



EUROPEAN PARLIAMENT

2009 - 2014

---

*Committee on Budgetary Control*

---

**2012/2285(INI)**

26.4.2013

# **AMENDMENTS**

## **1 - 56**

**Draft report**  
**Derek Vaughan**

on the Annual Report 2011 on the protection of EU's Financial Interests - Fight  
against fraud  
(2012/2285(INI))

AM\934557EN.doc

PE510.569v01-00

**EN**

*United in diversity*

**EN**

AM\_Com\_NonLegReport

**Amendment 1**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Citation 11 a (new)**

*Motion for a resolution*

*Amendment*

**- having regard to its 2011 Resolution on the EU's efforts to combat corruption<sup>1</sup>, its Written Declaration 2/2010 on the Union's efforts in combating corruption<sup>2</sup>, and the 2011 Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee "Fighting corruption in the EU"<sup>3</sup>,**

Or. en

**Amendment 2**  
**Jean-Pierre Audy**

**Motion for a resolution**  
**Paragraph 1a (new)**

*Motion for a resolution*

*Amendment*

**1a. Stresses that fraud is an example of purposeful wrongdoing and is a criminal offence, and that an irregularity is a failure to comply with a rule, and regrets that the European Commission's report fails to consider fraud in detail and deals with irregularities very broadly; points out that Article 325 of the Treaty on the Functioning of the European Union (TFEU) relates to fraud, not**

---

<sup>1</sup> European Parliament, Resolution of 15 September 2011 on the EU's efforts to combat corruption, P7\_TA-PROV(2011)0388

<sup>2</sup> European Parliament, Written Declaration 2/2010 on the Union's efforts in combating corruption, P7\_DCL(2010)0002

<sup>3</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee "Fighting corruption in the EU", COM(2011) 308 final, 6 June 2011

*irregularities, and calls for a distinction to be made between fraud and errors or irregularities;*

Or. fr

**Amendment 3**  
**Jean-Pierre Audy**

**Motion for a resolution**  
**Paragraph 2**

*Motion for a resolution*

2. Recalls that it is equally important to ensure the protection of those financial interests both at the level of collection of the EU's *own* resources and at the level of expenditure;

*Amendment*

2. Recalls that it is equally important to ensure the protection of those financial interests both at the level of collection of the EU's resources and at the level of expenditure;

Or. fr

**Amendment 4**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 3**

*Motion for a resolution*

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests - Fight against fraud - Annual Report 2011<sup>8</sup> ('the Commission's annual report'); regrets, however, that the report is limited to the data reported by the Member States *in* different *ways and therefore does not indicate the actual scale of irregularities and fraud, and that consequently* it is not possible to evaluate the overall scale of irregularities and fraud in individual Member States or to identify and discipline

*Amendment*

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests - Fight against fraud - Annual Report 2011<sup>8</sup> ('the Commission's annual report'); regrets, however, that the report is limited to the data reported by the Member States; *points out that Member States use different definitions for similar types of offence and do not all collect similar and detailed statistical data following common criteria which makes it difficult to collect reliable and comparable statistics at EU level;*

those Member States with the highest level of irregularities and fraud as has been repeatedly requested by Parliament;

*regrets therefore that* it is not possible to evaluate the *actual* overall scale of irregularities and fraud in individual Member States or to identify and discipline those Member States with the highest level of irregularities and fraud as has been repeatedly requested by Parliament;

Or. en

**Amendment 5**  
**Maria do Céu Patrão Neves**

**Motion for a resolution**  
**Paragraph 3**

*Motion for a resolution*

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests – Fight against fraud – Annual Report 2011 ('the Commission's annual report'); regrets, however, that the report is limited to the data reported by the Member States in different ways and therefore does not indicate the actual scale of irregularities and fraud, and that consequently it is not possible to evaluate the overall scale of irregularities and fraud in individual Member States or to identify and discipline those Member States with the highest level of irregularities and fraud as has been repeatedly requested by Parliament;

