Basic information

2004/2198(INI) INI - Own-initiative procedure	Procedure completed
Fight against fraud and protection of the European Communities' financial interests **Subject** 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	BÖSCH Herbert (PSE)	22/09/2004

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
REGI Regional Development	ŽELEZNÝ Vladimír (IND/DEM)	31/01/2005
AGRI Agriculture and Rural Development	BATZELI Katerina (PSE)	20/01/2005
PECH Fisheries	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2612	2004-10-21

Key events

Date	Event	Reference	Summary
30/08/2004	Non-legislative basic document published	COM(2004)0573	Summary
21/10/2004	Debate in Council		
18/11/2004	Committee referral announced in Parliament		
09/05/2005	Vote in committee		Summary
17/05/2005	Committee report tabled for plenary	A6-0151/2005	
06/06/2005	Debate in Parliament		
07/06/2005	Decision by Parliament	T6-0218/2005	Summary
07/06/2005	Results of vote in Parliament		
07/06/2005	End of procedure in Parliament		

Technical information

Procedure reference	2004/2198(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	CONT/6/24381

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	REGI	PE353.525	15/03/2005	
Committee opinion	AGRI	PE353.646	16/03/2005	
Committee report tabled for plenary, single reading		A6-0151/2005	17/05/2005	
Text adopted by Parliament, single reading		T6-0218/2005 OJ C 124 25.05.2006, p. 0021-0232 E	07/06/2005	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2004)0544	09/08/2004	Summary

Non-legislative basic document	COM(2004)0573	30/08/2004	Summary
Commission response to text adopted in plenary	SP(2005)3923	08/11/2005	

Fight against fraud and protection of the European Communities' financial interests

2004/2198(INI) - 30/08/2004 - Non-legislative basic document

PURPOSE : to present the 2003 Annual Report on the protection of the European Communities' financial interests and the fight against fraud.

CONTENT : the 2003 report recently issued by the Commission illustrates the continued efforts to improve the fight against fraud, in terms of structures and procedures, both within the European institutions and at national level. The report highlights the significant efforts undertaken to audit the structural funds following recommendations by the Court of Auditors, develop information sharing with the Member states and improve recovery in the area of direct expenditure such as agriculture. The Commission remains concerned that Member States do not notify irregularities on a sufficiently consistent basis and that their efforts to safeguard the Communities financial interests and claw-back funds are not always adequate, although organisational improvements are progressively bringing about an improvement of the situation. The report also reveals a decrease in the overall number of cases and amounts of irregularity reported in the fields of own resources, CAP and structural funds. Likewise, the Commission is continuing its own efforts through the final stage of implementation of its 2000-2005 strategy, through further improvements in OLAF's regulatory and organisational environment; enhanced information flows with Member States; and the preparations for the future establishment of an European Public Prosecutor.

More specifically, the Commission established its political and general objectives in its overall strategic Approach adopted on 28 June 2000 for the 2001-2005 period. The implementation of this overall strategy by the Commission, including by the European Anti-Fraud Office in its non operational functions, is given concrete expression in the 2001-2003 Action Plan. Major developments achieved in 2003 by the Commission, are highlighted in this annual report. They are in line with the four main themes of the Overall Strategic Approach. The report refers to certain horizontal topics such as the results of the audits in the Structural Funds. It also refers to the Commission Report evaluating the activities of OLAF and the commitments made before the European Parliament on 18 November

2003. A summary is made of progress in the criminal law protection of the financial interests of the Communities, in particular with regard to the European prosecutor project and relations between the Commission and the judicial and police cooperation bodies.

The first part of the report highlights some significant Community activities in 2003, without mentioning all of the tasks achieved to implement the 2001-2003 Action Plan and to follow up the Resolutions of the European Parliament and the Annual Report of the Court of Auditors for the financial year 2002. The second part of the report presents a summary of the measures taken in 2003 by the Member States to implement the EC treaty. Two aspects were favoured in 2003: the structural measures and recovery in the field of direct expenditure.

The report is accompanied by two staff working documents: on the one hand, the implementation of the 2001-2003 Action Plan and an inventory of the measures taken by the Member States, on the other hand the relevant statistical information.

- As regards the overall Evaluation of the Measures adopted by the Community in the area of structural funds: the internal follow up of irregularities and the procedures for recovery were judged satisfactory in the majority of the Member States - which leads to believe that the latter organise themselves better regarding their responsibilities related to sound management of the Structural Funds, as well as dealing with irregularities and recovery, and that they generally assume their tasks in an appropriate way.

It is necessary, then, for Member States to improve their interpretation of the concept of irregularity so as to have a more complete and reliable image of the protection of financial interests and the fight against fraud on the basis of complete, coherent, precise and up to date data. The Commission sent to the various Member States specific recommendations to be implemented.

