## Basic information

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|---|---|
| **2013/2132(INI)**<br>INI - Own-initiative procedure | Procedure completed |
| Annual report 2012 on the protection of the EU's financial interests - fight against fraud<br>**Subject**<br>8.70.04 Protecting financial interests of the EU against fraud | |

## Key players

### European Parliament

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| CONT Budgetary Control | AYALA SENDER Inés (S&D) | 27/08/2013 |
| | Shadow rapporteur<br>MACOVEI Monica (PPE)<br>MULDER Jan (ALDE)<br>STAES Bart (Verts/ALE)<br>ANDREASEN Marta (ECR)<br>SØNDERGAARD Søren Bo (GUE/NGL)<br>VANHECKE Frank (EFD) | |

| Committee for opinion | Rapporteur for opinion | Appointed |
|---|---|---|
| DEVE Development | The committee decided not to give an opinion. | |

### European Commission

| Commission DG | Commissioner |
|---|---|
| European Anti-Fraud Office (OLAF) | ŠEMETA Algirdas |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|
| 04/07/2013 | Committee referral announced in Parliament | | |
| 17/03/2014 | Vote in committee | | |
| 20/03/2014 | Committee report tabled for plenary | A7-0195/2014 | Summary |

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|---|---|---|---|
| 02/04/2014 | Debate in Parliament | | |
| 03/04/2014 | Decision by Parliament | T7-0338/2014 | Summary |
| 03/04/2014 | Results of vote in Parliament | | |
| 03/04/2014 | End of procedure in Parliament | | |

| Technical information | |
|---|---|
| **Procedure reference** | 2013/2132(INI) |
| **Procedure type** | INI - Own-initiative procedure |
| **Procedure subtype** | Annual report |
| **Legal basis** | Rules of Procedure EP 55 |
| **Other legal basis** | Rules of Procedure EP 165 |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | CONT/7/13187 |

Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee draft report | | PE521.833 | 07/02/2014 | |
| Amendments tabled in committee | | PE526.047 | 25/02/2014 | |
| Committee report tabled for plenary, single reading | | A7-0195/2014 | 20/03/2014 | Summary |
| Text adopted by Parliament, single reading | | T7-0338/2014 | 03/04/2014 | Summary |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Commission response to text adopted in plenary | SP(2014)469 | 25/09/2014 | |

# Annual report 2012 on the protection of the EU's financial interests - fight against fraud

2013/2132(INI) - 20/03/2014 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted an own-initiative report by Inés AYALA SENDER (S&D, ES) on the Annual Report 2012 on the Protection of the EU's Financial Interests – Fight against fraud.

According to Commission estimates, **EUR 1 000 000 000 000 of potential tax revenue is lost** to tax fraud, tax evasion, tax avoidance and aggressive tax planning in the EU every year, representing an approximate annual cost of EUR 2 000 for every European citizen.

The scale of fraud and tax avoidance in any form and of corruption in the EU undermines citizens' trust and confidence in the Union. In order to **give greater guarantees of integrity and transparency with regard to public spending**, the report makes the following recommendations:

**Strengthening the European Union's anti-fraud machinery**: Members stressed the need **to strengthen the cooperation and coordination** between the Commission and the Member States in order to ensure that the Union's financial interests are protected effectively. They proposed looking into the possibility of establishing **a team of European customs officials** specialised in combating fraud to work alongside national customs authorities.

The report welcomed the main initiatives taken by the Commission, at Parliament's request, to shape **a new EU legislative landscape for anti-fraud policy**, and in particular the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law, as well as the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office. It called on the Council **not to finalise negotiations in a rush** and to avoid a premature transition to the enhanced cooperation procedure, in order to develop a robust European legal framework.

The Commission, at the time of initiating the procedure for submission of the annual PIF report, is asked to submit to Parliament **a report on the monitoring and implementation** of the recommendations adopted by Parliament following the PIF report of the previous year. Members called for clear distinctions to be made between cases of fraud, cases of error and cases of irregularity in the 2013 Annual Report.

**Revenue**: while own resources are no longer the main source of EU budget revenue, they continue to make up 20% of it. The proper collection of VAT and customs duties has direct repercussions not only on Member States' economies and the Union budget, but also on European taxpayers.

Members stressed that the Commission and Member States should continue **to give absolute priority to combating fraud and tax evasion**, for which it is necessary to develop a strategy for strengthened and multidimensional cooperation and coordination between Member States themselves and with the Commission. Special attention should be paid to the development of **mechanisms for prevention and early detection**, evaluation of results, improved revenue collection and more effective customs transit monitoring.

**Excise Movement Control System (EMCS)**: according to the enforcement agencies, increased abuse of the Excise Movement Control System (EMCS) by criminal groups has been observed. Members believe believes that there is a **lack** of physical controls of goods being transported under the EMCS and that additional investment in controls may result in an increase in collected taxes, and an increase in prevented tax evasion.

