Protection of the EC financial interests: administratives sanctions

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The Committee adopted the report by Mrs THEATO on the legal protection of the European Communities' financial interests. This report was actually Parliament's second legislative intervention in this area. In fact, Parliament was consulted again because the Council, in its joint guideline, departed quite significantly from the text proposed by the Commission and from Parliament's first opinion. The main amendments proposed by Parliament were as follows: - amendments intended to cover the area of administrative penalties for fraud against the Community (it should be noted that penalties are regulated by an agreement signed under Title VI of the Treaty on European Union - Justice and Internal Affairs). - amendments which seek to enforce stricter rules by providing for more specific cases of fraud ("misappropriation of funds": amendment 2) and measures relating to retroactivity (amendment 3), limitation periods (amendment 4), the time needed for implementing penalty decisions (amendment 5) and penalties for operations which are set up artificially in order to benefit from Community financing (amendment 9). - amendments which seek to ensure that the Community and the European Parliament are adequately informed of the measures adopted by Member States for detecting irregularities (amendments 8 et 9). - amendments which are designed to ensure that action is also taken, where appropriate, against "de facto decision makers" who, while having no official responsibilities within the company responsible for the fraud, have nevertheless had an influence on the fraudulent decision (amendment 12). - amendments which guarantee an element of surprise when conducting spot checks, insofar as these are provided for under a specific regulation (article 9). It should be recalled that this process was set in motion by Parliament's resolution of 11 March 1994 (report by Mrs THEATO), which called on the Commission to propose administrative controls and penalties to protect the Community's financial interests. Mrs THEATO's first report also called for the strengthening of those controls and penalties which focus on the responsibilities of Community officials. The instruments which relate to the administrative controls and penalties (respectively: the regulation and the agreement) should come into force soon after this procedure has been completed. The Commission would soon be proposing a regulation to strengthen these controls, while a draft protocol on penalties for Community officials responsible for corruption was currently under discussion in the Council and would soon be submitted for debate to Parliament.