*Amendment*

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests – Fight against fraud – Annual Report 2011 ('the Commission's annual report'); regrets, however, that the report is limited to the data reported by the Member States in different ways and therefore does not indicate the actual scale of irregularities and fraud, and that consequently it is not possible to evaluate the overall scale of irregularities and fraud in individual Member States or to identify and discipline those Member States with the highest level of irregularities and fraud as has been repeatedly requested by Parliament; ***urges, therefore, that standard evaluation criteria for irregularities and fraud be laid down in all Member States and combined with appropriate penalties for those guilty of infringement;***

Or. pt

**Amendment 6**  
**Jean-Pierre Audy**

**Motion for a resolution**  
**Paragraph 3**

*Motion for a resolution*

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests - Fight against fraud - Annual Report 2011 ('the Commission's annual report'); regrets, however, that the report is limited to the data reported by the Member States in different ways and therefore does not indicate the actual scale of ***irregularities and*** fraud, and that consequently it is not possible to evaluate the overall scale of ***irregularities and*** fraud in individual Member States or to identify and discipline those Member States with the highest level of ***irregularities and*** fraud as has been repeatedly requested by Parliament;

*Amendment*

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests - Fight against fraud - Annual Report 2011 ('the Commission's annual report'); regrets, however, that the report is limited to the data reported by the Member States in different ways and therefore does not indicate the actual scale of fraud, and that consequently it is not possible to evaluate the overall scale of fraud in individual Member States or to identify and discipline those Member States with the highest level of fraud as has been repeatedly requested by Parliament;

Or. fr

**Amendment 7**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 4**

*Motion for a resolution*

4. ***Welcomes the fact*** that, according to the Commission's annual report, in 2011 ***there was a significant decrease in irregularities reported as fraudulent***; questions, however, whether this decrease reflects the actual state of affairs in terms of fraudulent activities or is, rather, a sign that the supervisory and control systems in the Member States are deficient;

*Amendment*

4. ***Notes*** that, according to the Commission's annual report, in 2011 ***1230 irregularities were reported as fraudulent and that their financial impact decreased by 37% in comparison with 2010 and amounted to EUR 404 million; acknowledges that cohesion policy and agriculture remain the two main areas suffering from the highest level of fraud with a respective estimated financial impact of EUR 204 million and EUR 77 million***; questions, however, whether this

decrease reflects the actual state of affairs in terms of fraudulent activities or is, rather, a sign that the supervisory and control systems in the Member States are deficient;

Or. en

**Amendment 8**  
**Zigmantas Balčytis**

**Motion for a resolution**  
**Paragraph 5 – subparagraph 1 (new)**

*Motion for a resolution*

*Amendment*

*stresses that the European Union needs to step up efforts to strengthen the principles of eGovernment which would set the conditions for greater transparency in public finances; draws attention to the fact that electronic transactions, unlike cash transactions, are referenced and it therefore becomes more difficult to commit fraud and easier to identify suspected cases of fraud; encourages Member States to lower their thresholds for mandatory payments other than cash;*

Or. It

**Amendment 9**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 5 a (new)**

*Motion for a resolution*

*Amendment*

*5a. Calls the Commission to consider the link existing between reporting on fraud provided by Member States and the lack of a harmonised criminal law, setting common definition of fraudulent*

*behaviour and offences in the field of protection of Union's financial interest; Recalls that the criminal law systems of the Member States have been harmonised to only a limited extent;*

Or. en

**Amendment 10**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 5 a (new)**

*Motion for a resolution*

*Amendment*

*5a. Emphasises that 233 investigative reports have been published on cases of fraud related to the misuse of EU funds over a period of 5 years within the 27 Member States with UK, Slovakia, Germany, Bulgaria, Spain Romania and Estonia being the Member States with the most active reporting<sup>1</sup>; is of the opinion that investigative journalism proved to play a major role in exposing fraud impacting the Union's financial interests and represents a valuable source of information to be considered by OLAF and law enforcement or other relevant authorities in Member States;*

