Convention on the protection of the EC financial interests: protocol, officials and members liability

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The draft report by Mr Rinaldo BONTEMPI had been unanimously adopted by the members of the committee during its meeting of 25 April. The Convention in question had been adopted by the Council in July 1995, although the EP had decided to reject the proposal for a Council act as it believed that this issue should instead have been covered by a directive. The Council was now proposing the draft protocol to this Convention. The rapporteur continued to support the EP's belief that all matters relating to the protection of the European Communities' financial interests should be dealt with under the first pillar and be covered by a directive or regulation. As a result, he put forward a text on which the Commission could base a proposal on the liability and protection of officials and other servants in criminal matters. This text set out a number of minimum rules concerning criminal matters that the Member States should apply (for example, a minimum sentence of three years for corruption and misappropriation of funds and one year for forgery and uttering). According to the rapporteur, those issues that did not relate to the Community's financial interests could come under a convention, but that it should be known as the "Convention on corruption to the detriment of the European Communities". In this respect, the rapporteur tabled more than 20 amendments to the Council text. Given that the link between the Convention and the protocol was unclear and led to an unsatisfactory hierarchy of rules and a lack of legal safety, he proposed that the protocol should also be changed into a convention, that is, the "Convention on the criminal procedures relating to corruption to the detriment of the European Communities", which would apply to both Community and national officials. He also proposed clarifications for several legal concepts, such as the offences of passive corruption to the detriment of the European Communities and active corruption. He also hoped to ensure respect for the "ne bis in idem" principle and to clarify the resp