



**2020/2221(INI)**

14.10.2021

# **OPINION**

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Budgetary Control

on the impact of organised crime on EU own resources and on the misuse of EU funds, with a particular focus on shared management from an auditing and control perspective  
(2020/2221(INI))

Rapporteur for opinion: Caterina Chinnici

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## SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Stresses that organised crime has demonstrated a high degree of infiltration into the social, political, economic, financial, entrepreneurial and administrative structures of Member States, as well as an ability to launder in the legal economy the huge proceeds of crimes including those committed against the EU's financial interests, thus representing a serious threat to EU citizens' liberties; stresses, against this background, that organised crime represents a serious threat to democracy and the rule of law, and that the fight against corruption and the infiltration of the legal economy by organised crime is essential to guaranteeing equal treatment before the law, protecting citizens' rights and welfare, preventing abuses and ensuring the accountability of public office-holders; believes that a common, coordinated response from the EU and its Member States is necessary; welcomes, in this regard, the Commission communication on the EU Strategy to tackle Organised Crime 2021-2025 of 14 April 2021 (COM/2021/0170);
2. Notes that the Commission has identified nine main criminal markets with an estimated total revenue of EUR 139 billion in 2019; stresses the importance of data collection by relevant agencies in order to better assess the situation; stresses the need to continue assessing the impact of organised crime on EU funds and own resources and to tackle this problem appropriately across Member States;
3. Regrets the lack of harmonisation in national legislation on combating organised crime; highlights that organised criminal groups take advantage of the different laws in individual Member States, and recalls that the development of a harmonised anti-fraud approach at EU level is complicated by differing definitions of organised crime; reiterates therefore its previous calls for the revision of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime<sup>1</sup>, and the need to establish a common definition of organised crime, which should also take into account the use of new technologies and violence, corruption or intimidation by criminal groups, as well as the specific features of mafia-style organisations, which make use of forced affiliations and create a climate of submission to directly or indirectly take over the management or control of economic activities, concessions, licences, public procurement and services, or to access European funds or to influence democratic processes; stresses that particular care should be taken to ensure any measures to combat organised crime are consistent with fundamental rights and the rule of law;
4. Notes that besides the obvious dangers to public policy and public security presented by the forms of violence which are typical of criminal organisations, organised crime may cause equally serious problems through penetration of the legal economy and associated conduct which corrupts public officials, with the consequent infiltration of institutions and public administrations; reiterates its call for the EU to become a full member of the Group of States against Corruption (GRECO) without delay; underlines the necessity to

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<sup>1</sup> OJ L 300, 11.11.2008, p. 42.

provide sufficient resources for the judiciary system and to use all available tools in a coherent manner across Member States to detect and tackle fraud and financial as well as economic crime;

5. Welcomes the start of operations by the European Public Prosecutor's Office (EPPO) on 1 June 2021, which is responsible for investigating, prosecuting and bringing to trial crimes against the financial interests of the EU including several types of fraud, VAT fraud with damages above EUR 10 million, money laundering and corruption; reiterates the need to ensure that the EPPO has all the necessary resources to carry out its functions, in order to protect the EU's financial interests; notes that only six weeks after its establishment, the EPPO had already processed 1 000 reports of fraud affecting the financial interests of the European Union; stresses that with the establishment of the NextGenerationEU fund (NGEU), the EPPO's workload is likely to increase even further; recalls the European Chief Prosecutor's statements on the need for more resources for the hiring of enough financial investigators and case analysts, so that the EPPO can perform its tasks effectively; calls on the Commission and the Budgetary Authority to ensure sufficient funding for the EPPO to fulfil its duties; calls for the European Anti-Fraud Office (OLAF) to step up its oversight of the use of funds by the Member States that have not joined the EPPO, in order to prevent fraud and protect the EU's financial interests; calls, furthermore, for sufficient funds for the other EU agencies and bodies involved in the fight against economic and financial crime, such as Europol and Eurojust;
6. Regrets that five Member States currently do not participate in the EPPO; would prefer non-participating Member States to review their decision, given that the smooth cooperation of all Member States with the EPPO will be key to its success; welcomes nevertheless the working arrangements between the EPPO and Hungary; calls on the other non-participating Member States to urgently establish working arrangements with the EPPO also in order to avoid gaps in the detection of organised crime and fraud; regrets that currently Slovenia has not yet fulfilled its obligation to appoint its European delegated prosecutors, thereby risking undermining the effective work of the EPPO and seriously and directly affecting the sound financial management of the EU budget and the protection of the European Union's financial interests; calls on the Slovenian authorities to immediately propose its European delegated prosecutors; calls on the Commission to use the tools at its disposal to ensure that Member States comply with their obligations under Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office<sup>2</sup> (the EPPO Regulation);
7. Recalls that in order to tackle the coronavirus pandemic and to ensure the sustainable transition of our economies, the Commission is making available EUR 672.5 billion in the form of loans and grants to support the reforms and investments undertaken by the Member States through the Recovery and Resilience Facility; stresses the need to proactively ensure that the money is well used and also to provide the necessary resources to control and audit institutions in order to ensure that the money is used in the interests of all European citizens; stresses that post-COVID economic recovery efforts call for the highest level of vigilance to prevent and counter organised crime

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<sup>2</sup> OJ L 283, 31.10.2007, p. 1.