Or. en

**Amendment 11**  
**Cătălin Sorin Ivan**

**Motion for a resolution**  
**Paragraph 5 a (new)**

---

<sup>1</sup> *European Parliament, Study on "Deterrence of fraud with EU funds through investigative journalism in EU-27", 2012, p.71*



*Motion for a resolution*

*Amendment*

**5a. Recall that in its resolution of 6 April 2011 on protection of the Community's financial interests — Fight against fraud — Annual report 2009<sup>1</sup>, the European Parliament was calling for the introduction of mandatory national management declarations duly audited by the national audit office and consolidated by the Court of Auditors; regrets that no further steps have been taken in that direction;**

Or. en

**Amendment 12  
Ingeborg Gräßle**

**Motion for a resolution  
Paragraph 5 a (new)**

*Motion for a resolution*

*Amendment*

**5a. Deems it of utmost importance that fraudulent behaviour is followed-up properly on a European level; is astounded by the fact that the Director General of OLAF has introduced sector specific thresholds for the likely financial impact into the Investigation Policy Priorities for 2012 and 2013 so that cases in which the likely financial impact lies below the threshold are treated subordinate and are likely not to be opened at all; notes that the thresholds in the customs sector is 1.000.000 EUR, it is 100.000 EUR for SAPARD funds, 250.000 EUR for Agricultural funds, 500.000 EUR in the Structural funds, 1.000.000 EUR in the ERDF, 50.000 for centralized expenditure and external aid**

---

<sup>1</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0142+0+DOC+XML+V0//EN&language=EN>

*as well as 10.000 EUR in the EU staff sector; is of the opinion that this is unacceptable; demands from the Director General to change the current practice and abandon the threshold approach for prioritizing the workload immediately;*

Or. en

**Amendment 13**  
**Jean-Pierre Audy**

**Motion for a resolution**  
**Paragraph 5 a (new)**

*Motion for a resolution*

*Amendment*

*5a. Calls for corruption with an impact on the financial interests of the European Union to be considered as fraud as regards the application of Article 325(5) of the TFEU and to be included in the Commission's annual report on the protection of the European Union's financial interests - Fight against fraud;*

Or. fr

**Amendment 14**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 5 b (new)**

*Motion for a resolution*

*Amendment*

*5 b. Points out that the conviction rate in cases involving offences against the Union's budget varies considerably across the European Union from one Member State to another, ranging from 14 % to 80 %; underlines that harmonisation of the Member States' criminal law systems remains limited while judicial cooperation*

*needs reinforcement; calls for ambitious European legislation together with better cooperation and coordination between all Member States in order to ensure severe sanction against fraudsters and deter fraudulent behaviours;*

Or. en

**Amendment 15**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 5 c (new)**

*Motion for a resolution*

*Amendment*

*5 c. Acknowledges that the amount to be recovered following irregularities detected in 2011 reached EUR 321 million of which EUR 166 million has already been recovered by the Member States; notes in this respect that in 2011 the recovery rate for Traditional Own Resources improved to 52% in comparison with 46% in 2010;*

Or. en

**Amendment 16**  
**Daniël van der Stoep**

**Motion for a resolution**  
**Paragraph 7**

*Motion for a resolution*

*Amendment*

7. Emphasises in this context that tax evasion **and avoidance represent** a major risk for the EU public finances; stresses that an estimated EUR 1 trillion in public money is lost due to tax fraud **and tax avoidance** every year in the EU, which represents a rough yearly cost of EUR 2000 for every European citizen; points out

7. Emphasises in this context that tax evasion **represents** a major risk for the EU public finances; stresses that an estimated EUR 1 trillion in public money is lost due to tax fraud every year in the EU, which represents a rough yearly cost of EUR 2000 for every European citizen; points out that the average of the tax lost in Europe

that the average of the tax lost in Europe today exceeds the total amount that Member States spend on healthcare, and it amounts to more than four times the amount spent on education in the EU;

today exceeds the total amount that Member States spend on healthcare, and it amounts to more than four times the amount spent on education in the EU;

