



# Anti-Corruption & Ombudsman Global Trend 2022. 2.



Anti-Corruption &  
Civil Rights Commission



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## I. Anti-Corruption News

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### **Top 10 international anti-corruption developments for December 2021**

(Lexology, 2022-1-20)

Designed for busy in-house counsel, compliance professionals, and anti-corruption lawyers, this newsletter summarizes some of the most important international anti-corruption developments from the past month, with links to primary resources. This month we ask: How does Foreign Corrupt Practices Act (FCPA) enforcement factor into the Biden administration's new anti-corruption strategy? Why did a UK court overturn a significant trial victory by the UK's Serious Fraud Office (SFO)? What has contributed to France's significant progress in foreign bribery enforcement over the last decade? The answers to these questions and more are here in our December 2021 Top 10 list.

#### **1. UK Court of Appeal Overturns Conviction of Former Energy Company Executive**

On December 10, 2021, the UK Court of Appeal overturned the conviction of Ziad Akle, a former Unaoil executive sentenced to prison in July 2020 for engaging in a conspiracy to give corrupt payments in connection with oil contracts in the Middle East. The judgment criticized the UK SFO's handling of the case, prompting the attorney general to launch an independent review. In particular, the Court of Appeal found that the SFO withheld evidence that, with the agency's

knowledge, an individual associated with Unaoil had pressured another defendant, Basil Al Jarah, to plead guilty in July 2019. Al Jarah's guilty plea was later used as evidence at Akle's trial. Characterizing the error as "a serious failure," the Court of Appeal wrote that "neither the defence nor the judge had anything like the full picture which is now available to this court." On December 20, 2021, Paul Bond, the former manager of Dutch energy services company SBM Offshore and Akle's co-defendant, appealed his February 2021 conviction based on revelations from the Court of Appeal's December 10 decision. The Unaoil case was a significant victory for the SFO, and we will keep an eye on what this setback means for the agency's future cases.

## **2. Biden Administration Releases New Anti-Corruption Strategy**

Further demonstrating its anti-corruption commitment, on December 6, 2021, the Biden administration released the United States Strategy on Countering Corruption (the "U.S. Strategy"), which outlines several objectives and initiatives designed to combat corruption and related crimes within the United States and abroad. This action follows President Biden's June 2021 memorandum establishing the fight against corruption as a core national security interest and calling for an interagency review to develop and recommend an anti-corruption strategy within 200 days. The U.S. Strategy is based on five pillars: (1) Modernizing, Coordinating, and Resourcing U.S. Government Efforts to Better Fight Corruption; (2) Curbing Illicit Finance; (3) Holding Corrupt Actors Accountable; (4) Preserving and Strengthening the Multilateral Anti-Corruption Architecture; and (5) Improving Diplomatic Engagement and Leveraging Foreign Assistance Resources

to Advance Policy Objectives. Each of these pillars incorporates goals that seek to counter corruption on a global scale. The first law enforcement effort identified to advance pillar 3 is “Continuing to vigorously pursue the enforcement of foreign bribery cases through the FCPA, money laundering charges, and forfeitures for promoting corrupt schemes and laundering corruption proceeds as appropriate[.]” Another law enforcement effort highlighted to advance pillar 3 is “Establishing, through the Treasury, a pilot Kleptocracy Asset Recovery Rewards Program that will enhance the U.S. Government’s ability to identify and recover stolen assets linked to foreign government corruption held at U.S. financial institutions[.]” This signals an intent to move forward with the program established under the Kleptocracy Asset Recovery Rewards Act (KARRA), which was part of the December 2020 National Defense Authorization Act for Fiscal Year 2021. Consistent with longstanding policy, the U.S. Strategy also emphasizes, among many other tactics, the need to improve information-sharing and to coordinate international law enforcement efforts. To ensure accountability for the U.S. Strategy, federal departments and agencies, coordinated by the National Security Council, and in consultation with the National Economic Council and Domestic Policy Council, will report annually to the president on progress made against the Strategy’s goals.

### **3. OECD Working Group on Bribery Lauds France’s “Significant Progress” in Foreign Bribery Enforcement, Calls for More**

On December 16, 2021, the OECD Working Group on Bribery released its Phase 4 evaluation of France’s implementation of the Convention on Combating Bribery of Foreign Public Officials in

International Business Transactions and related instruments. All parties to the Convention are subject to a rigorous peer-review process, Phase 4 of which focuses on the evaluated country's enforcement of the Convention and considers the country's particular challenges and positive achievements. According to the Working Group, "France has undertaken major legislative and institutional reforms since Phase 3 in 2012 and made significant progress in enforcing the foreign bribery offence." The Working Group credited the 2016 Sapin 2 Act and other reforms as having allowed France to become "a credible counterpart in combating foreign bribery" and having "placed prevention and internal compliance measures at the heart of France's policy for combating foreign bribery." The Working Group welcomed "the significant increase in the number of investigations opened, as well as foreign bribery cases concluded (14 cases since 2012)," resulting in sanctions for 19 natural persons and 23 legal persons. The Working Group also noted that five cases had been resolved by using a non-trial resolution mechanism, which the Working Group generally encourages.

Nevertheless, the Working Group expressed concern that the number of cases detected and resolved remains relatively low in light of France's economic situation and trade profile and the number of foreign bribery allegations reported in the media. The OECD made a range of recommendations designed to preserve and expand France's gains. As we have noted previously, France's emergence as a serious player in this space could have a major impact on international law enforcement efforts.

#### **4. French Bank Successfully Completes Deferred Prosecution Agreement**

On December 2, 2021, the Eastern District of New York granted a motion filed by the U.S. Department of Justice (DOJ) to dismiss with prejudice FCPA and other charges against Société Générale after the French bank successfully completed the terms of its three-year deferred prosecution agreement (DPA). In June 2018, the bank and one of its subsidiaries agreed to pay a combined total of \$860 million in criminal penalties to resolve allegations by U.S. and French authorities that it bribed Libyan officials to secure investment management contracts from state agencies, including the Libyan Investment Authority, and that it manipulated LIBOR. This case was significant because it was the first-ever coordinated foreign bribery resolution between the United States and France.

## **5. U.K. Government Reports Progress on Its Anti-Corruption Strategy**

In December 2017, the UK released a five-year strategy framework for tackling domestic and foreign bribery. On December 31, 2021, the UK government issued its third annual update on the progress made against the UK Anti-Corruption Strategy 2017–2022 (the “UK Strategy”). The update noted the challenges posed by the COVID-19 pandemic and Brexit to advancing the anti-corruption agenda but concluded that the UK had nevertheless made significant progress across a number of the commitments made in the UK Strategy. Among the notable accomplishments from 2020 highlighted in the update are securing the commitment with all Crown Dependencies and inhabited Overseas Territories to implement beneficial ownership registers; extending the remit of the National Fraud Initiative and helping local authorities to undertake bank account and active company checks; securing endorsement from G20 ministers of a G20 Call to Action for countries

to combat corruption in the COVID-19 response and recovery; and publishing a paper on procurement reform with specific proposals to further strengthen transparency and integrity across government. In sum, the update concludes that, of the 134 commitments made in the UK Strategy, the UK has completed 52 commitments and is on track to complete 68 more, with 14 commitments whose deadlines are at risk to be missed.

## **6. Isle of Man Launches Anti-Corruption Initiative**

On December 9, 2021, the Isle of Man government launched the Anti-Bribery and Corruption Project to tackle the issues of money laundering, terrorist financing, and financial crime, which were identified in a National Risk Assessment carried out in 2020. Although the Isle of Man has been trying to combat corruption since 2013, when the Bribery Act of 2013 was passed, the Anti-Bribery and Corruption Project is designed to help the Isle of Man government identify where there may be potential gaps in its response and provide recommendations to public- and private-sector entities on managing the risks posed by bribery and corruption.

## **7. Sons of Former Panamanian President Plead Guilty to Bribery and Money Laundering Scheme**

On December 2, 2021, DOJ announced that Luis Enrique Martinelli Linares (“Luis”), a citizen of Panama and Italy and the son of former Panamanian President Ricardo Alberto Martinelli Berrocal, had pleaded guilty in the Eastern District of New York to one count of conspiring to launder \$28 million in connection with a bribery scheme involving



a Brazilian construction company. DOJ announced Luis's extradition from Guatemala in November 2021. On December 14, 2021, DOJ announced that Luis's brother and co-defendant, Ricardo Alberto Martinelli Linares ("Ricardo"), also a citizen of Panama and Italy, pleaded guilty in the Eastern District of New York to the same charge after having been extradited from Guatemala just four days earlier. According to DOJ, Luis and Ricardo agreed to establish offshore bank accounts to conceal \$28 million in bribe funds, which were "for the benefit of [their] close relative, a high-ranking public official in Panama." DOJ first announced money-laundering charges against the brothers, as well as their arrests in Guatemala, in July 2020.

