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## TEXTS ADOPTED

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### **P9\_TA(2020)0192**

### **Protection of the European Union's financial interests - combating fraud - annual report 2018**

**European Parliament resolution of 10 July 2020 on protection of the European Union's financial interests - combating fraud - annual report 2018 (2019/2128(INI))**

*The European Parliament,*

- having regard to Articles 310(6) and 325(5) of the Treaty on the Functioning of the European Union (TFEU),
- having regard to its resolutions on previous annual reports of the Commission and of the European Anti-Fraud Office (OLAF),
- having regard to the report from the Commission to the European Parliament and the Council of 11 October 2019 entitled ‘30th Annual Report on the Protection of the European Union’s financial interests – Fight against fraud – 2018’ (COM(2019)0444) and the accompanying staff working documents (SWD(2019)0361, SWD(2019)0362, SWD(2019)0363, SWD(2019)0364 and SWD(2019)0365),
- having regard to the OLAF Report 2018<sup>1</sup> and the 2018 Activity Report of the OLAF Supervisory Committee,
- having regard to the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the Court of Auditors entitled ‘Commission Anti-Fraud Strategy: enhanced action to protect the EU budget’ (COM(2019)0196),
- having regard to the ‘action plan’ (SWD(2019)0170) and the ‘fraud risk assessment’ SWD(2019)0171) accompanying the communication entitled ‘Commission Anti-Fraud Strategy: enhanced action to protect the EU budget’ (COM(2019)0196),
- having regard to the annual report of the European Court of Auditors on the implementation of the budget concerning the financial year 2018, together with the institutions’ replies<sup>2</sup>,

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<sup>1</sup> OLAF, ‘Nineteenth report of the European Anti-Fraud Office, 1 January to 31 December 2018’, 2019.

<sup>2</sup> OJ C 340, 8.10.2019, p. 1.

- having regard to the Commission proposal of 2 May 2018 for a regulation on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States (COM(2018)0324),
- having regard to the introduction of standard provisions on protecting the EU’s financial interests within all the Commission’s MFF proposals,
- having regard to Opinion No 8/2018 of the European Court of Auditors on the Commission’s proposal of 23 May 2018 amending OLAF Regulation (EU, Euratom) No 883/2013 as regards cooperation with the European Public Prosecutor’s Office and the effectiveness of OLAF investigations (COM(2018)0338),
- having regard to Opinion No 9/2018 of the European Court of Auditors concerning the proposal for a regulation of the European Parliament and of the Council establishing the EU Anti-Fraud Programme (COM(2018)0386),
- having regard to special report No 26/2018 of the European Court of Auditors entitled ‘A series of delays in customs IT systems: what went wrong?’,
- having regard to special report No 01/2019 of the European Court of Auditors entitled ‘Fighting fraud in EU spending: action needed’,
- having regard to special report No 06/2019 of the European Court of Auditors entitled ‘Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination’,
- having regard to special report No 12/2019 of the European Court of Auditors entitled ‘E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved’,
- having regard to Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF)<sup>1</sup> and to the mid-term review thereof, published by the Commission on 2 October 2017 (COM(2017)0589),
- having regard to Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law<sup>2</sup> (PIF Directive),
- having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (EPPO)<sup>3</sup>,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>4</sup>,

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<sup>1</sup> OJ L 248, 18.9.2013, p. 1.

<sup>2</sup> OJ L 198, 28.7.2017, p. 29.

<sup>3</sup> OJ L 283, 31.10.2017, p. 1.

<sup>4</sup> OJ L 298, 26.10.2012, p. 1.

- having regard to 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<sup>1</sup>,
- having regard to the report of 4 September 2019 commissioned by the Commission entitled ‘Study and Reports on the VAT Gap in the EU-28 Member States: Final Report’,
- having regard to the report of May 2015 commissioned by the Commission entitled ‘Study to quantify and analyse the VAT Gap in the EU Member States: 2015 report’ and to the Commission communication of 7 April 2016 on an action plan on VAT entitled ‘Towards a single EU VAT area – Time to decide’ (COM(2016)0148),
- having regard to the Commission’s EU Anti-corruption Report of 3 February 2014 (COM(2014)0038),
- having regard to Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC<sup>2</sup>,
- having regard to the Commission communication of 6 June 2011 entitled ‘Fighting Corruption in the EU’ (COM(2011)0308),
- having regard to its resolution of 14 February 2017 on the role of whistle-blowers in the protection of EU’s financial interests<sup>3</sup>,
- having regard to the progress report of 12 May 2017 on the implementation of the Commission communication entitled ‘Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products – A comprehensive EU strategy (COM(2013)0324 of 6 June 2013)’ (COM(2017)0235),
- having regard to the report coordinated by OLAF entitled ‘Fraud in Public Procurement – A collection of red flags and best practices’, published on 20 December 2017, and the OLAF handbook of 2017 on ‘Reporting of irregularities in shared management’,
- having regard to special report No 19/2017 of the European Court of Auditors entitled ‘Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU’,
- having regard to the judgement of the Court of Justice of the European Union in Case C-105/14: criminal proceedings against Taricco and others<sup>4</sup>,