Or. nl

**Amendment 17**  
**Michael Theurer**

**Motion for a resolution**  
**Paragraph 8**

*Motion for a resolution*

8. Stresses that, owing to the mechanism of balancing the EU budget with GNI-based revenue, every euro lost to customs and VAT fraud has to be paid for by the EU's citizens; finds it unacceptable that those economic operators who engage in fraudulent activities are, in fact, subsidised by the EU taxpayer; emphasises that fighting tax evasion should be given the highest priority by both the Commission and the Member States;

*Amendment*

8. Stresses that, owing to the mechanism of balancing the EU budget with GNI-based revenue, every euro lost to customs and VAT fraud has to be paid for by the EU's citizens; finds it unacceptable that those economic operators who engage in fraudulent activities are, in fact, subsidised by the EU taxpayer; emphasises that fighting tax evasion should be given the highest priority by both the Commission and the Member States; ***calls on the Member States to make their tax systems simpler and more transparent because tax fraud is too often facilitated by complex and opaque tax systems;***

Or. de

**Amendment 18**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 12 a (new)**

*Motion for a resolution*

*Amendment*

***12a. Takes into consideration the OLAF 2011 report and its overview of progress***

*on judicial actions, in actions created between 2006-2011, according to which more than half of actions are pending judicial decision<sup>1</sup>; is of the opinion that special attention should be given to cases related to fraud in customs, which is among the areas with the highest rates of systemic corruption in Europe;*

Or. en

**Amendment 19**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 19 a (new)**

*Motion for a resolution*

*Amendment*

*19a. Points out the need for real time connection of business transactions with the tax authorities in order to combat tax evasion;*

Or. en

**Amendment 20**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 21**

*Motion for a resolution*

*Amendment*

21. Recognises that the eastern border represents a particularly **problematic** geographical area in this context; welcomes the publication by the Commission of an action plan to fight against cigarette and alcohol smuggling along the EU Eastern border<sup>16</sup> ;

21. Recognises that the Eastern border represents a particularly **vulnerable** geographical area in this context; welcomes the publication by the Commission of an action plan to fight against cigarette and alcohol smuggling along the EU Eastern border<sup>16</sup> ;

---

<sup>1</sup> *The OLAF report 2011, table 6, p. 22*

**Amendment 21**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 21 a (new)**

*Motion for a resolution*

*Amendment*

***21a. Points out that there is a link between corruption and the on-going financial and fiscal crisis that can no longer be ignored;***

Or. en

**Amendment 22**  
**Daniël van der Stoep**

**Motion for a resolution**  
**Paragraph 23 a (new)**

*Motion for a resolution*

*Amendment*

***23a. Considers, however, that the increase in cigarette smuggling is a direct result of the huge increase in excise duties on cigarettes in some Member States;***

Or. nl

**Amendment 23**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 24 a (new)**

*Motion for a resolution*

*Amendment*

***24a. Deplores that most of irregularities in EU spending are committed at national level;***

**Amendment 24**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 24 a (new)**

*Motion for a resolution*

*Amendment*

*24a. Underlines that greater transparency allowing for proper scrutiny is key to detect fraud scheme; recalls that in previous years the Parliament urged the Commission to take action to ensure one-stop transparency of the beneficiaries of EU-funds; regrets that this measure has not been implemented; reiterates therefore its call to the Commission to design measures to increase the transparency of legal arrangements and a system where all beneficiaries of EU funds are published on the same website, independently of the administrator of the funds and based on standard categories of information to be provided by all Member States in at least one working language of the Union; calls on the Member States to cooperate with and provide to the Commission full and reliable information regarding the beneficiaries of the EU funds managed by Member States; invites the Commission to evaluate the system of 'shared management' and provide Parliament with a report as a matter of priority;*

Or. en

**Amendment 25**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 24 b (new)**

*Motion for a resolution*

*Amendment*

**24 b. Notes that in 2011 the Commission decided financial corrections for a total amount of EUR 1 068 million and that financial corrections were implemented for EUR 822 million; notes with concern that in 2011 the recovery rate for Agriculture and rural development decreased to 77% in comparison with 85% in 2010;**