## **8. U.K. Court Orders Ex-Oil Executive to Forfeit Bribery Proceeds**

On December 15, 2021, the SFO announced that London's Southwark Crown Court had ordered former oil company executive David Lufkin to forfeit over £140,000 following his guilty pleas to a total of 11 counts of bribery in February 2019 and January 2021. In pleading guilty, Lufkin admitted taking part in corruption schemes in Iraq, Saudi Arabia, and the United Arab Emirates between 2012 and 2018, for which he received a two-year suspended prison sentence. The Court gave Lufkin a more lenient sentence because he had entered into a formal cooperation agreement with the SFO that contributed to Petrofac's £77 million resolution with the SFO in October 2021.

## **9. Geneva's Chief Prosecutor Drops Criminal Investigation into Ex-King of Spain**

On December 13, 2021, Geneva's chief prosecutor Yves Bertossa

announced that, due to a lack of evidence, he was closing a criminal investigation into whether Juan Carlos, the former King of Spain, had accepted bribes in connection with a high-speed rail deal in Saudi Arabia. The case began in 2018, when claims surfaced that Saudi Arabia paid \$100 million in potential kickbacks to Juan Carlos, via an account held at Swiss bank Mirabaud in the name of the Lucum Foundation (whose beneficiary is Juan Carlos), after the deal was awarded to a Spanish-Saudi consortium. Although Geneva prosecutors asserted that they could prove the funds were paid to and benefitted Juan Carlos, the chief prosecutor admitted they could not tie the \$100 million payment to the contract award. Mirabaud was fined 50,000 Swiss francs for failing to disclose certain information in connection with the investigation, including suspicious account activity.

## **10. Developments on Corruption-Related Sentences for Former World Leaders**

Malaysian Appeals Court Affirms Conviction of Former Prime Minister. On December 8, 2021, the Court of Appeal of Malaysia affirmed former Prime Minister Najib Razak's July 2020 conviction on several charges, including criminal breach of trust, abuse of power, and money laundering, in connection with alleged corruption involving sovereign wealth fund 1Malaysia Development Bhd (1MDB). The Kuala Lumpur High Court had previously sentenced Razak to 12 years in prison and imposed a nearly \$50 million fine after determining that SRC International, a former unit of 1MDB, paid Razak almost \$10 million in stolen funds. The Court of Appeal's decision relates to one of five trials against the former prime minister, which altogether involve 42 criminal charges.

### Former South Korean President Pardoned and Released from Prison.

On December 24, 2021, South Korean President Moon Jae-in pardoned former President Park Geun-hye, noting her ongoing health issues and a desire to bring the country together. Park was impeached, convicted, and sentenced to a 20-year prison term for several charges, including bribery, coercion, abuse of power, and leaking state secrets, after allegedly colluding with a friend to have major conglomerates pay billions of dollars to nonprofit organizations. Park was released from prison on December 31, 2021.

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## 2. USA

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### **How will the U.S. prioritize implementation of its new anti-corruption strategy?**

(The FCPA blog, 2022-1-11)

Corruption is no longer the U.S. government's persona non grata – reluctantly acknowledged and somewhat ignored outside FCPA enforcement. The President's summer National Security Memorandum and recent U.S. Strategy on Countering Corruption place governmental and other anti-corruption activities front and center.

The Memo designates corruption as a national security priority. It states, "Corruption threatens United States national security, economic equity, global anti-poverty and development efforts, and democracy itself. But by effectively preventing and countering corruption and demonstrating the advantages of transparent and accountable governance, we secure a critical advantage for the United States and other democracies."

The follow-on and comprehensive Strategy specifies the government's anti-corruption priority areas (Strategic Objectives – SOs) and ongoing and planned activities (Lines of Effort – LOEs) under the umbrella of five pillars: U.S. government efforts, illicit finance, accountability, the multilateral architecture, and diplomacy/foreign aid. Throughout the Strategy, however, there are recurrent themes that provide context and may signal the prioritization of existing and future substantive implementation (e.g., regulation and enforcement) directions.

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**Targeted sector specificity**

As one indicia of the government's national security-based seriousness of purpose, certain historically corruption-high-risk business sectors and sector participants are singled out – including financial services (to include hedge funds and other more opaque equity-side participants), real estate, arts/antiquities, and their related professional service “gatekeepers.”

There are LOEs in SO 2.1 “Address Deficiencies in the Anti-Money Laundering Regime” and SO 3.1 “Enhance Enforcement Efforts” that cover, among other areas: beneficial ownership transparency improvements; revised Treasury regs or reviews for cash-financed real estate transactions and certain forms of equity investments; kleptocracy; and government contractor suspension and debarment. In December, FinCEN issued separate rulemaking notices focusing on the beneficial ownership and real estate topics.

**Foreign Bribery**

The bribery component of corruption's harm to individuals and society is a primary Strategy theme. Accountability pillar SOs particularly emphasize anti-bribery activities. Significantly, there is long overdue recognition of the legal structural gaps on the demand side of the bribery equation. Certain SOs outline an intent to both work with Congress to amend the FCPA (SO 3.2), and to promote legal change in other countries with similarly deficient legal mechanisms (SO 3.2 and 3.3).

**Leading business practices and standards**

The Strategy borrows liberally from the private sector. Risk management practitioners recognize familiar leading management system anti-corruption methodologies and practices in the Strategy's approach and LOEs.

In a sense, the overall Strategy document functions as the new national security priority's risk assessment: it analyzes the corruption risk landscape and context from the government's point of view.

Leadership, commitment, and planning are provided via the Memo, the interagency task force that created the Strategy, and ongoing LOEs. Resources are promised to support its operation. Metrics will be applied to measure progress across all five pillars and be included in the President's annual strategy report.

The Strategy also shows a willingness by the government to be pragmatic. Certain operations will be monitored (See e.g., SO 5.1). There is recognition of the benefits that come from performance evaluations involving consideration of lessons learned.

Notably, all of the these concepts are risk management components found within the globally developed and applied management system standards of the Geneva-based International Organization for Standardization (ISO), including the anti-bribery standard ISO 37001.

In its use of proven risk management concepts within the Strategy, the government is taking a constructive step towards meeting its “adapt, partner and learn” goals.

### **The role of civil society**

Similar to the Strategy's embrace of private sector involvement, civil society's role in effectively countering transnational corruption is prominently featured throughout the document. The government efforts, accountability, and diplomacy/foreign aid pillars each have multiple LOEs involving civil society consultation and coordination.

The number of references and degree of planned engagement is tacit recognition that civil society participation can provide critical and often unique “on the ground” anti-corruption-related information sources and assessment capabilities.

## **China**

The Strategy’s 800 lb. gorilla is China — not explicitly mentioned, but omnipresent. The document’s focus on “strategic corruption” — “when a government weaponizes corrupt practices as a tenet of its foreign policy” — clearly indicates that the U.S. is targeting China’s coercive overseas development practices, such as those currently plaguing its Belt & Road Initiative.

China’s corrupt practices and implicit prominence in the document supports using ISO 37001 as a strategic Strategy-supporting tool: China was an active member of the ISO committee that created ISO 37001 and voted for its adoption. It would be that much more difficult for China to disparage or dismiss U.S. anti-corruption LOEs if they incorporated the anti-bribery standard that China helped create.

Strategy skeptics abound. Is it a “paper” strategy? Is it “packaging” and a new name for activities already underway or planned before the Memo’s or Strategy’s issuance? How will the Strategy’s numerous and ambitious LOEs be effectively directed, coordinated, and implemented? Can a divided Congress come together to amend the FCPA?

Government follow-through, prioritization, execution, and communication will be necessary to make meaningful anti-corruption impacts and produce visible results. Sectors targeted by the Strategy, government contractors, and those doing business overseas would be well-advised to recognize the document’s spirit and closely follow its implementation.

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### 3. China

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## **Chinese military pledges loyalty to Communist Party and vows to keep up anti-corruption drive**

(South China Morning Post 2022-01-24)

*PLA should consolidate loyalty to the party and be innovative in eliminating corruption, says one of the Central Military Commission's vice-chairmen*

*It follows President Xi Jinping's promotion of seven generals, which an observer says is aimed at bolstering his support before party's national congress*

China's military pledged loyalty to the ruling Communist Party and vowed to continue the anti-corruption campaign to show support before the party's national congress this year, state media reported.

The People's Liberation Army (PLA) should further consolidate loyalty to the party and try to come up with innovative measures to eliminate corruption problems, General Zhang Youxia, one of the Central Military Commission's (CMC's) two vice-chairmen, told a meeting on the military's anti-graft efforts in Beijing on Saturday, state news agency Xinhua reported.

During the twice-a-decade congress, set to take place this autumn, it is expected that President Xi Jinping will embark on his third five-year term as the party's leader and there will be a reshuffle of its ruling elite.