infiltration in the legal economy; highlights the impact of the coronavirus pandemic, which has prompted a change in the modus operandi of organised crime cells; notes that this is also linked to the growing use of cryptocurrencies and non-banking payments; notes that Europol has observed an increase in coronavirus-related criminal activity in the form of online crime, fraud or counterfeiting; underlines in this regard that, as part of an EU coordinated approach, the relevant EU agencies and bodies, namely EPPO, Eurojust, Europol and OLAF, should step up their operational cooperation in order to effectively contribute to the fight against organised crime activities and potential fraud of the EU recovery budget; welcomes, in this regard, the recent conclusion of working arrangements between EPPO and OLAF; welcomes the establishment of the NextGenerationEU Law Enforcement Forum in Rome on 21 September 2021, co-chaired by Italy and Europol, which seeks to define the criteria and best practices to prevent misuse of the NGEU recovery fund, including by organised criminal groups;

8. Considers that funds that are managed jointly by the EU and the Member States, particularly funds under ‘shared management’ for which the Commission currently entrusts the Member States with implementation programmes at national level, need to be better assessed and followed up on; calls on the Member States to set up a reliable and effective management and control system for the allocation of these funds to end recipients, also with a view to preventing, detecting and correcting irregularities;
9. Notes that some criminal groups seek access to politicians and public officials in order to tap the financial resources at the disposal of public administrations, particularly in public procurement and public works, public funding, and direct contracts for the procurement of all types of goods and the management of services; notes that fraud involving EU funds is a profitable income stream for organised criminals and perceived as less risky than activities such as the sale of drugs or human trafficking, thus making EU funds an attractive target for diversion; considers, therefore, that strong safeguards should be put in place to prevent abuse at national and European level, such as effective exchange of suspicious transaction reports between financial intelligence units of the Member States, with solid due diligence procedures and transparency on beneficiaries of EU funds, in order to stop criminals illegally benefiting from EU funds;
10. Believes that fraud prevention and the fight against fraud by organised crime should be a priority focus of managing, certifying and audit authorities, as well as being the subject of specialised financial investigations; believes that the fight against organised criminal groups also requires enhanced rules and measures regarding the freezing and confiscation of assets, including, where appropriate, the temporary seizure of property of equivalent value to the criminal proceeds in order to prevent the transfer or disposal of these proceeds of crime before criminal proceedings have been concluded; stresses that it is absolutely essential that every effort is made to recover EU funds obtained through fraudulent means; strongly supports more effective investigations in order to disrupt organised crime structures, and stresses that law enforcement authorities have to be ahead of criminals who increasingly use new technologies and seize any opportunity to expand their illegal activities, online or offline;
11. Stresses that regular and structured exchanges of information on irregularities in the use of funds should take place between the competent national administrations and the Commission, as well as between the relevant EU bodies and agencies and national law

enforcement and judicial authorities; calls on Member States to ensure the independence of prosecutors, as this independence has important implications for the capacity to fight organised crime; calls further on Member States to ensure that public officials act with integrity and avoid activities which may entail a conflict of interest and increased risk of corruption;

12. Notes that Europol's regular 'Serious and Organised Crime Threat Assessment' (SOCTA) reports do not cover organised crime activity involving EU funds; encourages Europol to include this issue in future SOCTA reports.
13. Calls on Member States to rapidly implement Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law<sup>3</sup> (the Whistleblower Directive) and to include, as part of the implementation process, legal safeguards for individuals and independent bodies who expose corruption, including journalists, whistleblowers, independent media, and anti-corruption NGOs; calls on all Member States to establish comprehensive whistleblower protection frameworks; reiterates the urgency of this demand given reports of increasing physical attacks on journalists, the rise of strategic lawsuits against public participation (SLAPP suits) and the use of fast-tracked security laws in certain Member States, which criminalise the dissemination of images of or data about law enforcement officers, thus blocking journalist's work and limiting the accountability of national authorities.

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<sup>3</sup> OJ L 305, 26.11.2019, p. 17.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	12.10.2021
<b>Result of final vote</b>	+: 54 -: 2 0: 7
<b>Members present for the final vote</b>	Magdalena Adamowicz, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Maria Grapini, Andrzej Halicki, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Javier Zarzalejos
<b>Substitutes present for the final vote</b>	Olivier Chastel, Tanja Fajon, Jan-Christoph Oetjen, Philippe Olivier, Anne-Sophie Pelletier, Thijs Reuten, Rob Rooken, Maria Walsh

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

54	+
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Nicola Procaccini, Jadwiga Wiśniewska
ID	Nicolaus Fest, Peter Kofod, Annalisa Tardino, Tom Vandendriessche
NI	Laura Ferrara, Martin Sonneborn
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Sara Skyttedal, Elissavet Vozemberg-Vrionidi, Maria Walsh, Javier Zarzalejos
Renew	Olivier Chastel, Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Maria Grapini, Marina Kaljurand, Juan Fernando López Aguilar, Javier Moreno Sánchez, Thijs Reuten, Birgit Sippel, Bettina Vollath
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Terry Reintke, Diana Riba i Giner, Tineke Strik

2	-
ECR	Rob Rooker
ID	Marcel de Graaff

7	0
ID	Nicolas Bay, Philippe Olivier
NI	Milan Uhrík
The Left	Pernando Barrena Arza, Clare Daly, Cornelia Ernst, Anne-Sophie Pelletier

Key to symbols:

+ : in favour

- : against

0 : abstention