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<sup>1</sup> OJ L 193, 30.7.2018, p. 1.

<sup>2</sup> OJ L 94, 28.3.2014, p. 65.

<sup>3</sup> OJ C 252, 18.7.2018, p. 56.

<sup>4</sup> Judgement of the Court of Justice (Grand Chamber) of 8 September 2015 in Case C-105/14, Criminal proceedings against Ivo Taricco and others, ECLI:EU:C:2015:555.

- having regard to the judgement of the Court of Justice of the European Union in Case C-42/17: criminal proceedings against M.A.S. and M.B.<sup>1</sup>,
  - having regard to the judgment of the General Court in Case T-48/16: Sigma Orionis SA v European Commission<sup>2</sup>,
  - having regard to the adoption of Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax, to increase the capacity of the Member States to address the most damaging VAT fraud schemes and diminish the VAT gap,
  - having regard to its resolution of 25 October 2018 on ‘Protection of EU’s financial interests – recovery of money and assets from third countries in fraud cases’<sup>3</sup>,
  - having regard to the communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘A Modern Budget for a Union that Protects, Empowers and Defends. The multiannual financial framework for 2021-2027’ (COM(2018)0321),
  - having regard to its resolution of 4 October 2018 on fighting customs fraud and protecting EU own resources<sup>4</sup>,
  - having regard to the continuing implementation of the Hercule III programme<sup>5</sup>,
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A9-0103/2020),
- A. whereas the Commission in cooperation with the Member States implements the Union’s budget, of which 74 % were implemented under shared management in 2018;
- B. whereas the Commission should fulfil its respective responsibilities under shared management for supervision, control and audit;
- C. whereas according to the Article 63 of the Financial Regulation (EU, Euratom) 2018/1046, when executing tasks relating to budget implementation Member States should take all necessary measures to prevent, detect and correct irregularities and fraud;

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<sup>1</sup> Judgement of the Court of Justice (Grand Chamber) of 5 December 2017 in Case C-42/17, Criminal proceedings against M.A.S. and M.B., ECLI:EU:C:2017:936.

<sup>2</sup> Judgment of the General Court of 3 May 2018 in Case T-48/16, Sigma Orionis SA v European Commission, ECLI:EU:T:2018:245.

<sup>3</sup> Texts adopted, P8\_TA(2018)0419.

<sup>4</sup> OJ C 11, 13.1.2020, p. 50.

<sup>5</sup> Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC (OJ L 84, 20.3.2014, p. 6).

- D. whereas in order to protect the financial interests of the Union the Member States should carry out ex-ante and ex post controls, should recover unduly paid funds and bring legal proceeding in that regard where necessary;
- E. whereas sound financial management and the protection of the EU's financial interests are key principles of EU budget implementation policy aiming to increase the confidence of citizens by ensuring that taxpayers' money is properly used and EU budget effectively executed;
- F. whereas sound public spending and the protection of the EU's financial interest contribute to efficient management of the EU-budget;
- G. whereas Article 310(6) of the TFEU states that 'the Union and the Member States, in accordance with Article 325, shall counter fraud and any other illegal activities affecting the financial interests of the Union'; whereas Article 325(2) of the TFEU states that 'Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests'; whereas Article 325(3) of the TFEU states that 'the Member States shall coordinate their action aimed at protecting the financial interests of the Union against fraud' and that 'they shall organise, together with the Commission, close and regular cooperation between the competent authorities'; whereas under Article 325(4) of the TFEU the European Court of Auditors must be consulted on any measures to be adopted by the legislator in the fields of the prevention of and fight against fraud affecting the EU's financial interests;
- H. whereas EU budget supports shared objectives and helps to tackle common challenges and whereas good performance is a precondition for achieving results and priorities, simplification regular assessment inputs, outputs, outcomes and impacts through performance audits are essential elements for the performance based budgeting;
- I. whereas the EU has an obligation to act in the field of anti-corruption policies within the limits established by the TFEU; whereas Article 67 of the TFEU stipulates the Union's obligation to ensure a high level of security, including through prevention and combating of crime and approximation of criminal laws; whereas according to Article 83 of the TFEU corruption is one of the particularly serious crimes with a cross-border dimension which has its negative effect on the EU financial interests;
- J. whereas fraud involving EU funds is one of the means by which criminal organisations penetrate the economy and undermine economic freedom and free competition;
- K. whereas the diversity of legal and administrative systems in the Member States needs to be adequately addressed in order to allow for a more coordinated EU action for prevention of irregularities and combating fraud; whereas the Commission should further strengthen its efforts to fight against fraud and to continue implementing them effectively in order to produces even more tangible and more satisfactory results;
- L. Whereas corruption represents a serious threat to the financial interests of the union, but also on democracy and the trust on public administration;