Zhang's remark came the day after Xi, who chairs the CMC, promoted seven generals. A new commander and political commissar were appointed in the Central Theatre Command, along with a commander of the rocket force and four political commissars in charge of military ideology and conduct, with the Northern Theatre Command, the ground force, the navy and the armed police force.

A military observer said the promotions were part of Xi's efforts to cement his political support in the military.

"Xi needs to place his own men in all important posts as part of preparation for the 20th party congress, which is likely to take place in late October," a source close to the PLA said.

"Many cadres, especially senior officials whose interests were affected by the anti-graft campaign, have grumbled, asking why the fight should be kept going as regular work."

Zhang, who is known to be personally close to Xi, told the Saturday meeting of the CMC's disciplinary committee that all cadres should "deeply understand the spirit of President Xi's important instructions to make the fight against corruption a non-stop battle", Xinhua reported.

Xi introduced the sweeping campaign when he took the CMC's helm in late 2012. It brought down two of the commission's former vice-chairmen, Guo Boxiong and Xu Caihou, and many other senior commanders.

Military mouthpiece PLA Daily has said previously that the crackdown netted at least 13,000 senior officers.

Military commentator Liang Guoliang said it had provided promotion opportunities for young generals without strong political backgrounds to step into top military leadership roles.

The new commander of the Beijing-based Central Theatre Command – which oversees security of the capital and supports the other four theatre commands – is General Wu Yanan, whose predecessor Lin Xiangyang had been in the role only since August.

“It’s interesting that there was no announcement of a new position for Lin,” Liang said.

“Normally, new appointments of senior commanders would be disclosed soon after the announcement of their successors,” he said, adding that Lin might be promoted before the party congress.

Two of the seven full generals had been promoted to lieutenant general less than two years earlier, in April 2020, including Wu and Li Yuchao, new commander of the rocket force, according to Xinhua.

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## 4. Japan

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### **Corruption scandal rocks Japanese university**

(NHK, 2021-12-10)

One of Japan's biggest universities is embroiled in allegations of kickbacks, tax evasion, and millions of dollars in financial damage. The case has resulted in three arrests, and is threatening to do lasting damage to the university's reputation.

Prosecutors in Tokyo arrested former Nihon University chairman Tanaka Hidetoshi in late November after police raided his home and found the equivalent of about \$880,000 in cash. The prosecutors believe the money is related to kickbacks from university contractors. They allege Tanaka failed to declare it in his income tax filings, and that between 2018 and 2020 he evaded over \$460,000 in taxes.

Tanaka is the third person to be arrested in connection with the scandal. Prosecutors have indicted a former board member Inoguchi Tadao, and a former medical corporation executive, Yabumoto Masami, for breach of trust. Those charges relate to the awarding of a reconstruction project at the university. Prosecutors believe the two orchestrated a kickback that cost the university about \$3.7 million.

Inoguchi and Yabumoto reportedly told investigators that they provided a large amount of cash to Tanaka. But sources say Tanaka has denied receiving any money from the pair.

Tanaka was a well-known amateur sumo wrestler in his days as a student at the university in the 1960s. He has been involved with the university in some capacity ever since, and became its chairman in 2008. Sources have told NHK that he began consolidating "absolute power" at the institution. He reportedly fostered a culture of fear, demoting anyone who opposed him.

After his arrest, Tanaka offered to resign as chairman, but the board of directors opted to dismiss him.

Concerned students say the affair could tarnish the university's image. They're demanding that management offer a thorough explanation for what happened.

Japan's education minister Suematsu Shinsuke echoed those concerns, saying the high-profile arrest of a top official at an educational institution was "extremely serious."

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## 5. Myanmar

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### **Myanmar's Suu Kyi hit by 5 new corruption charges**

(Reuter, 2022-1-14)

Myanmar's junta Friday leveled five new corruption charges against deposed National League for Democracy party chief Aung San Suu Kyi, according to a source close to the secret court where she is being tried, bringing the total number of crimes she stands accused of to 16.

The charges, which were also brought against former President Win Myint, are related to the purchase and use of helicopters from the National Disaster Management Fund to carry out disaster prevention activities under the NLD government, the source from the court in the capital Naypyidaw told RFA's Myanmar Service, speaking on condition of anonymity.

Suu Kyi's legal team applied to represent her against the new charges on Friday and was told by the court that it would review the request on Jan. 21.

During Friday's hearing, the court heard the testimony of Khin Mar Cho, the auditor general of Yangon region, who was presented by junta prosecutors to speak about the corruption charges.

Earlier this week, the court sentenced Suu Kyi to four years in prison

for the illegal possession of walkie-talkies and breaking COVID-19 rules, raising to six years the jail time imposed on her in closed-door proceedings.

On Dec. 6, Suu Kyi and Win Myint received two years for incitement against the military and two years for violating coronavirus restrictions, which junta chief Min Aung Hlaing reduced to two years of house arrest.

The former state counselor's lawyers have been barred since October by Myanmar's military rulers from releasing information or speaking publicly about the two cases being tried.

She has rejected all allegations, which her supporters, rights groups and foreign governments have condemned as political.

Suu Kyi and Win Myint were arrested by the military shortly after its Feb. 1, 2021, coup, which brought down the NLD government.

The junta says voter fraud led to the NLD's landslide victory in the country's November 2020 election but has yet to provide evidence for its claims and has violently suppressed nationwide protests calling for a return to civilian rule, killing 1,469 people and arresting more than 8,600 in the 11 months since, according to the Thailand-based Assistance Association for Political Prisoners.

In addition to the 16 charges Suu Kyi faces, the junta has announced plans to sue her for allegedly fixing the ballot in the general election. If she receives the maximum punishment for each of the charges, she would have to serve more than 160 years in prison.

## **A pretext for removal**

Observers told RFA that the new charges are part of a bid by the junta to remove Aung San Suu Kyi from the country's political arena.

Min Lwin Oo, a Norway-based human rights attorney, said a helicopter is a necessary asset for any leader who hopes to manage their country's natural disasters.

“Without that helicopter, she might need to request that the Air Force provide her with transportation,” he said. “I don't think it is the good reason to file the charges against her. It's a pretext to exclude her from politics permanently.”

Tint Swe, a former colleague of Suu Kyi's who took part in the country's 1990 election and now lives in the U.S., called the new charges “part of the scheme the military regime has been using to bump up sentences.

“I see these charges as a pretext by the military regime to remove her from politics and prevent her from becoming an elected official, once and for all,” he said.

“Judging from their actions, we cannot trust their pledge to return to the democracy [through new elections]. I think they are increasing the charges as international pressure mounts to show that they are not bothered by it.”

Phil Robertson, deputy Asia director at New York-based Human Rights

Watch, said the accusations formed part of a trend of “bogus charges” against Aung San Suu Kyi, “all with the intent purpose of prosecuting her and making sure that she is never free to contest the power of the military regime.”

“They see it as a justification for their coup. They’re using this as an example of why they had to get rid of her and so from their perspective the more charges the better,” he said.

“But you know, she’s already 76. If they give her 10 years or they give her 100 years of time in detention, it’s still going to be the same result because she’s not going to be able to be freed again and certainly not going to be able to assume her position as the elected leader of Myanmar.”



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## 6. UK

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### **UK Policy paper Anti-corruption strategy : year 3 update**

(GOV UK, 2021-12-31)

#### **Introduction**

In December 2017, we launched the first UK Anti-Corruption Strategy 2017-2022 to provide a framework to guide government anti-corruption policies and actions. The Strategy aims to support national security, prosperity and trust in institutions.

This is the third annual Update which highlights progress made against our Strategy Commitments. In the Strategy's first year we built many of the foundations upon which subsequent activity would be based. This included scoping and research activity, securing funding and establishing new functions. We published the second year in June 2020 which showed that we continued to make significant progress in implementing our Commitments in spite of challenges.

This Update solely provides details of activity undertaken in 2020 to implement the Strategy. It provides detailed descriptions of activity across the Priority areas of the Strategy throughout 2020 and focuses on a number of key areas: our multilateral work, our Prosperity Fund anti-corruption programme and our beneficial ownership campaign.

Activity undertaken in 2021 will be provided in the Year 4 Update due in 2022 which will also address some of the challenges faced beyond the Strategy in this period.

## Strategic overview

2020 was a very difficult year globally, with unprecedented challenges for the UK in managing the global COVID-19 pandemic. This required a whole-government response to the pandemic focused on public health. This inevitably had an effect on anti-corruption matters both domestically and internationally. Despite the COVID-19 challenges, government has continued to drive implementation of its commitments in the Strategy. This Update contains a summary of the impact on the pandemic on implementation of the Strategy.