- With regard to Community policies carried out by way of decentralized management (EAGGF-Guarantee, structural funds), it is up to the Member States to carry out the recovery of the funds unduly paid to the final recipients and to repay the amounts to the Community budget. For its part, the Commission is required to follow the recovery procedures carried out by the Member States and to apply, if necessary, the clearance procedures. The slowness of these procedures and the accumulation of Community debts is a subject of concern both for the Commission, the Court of Auditors and the Budgetary authority. In its communication of 3 December 2002 which aims in particular to strengthen recovery, the Commission decided to set up a Recovery Task Force in the area of EAGGF Guarantee Funds, made up of agents of OLAF and the DG Agriculture. The total arrears of irregularities due to be recovered were estimated in 2002 at EUR 2.2 billion, according to the data communicated by the Member States under the terms of Articles 3 and 5 of Regulation 595/91.

With regard to cases of irregularity communicated before 1999, the subject of the work of the Task Force, the amount is more than EUR 1 billion. With regard to the cases from the years 1995 to 1999 and the cases prior to 1995 relating to Italy, the Task Force examined in detail 433 cases (of which 343 concern Italy), each of which involved an amount higher than EUR 500.000. Once this analysis was completed, the total to be recovered was fixed at EUR 700 million for nine Member States (including 550 million for Italy). It should be noted that the Commission set up a consultation process involving the European Anti Fraud Office as far upstream as possible, so as to benefit from its operational experience from the stage of the drawing-up of the legislative proposals. This mechanism entered its active phase in 2003 and was, however, for this first full year of operation, of a primarily experimental nature.

- A strategy of cooperation and mutual assistance between all the public partners is particularly necessary to fight efficiently against organised criminality, in particular transnational criminality, affecting the Community's financial interests. The Commission assumes its responsibilities, in particular by giving its assistance in the field of intelligence and in the operational field.

- Since May 1999, the Community has had an overall legal framework to fight against fraud, corruption and any other illegal activity affecting its financial interests and to investigate irregular behaviour inside the institutions, bodies and offices. Reflections on the reinforcement of this mechanism, which frames OLAF's activities, advanced in 2003, including on the basis of the Commission's progress report (article 15) and experience in the Eurostat case.

- The requirement to prosecute in a more effective way the authors of criminality undermining the Communities' financial interests, a fortiori under an enlarged Europe, led the Commission to propose the creation of a European Prosecutor. The year 2003 will have been marked by the follow up of this debate and its concrete expression in the proposals of the European Convention on the establishment of a European Public Prosecutor, on which the decision is to be made by the Intergovernmental Conference (IGC). Lastly, as a result of the extension of the mandate of Europol on 01/01/2002 to all the serious forms of international criminality, among which fraud and corruption, and of the creation of Eurojust, there have been significant developments in the cooperation between the Commission and the judicial and police bodies, in 2003.

Fight against fraud and protection of the European Communities' financial interests

2004/2198(INI) - 07/06/2005 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Herbert BÖSCH (PES, AT) on protection of the Communities' financial interests and the fight against fraud. (Please see the summary of 09/05/2005.) Parliament drew attention to the European Court of Auditors' Special Report No 3/2004 on recovery of irregular payments under the Common Agricultural Policy: according to that report, between 1971 and September 2004 irregularities involving a total of EUR 3.1 billion were reported in the sector; of that sum, EUR 626 million (20.2%) has been recovered from recipients and EUR 156 million (5%) and EUR 144 million (4.6%) has had to be paid by the EAGGF and the Member States respectively. There should still be EUR 2.2 billion (70%) to be recovered. Member States bear primary responsibility for the recovery of lost budget appropriations. Hitherto, they have failed to discharge this responsibility adequately and, in particular, have been sloppy in carrying out their reporting duties vis-à-vis the Commission.

Parliament criticised the fact that it is often those countries whose reported irregularities represent the greatest loss to the budget (2003: Spain EUR 112 367 457, Italy EUR 16 896 556, and France EUR 12 221 826) which also have the lowest recovery rates. It took the view that the non-recovery of irregular payments within four years (by means of administrative measures) or eight years (through the courts) represents a serious breach of the duty of care. The country concerned should then be required to settle the debt itself. In this way, Member States could be encouraged to take responsibility at an early stage and adopt a proactive approach to remedying errors.

Fraud involving adulterated butter: Parliament was critical of not only the fact that less than 10% of the estimated EUR 100 million loss has been recovered by the Member States concerned (Belgium, Germany and France) in the Italburro case. It criticised the fact that the true nature of the possible health risks resulting from the butter adulteration scandal has still not been established, and noted with amazement that the German authorities have issued a recovery order for only EUR 141 737 against the firms concerned, which have now challenged that order. Furthermore, five years after the case came to light the Belgian and French public prosecutor's offices have not yet opened criminal proceedings.