- M. whereas VAT collected by Member States is an important revenue source for national budgets and whereas VAT-based own resources constituted 11,9% of the total EU budget in 2018;
- N. whereas systematic and institutionalised cases of corruption in certain Member States seriously harm the EU's financial interests while also representing a threat to democracy, fundamental rights and the rule of law; whereas the Special Eurobarometer Report 470 on corruption, published in December 2017, stated that overall perceptions and attitudes towards corruption remained stable compared to 2013, which indicates that no concrete results have been demonstrated in terms of improving the trust of EU citizens in their institutions;

### ***Detection and reporting of irregularities***

1. Welcomes the 30<sup>th</sup> Annual report on the protection of the EU's financial interests and the fight against fraud, as well as the progress achieved during the past three decades in setting and developing the legislative foundations and institutional framework (OLAF and EPPO) of the fight against fraud and irregularities at EU level, in establishing cooperation between Member States and between them and the Commission, and in reaching results of protection of the EU budget which would not be possible without the joint efforts of both the EU institutions and national authorities;
2. Observes with great concern the permanent modification of fraud methods and new patterns of fraud, with a strong transnational dimension and with cross-border fraud schemes (i.e. fraud in the promotion of agricultural products; shell companies; evasion of custom duties through the undervaluation of textiles and footwear entering the Union and going through customs clearance in several Member States; e-commerce; increasing cross border dimension of frauds on expenditures side; and counterfeiting), which negatively affect the revenue side of the EU budget and which require new coordinated response at EU and national level;
3. Notes that the total number of fraudulent and non-fraudulent irregularities reported in 2018 (11 638 cases) was 25 % lower than in 2017 (15 213 cases) and that the value involved remained stable in comparison with the previous year (EUR 2,5 billion in 2018, as against EUR 2,58 billion in 2017);
4. Points out that not all irregularities are fraudulent and that a clear distinction must be drawn among the errors committed;
5. Recalls that the number of reported fraudulent irregularities and the associated amounts are not a direct indicator of the level of fraud affecting the EU budget or that in a given Member State; notes that it is unclear how many fraudulent irregularities remain unreported by the Commission and especially by the Member States every year; notes that this makes it difficult for the Parliament draw useful conclusions on the effectiveness of the anti-fraud activities by the Commission; calls on the Commission therefore to develop a methodology to improve the reliability and provide for more accurate estimations of the scale of fraud in the EU; notes that fraudulent irregularities affected 0,71 % of 2018 payments and 0,65 % of gross amount of TOR collected for 2018; notes further that non-fraudulent irregularities affected 0,58 % of 2018 payments and 1,78 % of gross amount of TOR collected for 2018;

