Basic information

1994/0146(CNS) CNS - Consultation procedure Regulation	Procedure completed
Protection of the EC financial interests: administratives sanctions **Subject** 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	THEATO Diemut R. (PPE)	27/07/1994

Former committee responsible	Former rapporteur	Appointed
CONT Budgetary Control	THEATO Diemut R. (PPE)	27/07/1994

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs, Citizens' Rights	ODDY Christine Margaret (PSE)	07/09/1994
LIBE Civil Liberties and Internal Affairs	BONTEMPI Rinaldo (PSE)	06/09/1995

Former committee for opinion	Former rapporteur for opinion	Appointed
LIBE Civil Liberties and Internal Affairs		

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	1846	1995-05-22
Economic and Financial Affairs ECOFIN	1777	1994-07-11
Economic and Financial Affairs ECOFIN	1835	1995-03-20
Environment	1895	1995-12-18
Social Affairs	1862	1995-06-29

Key events

Date	Event	Reference	Summary
15/06/1994	Legislative proposal published	COM(1994)0214	Summary
11/07/1994	Debate in Council		
24/10/1994	Committee referral announced in Parliament		
22/02/1995	Vote in committee		Summary
22/02/1995	Committee report tabled for plenary, 1st reading/single reading	A4-0040/1995	
15/03/1995	Debate in Parliament		
20/03/1995	Debate in Council		Summary
29/06/1995	Amended legislative proposal for reconsultation published	07522/1995	Summary
04/07/1995	Formal reconsultation of Parliament		
22/11/1995	Vote in committee		Summary
22/11/1995	Committee report tabled for plenary, reconsultation	A4-0296/1995	
29/11/1995	Debate in Parliament		
18/12/1995	Act adopted by Council after consultation of Parliament		Summary
18/12/1995	End of procedure in Parliament		
23/12/1995	Final act published in Official Journal		

Technical information

Procedure reference	1994/0146(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Euratom Treaty A 203 EC Treaty (before Amsterdam) E 235
Stage reached in procedure	Procedure completed
Committee dossier	CONT/4/06867 CONT/4/06095

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0040/1995 OJ C 089 10.04.1995, p. 0005	22/02/1995	
Text adopted by Parliament, 1st reading/single reading		T4-0094/1995 OJ C 089 10.04.1995, p. 0056-0083	15/03/1995	Summary

Committee final report tabled for plenary, reconsultation		A4-0296/1995 OJ C 339 18.12.1995, p. 0004	22/11/1995	
Text adopted by Parliament after reconsultation		T4-0590/1995 OJ C 339 18.12.1995, p. 0039-0061	30/11/1995	Summary

Council of the EU

Document type	Reference	Date	Summary
Amended legislative proposal for reconsultation	07522/1995	29/06/1995	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1994)0214	15/06/1994	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 1995/2988
OJ L 312 23.12.1995, p. 0001 Summary

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 15/03/1995 - Text adopted by Parliament, 1st reading/single reading

Parliament rejected the draft act.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 15/06/1994 - Legislative proposal

PURPOSE: to protect the Community's financial interests.

PROPOSED ACT: Council Regulation.

CONTENT: This proposed regulation was designed to give stronger protection to the Community's financial interests by introducing **Community administrative penalties** against fraud, abuses and other irregularities against the Community's financial interests, including the budget and any other revenue managed by or for a Community institution.

The Member States were required to apply equal penalties for fraud against their national interests and fraud against the Community's interests. Various administrative penalties could be applied: fines, the withdrawal of some or all of a benefit granted under Community rules, exclusion from or withdrawal of the benefit for a period following the irregularity, temporary or permanent withdrawal of an authorisation or recognition required to participate in a Community aid scheme, etc.

The penalties would apply to both natural and legal persons. A five-year limitation period after the irregularity was proposed for a decision to be reached on a penalty, together with the same period for its application once it was adopted.

No penalty could be applied unless provided for in a Community act prior to the irregularity.