Beyond the pandemic there were a number of domestic and global events that affected the anti-corruption outlook:

the UK leaving the European Union provided opportunities to review relevant regulations (most notably on procurement), and to support our businesses to enter new markets as we became an independent trading nation (see below)

reductions to UK official development assistance (ODA) as a result of the COVID-19 related contraction of UK Gross National Income (GNI)

the investigation of misconduct in public office and bribery with a significant connection to Liverpool City Council which led to the arrests of a number of individuals including the former Mayor of the city

the incoming Biden Administration in the United States started to signal a renewed focus and commitment to tackling corruption by the US

Overall, we have made significant progress across a number of the Strategy Commitments. Activity in 2020 is set out in Annex B with further details in the Review of 2020. Highlights include:

securing the public commitment with all Crown Dependencies and inhabited Overseas Territories to implement publicly accessible registers of company beneficial ownership information. This will help strengthen the international effort to counter illicit finance

extending the remit of the National Fraud Initiative and helping local authorities to undertake bank account and active company checks

reforming the police complaints and disciplinary systems to make them more transparent, independent and proportionate

securing endorsement from G20 ministers of a G20 Call to Action for countries to combat corruption in the COVID-19 response and recovery

publishing a review of procurement risks in local government that improves understanding and strengthens our response

publishing the Green Paper on procurement reform with specific proposals to further strengthen transparency and integrity across government

## **How are we doing?**

Year 3 marked the half-way period of the Strategy and provides an opportunity to review overall progress against implementation:

Completed	On-going commitment or on-track commitment	Progressing
	with a risk that deadlines may be missed and/or some risk to delivery	
Off track	with deadlines expected to be missed and/or serious risk to delivery	

Completed	On-going commitment or on-track commitment	Progressing with a risk that deadlines may be missed and/or some risk to delivery	Off track with deadlines expected to be missed and/or serious risk to delivery	Total
52	68	7	7	134

As we have moved into the latter half of the Strategy period, we will start to consider which of the remaining Commitments to prioritise and where we need to refocus efforts onto the significant challenges and trends that have emerged since the Strategy was introduced. We have evaluated which of the Commitments are no longer achievable or are no longer considered to be effective in achieving their overall goals, reprioritising focus and resources on those areas which will help achieve the overall objectives of the Strategy.

Impact of COVID-19 This Update provides more details and will highlight achievements which have gone beyond the original Strategy Commitments as well as an explanation for those few Commitments we have deprioritised.

## Impact of COVID-19

The COVID-19 pandemic had an unprecedented effect on a global scale that affected every part of government policy. As the pandemic continued into 2021, the full long-term effect on this on overall Strategy Commitments remains unclear, however, in the short term this Update identifies certain areas where planned activity was disrupted by the pandemic.

The emergency also stress-tested and shone a particular spotlight on the UK's defences against corruption, in particular around public procurement and public sector integrity.

## **Public procurement**

Public bodies needed to procure contracts with extreme urgency to secure the vital supplies required to protect frontline NHS workers and the public. Procurement rules allow public bodies to procure at speed at times of extreme emergency, which we did where necessary, as did many other countries in their responses. However, even in times of extreme urgency it is still important to maintain the public's trust and confidence in how we manage taxpayer's money and so the National Audit Office conducted a report into the government's procurement during the pandemic as part of a wider programme of work into the government's response to the pandemic.

The NAO Report highlighted that the Cabinet Office issued information and guidance on public procurement regulations and responding to the pandemic. The OECD commended the guidance issued by the Cabinet Office as contributing in helping make sure that fair, transparent and equitable mechanisms continue to govern contractual relationships.

However, the NAO Report also found that the use of direct awards to procure goods, services and works may increase the chance of some procurement risks materialising if not correctly mitigated. It concluded that in some cases there was not always a clear audit trail to support key procurement decisions or how risks such as perceived or actual conflicts of interest have been identified or managed and that many contracts were not published in a timely manner.

The pandemic experiences will provide a number of opportunities for lessons learned and we have committed to look carefully at the NAO recommendations.

The government's Green Paper on transforming public procurement, published on 15 December, also includes proposals to balance the need to procure quickly in times where measures are needed to protect life, with the need for appropriate safeguards and transparency. These proposals are designed to provide greater certainty for public bodies in these circumstances.

The proposal is that there will be a requirement to publish a transparency notice whenever a decision is made to award a contract under this procedure. This would require public bodies to demonstrate clearly their justification for not undertaking a full competitive procurement procedure, in addition to publishing a contract award notice, which we plan to retain from the existing regulations. Development of these proposals is ongoing and government will continue to engage with stakeholders to provide updates.

We accept there are lessons to be learned in responding to this unprecedented global pandemic. In September 2020 the Cabinet Office commissioned a report to consider the government's communications procurement processes and the way in which some contracts were awarded during the early stages of the response to the pandemic, in order to learn lessons and improve our processes for the future.

### **Public sector integrity**

The pandemic and issues that have emerged in 2021 have also stress tested the government's rules and approach to public sector integrity in a

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fast-moving environment where swift decisions and new structures have been necessary to respond to a crisis. While this progress report focuses on progress in calendar year 2020, given the importance of these issues it is also useful to briefly summarise the Government's approach and response in the current year (2021). These issues will be given fuller consideration in the Year 4 Update. Progress has, however, already been made in the current reporting period in several areas of public integrity policy.

Given the challenges of the last year, government has worked to maintain a full framework to ensure that public money is spent efficiently and that those who serve government as stewards of these public resources act in accordance with the highest ethical standards and in the public interest. There are checks and balances in place throughout a public office holder's time in office which ensure the high standards of propriety expected are understood and upheld. Transparency data and the public policy making process help to provide sufficient assurances that policy making is undertaken in the public interest.

Key to maintaining public confidence is being transparent on who is seeking to influence those holding senior roles in government and where their engagement is directed. Our system also upholds a range of integrity standards, including the Seven Principles of Public Life, the Ministerial Code, the Code of Conduct for Special Advisers, the Civil Service Code and Business Appointment Rules, which ensure that public servants put public service first. The Governance Code on Public Appointments sets out the principles and process for public appointments

made by ministers which are regulated by the independent Commissioner for Public Appointments. The government's Code of Conduct for Board Members of Public Bodies sets out, clearly and openly, the standards expected of office holders appointed by ministers.

Maintaining trust in our institutions means that the public should be in no doubt that the government takes its commitment to high ethical standards very seriously and we are already taking action in this regard:

working with the Advisory Committee on Business Appointments (ACOBA) to improve the operation and efficacy of the Business Appointment Rules. We will consider and implement improvements to the scope and clarity of the rules, including the enforcement of the Rules, with an update to the rules later this year. We are also working closely with departments to improve the consistency and proportionality of the implementation of the rules, including improving training on and communication of the rules

undertaking post-legislative scrutiny of Part 1 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, to review the scope and effectiveness of the legislation in increasing transparency of consultant lobbying through the creation of the Register of Consultant Lobbyists

reviewing and revising the terms of reference for the Independent Adviser on Ministers' Interests. This includes considering recommendations from the Committee on Standards in Public Life's review of the Independent Adviser role. The Adviser will now have the explicit authority to advise the Prime Minister on the initiation of investigations, and the updated terms of reference includes a commitment that the Adviser's conclusions will be published in a timely manner. The



Adviser will also provide confidential recommendations to the Prime Minister about the appropriate sanction in the circumstances where it is determined that a Minister has failed to adhere to the standards set out in the Ministerial Code

implementing a new policy in relation to the management of Special Advisers' interests, strengthening central oversight of potential risks. The Model Contract for Special Advisers now includes a cross-government policy for declaration of interests, including making a declaration mandatory. Departments will publish Special Advisers' relevant interests judged necessary by the Permanent Secretary in the departmental report

In addition to these measures, the government is openly engaging with multiple external review processes:

the independent Committee on Standards in Public Life Standards Matter 2 landscape review of the institutions, processes and structures in place to support high standards of conduct in public life

the Boardman review into the development and use of supply chain finance (and associated schemes) in government. Mr Boardman's findings were published in July 2021, while his recommendations and wider suggestions were published in September. Government is considering these and will set out a substantive government policy statement to Parliament in due course

the peer evaluation process of the Council of Europe Group of States against Corruption (GRECO), in which the UK was the first country to undergo the 5th evaluation round on prevention of corruption in the highest levels of government

membership of the Organisation for Economic Co-Operation and Development (OECD) Working Party of Senior Public Integrity Officials

The dialogue which such processes generate internally is an important part of our ongoing policy development, and we will continue to consider relevant findings and recommendations and take further action to strengthen our systems where appropriate.

## **Leaving the European Union**

The UK leaving the European Union in January 2020 provided new opportunities to address corruption and, in some ways, changed the nature of the threat.

On becoming an independent trading nation, we encourage our businesses to look to new markets and export to areas beyond their traditional customer base. This is being supported by the negotiation of new trading arrangements with partner countries which provide an opportunity to raise global standards and consider how to ensure that our businesses can compete fairly in new markets not tainted by bribery and corruption.

