



## COMBATING FRAUD AND PROTECTING THE EU'S FINANCIAL INTERESTS

The European Union's action in the field of budgetary control is based on two principles: on the one hand, ensuring that the EU's budget is properly spent and, on the other, protecting the Union's financial interests and combating fraud. The European Anti-Fraud Office (OLAF) has the power to investigate fraud against the EU budget, corruption and serious misconduct and develops anti-fraud policy. The European Public Prosecutor's Office (EPPO) investigates, prosecutes and brings to justice crimes against the EU budget.

### LEGAL BASIS

- Articles 310(6) and 325 of the [Treaty on the Functioning of the European Union](#) (TFEU) on combating fraud;
- Article 287 TFEU on the European Court of Auditors;
- Article 86 TFEU on the establishment of a European Public Prosecutor's Office;
- [Regulation \(EU, Euratom\) 2018/1046](#) of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, Titles XIII and XIV;
- [Interinstitutional Agreement](#) of 16 December 2020 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources, Part III;
- [Rules of Procedure of the European Parliament](#), Title II, Chapter 6, Rules 92, 93 and 94; Title V, Chapter 1, Rule 129, Chapter 2, Rule 134 and Chapter 4, Rule 142; Annex V.

### OBJECTIVES

For citizens to be confident that their money is being used properly, the European Union, together with its Member States, needs to protect the financial interests of the Union. It is also important to monitor and supervise the work of OLAF and the EPPO and to



support their actions to combat fraud and irregularities in the implementation of the EU budget.

## BACKGROUND

The fight against fraud and corruption and the protection of the EU's financial interests was formalised with the creation of the Anti-Fraud Coordination Unit task force in 1988. The Convention on the protection of the European Communities' financial interests was introduced by the [Council Act](#) of 26 July 1995. OLAF was established in 1999. [Council Regulation \(EU\) 2017/1939](#) of 12 October 2017 established the EPPO, which became operational in June 2021.

In recent years, the number of legislative texts and recommendations on the protection of the EU's financial interests has grown. These texts in essence seek to achieve the following objectives:

- Guaranteeing the protection of financial interests by means of criminal law and administrative investigations, through an integrated policy to safeguard taxpayers' money and through the Commission's [anti-fraud strategy](#);
- Improving [OLAF](#)'s governance and strengthening procedural safeguards in investigations;
- Supporting the EPPO;
- Reforming Eurojust and improving the protection of the EU's financial interests.

## LEGISLATION

### A. Strengthening anti-fraud mechanisms

In 2004, the first Hercule programme was introduced with the aim of protecting the EU's financial interests by combating irregularities, fraud and corruption affecting the EU budget. Hercule I was succeeded by [Hercule II](#) (2007-2013) and [Hercule III](#) (2014-2020). All Hercule programmes were administered by OLAF. In the context of the multiannual financial framework (2021-2027), a new [EU anti-fraud programme](#) was introduced. It is designed to replicate and improve on the Hercule III programme, and combine it with the Anti-Fraud Information System (AFIS), which is the technical infrastructure for fraud-related information exchange between the national and EU administrations, and the Irregularity Management System (IMS), which is the data sharing information system for the EU institutions concerning OLAF investigations, both of which are managed by OLAF.

Parliament has supported the Commission's action plan to step up the fight against tax fraud and tax evasion, proposed as part of the [package for fair and simple taxation](#). This would entail a strategy for improved and multidimensional cooperation and coordination among the Member States themselves, as well as between the Member States and the Commission. Particular attention should be paid to the development of mechanisms for prevention, early detection and customs transit monitoring. The Commission has introduced two new systems to combat fraud. The first is the [AFIS](#), which supports the application of the law on customs and agricultural matters by providing tools to



exchange information and assist in the operational activities. The second programme is the [IMS](#), which is an electronic system that facilitates the reporting of irregularities in various domains. This system is provided to the Member States and the beneficiaries. The IMS is part of the AFIS and is currently used by 35 countries.

On 18 February 2020, [new measures](#) were adopted to transmit and exchange payment data in order to fight e-commerce VAT fraud, including the launch of a Central Electronic System of Payment Information (CESOP), which will, as of 2024, keep records of cross-border payment information within the EU, as well as payments to third countries or territories. This will allow tax authorities to properly monitor the correct fulfilment of VAT obligations on cross-border business-to-consumer (B2C) supplies of goods and services. In recent years, Parliament has urged the Commission to take action to ensure complete transparency for all beneficiaries of EU funds in the Member States by publishing a list of all beneficiaries on the Commission's website. Parliament also called on the Member States to cooperate with the Commission and provide full and reliable information on the beneficiaries of the EU funds that they manage.

As of 1 January 2016, the Commission introduced the [Early Detection and Exclusion System \(EDES\)](#). The system is used for the protection of the EU's financial interests by detecting unreliable persons and entities applying for EU funds or having legal commitments with EU institutions, bodies, offices and agencies. Article 135 of the [Financial Regulation](#) sets out the rules for EDES.

[Arachne](#) is an IT tool used for data mining and data enrichment. It is used for administrative controls and management checks in the field of the structural funds. Arachne is able to identify project beneficiaries, contracts and contractors that might conduct fraud, conflicts of interest and other irregularities.

## **B. New European anti-fraud policy and programmes**

In early 2019, the European Court of Auditors stressed in its [Special Report No 01/2019 entitled 'Fighting fraud in EU spending: action needed'](#) that the EU must step up its fight against fraud, and that the Commission should take a leading role in this respect and reconsider the role and responsibility of its anti-fraud office.