The proposal was accompanied by a draft agreement between the Member States on the introduction of penal sanctions.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 30/11/1995 - Text adopted by Parliament after reconsultation

In adopting the report by Mrs Dietmut THEATO (EPP, D), Parliament called for: - administrative penalties for fraud against the Community (note that criminal penalties are regulated by an agreement signed under Title VI of the Treaty on European Union - Justice and Internal Affairs); - a list of more specific cases of fraud ("misappropriation of funds") and measures relating to retroactivity, limitation periods, the time needed for implementing penalty decisions and penalties for operations which are set up artificially in order to benefit from Community financing; - an adequate supply of information to the Community and the European Parliament on the measures adopted by Member States for detecting irregularities; - actions also to be 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; - measures which guarantee an element of surprise when conducting spot checks, insofar as these are provided for under a specific regulation.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 29/06/1995

The Council decided to consult the European Parliament again on the text with a view to its adoption in the conciliation procedure laid down in the Joint Declaration by the European Parliament, the Council and the Commission of 4 March 1975.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 18/12/1995

In reaching agreement on the joint guideline on the above Regulation on 29 June 1995 (see Press Release 8243/95, Presse 199), the Council had decided to consult the European Parliament again in view of the amendments made to the Commission proposal. The European Parliament delivered its new opinion on 30 November 1995 and proposed a series of amendments. However, the Council was unable to reach unanimous agreement on any of these amendments and formally adopted the Regulation as it stood following its discussions on 29 June 1995. As the Regulation was adopted as an ‘A’ item by the Council, the Commission was unable to defend orally the amendments it had taken over.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 22/05/1995

This Regulation is a response to the need, stressed on a number of occasions by the Council and also highlighted by the European Council in Essen on 9 and 10 April 1994, to improve the effectiveness and the equivalence of the supervisory mechanisms and the systems of administrative penalties in the various fields covered by the Community budget. It emphasises the Community’s determination to combat fraud, waste and the poor management of Community funds with the greatest vigour.

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.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 18/12/1995 - Final act

OBJECTIVE : to strengthen the protection of the European Communities' financial interests, through the introduction of Community administrative penalties against fraud, abusive practices and any other irregularities regarding Community financial interests, including the budget and any other revenue administered by or for a Community institution. COMMUNITY MEASURE : Council Regulation (EC, EURATOM) No 2988/95 on the protection of the European Communities' financial interests. SUBSTANCE : - Institution of administrative controls and penalties in the case of intentional irregularities or irregularities caused by negligence, such as: payment of fine, payment of amount greater than the amount wrongly received, plus interest, total or partial removal of an advantage granted, exclusion from or withdrawal of the advantage for a period subsequent to that of the irregularity, temporary withdrawal of approval or recognition, loss of security or deposit, economic penalties; - generally speaking, any irregularity will lead to withdrawal of the advantage wrongly obtained; - penalties may be applied to natural or legal persons and to other entities involved in the irregularity. They will be effective, proportionate and dissuasive; - the limitation period for proceedings is four years as from the time the irregularity was committed; in the case of repeated irregularities, the limitation period runs from the day on which the irregularity ceases; - the period for implementing the decision establishing the administrative penalty is three years, which runs from the day on which the decision becomes final; DATE OF ENTRY INTO FORCE : 26 December 1995.

Protection of the EC financial interests: administratives sanctions

1994/0146(CNS) - 20/03/1995

The Council: - referring to the Ecofin Council conclusions of 11 July 1994, particularly as regards the need to increase the effectiveness and equivalence of control mechanisms and systems of administrative penalties in the various areas of the budget, and to the conclusions of the European Council meeting in Essen on 9 and 10 December 1994 on the adoption as soon as possible of the Regulation on protection of the Community’s financial interests; 1. reiterates its statement to the effect that the principle of subsidiarity cannot reduce the need to enact, in Community legislation, appropriate provisions enabling the Commission and the Member States to ensure that Community law is properly applied and to fulfil their obligations to protect Community revenue and expenditure; 2. stresses the need to strengthen protection of the Communities’ financial interests; 3. notes that further progress is required in devising a broad legal concept of abuse of Community rules, as proposed by the Commission, in order to reduce the risk of transactions with no valid economic rationale being carried out solely to take advantage of benefits available under Community financial rules; 4. highlights the desirability of upholding and consolidating the *acquis communautaire*; 5. calls for the swift and clearest possible definition of the relationship between Community administrative penalties and national administrative and criminal -law penalties, having regard to the objective of ensuring effective and dissuasive protection of the Communities’ financial interests while complying with general legal principles; 6. calls for consideration to be given, in drawing up a list of Community administrative penalties, to the objective of establishing a suitable framework for penalties; 7. calls for proceedings to be expedited, on the basis of the Commission proposal and taking into account the Presidency’s suggestions and delegations’ comments, with a view to the adoption as soon as possible of the Regulation on protection of the Communities’ financial interests; 8. calls for all preparatory work to be completed in time for the Council to proceed with final enactment at its meeting in May 1995.