Leaving the European Union also allows us to develop autonomous legal regimes which provide new opportunities to address corruption. This includes the opportunity to develop a new international corruption sanctions regime (to be reported in the Year 4 Update) and a new procurement framework which is addressed by the Green Paper (see Priority 4 of the 2020 Review).

The full impact of leaving the UK on the fight against corruption will take many years to realise and will be further examined in future Updates.

## **Measuring the impact of the Strategy**

In the Year 2 Update we introduced a new section looking at how the UK's standing on corruption has changed throughout the Strategy period. While necessarily imperfect, these indicators give a broad indication of how the UK is performing on anti-corruption indices. As we observed last year, this is not an easy task. Corruption is a broad topic, covering multiple areas and factors where measuring against statistics is challenging.

The analysis shows that while certain individual indicators have fluctuated, the overall trend is that the UK's position has remained steady in the first two years of the Strategy, and the UK continued to perform well against comparable western countries.

The analysis for Year 3 is set out in full in Annex A.

## **2021 CORRUPTION PERCEPTIONS INDEX Reveals a Decade Of Stagnating Corruption Levels Amid Human Rights Abuses & Democratic Decline**

(Transparency International, 2022-1-25)

The 2021 Corruption Perceptions Index (CPI) released today by Transparency International shows that corruption levels remain at a standstill worldwide, with 86 per cent of countries making little to no progress in the last 10 years.

Transparency International found countries that violate civil liberties consistently score lower on the CPI. Complacency in fighting corruption exacerbates human rights abuses and undermines democracy, setting off a vicious spiral. As these rights and freedoms erode and democracy declines, authoritarianism takes its place, contributing to even higher levels of corruption.

Delia Ferreira Rubio, Chair of Transparency International said:

“Human rights are not simply a nice-to-have in the fight against corruption. Authoritarian approaches destroy independent checks and balances and make anti-corruption efforts dependent on the whims of an elite. Ensuring people can speak freely and work collectively to hold power to account is the only sustainable route to a corruption-free society.”

## GLOBAL HIGHLIGHTS

The CPI ranks 180 countries and territories by their perceived levels of public sector corruption on a scale of zero (highly corrupt) to 100 (very clean).

The CPI global average remains unchanged at 43 for the tenth year in a row, and two-thirds of countries score below 50.

The top countries on the Index are Denmark (88), Finland (88) and New Zealand (88), all of which also rank in the top 10 per cent in the world on the Democracy Index civil liberties score.

Somalia (13), Syria (13) and South Sudan (11) remain at the bottom of the CPI. Syria is also ranked last in civil liberties (Somalia and South Sudan are unrated).

27 countries – among them Cyprus (53), Lebanon (24) and Honduras (23) – are all at historic lows this year.

In the last decade, 154 countries have either declined or made no significant progress.

Since 2012, 23 countries have significantly declined on the CPI – including advanced economies such as Australia (73), Canada (74) and the United States (67), the latter dropping out of the top 25 countries on the Index for the first time.

25 countries have significantly improved their scores, including Estonia (74), Seychelles (70) and Armenia (49).

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For each country's individual score and changes over time, as well as analysis for each region, see the 2021 CPI page.

## **CORRUPTION, HUMAN RIGHTS AND DEMOCRACY**

As anti-corruption efforts stagnate and deteriorate, human rights and democracy are under attack. This is no coincidence. The continued use by governments of the COVID-19 pandemic to erode human rights and democracy could also lead to sharper declines across the globe in the future.

Of the 23 countries whose CPI score significantly declined since 2012, 19 also declined on the civil liberties score. Moreover, out of the 331 recorded cases of murdered human rights defenders in 2020, 98 per cent occurred in countries with a CPI score below 45.

The Philippines has continued its fall beginning in 2014 to a score of 33, as President Rodrigo Duterte has cracked down on freedoms of association and expression since his election in 2016. It also has an exceptionally high murder rate of human rights defenders, with 20 killed in 2020.

In Venezuela, the government of President Nicolás Maduro has repressed dissent of political opponents and journalists. The country has significantly declined on the CPI over the last decade, earning its lowest score yet of 14 in 2021.

Mali has faced political, institutional and security crises, including three military coups during the past 10 years. Its CPI score has dropped to 29

and its civil liberties score is also declining, as ongoing armed conflict undermines key state functions, leading to a vicious cycle of corruption and human rights abuses.

Even among democracies, the last decade has seen backsliding on both anti-corruption efforts and human rights. Poland's civil liberties score declined and its CPI score dropped to 56, as the government cracks down on activists through insult laws and severely limits media freedom.

Transparency International calls on governments to act on their anti-corruption and human rights commitments and for people across the globe to join together in demanding change.

Daniel Eriksson, Chief Executive Officer of Transparency International said:

“In authoritarian contexts where control over government, business and the media rests with a few, social movements remain the last check on power. It is the power held by teachers, shopkeepers, students and ordinary people from all walks of life that will ultimately deliver accountability.”

### **About the Corruption Perceptions Index**

Since its inception in 1995, the Corruption Perceptions Index has become the leading global indicator of public sector corruption. The Index scores 180 countries and territories around the world based on perceptions of public sector corruption, using data from 13 external sources, including the World Bank, World Economic Forum, private risk and consulting

companies, think tanks and others. The scores reflect the views of experts and business people.

The process for calculating the CPI is regularly reviewed to make sure it is as robust and coherent as possible, most recently by the European Commission's Joint Research Centre in 2017. All the CPI scores since 2012 are comparable from one year to the next. For more information, see this article: [The ABCs of the CPI: How the Corruption Perceptions Index is calculated](#).

### Notes to editors

These countries significantly declined in the last 10 years: Australia, Bosnia and Herzegovina, Botswana, Canada, Chile, Cyprus, Guatemala, Honduras, Hungary, Lebanon, Liberia, Luxembourg, Mali, Mongolia, Nicaragua, Philippines, Poland, Saint Lucia, South Sudan, Syria, Turkey, United States of America and Venezuela.

**These countries significantly improved in the last 10 years:** Afghanistan, Angola, Armenia, Austria, Belarus, China, Cote d'Ivoire, Estonia, Ethiopia, Greece, Guyana, Italy, Latvia, Moldova, Myanmar, Nepal, Paraguay, Senegal, Seychelles, **South Korea**, Tanzania, Timor-Leste, Ukraine, Uzbekistan and Vietnam.

These 27 countries are at their lowest score since the earliest comparable year of available data (2012): Australia, Belgium, Botswana, Canada, Comoros, Cyprus, Dominica, Eswatini, Honduras, Hungary, Israel, Lebanon, Lesotho, Mongolia, Netherlands, Nicaragua, Niger, Nigeria,



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Philippines, Poland, Serbia, Slovenia, South Sudan, Switzerland, Thailand, Turkey and Venezuela.

The media page includes the CPI 2021 report in five languages, as well as the full dataset and methodology, and additional analysis for countries identified as important to watch, including Qatar (63) and India (40). See here: <https://www.transparency.org/en/cpi/2021/media-kit>

**Report: Anti-corruption fight is stalled, COVID not helping**

(The Darien Times, 2022-1-25)

ERLIN (AP) — Most countries have made little to no progress in bringing down corruption levels over the past decade, and authorities' response to the COVID-19 pandemic in many places has weighed on accountability, a closely watched study by an anti-graft organization found Tuesday.

Transparency International's 2021 Corruption Perceptions Index, which measures the perception of public sector corruption according to experts and businesspeople, found that "increasingly, rights and checks and balances are being undermined not only in countries with systemic corruption and weak institutions, but also among established democracies."

Among other issues over the past year, it cited the use of Pegasus software, which has been linked to snooping on human rights activists, journalists and politicians across the globe.

The report said the pandemic has "been used in many countries as an excuse to curtail basic freedoms and sidestep important checks and balances."

In Western Europe, the best-scoring region overall, the pandemic has given countries "an excuse for complacency in anti-corruption efforts as

accountability and transparency measures are neglected or even rolled back,” Transparency said. In some Asian countries, it said, COVID-19 “also has been used as an excuse to suppress criticism.” It pointed to increased digital surveillance in some nations and authoritarian approaches in others.

The report ranks countries on a scale from a “highly corrupt” 0 to a “very clean” 100. Denmark, New Zealand and Finland tied for first place with 88 points each; the first two were unchanged, while Finland gained three points. Norway, Singapore, Sweden, Switzerland, the Netherlands, Luxembourg and Germany completed the top 10. The U.K. was 11th with 78.

The United States, which slipped over recent years to hit 67 points in 2020, held that score this time but slipped a couple of places to 27th. Transparency said it dropped out of the top 25 for the first time “as it faces continuous attacks on free and fair elections and an opaque campaign finance system.”