Or. en

**Amendment 26**

**Monica Luisa Macovei**

**Motion for a resolution**

**Paragraph 25**

*Motion for a resolution*

*Amendment*

25. *Is* concerned that in *the Commission's* annual report *it* did not offer a definitive answer to the question of whether the low suspected fraud rates reported by France, Germany, Spain and the UK are the result of non-compliance with reporting principles, or of the ability of the control systems put in place in these Member States to detect fraud;

**25. Remains concerned by the suspiciously low fraud rates reported by France, Germany, Spain and United Kingdom, especially considering their size and financial support received; regrets that in its annual report the Commission did not offer a definitive answer to the question of whether the low suspected fraud rates reported by France, Germany, Spain and the UK are the result of non-compliance with reporting principles or of the ability of the control systems put in place in these Member States to detect fraud; calls on the aforementioned Member States to provide detailed and thorough explanation on their low suspected fraud rates reported as soon as possible;**

Or. en



**Amendment 27**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 26 a (new)**

*Motion for a resolution*

*Amendment*

***26a. Stresses however that since there are at least 20 million cases of reported petty corruption in the public sectors in the EU, it is obvious that the phenomenon also has a spillover effect in the parts of the public administration of the Member States (and the corresponding political persons), that have the responsibility of the management of EU funds and other financial interests<sup>1</sup>; Points out that the number of irregularities reported as fraudulent in agriculture in 2011, in total 139, does not reflect the actual situation;***

Or. en

**Amendment 28**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 26 a (new)**

*Motion for a resolution*

*Amendment*

***26a. Welcomes that in 2011 the Commission completed financial corrections for EUR 624 million out of EUR 673 million and that the recovery rate for Cohesion Policy improved to 93% in comparison with 69% in 2010; underlines nevertheless that the cumulative rate of implementation of financial corrections stands only at 72% and that EUR 2,5 billion remained to be***

---

<sup>1</sup> *Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) 2012-2013, Thematic Paper on Corruption, Areas of systemic corruption in the public administration of the Member States and measures in order to counter its negative effect for the EU, November 2012, p.2*

*recovered;*

Or. en

**Amendment 29**  
**Michael Theurer**

**Motion for a resolution**  
**Paragraph 27 – subparagraph 1 (new)**

*Motion for a resolution*

*Amendment*

*calls on the Commission and the Member States to simplify the relevant rules on public procurement and the procedural rules for management of the Structural Funds;*

Or. de

**Amendment 30**  
**Michael Theurer**

**Motion for a resolution**  
**Paragraph 27 a (new)**

*Motion for a resolution*

*Amendment*

*27a. Calls on the Member States to designate a one-stop agency for applicants;*

Or. de

**Amendment 31**  
**Lorenzo Fontana**

**Motion for a resolution**  
**Paragraph 28 a (new)**

*Motion for a resolution*

*Amendment*

**28a. Considers it appropriate, in view of the case which emerged in 2011 relating to fraud in the financing of the Salerno-Reggio Calabria motorway, to change the guarantee system, which is currently based on general declarations made by local credit institutions, attesting to the financial solidity of the entrepreneur, the firm or its guarantors;**

Or. it

**Amendment 32**

**Monica Luisa Macovei**

**Motion for a resolution  
Paragraph 29**

*Motion for a resolution*

*Amendment*

29. Welcomes the fact that the 2011 recovery rate in the area of pre-accession assistance has improved compared with the previous years; stresses, however, that the overall cumulative recovery rate (standing in excess of 60 %) is still unsatisfactory;

**29. Notes that EUR 26 million have been recovered from the cases reported in 2011;** welcomes the fact that the 2011 recovery rate in the area of pre-accession assistance has improved compared with the previous years; stresses, however, that the overall cumulative recovery rate (standing in excess of 60 %) is still unsatisfactory;

Or. en

**Amendment 33**

**Monica Luisa Macovei**

**Motion for a resolution  
Paragraph 30 a (new)**

*Motion for a resolution*

*Amendment*

**30a. Acknowledges that following OLAF's investigations EUR 691,4 million was**

*recovered in 2011 of which EUR 389 million relates to a single case in the Calabria region of Italy under structural funds programmes for the financing of roadworks;*