6. Notes with concern the Court of Auditors' conclusion that the Commission has an insufficient level of insight into the scale, nature and causes of fraud; reiterates its call on the Commission to establish a uniform system for the collection of comparable data on irregularities and cases of fraud from the Member States in order to standardise the reporting process and ensure the quality and comparability of the data provided;
7. Calls furthermore on the Commission to carry comprehensive checks to ensure the full transparency and quality of data reported by the Member States in the Irregularity Management System (IMS);
8. Notes that while the number of fraudulent irregularities reported in 2018 (1 152 cases) remained at the same level of those in 2017; regrets, however, that the amounts involved increased by a significant 183 % which is a cause for a grave concern; this increase is due, to a large extent, to two fraudulent irregularities concerning cohesion policy expenditure; stresses the need to recuperate these high amounts as soon as possible;
9. Notes that the fact that the number of non-fraudulent irregularities registered in 2018 showed a fall of 27 % (10 487 cases), while the financial amounts involved decreased by 37 % to EUR 1,3 billion;
10. Deeply regrets and points to the fact that many Member States do not have specific laws against organised crime, while its involvement in cross-border activities and sectors affecting the EU's financial interests, such as smuggling or counterfeiting of currency, is constantly growing;
11. Calls on Member States to cooperate more closely as regards exchanges of information, in order both to improve their data collection and enhance the effectiveness of their controls and guarantee the rights and freedoms of citizens; recalls the role of the Commission in coordinating the cooperation between Member States; calls on the Commission to help in the coordination of establishing a uniform system for the collection of data on irregularities and cases of frauds from the Member States;
12. Calls on the European Court of Auditors to continuously include institutions and management bodies responsible in cases of intentional misuse of funds in their audit samples;
13. Finds it worrisome that in order to reduce the administrative burden on Member State authorities, the Common Provisions Regulation (EU) No 1303/2013 only requires the reporting of fraudulent or non-fraudulent irregularities involving more than EUR 10 000 contribution from ESIF; recalls that in the area of agriculture and the European Social Fund there are a large number of payments are well below the EUR 10 000 threshold, which are disbursed as entitlement payments (based on meeting certain conditions), and, as a consequence, potentially fraudulent payments below the reporting threshold which are not reported, notes, however, the Court of Auditors' observation in its Annual Reports for 2017 and 2018 that entitlement payments are less prone to errors than cost reimbursement, which is the disbursement methods for projects above EUR 10 000;
14. Strongly condemns the large-scale misuse of European structural and investment funds by high-level government officials in the Czech Republic, and other public actors in

Hungary, Greece, Poland, Romania and Italy; notes that such fraud is at the expense of small family businesses who need the subsidies the most;

15. Strongly condemns the misuse of Cohesion Funds; regrets that EU funds affected by financial corrections related to fraudulent irregularities can be re-used again without any further consequences or restrictions; is of the opinion that such a system endangers the EU's financial interest; therefore calls on the Commission to closely monitor the re-use of EU Funds and to consider developing a system where corrections are also accompanied by restrictions on the further use;
16. Recalls the transparency requirements for CAP and cohesion policies, which oblige the responsible authorities of the Member States to maintain a publicly available list of final beneficiaries; calls on Member States to publish such data in an uniform machine-readable format and ensure the interoperability of the information; calls on the Commission to collect and aggregate the data and publish lists of the largest beneficiaries from each fund in each Member State;
17. Insists that the Commission proposes a specific complaint mechanism at Union level to support farmers or beneficiaries confronted with e.g. land-grabbing malpractices, misconduct of national authorities, pressure from criminal structures or organised crime, or persons being subject to forced or slave labour, giving them the opportunity to swiftly lodge a complaint with the Commission which the latter should check as a matter of urgency;
18. Stresses that the European Commission currently does not take sufficient action to tackle this type of fraud; urges the Commission to conduct effective controls in combination with binding measures; notes that the EPPO should play a major role in conducting cross-border research, detecting and reporting cases of fraud, and bringing fraudsters to justice;

#### ***Revenue – own resources***

19. Notes the rise of 1 % in the number of fraudulent registered cases for the TOR collected (to 473 in 2018), and regrets the rise of 116 % in the financial amounts involved;
20. Notes that the number of irregularities reported as non-fraudulent for 2018 was 10 % lower than the average for years 2014-2018, but regrets that the affected amount is 17 % higher;
21. Is deeply concerned that according to the Commission's 'fast estimates' statistics, the VAT gap in 2018 amounted to approximately EUR 130 billion, which represents approximately 10 % of total expected VAT revenue, and that the Commission estimates that intra-Community VAT fraud cases cost around EUR 50 billion annually; regrets the loss of EUR 5 billion yearly coming from supplies of low-value goods from third countries;
22. Welcomes the adoption of the PIF Directive, which clarifies the issues of cross-border cooperation and mutual legal assistance between Member States, Eurojust, the EPPO and the Commission in tackling VAT fraud;
23. Reiterates its position that OLAF's competences in the field of value added tax investigations should in no way be limited or subject to any further administrative



conditions; calls on the Council to take account of Parliament's position on this matter during the negotiations on "Investigations conducted by the European Anti-Fraud Office as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations" regulation;