Canada, which slid three points to 74 and two places to 13th, “is seeing increased risks of bribery and corruption in business,” the group said. It added that the publication of the Pandora Papers showed Canada as “a hub for illicit financial flows, fuelling transnational corruption across the region and the world.”

The index rates 180 countries and territories. South Sudan was bottom with 11 points; Somalia, with which it shared last place in 2020, tied this time with Syria for second-to-last with 13. Venezuela followed with 14 — then Yemen, North Korea and Afghanistan tied with 16 apiece.

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Transparency said the control of corruption has stagnated or worsened in 86% of the countries it surveyed in the last 10 years. In that time, 23 countries — including the U.S., Canada, Hungary and Poland — have declined significantly in its index, while 25 have improved significantly. They include Estonia, the Seychelles and Armenia.

Compiled since 1995, the index is calculated using 13 different data sources that provide perceptions of public sector corruption from business people and country experts. Sources include the World Bank, the World Economic Forum and private risk and consulting companies.

## II. Global Conference

### 1 Sharm el-Sheikh Declaration at the 9th UNCAC COSP

Sharm el-Sheikh Declaration

Tabled by Egypt

Co-sponsored by Lebanon, the State of Palestine and the United Arab Emirates

**Strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery**

*The Conference of the States Parties to the United Nations Convention against Corruption,*

*Concerned* about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

Concerned also about the negative impact of organized criminal activities and acknowledging the need to strengthen efforts to better understand and address, identify, analyse and counter the links between corruption and

other forms of crime, in particular organized crime and economic crime, including money-laundering,

*Acknowledging* that preventing and fighting against corruption at all levels and in all its forms is a priority and responsibility of all States parties,

*Recalling* General Assembly resolution A/RES/S-32/1 of 2 June 2021 adopting the UNGASS political declaration that recognized that preventing and countering corruption and illicit financial flows and recovering and returning confiscated assets, in accordance with the Convention against Corruption, can contribute to effective resource mobilization, poverty eradication, sustainable development and the enjoyment of all human rights; and further recognized that corruption is often transnational in nature; and reiterated the need for strong international cooperation and assistance in the prevention, detection, investigation and prosecution of corruption offences, as well as in the recovery and return of confiscated assets in accordance with the Convention,

*Recognizing* that one of the purposes of the United Nations Convention against Corruption is to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery,

*Reaffirming* the need for the full and effective use of the Convention, including in prevention, and emphasizing the work of the relevant working groups of the Conference of the States Parties, [agreed]

*Recognizing* the fundamental role of effective international cooperation in preventing and combating corruption, and to this end underlining the

importance of addressing, tackling and effectively responding to international challenges and barriers, in particular measures, that hinder such cooperation, and which are not consistent with the Charter of the United Nations and obligations under international law, and in this regard urging States parties, consistent with their international obligations, to refrain from applying such measures,

Recognizing also that preventing and combating corruption is particularly challenging during times of emergencies and crisis response and recovery and that international cooperation is integral to recovery efforts,

*Recalling* its resolution 6/7 on promoting the use of information and communications technologies for the implementation of the Convention, and *noting* the growing importance of using such tools to cooperate against corrupt practices and to inform appropriate response measures and share and disclose information, in accordance with the Convention and the domestic law of parties, during times of emergencies and crisis response and recovery,

*Deeply concerned* about global emergencies and crises, including the situation arising from the COVID-19 pandemic and its health, social, economic and other implications, and their impact, inter alia, on good governance, the rule of law at all levels and the achievement of the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 16 on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels, and its targets,

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*Recognizing that* corruption risks may increase during times of emergencies and crisis response and recovery as the urgency of needs, high demand for economic and health-related relief and the speed at which Member States and parties to the Convention are required to respond, create opportunities for corruption which further impede response and recovery efforts,

*Determined* to safeguard domestic and international stimulus funds and vital emergency resources and *recalling* that corruption drains resources necessary for crisis response and recovery and public service delivery, distorts markets and exacerbates the inequalities exposed during times of emergencies and crisis response and recovery,

*Recognizing* that corruption is one of the factors that jeopardizes concerted multilateral efforts in overcoming the COVID-19 pandemic and international collaboration required to ensure adequate and equitable access to safe, effective, quality and affordable medicines, medical supplies, equipment, vaccines, therapeutics and diagnostics, in particular to developing countries and people in vulnerable situations, as well as the promotion of global response and recovery efforts,

*Recalling* General Assembly resolution 74/274 of 20 April 2020 that recognized the importance of international cooperation and effective multilateralism in helping to ensure that all States have in place effective national protective measures, access to and flow of vital medical supplies, medicines and vaccines, in order to minimize negative effects in all affected States and to avoid relapses of the pandemic, and recognizing the importance of preventing and combating corruption in this regard,



*Recalling* also that Member States, in the political declaration adopted by the General Assembly at its special session against corruption held in 2021, noted with appreciation the important role of civil society, academia, the private sector and the media in identifying, detecting and reporting on cases of corruption, and we will take appropriate measures, within our means and in accordance with the fundamental principles of domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations, community-based organizations and the private sector, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption, particularly during times of emergencies and crisis response and recovery,

*Welcoming* the convening in June 2021 of the special session of the General Assembly against corruption and its adoption of the political declaration in which reference was made to the need to ensure that appropriate measures were in place to prevent and combat corruption when responding to or recovering from national crises and emergencies and the role of supreme audit institutions and other oversight bodies and their functions in upholding policies and procedures for the management of public finances and public procurement were recognized,

*Recalling* the progress made by States parties and the secretariat in the implementation of resolution 8/13 of 19 December 2019 entitled the “Abu Dhabi declaration on enhancing collaboration between the supreme audit institutions and anti-corruption bodies, to more effectively prevent and fight corruption”, in which reference was made to stressing the key role played by the supreme audit institutions in the prevention of and

fight against corruption, in particular with regard to promoting integrity, accountability, transparency and the proper management of public affairs and public property, as well as the efficient use of public resources, and underlining the need to maintain efforts including during times of emergencies and crisis response and recovery in that regard,

1. *Encourages* States parties to further the full and effective use of the United Nations Convention against Corruption to develop, put in place and, where appropriate, improve and strengthen anti-corruption policies and strategies in accordance with domestic law to ensure emergency preparedness, and address corruption during times of emergencies and crisis response and recovery,

2. Also *Encourages* States parties to continuously monitor and review the anti-corruption measures implemented during the ongoing COVID-19 pandemic and other emergencies and crisis response and recovery, as well as monitor the impact of the COVID-19 pandemic on corruption-related trends, keeping in view that corruption risks may have increased during the pandemic,

3. *Further encourages* States parties, in accordance with the fundamental principles of their legal system, to afford anti-corruption bodies, supreme audit institutions and other relevant entities the appropriate mandates and the necessary independence and resources to carry out their functions effectively and free from undue influence, including, where relevant, in coordinating anti-corruption efforts, during times of emergencies and crisis response and recovery, and to strengthen political will in this regard;

4. *Calls upon* States parties to prevent opportunities for public officials to use their status, influence or insider knowledge to profit from procurement processes or the design, allocation, distribution and management of crisis response and recovery measures by requiring public officials to disclose potential conflicts of interest and ensuring appropriate review, management and sanction mechanisms in accordance with domestic law;

5. *Urges* States parties to establish and, where necessary and appropriate, further strengthen, through the whole public procurement cycle, transparent, competitive and objective public procurement systems conducted via electronic means, if feasible within their means and in accordance with their domestic law, and to develop and improve guidelines for the use and governing of emergency procurement procedures that integrate anti-corruption safeguards to help ensure transparency, oversight and accountability during times of emergencies and crisis response and recovery, including by supreme audit institutions and other oversight bodies;

6. *Also urges* States parties to have in place sufficient internal audit systems and, where necessary, to strengthen them, to help monitor the allocation and distribution of emergency relief and ensure the implementation of measures to prevent corruption during times of emergencies and crisis response and recovery in accordance with their domestic legal frameworks;

7. *Encourages* States parties to have in place transparency and accountability measures in managing public finances during times of

emergencies and crisis response and recovery and, where necessary, to enhance them, including in presenting budget items to ensure that budget and accounts are available for public access, in using flexible and effective financial distribution policies to manage funds allocated for relief, and enabling supreme audit institutions and other relevant entities to perform their functions in this regard, especially upholding policies and procedures for the management of public finances, in accordance with fundamental principles of domestic law, with a view to easing the burden on, and improving the conditions of, people in vulnerable situations;

8. Reaffirms States parties' commitment to improving their understanding of the linkages between gender and corruption, including the ways in which corruption can affect women and men differently, also during times of emergencies and crisis response and recovery, and to continuing to promote gender equality and the empowerment of women in this regard, including by mainstreaming it in relevant legislation, policy development, research, projects and programmes, as appropriate and in accordance with the fundamental principles of domestic law;