In April 2019, the Commission presented a [new strategy](#) (the Commission Anti-Fraud Strategy – CAFS) updating the anti-fraud strategy of 2011. The new strategy aimed at improving consistency and coordination in the fight against fraud among the Commission's various departments. This strategy should also pave the way for more data-driven anti-fraud measures in the coming years. Although the CAFS itself is still valid, the [action plan](#) accompanying it was updated in 2023 to tackle the problems related to inflation, post-pandemic recovery, climate change and the Russian war of aggression on Ukraine. The action plan now comprises 44 actions divided over seven chapters.

The introduction of the [NextGenerationEU](#) recovery plan led to a new operation to protect the EU's financial interests under the supervision of Europol. [Operation Sentinel](#) specifically targets fraud concerning COVID-19 EU recovery funds. Launched on 15 October 2021, the operation involves cooperation between Europol, the EPPO, Eurojust, OLAF and 19 Member States.



A regime of conditionality on the rule of law to protect the EU budget was introduced with the adoption of [Regulation \(EU, Euratom\) 2020/2092](#). The regulation was created to tackle ongoing violations of the principles of the rule of law. It entered into force on 1 January 2021.

### **C. Directive on the fight against fraud and the protection of the EU's financial interests**

Member States<sup>[1]</sup> were required to implement [Directive \(EU\) 2017/1371](#) ('PIF Directive') on the fight against fraud to the Union's financial interests by means of criminal law transposed into their national laws.. The new rules increase the level of protection of the EU budget by harmonising the definitions, sanctions and limitation periods of criminal offences affecting the EU's financial interests.

## **INSTITUTIONS**

### **A. European Anti-Fraud Office (OLAF)**

OLAF functions independently of the Commission and has the power to investigate fraud against the EU budget, corruption and serious misconduct within the European institutions and develops anti-fraud policy for the Commission. Parliament, the Council and the Commission signed an [interinstitutional agreement on internal investigations](#) in 1999 to ensure that OLAF's investigations run smoothly. Some of those rules, which are now incorporated into the [Staff Regulations of Officials of the European Union](#), require staff to cooperate with OLAF, and provide a degree of protection for officials who disclose possible fraud or corruption.

The new OLAF [regulation](#) was adopted in 2013 and amended in July 2016. The new text makes substantial improvements, which have made OLAF more effective, efficient and accountable, while safeguarding its investigative independence. In particular, it provides a clearer definition of the legal framework for anti-fraud investigations. It also includes definitions of 'irregularity', 'fraud, corruption and any other illegal activity affecting the financial interests of the Union', and the concept of an 'economic operator'. It refers to the Charter of Fundamental Rights, safeguarding the right to defence and procedural guarantees, the rights of witnesses and whistle-blowers, and the right of access to records and other relevant documentation during OLAF investigations.

The latest version of the [regulation](#) arranges OLAF investigations in the light of the establishment of the EPPO with a view to ensuring maximum complementarity and enhancing the effectiveness of OLAF's investigative functions as regards, among other matters, on-the-spot checks, inspections, assistance for national authorities, bank account information, the admissibility of evidence collected by OLAF, anti-fraud coordination services and coordination activities.

The Commission issues an annual report on the protection of the EU's financial interests ([PIF Report](#)), which provides an assessment of the achievements of the year in combating fraud and protecting the EU's financial interests.

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[1]In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the TFEU, Denmark was not required to adopt this directive and is not bound by it or subject to its application.



## **B. European Public Prosecutor's Office (EPPO)**

The rules governing the creation of the EPPO are detailed in Article 86 TFEU, which states that, 'In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulations adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust.'

The regulation establishing the EPPO was adopted under the enhanced cooperation procedure on 12 October 2017, and entered into force on 20 November 2017. Currently, there are 22 participating countries.

The EPPO is a decentralised European Union prosecution office with exclusive competence for investigating, prosecuting and bringing to justice crimes against the EU budget. It has uniform investigative powers throughout the participating Member States based on and integrated into their national law systems.

The EPPO's seat is in Luxembourg. In September 2019, Parliament and the Council agreed to appoint Laura Codruța Kövesi as the first European Chief Prosecutor. She will sit for a non-renewable term of seven years. She was sworn in before the Court of Justice on 28 September 2020 together with the 22 European Public Prosecutors. The EPPO started operations on 1 June 2021.

## **ROLE OF THE EUROPEAN PARLIAMENT**

Parliament is a co-legislator for the 2021-2027 EU anti-fraud programme, which was adopted on 29 April 2021. It was also a co-legislator for the PIF Directive, which was adopted by Parliament and the Council on 5 July 2017.

Every year Parliament examines the PIF Report and comments on it by means of a resolution, the most recent one being adopted on [19 January 2023](#).

Parliament's Budgetary Control Committee holds hearings for Members-designate of the Court of Auditors, as well as the shortlisted candidates for the post of Director-General of OLAF. These posts cannot be filled without these parliamentary hearings.

The Director-General of OLAF is appointed by the Commission, after consultation with Parliament and the Council, while the members of the OLAF Supervisory Committee are appointed by agreement among Parliament, the Council and the Commission.

Parliament and the Council also agree on the appointment of the European Chief Prosecutor of the EPPO, [the role to which Laura Codruța Kövesi was appointed on 14 October 2019](#).

For more information on this topic, please see the [website of the Committee on Budgetary Control](#).

Alexandra Cynthia Jana Pouwels  
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