Basic information

2018/0211(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
EU anti-fraud programme 2021–2027 Repealing Regulation (EU) No 250/2014 2011/0454(COD) **Subject** 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	HOHLMEIER Monika (EPP)	26/09/2019
	Shadow rapporteur PENKOVA Tsvetelina (S&D) MITUȚA Alin (Renew) RIVASI Michèle (Greens /EFA) CZARNECKI Ryszard (ECR) KUHS Joachim (ID)	

Former committee responsible	Former rapporteur	Appointed
CONT Budgetary Control	SALAFRANCA SÁNCHEZ-NEYRA José Ignacio (PPE)	12/07/2018

Former committee for opinion	Former rapporteur for opinion	Appointed
BUDG Budgets	ALI Nedzhmi (ALDE)	11/07/2018

Council of the European Union

European Commission

Commission DG	Commissioner
European Anti-Fraud Office (OLAF)	OETTINGER Günther

Key events

Date	Event	Reference	Summary
30/05/2018	Legislative proposal published	COM(2018)0386	Summary
14/06/2018	Committee referral announced in Parliament, 1st reading		
29/01/2019	Vote in committee, 1st reading		
05/02/2019	Committee report tabled for plenary, 1st reading	A8-0064/2019	Summary
11/02/2019	Debate in Parliament		
12/02/2019	Decision by Parliament, 1st reading	T8-0068/2019	Summary
12/02/2019	Results of vote in Parliament		
08/10/2019	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
09/10/2019	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 73)		
11/01/2021	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations	PE663.131	
19/03/2021	Council position published	05330/1/2021	Summary
25/03/2021	Committee referral announced in Parliament, 2nd reading		
14/04/2021	Vote in committee, 2nd reading		
19/04/2021	Committee recommendation tabled for plenary, 2nd reading	A9-0126/2021	
29/04/2021	Decision by Parliament, 2nd reading	T9-0149/2021	Summary
29/04/2021	Debate in Parliament		
29/04/2021	Final act signed		
29/04/2021	End of procedure in Parliament		
17/05/2021	Final act published in Official Journal		

Technical information

Procedure reference	2018/0211(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EU) No 250/2014 2011/0454(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 033 Treaty on the Functioning of the European Union TFEU 325-p4
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CONT/9/01461

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	BUDG	PE626.966	23/11/2018	
Committee draft report		PE630.376	26/11/2018	
Amendments tabled in committee		PE632.760	20/12/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0064/2019	05/02/2019	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0068/2019	12/02/2019	Summary
Text agreed during interinstitutional negotiations		PE663.131	07/01/2021	
Committee draft report		PE689.869	29/03/2021	
Committee recommendation tabled for plenary, 2nd reading		A9-0126/2021	19/04/2021	
Text adopted by Parliament, 2nd reading		T9-0149/2021	29/04/2021	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	05330/1/2021	19/03/2021	Summary
Draft final act	00020/2021/LEX	29/04/2021	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2018)0386	30/05/2018	Summary
Document attached to the procedure	SWD(2018)0294	30/05/2018	
Commission response to text adopted in plenary	SP(2019)354	16/04/2019	
Commission communication on Council's position	COM(2021)0149	22/03/2021	
Follow-up document	COM(2024)0572	17/12/2024	
Follow-up document	SWD(2024)0279	17/12/2024	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES4019/2018	17/10/2018	
CofA	Court of Auditors: opinion, report	N8-0016/2019 OJ C 010 10.01.2019, p. 0001	15/11/2018	Summary

Additional information		
Source	**Document**	**Date**
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act
Regulation 2021/0785 OJ L 172 17.05.2021, p. 0110

EU anti-fraud programme 2021–2027

2018/0211(COD) - 30/05/2018 - Legislative proposal

PURPOSE: to establish the EU anti-fraud programme affecting the EU budget (2021-2027).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: fraud affecting the EU's financial interests is a **cross-border phenomenon affecting all EU Member States**. Experience shows that the Union's financial interests are impacted by both fraud and irregularities.

The implementation of the past Union multi-annual budgets has been accompanied by a set of measures to support the Member States and the Union as a whole in preventing and fighting fraud affecting the Union's financial interests, and supporting mutual administrative assistance and cooperation in customs and agriculture matters.