9. *Urges* States parties to incorporate and implement corruption risk management process, particularly in institutions responsible for or concerned with crisis response and recovery, to help identify and mitigate potential corruption risks when designing, administering and managing the whole cycle of public procurement and relief measures in accordance with the fundamental principles of their legal systems;

10. *Calls upon* States parties, where appropriate, to adopt or

strengthen anti-corruption measures necessary for private sector compliance with applicable laws and regulations including with due regard for data protection and privacy rights, to continue efforts to promote the development of codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest;

**11..** *Reaffirms* States parties commitment to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate and timely beneficial ownership information is available and accessible to competent authorities, and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with fundamental principles of domestic legal systems, and encourages State parties to take such measures also during times of emergencies and crisis response and recovery;

**12.** *Calls upon* States parties to investigate and prosecute offences established in accordance with the Convention that result in unfair commercial practices, such as price gouging and the manipulation of the prices of essential goods and services or bids, especially those needed to respond to times of emergencies and crisis;

**13.** *Encourages* States parties to reinforce and enhance inter-agency cooperation at all levels to prevent individuals and companies, other legal entities, and systems used to transfer money, as well as non-regulated or unregistered financial or commercial or non-commercial entities at serious risk of being abused for corruption and money-laundering, from

committing or being used to facilitate acts of corruption, including during times of emergencies and crisis response and recovery, and will encourage and support companies and financial institutions in this regard, including to make better use of resources already expended;

14. Also *Encourages* States parties to take anti-corruption measures to ensure adequate safeguards are in place regarding the use of emergency executive authority during times of emergencies and crisis response and recovery, such as legislative oversight, committee reports and monitoring mechanisms in accordance with their domestic legal frameworks;

15. *Urges* States parties to take measures, within their means and in accordance with the fundamental principles of their domestic law, to provide the public with timely information during times of emergencies and crisis response and recovery, prevent and combat corruption and counter misinformation;

16. *Notes* with appreciation the important role of civil society, academia, the private sector and the media in identifying, detecting and reporting on cases of corruption and in this regard, urges States parties to take appropriate measures, within their means and in accordance with the fundamental principles of domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations, community-based organizations and the private sector, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption, including during times of emergencies and crisis response and recovery; and further

encourages States parties to respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption, which may be subject to certain restrictions, such as are provided for by law and are necessary for respect of the rights or reputations of others and for the protection of national security, public order or public health or morals; and encourages States parties to consider inviting those individuals and groups to contribute to the development and implementation of technical assistance programmes, upon request, and based on the needs identified for the implementation of the provisions of the Convention, and making efforts so that the conditions are present for their effective contribution to achieving the objectives of the Convention, including the ability to operate independently and without fear of reprisal because of their efforts in that regard, in accordance with domestic law and their respective applicable international obligations;

17. *Calls upon* States parties to establish and, where appropriate, diversify and strengthen confidential complaint systems and protected reporting systems that are accessible and inclusive to facilitate the timely reporting of and to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds any facts concerning offences established in accordance with the Convention, including as they relate to the allocation, distribution, use and management of emergency relief;

18. *Encourages* States parties to, as appropriate, in accordance with domestic law and their respective applicable international obligations, develop and strengthen the use of reliable, high-quality, timely and effective electronic communication channels that enable anti-corruption bodies, supreme audit institutions and other relevant entities to rapidly

share timely information at the national and international level through existing mechanisms, including those of the International Criminal Police Organization (INTERPOL), and consider accepting electronic copy for sending and receiving mutual legal assistance requests, including during times of emergencies and crisis response and recovery, and *notes* the new Global Operational Network of Anti-Corruption Law Enforcement Authorities, which aims to develop a quick, agile and efficient tool for combating cross-border corruption offences, strengthen communication exchange and peer learning between competent anti-corruption law enforcement authorities and complement and coordinate with existing and efficient tools for international cooperation;

19. *Also encourages* States parties to provide the necessary training and resources to ensure relevant officials of oversight institutions have the tools and expertise required to analyse data and information to inform crisis planning, response and recovery and in this regard, also encourages States parties to take advantage of capacity-building and training programmes provided by the United Nations Office on Drugs and Crime and other relevant international organizations and institutions, such as the International Anti-Corruption Academy, to increase public awareness and integrity;

20. *Urges* States parties to collect and exchange best practices in preventing and fighting corruption and lessons learned concerning the use, availability and impact of data and digital tools, where feasible and taking into consideration the different circumstances of respective countries, to inform crisis response and recovery measures and help build, implement and maintain resilient emergency response systems;



21. *Recalls* article 43 of the Convention in which States parties are mandated to cooperate in criminal matters and, where appropriate and consistent with their domestic legal systems, States parties consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption and recalls article 46 of the Convention in which States parties are mandated to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention through central authorities, and urges States parties to assist one another, including through joint/parallel investigations and bilateral sharing of capacity and expertise, where appropriate, through the International Criminal Police Organization (INTERPOL), including during times of emergencies and crisis response and recovery;

22. *Encourages* States parties to further explore and enhance their knowledge of the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering, including during times of emergencies and crisis response and recovery to better strengthen integrity, transparency and accountability and invites the Secretariat, within existing resources, to compile a report in this regard of the voluntary information provided by States parties and submit it to the Conference at its tenth session;

23. *Directs* the open-ended intergovernmental expert meeting to enhance international cooperation to:

- (a) Collect, with the support of the Secretariat, information on

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best practices and challenges concerning international cooperation, provided by States parties on a voluntary basis, in combating corruption during times of emergencies and crisis response and recovery;

- (b) Analyse, with the support of the Secretariat, the information received, with a view to developing non-binding guidelines for strengthening international and multilateral cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery;

24. *Decides* that the open-ended intergovernmental expert meeting to enhance international cooperation should include as a topic for 2022/2023 “strengthening international and multilateral cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery”;

25. *Further requests* the Secretariat to submit to the Conference of the States Parties at its tenth session a report on progress made and challenges encountered in implementing the present resolution;

26. *Requests* the United Nations Office on Drugs and Crime, in close cooperation with bilateral and multilateral technical assistance providers, to continue to provide technical assistance to States parties, upon request, based on priorities and needs, and subject to the availability of extrabudgetary resources, in implementing the relevant provisions of the present resolution;

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27. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes specified in this resolution, in accordance with the rules and procedures of the United Nations.

## 2 Anti-Corruption Part of 2021 G20 Rome Leaders' Declaration

57. Anti-corruption. Renewing our commitment to zero tolerance for corruption in the public and private sectors and to achieving common goals in the global fight against corruption, we adopt our 2022-2024 Anti-Corruption Action Plan. We will further strengthen our engagement with other stakeholders such as academia, civil society, media and the private sector, and will continue to promote their important role and active participation in this field. We are committed to fight any new and sophisticated forms of corruption. We endorse the G20 High-Level Principles on Corruption related to Organized Crime, on Tackling Corruption in Sport, and on Preventing and Combating Corruption in Emergencies, and adopt the G20 Anti-corruption Accountability Report. We reaffirm our commitment to deny safe haven to corruption offenders and their assets, in accordance to domestic laws and to combat transnational corruption. We will also provide competent authorities with adequate, accurate and up-to-date information by adopting legally appropriate measures to improve international and domestic beneficial ownership transparency of legal persons and arrangements and real estate, especially trans-national flows, in line with the Financial Action Task Force recommendations.

58. We remain committed to promoting a culture of integrity in the private sector, particularly in their relations with the public sector. In our collective efforts to better measure corruption, we welcome the Compendium of Good Practices on Measurement of Corruption. We will ensure that G20 Countries adapt their regulation and legislation to comply with the relevant obligation to criminalize bribery, including

bribery of foreign public officials, and bolster efforts to effectively prevent, detect, investigate, prosecute and sanction domestic and foreign bribery. We will demonstrate concrete efforts for the duration of the Action Plan and share information on our actions towards criminalizing foreign bribery and enforcing foreign bribery legislation in line with article 16 of UNCAC, with a view to the possible adherence of all G20 countries to the OECD Anti-Bribery Convention. As a means to further improve international cooperation on anti-corruption, we welcome the progress made by the GlobE Network.

59. We reaffirm our full support for the Financial Action Task Force (FATF) and the Global Network and recognize that effective implementation of Anti-Money Laundering/Countering the Financing of Terrorism and Proliferation (AML/CFT/CPF) measures is essential for building confidence in financial markets, ensuring a sustainable recovery and protecting the integrity of the international financial system. We stress the relevance of the risk-based approach of the FATF recommendations with the aim to ensure legitimate cross-border payments and to promote financial inclusion. We confirm our support for strengthening the FATF recommendations to improve beneficial ownership transparency and call on countries to fight money laundering from environmental crime, particularly by acting on the findings of the FATF report. We reaffirm the commitments made by Finance Ministers and Central Bank Governors aimed at sustaining and strengthening the work of the FATF-Style Regional Bodies.