Or. en

**Amendment 34**  
**Zigmantas Balčytis**

**Motion for a resolution**  
**Paragraph 31**

*Motion for a resolution*

31. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF; welcomes the progress made in the negotiations on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999 (COM(2011)135);

*Amendment*

31. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF; welcomes the progress made in the negotiations on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999 (COM(2011)135) ***and considers that this regulation should be adopted as soon as possible;***

Or. It

**Amendment 35**  
**Ingeborg Gräßle**

**Motion for a resolution**  
**Paragraph 31**

*Motion for a resolution*

31. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF;

*Amendment*

31. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF; ***is of***

welcomes the progress made in the negotiations on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999 (COM(2011)135);

***the opinion that all the more the independence of the Supervisory Committee shall be strengthened and the Committee shall be empowered with the necessary means to fulfil its role effectively;*** welcomes the progress made in the negotiations on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EURATOM) No. 1074/1999 (COM(2011)135); ***is, however, convinced that in the light of the latest developments surrounding OLAF and the way its investigations were conducted, the recommendations of the Supervisory Committee, in Annex 3 to its Annual Activity Report 2012 should be taken into consideration;***

Or. en

**Amendment 36**  
**Michael Theurer**

**Motion for a resolution**  
**Paragraph 31**

*Motion for a resolution*

31. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF; welcomes the progress made in the negotiations on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999 (COM(2011)135);

*Amendment*

31. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF, ***including the independence and functioning of the OLAF Supervisory Committee;*** welcomes the progress made in the negotiations on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999

**Amendment 37**  
**Ingeborg Gräßle**

**Motion for a resolution**  
**Paragraph 31 a (new)**

*Motion for a resolution*

*Amendment*

***31a. Is deeply concerned about the reporting of the OLAF Supervisory Committee; finds it unacceptable that OLAF has undertaken investigative measures that go beyond those explicitly listed in Articles 3 and 4 of the OLAF regulation (EC) No. 1073/1999 currently in force and beyond those contained in the future text of the Reform; notes that the above mentioned investigative measures include inter alia the preparation of the content of a telephone conversation for a third party with a person subject to the investigation and being present during that conversation which was recorded and requesting to national administrative authorities to provide OLAF with information not directly hold by them that may be considered as relating to the right for private life and communications and subsequent use, collection and storage of such information by OLAF;***

**Amendment 38**  
**Ingeborg Gräßle**

**Motion for a resolution**  
**Paragraph 31 b (new)**

*Motion for a resolution*

*Amendment*

***31 b. Is shocked, since according to the Jurisprudence of the European Court of Human Rights, the use of such methods can be seen as "interference by a public authority" with the exercise of the right to respect for "private life", for "correspondence" and/or "communications" which is required to be "in accordance with the law" (Article 7 of the Charter of Fundamental Rights of the EU which corresponds to Article 8 of the European Convention of Human Rights);***

Or. en

**Amendment 39  
Ingeborg Gräble**

**Motion for a resolution  
Paragraph 31 c (new)**

*Motion for a resolution*

*Amendment*

***31 c. Is deeply concerned about the findings of the Supervisory Committee that OLAF has not established a prior legality check for other investigative measures than the ones specifically listed in the ISIP; notes that this endangers the respect of fundamental rights and procedural guarantees of the persons concerned;***

Or. en

**Amendment 40  
Ingeborg Gräble**

**Motion for a resolution  
Paragraph 31 d (new)**

*Motion for a resolution*

*Amendment*

***31 d. Notes that breaches of essential procedural requirements during preparatory investigations might affect the legality of the final decision taken on the basis of investigations by OLAF; assesses this as a high risk potential, since, thus, breaches would incur the legal liability of the European Commission; calls on OLAF to immediately tackle this shortcoming by assigning appropriately qualified judicial experts to the task of carrying out prior verifications in an appropriate time frame;***