These measures include:

- the Hercule III spending programme which supports activities against fraud, corruption and any other illegal activities affecting the financial interests of the Union;
- the **Anti-Fraud Information System** (AFIS) which is an operational activity consisting essentially in a set of customs IT applications operated under a common information system managed by the Commission;
- the **Irregularity Management System** (IMS) which is a secure electronic communications tool which facilitates the Member States' obligation to report detected irregularities, including fraud, and which supports the management and analysis of these.

Although it is difficult to quantify their financial impact, **these measures have contributed to bringing back large amounts of money into the EU budget**. For example, Hercule funded the development of the Automated Monitoring Tool (AMT), an IT tool that identifies anomalies in trade flows and was instrumental in identifying large undervaluation fraud schemes in the import of textile and footwear from third countries in 2017.

This proposal aims at **streamlining the financial support for these tools**, for the duration of the next multi-annual financial framework 2021-2027.

The Commission stressed that the next multiannual financial framework shall be implemented against the background of significant changes in the legislative and institutional framework for the protection of the Union's financial interests, in particular with the establishment of the European Public Prosecutor's Office and the implementation of Directive (EU) 2017/1371 of the European Parliament and the Council on the fight against fraud to the Union's financial interests by means of criminal law.

CONTENT: the proposed Regulation - presented for a Union of 27 Member States - seeks to establish **the EU anti-fraud programme**. It lays down the objectives of the programme, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

The new programme is intended to replace the Hercule III programme and shall have a budget of **EUR 181 million for the period 2021-2027**. Its general objectives shall be to protect the financial interests of the Union and to support mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

The **specific objectives** of the programme shall be threefold:

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assist Member States and the European Union to **prevent and combat fraud**, corruption and any other illegal activities affecting the EU's financial interests, by financing activities (technical assistance and training) which otherwise might not be available at national level (**EUR 114.2 million**);

- support the **reporting of irregularities**, including fraud, with regard to the shared management and pre-accession assistance funds of the Union budget (**EUR 7 million**);
- provide tools for **information exchange** and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters (**EUR 60 million**).

Implementation: the proposal specifies how the programme shall be implemented through **grants**, including the possible beneficiaries of the grants. The latter include public authorities which are likely to contribute to the achievement of one of the objectives of the programme, from any of the following countries: a Member State or an overseas country or territory linked to it, a third country associated with the programme or a third country listed in a work programme.

The programme shall be implemented by **OLAF**, the European Anti-Fraud Office.

EU anti-fraud programme 2021–2027

2018/0211(COD) - 05/02/2019 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Budgetary Control adopted the report by José Ignacio SALAFRANCA SÁNCHEZ-NEYRA (EPP, ES) on the proposal for a regulation of the European Parliament and of the Council establishing the EU Anti-Fraud programme.

The proposed programme would have two general objectives: 1) to protect the financial interests of the European Union and 2) to support mutual assistance between the administrative authorities of the Member States and collaboration between these and the Commission to ensure the proper application of customs and agricultural legislation.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows:

Budget

Members proposed that the financial envelope for the implementation of the programme for the period 2021-2027 should be set at EUR 321 314 000 at 2018 prices (EUR 362 414 000 in current prices), compared with EUR 181 207 000 in current prices proposed by the European Commission.

This envelope would be distributed as follows:

- EUR 202 512 000 at 2018 prices (EUR 228 414 000 in current prices) to prevent and combat fraud, corruption and any other illegal activity affecting the Union's financial interests;

- EUR 12 412 000 at 2018 prices (EUR 14 000 000 in current prices) to encourage the reporting of irregularities, including fraud, with regard to shared management and pre-accession aid funds from the Union budget;

- EUR 106,390,000 at 2018 prices (EUR 120,000,000,000 at current prices) to provide tools for the exchange of information and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters.

The Commission would be given the power to redistribute funds between the different objectives. In view of the need to protect the EU’s financial interests, the indicative breakdown should give due consideration to the fact that the programme is the only one specifically to protect the expenditure side of the EU budget.

Co-financing rates

The maximum rates for co-financing for grants under the Programme should not exceed 80 % of the eligible costs. In exceptional and duly justified cases, defined in the work programme, such as cases concerning Member States exposed to a high risk in relation to the financial interests of the Union, the maximum co-financing rate should be set at 90 % of eligible costs.

Synergies

When the supported action requires the acquisition of equipment, the Commission should ensure that the funded equipment contributes to the protection of the Union's financial interests. Members stressed the need to avoid duplication and establish synergies between the programme and other relevant programmes in areas such as Justice, Customs and Home Affairs when preparing work programmes.