The Commission is asked to take initiative in **tightening the access rights of the EMCS** to include a comprehensive history of compliance before trading so that it is possible to grant business actors the status of 'empowered economic operator' ('trusted business actors') so that only these actors could operate under EMCS directly by themselves.

**VAT**: according to a study published in 2013, EUR 193 000 000 000 in VAT revenue (1.5% of GDP) was lost in 2011 through non-compliance or non-recovery.

The report stresses the importance of **implementing new strategies** and making more efficient use of existing EU structures in order to combat VAT fraud more vigorously, as well as the need to simplify the VAT system for companies throughout Europe. Member States should **reform their national tax systems**, making them simpler, fairer and more effective so as to facilitate compliance, prevent, deter and sanction tax fraud and evasion, and boost the efficiency of tax collection.

**Irregularities reported as fraudulent**: the number of cases of fraudulent irregularity and their impact reported in 2012 were virtually the same as those of the previous year. It is noted that it takes on average **two years and seven months** from the start of a fraudulent practice until the moment it is detected; furthermore, that another seven or eight months lapse before the irregularity is reported to the Commission. The Commission is asked to draw up **Europe-wide guidelines** for the reporting of fraudulent irregularities and/or other irregularities to OLAF.

Members recalled that the staff of the European institutions are required, without delay and without any risk of their responsibility being called into question as a result, to notify OLAF of any fraud which has come to their attention in the fulfilment of their duties. They called for **corruption** with an impact on the financial interests of the EU to be considered as **fraud** for the purposes of Article 325(5) TFEU and to be included in the Commission's annual report. In addition, the Member States are asked to cooperate with and provide full and reliable information to the Commission regarding the **beneficiaries of the EU funds** managed by Member States.

**OLAF**: while welcoming the initial effects of the reorganisation and restructuring of OLAF's investigative procedures, Members underlined the **risk of a lack of consistency** in the overall investigation selection procedure. In their view, future investigation policy priorities (IPPs) should always be subject to a thorough evaluation based on concrete needs, measurable indicators and lessons learnt from past IPPs. OLAF is called on to provide **detailed information** on the way in which it decides on IPPs.

In general, Members asked for an **improvement in OLAF's governance** through the continual revision and consolidation of its core investigative processes. They emphasised, in this connection, particular importance to monitoring the observance of procedural safeguards and the fundamental rights of persons affected by investigations.

**New-look European anti-fraud policy and programmes**: Members welcomed all of the Commission initiatives to fight fraud in a generally more effective manner, with innovative actions to be taken as regards penalties. The introduction of anti-fraud clauses in international agreements, administrative cooperation agreements and in the field of public procurement is also a further significant step in terms of defending the Union's financial interests and combating corruption.

In February 2014, the first EU anti-corruption report by the Commission indicated that corruption affects all Member States in very different ways and costs the EU economy around EUR 120 billion annually. Members welcomed all of the suggestions for intensifying exchanges of current good practice and identifying relevant new measures to be taken at EU level.

# Annual report 2012 on the protection of the EU's financial interests - fight against fraud

2013/2132(INI) - 03/04/2014 - Text adopted by Parliament, single reading

The European Parliament adopted by 453 votes to 24, with 52 abstentions, a resolution on the Annual Report 2012 on the Protection of the EU's Financial Interests – Fight against fraud.

According to Commission estimates, **EUR 1 000 000 000 000 of potential tax revenue is lost** to tax fraud, tax evasion, tax avoidance and aggressive tax planning in the EU every year, representing an approximate annual cost of EUR 2 000 for every European citizen.

The scale of fraud and tax avoidance in any form and of corruption in the EU undermines citizens' trust and confidence in the Union. In order to **give greater guarantees of integrity and transparency with regard to public spending**, the report makes the following recommendations:

**Strengthening the European Union's anti-fraud machinery**: in 2012, there was virtually no change in 2012, compared with 2011, in the number of **fraudulent irregularities**, with 1 231 cases of irregularity reported as fraudulent, while their financial impact decreased slightly to a total of EUR 392 million. The incidence of fraud was highest in the areas of cohesion policy and agriculture – especially as regards rural development and fisheries – which remain the two sectors of greatest concern, suffering an estimated financial impact from fraud of EUR 279 million and EUR 143 million respectively.

The number of cases of **non-fraudulent irregularity** reported to the Commission in 2012 increased by approximately 6% compared with 2011, with an associated financial impact of approximately EUR 29 billion (more than double the corresponding figure for 2011 and affecting in particular cohesion policy and direct expenditure). The considerable increase in 2012, to a value of EUR 3.7 billion, in **corrective measures** adopted by the Commission vis-à-vis Member States was stressed.

Members stressed the need **to strengthen the cooperation and coordination** between the Commission and the Member States in order to ensure that the Union's financial interests are protected effectively. They proposed looking into the possibility of establishing **a team of European customs officials** specialised in combating fraud to work alongside national customs authorities.

The resolution welcomed the main initiatives taken by the Commission, at Parliament's request, to shape **a new EU legislative landscape for anti-fraud policy**, and in particular the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law, as well as the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office. It called on the Council **not to finalise negotiations in a rush** and to avoid a premature transition to the enhanced cooperation procedure, in order to develop a robust European legal framework.

