

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(94) 2027 final

Brussels, 30.11.1994

REPORT FROM THE COMMISSION

PROTECTING THE FINANCIAL INTERESTS OF THE COMMUNITY

JOINT EFFORTS AIMED AT STEPPING UP THE FIGHT AGAINST FRAUD

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1. Faced with an ever increasing Community budget and in order to achieve strict budgetary discipline both at national and Community level, efforts to improve the effectiveness of the fight against fraud have been significantly strengthened in recent years.

This subject, which attracts the particular interest of the Community's citizens and taxpayers as well as the media, greatly concerns the institutions of the European Union. This is illustrated by the public hearing of the European Parliament of 9 and 10 June 1993, the conclusions of the European Council in Copenhagen of 21 and 22 June 1993, the conclusions of the ECOFIN Council of 11 July 1994 and special reports 7/93 and 1/94 as well as the annual report for the 1993 exercise recently presented by the Court of Auditors. The obligation to combat fraud is moreover expressly stated for the first time at institutional level in article 209A of the TEU.

2. Confronted with this situation, the Commission has in recent years significantly stepped up its anti-fraud activities. In doing this, it has the full support of the European Parliament.
 - The Commission recently reorganised its central anti-fraud coordination unit (UCLAF) and increased its staff resources
 - The Commission set out a global anti-fraud strategy in March 1994. This strategy revolves around four main themes:
 - ° an increased presence on the ground and the development of means of

- support for operational activity ;
 - strengthening the partnership between the Commission and the member States;
 - improving the Community legislative framework in every sector;
 - improving the compatibility of national legislation.
- The Commission set up, in February 1994, an advisory committee for the co-ordination of fraud prevention. This committee advises the Commission on all questions on fraud prevention and co-ordinates the more specific activities of other bodies so as to give further stimulus to the fight against fraud. This Committee met for the first time on 1 July with further meetings in October and November 1994.
3. At the same time as its global strategy, the Commission presented in March 1994 a work programme for the year 1994. In response to a request from the ECOFIN Council, the Commission fleshed out the details of this work programme and discussed it on several occasions at meetings of the advisory committee for the co-ordination of fraud prevention.

In the framework of the work programme, the Commission took the following concrete measures :

- It established a legal basis for notification of information on cases of irregularity in the areas of the Structural Funds and the Cohesion Funds with the regulations introduced on 11 and 26 July 1994.
- It developed the Commission's information base by means of the introduction of a freephone and by setting up the pre-IRENE data base.
- It put forward proposals for an improvement in the legal framework for fraud prevention in particular sectors :

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- the proposal for an amendment to regulation N° 1468/81 on mutual assistance in the Customs and agricultural areas
 - the proposal for an amendment to regulation N° 1552/89 on own resources
 - the proposal for an amendment to regulation N° 729/70 on clearance of accounts
 - the proposal for a regulation on measures to be taken against certain beneficiaries of operations financed by the EAGGF-Guarantee Fund
 - the proposal for a regulation on the protection of the financial interests of the Community (administrative penalties and strengthening of controls).
- The Commission presented in addition a proposal for action by the Council of the European Union for the criminal protection of the financial interests of the Community.
4. The ECOFIN Council emphasised in its conclusions of 11 July 1994 that the fight against fraud is a permanent task which demands consistent effort both at Community and national level in order to provide effective protection for the Community's financial interests. Moreover, it approved the Commission's global anti-fraud strategy and asked the Commission to set out the details of its work programme and to identify specific measurable objectives as well as to set deadlines. This has now been done. In fleshing out the details of the 1994 work programme and preparing the 1995 work programme, the horizontal advisory committee has already played its role of stimulating debate and reflection.

In order that the joint objectives of the Council and the Commission can be attained, it is vital that the proposals for improvement in Community law in the areas of expenditure and income as well as the horizontal proposals to ensure a greater compatibility in national legal systems are adopted as soon as possible. The

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provisions suggested for administrative and criminal penalties have in fact a fundamental significance in ensuring the viability of the Community's efforts for the protection of its financial interests. It is not only a question of taking punitive action where irregularities or frauds are identified but also of dissuading potential fraudsters by the exemplary nature of the penalty, in particular the criminal penalty.

As far as the coherent treatment of the Commission's proposals on penalties is concerned, it is necessary to ensure a certain complementarity in the work carried out by the different bodies (ECOFIN Council first pillar and Justice Council third pillar) to avoid incompatibilities in national legal systems. It is imperative to ensure action is taken to combat fraud against the Community budget. The definition of fraudulent acts in criminal law must be compatible with and complementary to the definition of failure set out in the text on administrative penalties.

5. The Commission will present its new completed work programme for 1995 to the member States in January and to the ECOFIN Council in February. This new work programme will be based principally on the results of the 1994 work programme in the context of the main themes of the anti-fraud strategy. The Commission has already invited the member States to add to the programme in the framework of the work of the horizontal advisory committee. As the ECOFIN Council noted in its conclusions of 11 July 1994, the Commission, in addition to continuing actions already under way, sees an absolute priority in the framework of its strategy for :
- strengthening collaboration between member States and the Commission ;
 - simple and clear organisation of Community legislation to reduce the risks of fraud ;
 - development of exploitation of intelligence and stepping up the use of risk analysis
 - strengthening efforts aimed at recovery of amounts involved in fraud cases ;
 - improvement in the coherence and effectiveness of the preventive arsenal (Community administrative penalties, criminal penalties).