EU anti-fraud programme 2021–2027

2018/0211(COD) - 12/02/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 529 votes to 14 with 130 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing the EU Anti-Fraud programme.

The proposed programme would have two general objectives: 1) to protect the financial interests of the European Union and 2) to support mutual assistance between the administrative authorities of the Member States and collaboration between these and the Commission to ensure the proper application of customs and agricultural legislation.

The position of the European Parliament adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Budget

Members proposed that the financial envelope for the implementation of the programme for the period 2021-2027 should be set at EUR 321 314 000 at 2018 prices (EUR 362 414 000 in current prices), compared with EUR 181 207 000 in current prices proposed by the European Commission.

This envelope would be distributed as follows:

- EUR 202 512 000 at 2018 prices (EUR 228 414 000 in current prices) to prevent and combat fraud, corruption and any other illegal activity affecting the Union's financial interests;

- EUR 12 412 000 at 2018 prices (EUR 14 000 000 in current prices) to encourage the reporting of irregularities, including fraud, with regard to shared management and pre-accession aid funds from the Union budget;

- EUR 106,390,000 at 2018 prices (EUR 120,000,000,000 at current prices) to provide tools for the exchange of information and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters.

The Commission would be given the power to redistribute funds between the different objectives. In view of the need to protect the EU’s financial interests, the indicative breakdown should give due consideration to the fact that the programme is the only one specifically to protect the expenditure side of the EU budget.

Eligible actions

To be eligible for funding, the actions supported should include:

- provide technical knowledge and provide specialised and technically advanced equipment and effective IT tools improving transnational and multidisciplinary cooperation and cooperation with the Commission;

- intensify staff exchanges in the context of specific projects and facilitate investigations, including the establishment of investigation teams and joint cross-border operations;

- provide technical and operational support to national surveys;

- strengthen the IT capacities of all Member States and third countries;

- organise specialised training, risk analysis workshops, conferences and studies aimed at improving cooperation and coordination between the services concerned.

When the supported action requires the acquisition of equipment, the Commission should ensure that the funded equipment contributes to the protection of the Union's financial interests.

Co-financing rates

The maximum rates for co-financing for grants under the Programme should not exceed 80 % of the eligible costs. In exceptional and duly justified cases, defined in the work programme, such as cases concerning Member States exposed to a high risk in relation to the financial interests of the Union, the maximum co-financing rate should be set at 90 % of eligible costs.

Synergies

The Commission should explore possible synergies between the programme and other relevant programmes in areas such as Justice, Customs and Home Affairs, and ensure that duplication is avoided in the preparation of work programmes. The work programmes should be published on the Commission's website and forwarded to the European Parliament.

EU anti-fraud programme 2021–2027

2018/0211(COD) - 15/11/2018 - Court of Auditors: opinion, report

Opinion No 9/2018 of the Court of Auditors on a proposal for a Regulation of the European Parliament and of the Council establishing the EU anti-fraud programme.

As a reminder, the EU Anti-Fraud Programme would combine Hercule III with the financing basis for the Anti-Fraud Information System (AFIS) and the Irregularity Management System (IMS). While these two systems would continue to be bound operationally by their respective legal instruments (Regulation (EC) No 515/97 for the former and multiple sector-specific regulations for the latter), the AFIS financing provisions would be transferred to the new programme.

The Court welcomed the Commission's initiative to streamline the budgetary management of the programme in this way. However, it considered that there is a risk of overlaps and a lack of synergies with measures to finance similar or identical actions. This calls into question the added value of the programme.

The Court also raised the following issues:

- no comprehensive and documented impact assessment was carried out for the development of the proposal. The Court noted that the Commission did not carry out an evaluation to examine the possible overlaps and synergies between the programme and other EU actions, and better evaluate its added value;

- the proposal does not specify the co-financing rate, i.e. the percentage of the EU contribution to the costs of the actions (the difference being borne by the Member States). The Court recalled its previous recommendation to set a maximum co-financing rate of 50 % for the technical equipment component and 80 % for other actions;

- some of the general and specific objectives are neither measurable nor specific, and the performance indicators are not sufficiently clear and robust. The Court considered that this could limit the monitoring of implementation, the evaluation of results and the effective targeting of funds to actions producing added value. Nor does the proposal specify the frequency of performance reporting.

The Court recommended that the legislative bodies undertake the following as soon as possible to:

- better specify the programme’s objectives and the indicators that would be used to monitor its implementation and evaluate its results;

- clarify the frequency of performance reporting, set maximum co-financing rates and state that evaluations should be carried out by an independent evaluator;

- ask the Commission to carry out an assessment to explore the programme’s overlaps and synergies with other EU actions and to better evaluate its value added.