### III. Ombudsman News

#### **Annual Report details how Ombudsman adapted during the pandemic**

(IOI, 2021-12-14)

\* Source: Office of the Local Government and Social Care Ombudsman, UK

The Local Government and Social Care Ombudsman has published its Annual Report and Accounts 2020-21, welcoming the resilience of its staff in a challenging year for everyone. Roughly covering the first year of COVID-19 (April 2020 – March 2021), the report shows the impact of the pandemic on the Ombudsman's work particularly in the first quarter of the year.

The Ombudsman resumed its usual operations in June 2020 after a three month pause in taking new complaints. The decision to pause was made at the tail end of the previous year, aimed at not exacerbating the pressure on already-stretched councils and care providers during the first wave of COVID-19.

The Ombudsman received and decided fewer complaints from the public in 2020-21 than in a typical year. Despite this, there was no shortage of reports published by the Ombudsman which held councils to account and shared the learning from its investigations.

These reports included issuing best practice guidance to local authorities and care providers on retaining good administrative practice during the crisis. It also released guides on the children's social care complaints system – about which the Ombudsman receives the most queries from

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councils – and a relaunch of its guidance on effective complaint handling.

The Ombudsman published a report on its first 50 investigations about the Homelessness Reduction Act, looking at how councils are implementing the new legislation. And it issued a report on its investigations involving council services for ‘looked after children’ – one of the most vulnerable groups in society.

A key part of the Ombudsman’s work in the early part of the year was to lay the foundations for investigating complaints about COVID-19. This involved building a specialist team and closely tracking the rapidly-changing legislation to allow it to come to balanced and proportionate decisions about what happened during this time.

The Ombudsman also refreshed its three-year corporate business plan.

Local Government and Social Care Ombudsman, Michael King, said:

“Despite the challenging year for everyone, we continued to remedy injustices, hold councils and care providers to account, and share the learning from our casework. And I’d like to credit the resilience and dedication of our staff for this.”

“Councils and care providers had to adapt at pace during the pandemic. However, our advice to them remained the same: good public administration is more important than ever at a time of crisis – and managing complaints effectively is not simply an added bonus.”

In 2020-21, the Local Government and Social Care Ombudsman dealt with a total of 32,372 complaints and enquiries from the public. Of this, 19,553 people received help on the telephone without requiring a case to be logged.

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Of the 12,819 cases the Ombudsman decided, 4,075 were dealt with by an initial investigation, mainly looking at whether the Ombudsman can and will investigate in more detail. It dealt with 3,330 cases through a detailed investigation, of which it upheld 67% (2,243 in number). This has risen from 62% the previous year.



## **Integrity agencies seek reforms to deter the misuse of public resources**

(IOI, 2021-12-15)

\* Source: Office of the Victorian Ombudsman, Australia

The reforms are also aimed at strengthening the frameworks for Parliamentary accountability, particularly in relation to breaches of the Members of Parliament Code of Conduct.

Evidence heard at the recent IBAC Operation Watts public hearings suggests that in Victoria, some Members of Parliament may be misusing public resources by directing electorate officers and ministerial staff to engage in work which furthers their political objectives.

Victorian Ombudsman Deborah Glass OBE said: “The evidence indicates that despite a package of reforms enacted by Parliament in 2019 in response to my “Red Shirts” report in 2018, existing laws and rules around the legitimate use of public resources are not robust enough to prevent their misuse.”

Members of Parliament gave evidence of their belief that when legislative changes were being implemented, Parliament deliberately omitted reference to the wider definition of “party specific” work, to permit the use of electorate officers to engage in some party-political activities during work hours.

IBAC Commissioner, the Honourable Robert Redlich AM, QC, said: “Much of the evidence heard at the public hearings spoke about how taxpayer funds were directed to ministerial and electorate office staff to perform party-political during work hours, rather than the job they were

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hired to do in performing ministerial or electorate work.”

IBAC and the Victorian Ombudsman are also seeking clarity from Members of Parliament about the appointment process of staff hired for electoral or ministerial work and whether reducing the staffing allocation and electorate office budget should be considered.

This engagement with party leaders will form one input into the recommendations that will be included in the Operation Watts public report to be released next year.

The recommendations in the final report will seek to strengthen the controls to protect public funds from being misused and go towards restoring public confidence.

## **Background**

Operation Watts is a coordinated investigation between IBAC and the VO looking into a range of matters including allegations that Victorian public officers engaged in corrupt conduct by directing taxpayer-funded ministerial and electorate office staff to perform party-political work during times when those staff were being paid to perform ministerial or electorate work.

While public hearings have concluded, the investigation remains ongoing, and, as yet, no individual findings have been made.

The coordinated investigation is being conducted pursuant to section 72 of the Independent Broad-based Anti-corruption Commission Act 2011 (IBAC Act) which enables IBAC to consult, coordinate and cooperate with the Victorian Ombudsman. The coordinated investigation is conducted by IBAC as an exercise of IBAC's duties, functions and powers.

## **Greater transparency needed for Government's use of machine technology in decision-making**

(IOI, 2021-11-29)

\* Source: Office of the New South Wales Ombudsman, Australia

New South Wales (NSW) Ombudsman Paul Miller has called for greater visibility of the use of artificial intelligence (AI) and other machine technology by NSW Government agencies. In a report tabled in Parliament, the Ombudsman has cautioned agencies that using machine technology in ways that do not accord with standards of lawfulness, transparency, fairness and accountability, could lead to findings of maladministration or potentially unlawful conduct.

The report, *The new machinery of government: using machine technology in administrative decision-making*, describes the increasing use of machine technologies in government decision-making processes. In NSW, agencies are known to be using machine technologies in the areas of fines enforcement, policing, child protection and driver licence suspensions.

Government agencies do not currently have an obligation to proactively report on their use of machine technology. They also do not routinely let people know when decisions affecting them are being made by or with the assistance of machines.

“The use of machine technology in the public sector is increasing, and there are many potential benefits, including in terms of efficiency, accuracy and consistency,” said Mr Miller.

“As an integrity agency, our concern is that agencies act in ways that are lawful, that decisions are made reasonably and transparently, and that

individuals are treated fairly. Those requirements don't go away when machines are being used."

### Complaints reveal extent of machine technology in NSW fine recovery

The NSW Ombudsman's Office was prompted to write the report after becoming aware that the state's debt-collection agency, Revenue NSW, was using an automated technology system to garnishee, or debit money from, the bank accounts of people who had failed to pay fines.

"My office began to receive a spate of complaints from people, many of them financially vulnerable individuals, who had discovered their bank accounts had been stripped of funds, and sometimes completely emptied," Mr Miller said. "Those people were not complaining to us about the use of automation. They didn't even know about it."

"Following our intervention, and to its credit, Revenue NSW took a number of steps to address our concerns about unfairness," Mr Miller noted. "However, what it did not do – despite our suggestion that it should – is seek expert legal advice on whether the use of the automation process was lawful and in accordance with its powers under the Fines Act. Ultimately, we decided to seek that advice ourselves."

The Ombudsman's report annexes external legal advice, which concludes that the original automated process used by Revenue NSW to garnishee bank accounts was unlawful.

In response to the Ombudsman's initial concerns, Revenue NSW modified its process in 2019 so that orders to take money from bank accounts ceased to be fully automated. However, the legal advice notes that these modifications do not appear to have fully addressed the legal concerns.

Going forward: practical steps, legislative authorisation and greater transparency

The Ombudsman's report provides practical guidance to agencies on the proactive steps they should take to reduce the risk that machine technology could be unlawful or otherwise amount to maladministration.

These include:

- ensuring the design involves experts from fields other than IT, including legal advisors
- giving careful consideration to the relationship between the machine and the ultimate human decision-maker
- building in a rigorous pre-deployment testing and ongoing auditing regime, and
- taking action to ensure appropriate transparency.

“We are concerned that other agencies may also be designing and implementing machine technologies without appreciating all the risks, without transparency, and without getting appropriate legal advice”, Mr Miller said.

The report also suggests that Government agencies consider seeking Parliamentary approval through legislation before machine technology is adopted for important administrative functions.

“Seeking express legislative authorisation not only reduces the risks for agencies,” Mr Miller said, “it also gives Parliament and the public visibility of what is being proposed, and an opportunity to consider what other regulation of the technology may be required. That might include a

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statutory right to ask for a person to review any machine decision, or a requirement that the machine's algorithms be externally validated, and then audited at regular intervals, with those reports to be made publicly available."

Following tabling of the report this morning, the NSW Ombudsman's Office is now going to engage with the NSW Government and local government sector to comprehensively map the use of machine technology in administrative decision-making processes across the state.

"Greater visibility is not a panacea to all of the potential issues that can arise when Government adopts machine technology," Mr Miller said. "But it is an essential starting point."