24. Highlights OLAF's important role in investigation VAT matters; welcomes the amendment of Council Regulation (EU) No 904/2010 on administrative cooperation and the fight against fraud in the field of value added tax<sup>1</sup>, passed in 2018 introducing measures for strengthening the capacity of national tax administrations to check cross-border supplies, extending OLAF's competences to facilitate and coordinate VAT fraud investigations and addressing the most damaging VAT fraud schemes and diminish the VAT gap;
25. Welcomes the amended Council Regulation (EU) No 904/2010 to maximise the new Transaction Network Analysis (TNA) software potential to identify fraudulent networks across the whole EU; with the aim of enhancing the cooperation and information exchange between national tax authorities in order to better detect and swiftly intercept VAT carousel fraud; calls for measures to fully ensure the data protection of economic operators under investigation listed in the new TNA software;
26. Welcomes the introduction of measures for the sharing relevant data as from 2020 on customs 'procedure 42' and 'procedure/63' between national tax authorities, allowing cross-checking of VAT numbers, value of the imported goods, type of commodities, etc. by the Member State of import and the customer's Member State;
27. Stresses the importance of prioritising the development of National Anti-Fraud Strategies (NAFSs) by all Member States;
28. Stresses the seriousness of the fraud concerning VAT, in particular the so-called 'carousel fraud' which results in the non-payment of VAT to the relevant tax authorities by the missing trader, even if it has been deducted from the customer;
29. Notes that solar panels were the goods most affected by fraud and irregularities in monetary terms in 2018, as was also the case in 2017 and 2016; welcomes the on-the-spot inspections carried out by the Commission and underlines the importance of OLAF's investigations and OLAF's coordination role in this field;
30. Welcomes the fact that several Member States have rolled out new IT tools, risk-based approaches and initiatives to counter challenges in the area of traditional own resources collection; encourages Member States to further cooperate in making joint use of these tools, approaches and initiatives, to further exchange good practices and to enhance cooperation under the Eurofisc framework;
31. Is concerned that revenue fraud through the undervaluation of goods imported into the EU from third countries remains a threat for the EU financial interests; recognises the cross-border e-commerce trade of goods as a considerable source of tax fraud in the EU, especially in the case of smaller goods; calls on Member States to address the issues linked to cross-border e-commerce, particularly for the potential abuse of low-value

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<sup>1</sup> OJ L 268, 12.10.2010, p. 1.

consignments reliefs by fully implementing the Commission's recommendations in this sense;

32. Notes that in December 2018 the Commission presented a new action plan to fight the illegal tobacco trade, based mainly on operational law enforcement measures;
33. Notes that non-fraudulent irregularities were primarily detected by means of post-release controls, but underlines the importance of the custom controls before or at the time of release of goods, as well as of voluntary admissions for detection of irregularities;
34. Recalls once again that a combination of different detecting methods (release controls, post-release controls, inspections by anti-fraud services and others) is most efficient for detecting fraud, and that the efficiency of each method depends on the Member State concerned, the efficient coordination of its administration, and the ability of the relevant Member States services to communicate with each other;
35. Finds it worrisome that some Member States regularly do not report a single case of fraud; invites the Commission to investigate the situation, as it considers the likelihood that no fraudulent activities exist in those Member States to be rather low; calls on the Commission to run random spot checks in these countries;
36. Notes that the average recovery rate for cases reported as fraudulent over the years 1989-2018 was around 41 %; notes as well that the recovery rate for fraudulent cases reported and detected in 2018 was 70 % which is significantly above the average rate; reiterates its call on the Commission to develop a strategy for improving the recovery rate in these cases;
37. Notes that the overall recovery rate for non-fraudulent cases reported over the years 1989-2018 was 72 %;
38. Repeats its call on the Commission to report annually the amount of EU own resources recovered, following the recommendations made by OLAF, and to communicate the amounts still to be recovered;

