/ethics/human-trafficking/>

² <http://khpg.org/en/index.php?id=1595202629>

³ <https://zmina.ua/en/media-en/she-was-fighting-corruption-in-ukraine-when-she-was-attacked-with-acid-critics-say-the-case-raises-hard-questions-for-canada/>

⁴ <https://monitor.civicus.org/updates/2019/07/25/journalist-killed-activists-protest-against-corruption-government/>

⁵ <https://cpj.org/data/people/nikolai-andrushchenko/>

⁶ <https://cpj.org/data/people/dmitry-popkov/>

⁷ <https://www.dw.com/en/slovakia-arrests-ex-police-chiefs-over-journalist-killing/a-55514211>

A series of international anti-corruption treaties are at the disposal of states, drawn up in the frameworks of the UN, the OECD and the Council of Europe. Under some of them, persons and companies can in principle be convicted for corruption in other jurisdictions, but evidence is often difficult to obtain and the enforcement possibilities are greatly underutilized⁸. Other treaties assume the willingness in principle of state bodies to prevent corruption and monitoring anti-corruption measures as they exist on paper, rather than their impact in practice.

Anti-corruption law also offers the possibility to strip corrupt individuals of the assets obtained through corruption. In some jurisdictions this can be done without a penal conviction, if the person is not able to give a satisfactory explanation of the origin of the assets⁹. In a few cases (most recently on returning funds to Uzbekistan¹⁰), civil society campaigns have been successful in returning corruptly obtained funds to the population from which they were stolen, but this remains an underutilized avenue.

In the OSCE, the fight against corruption is usually mostly placed under the second (environmental and economic) dimension, but also ODIHR's work on ethical standards for parliamentarians relates directly to corruption¹¹, and in 2019, enhanced work on 'political corruption' was announced¹². In effective first dimension work to counter transitional crime corruption should also play an important role – grand corruption often has international components, and corruption in agencies that should prevent and suppress transnational crime can turn the fight ineffective.

Since 2018, the Chairpersonships have had a Special Representative on Combating Corruption¹³. In 2020, the yearly Economic and Environmental Forum paid special attention to the issue of corruption, a priority of the Albanian Chairpersonship.¹⁴

Following steps should be taken by the OSCE and OSCE bodies:

- continuation of the fight against corruption at all levels as a priority of the Chairmanship
- reviewing and where possible strengthening of the work on fighting corruption across the different bodies of the OSCE and in their international cooperation with other multilateral organizations such as UN, OECD and the Council of Europe

⁸ See for example the recent report by Transparency International about the implementation of the OECD Anti-bribery Convention, <https://www.transparency.org/en/publications/exporting-corruption-2020>

⁹ <https://pace.coe.int/en/news/7056>

¹⁰ <https://www.uzbekforum.org/concerns-remain-despite-step-toward-responsible-return-of-stolen-assets-to-uzbekistan/>

¹¹ See for example this presentation: <https://rm.coe.int/16806ccf7c>

¹² <https://www.osce.org/odihr/419135>

¹³ <https://www.osce.org/node/372156>

¹⁴ <https://www.osce.org/chairmanship/463236>

- mainstreaming of attention for the dangers of corruption and for policies, procedures and attitudes to counter corruption in all programs aimed at professionalizing the work of political actors, of the judiciary, of law enforcement officers and of border personnel
- stimulating the recognition of large scale corruption, related money flows and the re-investment of corruptly obtained money as a form of transnational organized crime, and the consequent application against these phenomena of the full framework created to fight transnational organized crime
- stimulating increased and strengthened steps for the confiscation abroad of corruptly obtained assets and for their return to the populations they were stolen from, contributing to covering basic social needs of these populations and taking into account the importance of preventing renewed corrupt appropriation of the funds

... and by OSCE participating States:

- prioritizing the continuous monitoring and refining of strategies, tactics and steps to prevent and fight corruption in each state's civil service, judiciary and political sector
- including a strong component of fighting transborder corruption in each state's anti-corruption strategy, including applying to the maximum the opportunities for anti-corruption steps offered by international treaties, and making available sufficient judicial investigatory capacity to follow up leads on corruptly obtained assets
- strengthening the state's legal capabilities and capacity to stop people from enjoying assets whose origin can only be explained through criminal activity including corruption, and to move towards confiscating those assets, in accordance with international human rights case law. Where possible the confiscated funds should be returned to populations that have suffered under the corruption
- nurturing an awareness and culture of the importance of civic action to counter corruption, including by putting in place strong and comprehensive procedures for the protection of whistleblowers and others who raise issues of unethical corporate or governmental behavior.