Or. en

**Amendment 41  
Ingeborg Gräßle**

**Motion for a resolution  
Paragraph 31 e (new)**

*Motion for a resolution*

*Amendment*

***31 e. Deems the direct participation of the OLAF Director General in some investigative tasks inter alia interviews of witnesses as unacceptable; remarks that the Director General therewith enters a conflict of interest since he is under Article 90a of the Staff Statute and 23.1 of the ISIP the authority who receives complaints against OLAF's investigations and decides whether or not appropriate action in respect of any failure to respect of procedural guarantees is taken; calls on the OLAF Director General to abstain in the future from any direct involvement into investigative tasks;***

Or. en



**Amendment 42**  
**Ingeborg Gräßle**

**Motion for a resolution**  
**Paragraph 31 f (new)**

*Motion for a resolution*

*Amendment*

***31 f. Is worried that OLAF has not always conducted a thorough assessment of incoming information in relation to the notion of sufficiently serious suspicion; finds it essential for the safeguarding and consolidation of OLAF's inference vis-à-vis the institutions, bodies, offices and agencies and governments here one of these latter is at the origin of the referral;***

Or. en

**Amendment 43**  
**Ingeborg Gräßle**

**Motion for a resolution**  
**Paragraph 31 g (new)**

*Motion for a resolution*

*Amendment*

***31 g. Is of the opinion that the Supervisory Committee should receive always information by OLAF when a complaint is received by OLAF relating to fundamental rights and procedural guarantees;***

Or. en

**Amendment 44**  
**Ingeborg Gräßle**

**Motion for a resolution**  
**Paragraph 31 h (new)**

*Motion for a resolution*

*Amendment*

**31 h. Expects further information on the points mentioned in the annual report of the Supervisory Committee, urges for full transparency in all points mentioned;**

Or. en

**Amendment 45**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 32**

*Motion for a resolution*

*Amendment*

32. Reiterates its call on the Commission and the Member States to ensure the effective and timely implementation of the recommendations made once cases have been investigated by OLAF;

**32. *Regrets that between 2006 and 2011 Member States only took judicial actions following OLAF investigations in 46% of the cases; is of the opinion that this is insufficient and*** reiterates its call on the Commission and the Member States to ensure the effective and timely implementation of the recommendations made once cases have been investigated by OLAF;

Or. en

**Amendment 46**  
**Zigmantas Balčytis**

**Motion for a resolution**  
**Paragraph 32 a (new)**

*Motion for a resolution*

*Amendment*

**32a. *Is concerned about the remarks contained in the Supervisory Committee's annual report stating that there are no data on the implementation of OLAF's recommendations in the Member States;***

*considers this situation to be unsatisfactory and calls on OLAF to ensure that Member States provide relevant and detailed data on the implementation of OLAF's recommendations and that the European Parliament be kept informed;*

Or. It

**Amendment 47**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 33 a (new)**

*Motion for a resolution*

*Amendment*

*33a. Calls for the Commission, through OLAF, to introduce an adequate percentage (50%) of own-initiative investigations by the anti-fraud EU investigative authorities, aimed at sectors and areas where systemic and large scale corruption affecting EU financial interest is suspected;*

Or. en

**Amendment 48**  
**Lorenzo Fontana**

**Motion for a resolution**  
**Paragraph 33 a (new)**

*Motion for a resolution*

*Amendment*

*33a. Calls for potential fraud or irregularities which have less financial impact, in areas such as customs (in which the threshold below which OLAF does not take action is EUR 1 million) and the Structural Funds (where the threshold is EUR 500 000), to be reported*

*to the Member States and for the latter to be provided with information and given the opportunity to follow national anti-fraud procedures;*

Or. it

**Amendment 49**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 33 a (new)**

*Motion for a resolution*

*Amendment*

*33a. Welcomes that following the Parliament's request the Commission is currently developing a methodology to measure costs of corruption in public procurement concerning the Union's funds;*

Or. en

**Amendment 50**  
**Monica Luisa Macovei**

**Motion for a resolution**  
**Paragraph 34**

*Motion for a resolution*

*Amendment*

34. Welcomes the Commission's Anti-Fraud Strategy<sup>17</sup>, which *aims* at improving the prevention and detection of fraud at EU level;

