# Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 29/06/1995 - Amended legislative proposal for reconsultation

The Council again consulted the European Parliament on the joint guideline of the Council with a view to adoption of the Regulation on the protection of the Communities' financial interests. The main provisions of the Council's joint guideline were as follows: - Adoption of general rules relating to uniform controls and administrative measures and penalties concerning irregularities with regard to Community law (legal basis: Article 235 of the EC Treaty and Article 203 of the ECSC Treaty). - 'Irregularity' shall mean any infringement of the provision of Community law resulting from an act or omission by an economic operator which has the effect of prejudicing the general budget of the European Communities. - Introduction of controls and administrative penalties such as: payment of a fine, payment of an amount greater than the amounts wrongly received, increased interest, removal in part or entirely of an advantage granted, exclusion from, or withdrawal of, the advantage for a period subsequent to that of the irregularity, temporary withdrawal of approval, loss of a guarantee or security, economic penalties. - The penalties may apply to natural or legal persons, and to persons who participated in the commission of the irregularity. They must be effective, proportionate and dissuasive. - The limitation period for proceedings shall be four years as from the time when the irregularity was committed; in the case of repeated irregularities, the limitation period shall be four years as from the date on which the irregularity ended. - The period for enforcement of the decision imposing the administrative penalty shall be three years, with effect from the date on which the decision becomes final. - Any irregularity shall involve, as a general rule, the withdrawal of the wrongly obtained advantage. - The imposition of financial penalties (administrative fines) may be suspended if criminal proceedings have been brought against the person concerned in respect of the same acts. - Without prejudice to the controls undertaken by the Member States, the Commission may arrange, on its own responsibility, for verification of: compliance of administrative practices with Community rules; the existence of the necessary evidence; the conditions under which these financial operations are undertaken. It may also conduct on-site checks and verifications.