Measures to combat cigarette smuggling: the agreement with Philip Morris provides for measures to prevent cigarette smuggling in the long term and seeks to settle the disputes between the Community and the undertaking. In addition, over a 12-year period PMI will pay a sum of roughly US $1 250 000 000 to the Community and the Member States. Parliament called on the Member States and the Commission to use these payments to fund measures to prevent and combat cigarette smuggling, including anti-counterfeiting activities.

Cooperation with Switzerland: Parliament welcomed the conclusion of the Agreement between the EC and the Swiss Confederation to counter fraud, and called on those Member States who had not yet ratified the Second Protocol to do so.

Delegation to private firms of missions of the European public service: In view of the prohibition inserted in the Financial Regulation in 1998, Parliament found it unacceptable that in November 1999 the Commission should nevertheless have adopted rules governing service, supply and works contracts in the context of cooperation to assist third countries which authorised the use of so-called procurement agencies, which then organised tender procedures, signed contracts and made payments to final recipients.

Priorities and prospects for OLAF's work: priority must go to investigations within the institutions and in connection with expenditure directly administered by the Commission.

OLAF investigations and the protection of fundamental freedoms: Parliament noted with concern the view expressed by the OLAF Supervisory Committee that OLAF's current, self-imposed procedural rules governing investigations (OLAF Manual) may not be sufficient to safeguard the rights of persons under investigation by OLAF and that the admissibility as evidence of the findings of investigations may be called into question.

Finally, Parliament made some follow-up to remarks and calls from previous years, as well as on the appointment of a new Director General of OLAF.

Fight against fraud and protection of the European Communities' financial interests

2004/2198(INI) - 09/08/2004 - Document attached to the procedure

PURPOSE : to present a report from the Commission concerning protecting the Communities' financial interests - Fight against fraud - Action Plan for 2004-2005.

CONTENT : following along the same lines as its 2001-2003 Action Plan, the Commission's 2004-2005 Action Plan on the protection of financial interests and the fight against fraud calls for the continued implementation of the overall strategic approachadopted by the Commission on 28 June 2000, which defined the broad guidelines for the Community and the Member States for the five years ahead (2001 to 2005).

The new 2004-2005 action plan corresponds to the second stage of the programme, in the framework of the 2000 overall strategic approach, and follows the four main action guidelines described above. It also takes into account the new guidelines set out in the Progress report on the activities of OLAF and the measures announced in the Commission President's speechin November 2003. Specifically, the 2004-2005 Action Plan testifies to the Commission's ongoing commitment to the fight against fraud and contains one of its responses to the new challenges relating to the development of the Union in 2004 and 2005.

The Plan comprises:

- actions that it was not possible to implement in the previous period and actions that still have to be decided on in order to complete implementation of the overall strategic approach, in particular the strengthening of the operational partnership with the Member States;

- recent developments relating to the reinforcement of the legal framework of OLAF, as recommended by the Commission in its progress report on the activities of OLAFand by the President of the Commission in his Action Plan of 18 November 2003. Because of the weaknesses revealed by the Eurostat case, the Commission thinks it necessary to act more rapidly and thoroughly than originally envisaged in the progress report. Consequently, a number of initiatives, some of which are already being implemented, will be taken in addition to the recommendations of the Progress report;

- a number of more specific initiatives, such as the White Book on the European Prosecutor, or other initiatives, which respond to specific requests or needs, such as the handling of irregularities notified before 1 January 1999 in relation to the EAGGF-guarantee section ("Recovery" Task-Force) or the simplification of the procedures for notifying irregularities (EAGGF-Guarantee, Structural Funds, Cohesion Fund).

This new Action Plan emphasises the following policy guidelines and priorities:

- reinforcing the regulatory framework of May 1999 for OLAF's activities and competencies (improving the information flow between OLAF and the European institutions and bodies;

- fully guaranteeing the rights of individuals affected by an external or internal inquiry;

- strengthening OLAF's operational efficiency and enhancing the role of the Office's Supervisory Committee);

- improving the information flow between the Member States and the Commission, for example by amending the regulations on notification of irregularities; developing the Customs Investigations Information File ("FIDE") and implementing the new Regulation concerning mutual administrative assistance in the field of VAT and the laundering of profits from Community fraud;

- developing the criminal-law protection of the Community's financial interests with the competent authorities in the Member States, for example by following up the decision of the Intergovernmental Conference (IGC) to establish, in the constitutional treaty, the legal basis for creating a European Prosecutor with competence for protecting the financial interests of the European Union.