34. Welcomes the Commission's *new* Anti-Fraud Strategy<sup>17</sup> *and the Internal Action Plan*<sup>17new</sup> *for its implementation adopted in June 2011*, which *aim* at improving the prevention and detection of fraud at EU level; *calls in this respect on the Commission to report on and evaluate the anti-fraud strategies established within each Directorate General;*

Or. en

---

<sup>17</sup> *17new* SEC(2011) 787 final

**Amendment 51**  
**Zigmantas Balčytis**

**Motion for a resolution**  
**Paragraph 34 – subparagraph 1 (new)**

*Motion for a resolution*

*Amendment*

*welcomes the initiative in the European Commission's work programme for 2012 to better protect the European Union's financial interests and the communication to that effect on the protection of the European Union's financial interests by criminal law and administrative investigations; stresses that this initiative aims to toughen sanctions against criminal activities, including corruption, and to strengthen the financial protection of the European Union;*

Or. It

**Amendment 52**  
**Jean-Pierre Audy**

**Motion for a resolution**  
**Paragraph 35 a (new)**

*Motion for a resolution*

*Amendment*

*35a. Proposes looking into the possibility of setting up a team of European customs officials who specialise in combating fraud which would work alongside national customs authorities;*

Or. fr

**Amendment 53**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 37 a (new)**

*Motion for a resolution*

*Amendment*

***37a. Notes that although the Commission is taking all these positive initiatives, currently most policies pursued against corruption are passive; is of the opinion that as long as the prosecution of cases of corruption is weak and not based on effective own-initiative investigations, but on information from third parties, these passive policies cannot by themselves overcome the trap of systemic corruption;<sup>1</sup>***

Or. en

**Amendment 54**  
**Zigmantas Balčytis**

**Motion for a resolution**  
**Paragraph 37 a (new)**

*Motion for a resolution*

*Amendment*

***37a. Given the success of the joint customs operations carried out in 2011 between the EU and its Member States and some non-EU countries, encourages the regular conduct of such operations to target the smuggling of sensitive goods and fraud in certain high-risk sectors; points out that joint customs operations conducted in 2011 resulted in the seizure of 1.2 million cigarettes and the detection of over EUR 1.7 million worth of tax and customs fraud;***

Or. lt

---

<sup>1</sup> *Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) 2012-2013, Thematic Paper on Corruption, Areas of systemic corruption in the public administration of the Member States and measures in order to counter its negative effect for the EU, November 2012, p.7*

**Amendment 55**  
**Zigmantas Balčytis**

**Motion for a resolution**  
**Paragraph 38 – subparagraph 1 (new)**

*Motion for a resolution*

*Amendment*

*stresses that the situation of Member States not transmitting data in a timely manner or providing inaccurate data has been recurring for many years; emphasises that it is impossible to make comparisons and an objective assessment of the scale of fraud in the Member States of the European Union; points out that the European Parliament, the Commission and OLAF are unable to perform their functions properly regarding assessment of the situation and the submission of proposals and repeats that such a situation cannot be tolerated; calls on the Commission to assume full responsibility for recovering unduly paid funds for the EU budget; encourages the Commission to establish uniform reporting principles in all Member States and to ensure the collection of comparable, reliable and adequate data;*

Or. It

**Amendment 56**  
**Theodoros Skylakakis**

**Motion for a resolution**  
**Paragraph 38 a (new)**

*Motion for a resolution*

*Amendment*

*38a. Recalls the EPPO should be harmoniously integrated (were competences are similar or relevant), with Europol, Eurojust and OLAF for a family of closely related institutions to be created which can be the nucleus in the future of*

*strong Union-wide authorities;*<sup>1</sup>

Or. en

---

<sup>1</sup> *Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) 2012-2013, Thematic Paper on Corruption, Areas of systemic corruption in the public administration of the Member States and measures in order to counter its negative effect for the EU, November 2012, p.8*