The Commission, at the time of initiating the procedure for submission of the annual PIF report, is asked to submit to Parliament **a report on the monitoring and implementation** of the recommendations adopted by Parliament following the PIF report of the previous year.

Parliament called on Member States to **follow-up on the Commission's recommendations** made in 2011 and 2012 in particular on reported fraudulent and non-fraudulent irregularities, the recovery of amounts improperly paid, the monitoring of the results of criminal investigations and the improvement of national fraud statistics.

**Revenue**: while own resources are no longer the main source of EU budget revenue, they continue to make up 20% of it. The proper collection of VAT and customs duties has direct repercussions not only on Member States' economies and the Union budget, but also on European taxpayers.

Parliament stressed that the Commission and Member States should continue **to give absolute priority to combating fraud and tax evasion**, for which it is necessary to develop a strategy for strengthened and multidimensional cooperation and coordination between Member States themselves and with the Commission. Special attention should be paid to the development of **mechanisms for prevention and early detection**, evaluation of results, improved revenue collection and more effective customs transit monitoring.

**Excise Movement Control System (EMCS)**: according to the enforcement agencies, increased abuse of the Excise Movement Control System (EMCS) by criminal groups has been observed.

The Commission is asked to take initiative in **tightening the access rights of the EMCS** to include a comprehensive history of compliance before trading so that it is possible to grant business actors the status of 'empowered economic operator' ('trusted business actors') so that only these actors could operate under EMCS directly by themselves.

**VAT**: according to a study published in 2013, EUR 193 000 000 000 in VAT revenue (1.5% of GDP) was lost in 2011 through non-compliance or non-recovery.

The resolution stresses the importance of **implementing new strategies** and making more efficient use of existing EU structures in order to combat VAT fraud more vigorously, as well as the need to simplify the VAT system for companies throughout Europe. Member States should **reform their national tax systems**, making them simpler, fairer and more effective so as to facilitate compliance, prevent, deter and sanction tax fraud and evasion, and boost the efficiency of tax collection.

**Irregularities reported as fraudulent**: it is noted that it takes on average **two years and seven months** from the start of a fraudulent practice until the moment it is detected; another seven or eight months lapse before the irregularity is reported to the Commission. The Commission is asked to draw up **Europe-wide guidelines** for the reporting of fraudulent irregularities and/or other irregularities to OLAF.

Parliament recalled that the staff of the European institutions are required, without delay and without any risk of their responsibility being called into question as a result, to notify OLAF of any fraud which has come to their attention in the fulfilment of their duties. They called for **corruption** with an impact on the financial interests of the EU to be considered as **fraud** for the purposes of Article 325(5) TFEU and to be included in the Commission's

annual report. Members regretted, however, the lack of information on the amounts to be recovered and the recovery rates related to cohesion policy for the financial year 2012. In addition, the Member States are asked to cooperate with and provide full and reliable information to the Commission regarding the **beneficiaries of the EU funds** managed by Member States.

**OLAF**: while welcoming the initial effects of the reorganisation and restructuring of OLAF's investigative procedures, Parliament underlined the **risk of a lack of consistency** in the overall investigation selection procedure. In its view, future investigation policy priorities (IPPs) should always be subject to a thorough evaluation based on concrete needs, measurable indicators and lessons learnt from past IPPs. OLAF is called on to provide **detailed information** on the way in which it decides on IPPs.

Taking note of the OLAF 2012 annual report, Parliament called for: (i) closer analysis of the sources of the information received at the case selection stage; (ii) exhaustive information on the nature of follow-up to OLAF recommendations; (iii) further information on the number of on-the-spot checks that were carried out in each of the Member States and the number of investigations. Parliament recognised that the increase in the **amount of information coming from the public sector** may be a positive sign of improved cooperation with Member States.

In general, Members asked for an **improvement in OLAF's governance** through the continual revision and consolidation of its core investigative processes. They emphasised, in this connection, particular importance to monitoring the observance of procedural safeguards and the fundamental rights of persons affected by investigations.

**New-look European anti-fraud policy and programmes**: Parliament welcomed all of the Commission initiatives to fight fraud in a generally more effective manner, with innovative actions to be taken as regards penalties. The introduction of anti-fraud clauses in international agreements, administrative cooperation agreements and in the field of public procurement is also a further significant step in terms of defending the Union's financial interests and combating corruption.

In February 2014, the first EU anti-corruption report by the Commission indicated that corruption affects all Member States in very different ways and costs the EU economy around EUR 120 billion annually. Members welcomed all of the suggestions for intensifying exchanges of current good practice and identifying relevant new measures to be taken at EU level.

As regards the establishment of the **European Public Prosecutor's Office**, the resolution stressed the need to establish a consistent, complementary system for protecting the Union's financial interests. It urged the Commission to provide a clear EU-level definition of the roles of the future European Public Prosecutor's Office, Eurojust and OLAF, delimiting their respective remits.