EU anti-fraud programme 2021–2027

2018/0211(COD) - 29/04/2021 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution approving the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council establishing the Union anti-fraud programme and repealing Regulation (EU) No 250/2014.

The proposed regulation aims at establishing the Union anti-fraud programme for the duration of the multiannual financial framework (MFF) 2021-2027, replacing the Hercule III programme.

Programme’s objectives

The objectives of the programme are to:

- protect the Union’s financial interests;

- prevent and combat fraud, corruption and any other illegal activity affecting the EU's financial interests;

- encourage the reporting of irregularities, including fraud, in relation to funds under shared management and pre-accession aid funds of the Union budget;

- provide tools for information exchange and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters.

The programme should also support investigative activities through the purchase of technical equipment used to detect and investigate fraud and facilitate access to secure information systems.

Budget

The overall financial envelope for the implementation of the programme for the period 2021-2027 amounts to **EUR 181 207 000** in current prices.

A ceiling of 2% is set for technical and administrative assistance expenditure related to the implementation of the programme.

The Regulation provides for an indicative list of actions to be financed, in order to ensure the continuity of the financing of all the actions entrusted to the Commission under Regulation (EC) No 515/97, in particular the AFIS (anti-fraud information system) platform.

EU anti-fraud programme 2021–2027

2018/0211(COD) - 19/03/2021 - Council position

The Council adopted its position at first reading view to the adoption of a Regulation of the European Parliament and of the Council establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014.

The proposed regulation aims at establishing the EU's anti-fraud programme for the duration of the multiannual financial framework (MFF) 2021-2027.

Aim of the programme

The proposed new programme aims to:

- support Member States' efforts to combat fraud, corruption and other illegal activities and irregularities affecting the financial interests and the budget of the Union;

- finance targeted training and the exchange of information and best practice between anti-fraud authorities across Europe.

The programme should also support investigative activities through the purchase of technical equipment used to detect and investigate fraud and facilitate access to secure information systems.

Budget

The financial envelope for the implementation of the programme for the period 2021-2027 should amount to **EUR 181 207 000** in current prices.

This envelope should be distributed as follows:

- EUR 114 207 000 to prevent and combat fraud, corruption and any other illegal activity affecting the financial interests of the EU;

- EUR 7 000 000 to encourage the reporting of irregularities, including fraud, in relation to shared management and pre-accession aid funds of the Union budget;

- EUR 60 000 000 to provide tools for information exchange and support for operational activities in the field of mutual assistance in customs and agricultural matters.

A ceiling of 2% is set for technical and administrative assistance expenditure related to the implementation of the programme.

Eligible actions

To be eligible for funding, the actions supported should, in particular:

- provide technical expertise, specialised and technically advanced equipment and efficient IT tools improving transnational and multidisciplinary cooperation and cooperation with the Commission;

- enhance staff exchanges for specific projects, ensuring the necessary support and facilitating investigations, in particular the setting up of joint investigation teams and cross-border operations;

- provide technical and operational support to national investigations;

- strengthen the IT capacity of all Member States and third countries;

- organise specialised training, risk analysis workshops, conferences and studies to improve cooperation and coordination between the services concerned.

Where the action to be supported involves the acquisition of equipment, the Commission should ensure that the funded equipment is appropriate for the purpose of contributing to the protection of the financial interest of the Union.

Co-financing

The Council position provides for a maximum co-financing rate for grants of 80% of eligible costs, which in exceptional cases could be increased to a maximum of 90% of eligible costs.

Participation of third countries

The programme would be open to participation by members of the European Free Trade Association who are members of the European Economic Area (EEA), acceding, candidate and potential candidate countries, as well as countries covered by the European Neighbourhood Policy.

The proposed regulation encourages the participation of entities established in third countries which have concluded an association agreement with the EU, with a view to enhancing the protection of the Union's financial interests through cooperation on customs matters and the exchange of best practices.

Programming, monitoring and evaluation

The work programme would be adopted by means of implementing acts without recourse to the committee procedure and the Commission could adopt delegated acts to develop a monitoring and evaluation framework for the programme and to amend the annex to the regulation containing a list of monitoring indicators.

The Commission should report annually to the European Parliament and the Council on the performance of the programme as part of its report on the protection of the Union's financial interests. It should take due account of the recommendations made by the European Parliament in this context.