### ***Expenditure***

39. Notes the decrease of 3 % in the number of cases (679) reported as fraudulent irregularities in 2018 affecting expenditure; stresses, however, the alarming rate, of the opposite trend occurring in the financial amounts involved (EUR 1,032 billion), resulting in an increase of 198 %;
40. Welcomes the decrease of 4 % in registered non-fraudulent irregularities, as well as the reduction of 48 % in the financial amounts involved (EUR 844,9 million);
41. Welcomes that on the expenditure side, some Member States have adopted several operational measures such as the introduction of IT risk scoring tools, fraud risk assessments and training courses to raise general fraud awareness; calls on all remaining Member States to step up their efforts into adopting such measures as soon as possible;
42. Notes the absence of irregularities reported as fraudulent in some Member States; calls on the Commission to continue supporting Member States with a view to ensuring that

both the quality and number of controls are improved, and to share best practice in the fight against fraud;

43. Stresses the importance of respective management and close surveillance of the grants distributed under the programmes of the ESIFs (the European Structural and Investment Funds, i.e. the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the AMIF (Asylum, Migration and Integration Fund), the FEAD (Fund for European Aid to the Most Deprived), and the EGF (European Globalisation Adjustment Fund)), in the interests of efficient non-inflationary budgeting of the Funds and fraud avoidance;
44. Calls on the Commission, the OLAF, EPPO and Member States, with regard to the common agricultural policy where 249 fraudulent irregularities were registered in 2018(-6 %) involving a total of EUR 63,3 million (+10 %) and to cohesion policy where 363 fraudulent irregularities were registered in 2018 (+5 %), the total amount involved being EUR 959,6 million (+199 %); to apply the strongest measures to fight against fraud involving the public money paid by the EU Budget;
45. Notes that for the CAP for the reporting years 2014-2018 the ‘fraud frequency level’ (FFL) representing the percentage of cases qualified as suspected fraud and established fraud in relation to the total number of reported irregularities stands at 10 %, that ‘fraud amounts level’ is about 23 % of the total financial amount affected by irregularities; notes further that the ‘fraud detection rate’ (FDR) representing the percentage of total financial amount affected by suspected and established fraud in relation to the total expenditure is only 0,11 %, while the ‘irregularity detection rate’ representing the percentage of total financial amount affected by irregularities in relation to the total expenditure is 0,37 %;
46. Similarly strongly notes that the ‘fraud detection rate’ for cohesion policy is 0,86 % while the ‘irregularity detection rate’ is about 0,34 %;
47. Reiterates the importance of transparency on the expenditures, requesting for full access to the information in case of European financing;

### ***The Commission Anti-Fraud Strategy***

#### ***OLAF***

48. Notes that in 2018, OLAF opened 219 investigations and concluded 167, recommending financial recoveries worth EUR 371 million; notes further that at the end of the year, 414 investigations were ongoing;
49. Takes note of the expansion of the role of the anti-fraud coordination services (AFCOS) in fostering the effectiveness of the various channels for cross-border cooperation between national authorities, in particular for tackling customs fraud, but also for cooperation with OLAF;
50. Welcomes the adoption, in April 2019, of the Commission Anti-Fraud Strategy (CAFS), adjusted to two significant additions to EU anti-fraud legislation adopted in 2017, i.e. the PIF Directive, which sets stricter common standards for Member States’ criminal

legislation to protect the EU's financial interests, and the regulation establishing the European Public Prosecutor's Office (EPPO);

51. Deplores that the Commission has not included yet in its annual work programme a proposal for an instrument for mutual administrative assistance on the expenditure side; believes that such an initiative fits into the provision of Article 225 of the Treaty;
52. Draws attention to the vital role played by OLAF and the need to strengthen it further and ensure effective coordination with the European Public Prosecutor's Office;
53. Regrets that only twelve Member States have implemented the new PIF directive for the time being, another eight having implemented it partially and the others not at all yet; notes that the deadline for implementation of the new PIF directive has expired on 6 July 2019 already; calls on the Commission to publish, as soon as possible, a list of all Member States which have failed to transpose the directive by the deadline; calls on all remaining Member States to take all necessary measures and ensure the full and correct transposition of the Directive within the shortest time possible; calls on the Commission to closely monitor the transposition process in all Member States, as well as to make use of its prerogatives for launching infringement procedures, where Member States fail to comply with the transposition process;
54. Recalls that the new CAFS covers: (i) fraud (including VAT fraud), corruption and misappropriation affecting the EU's financial interests, as defined in Articles 3 and 4 of the PIF Directive; (ii) other criminal offences affecting the Union's financial interests, e.g. offences linked to an abuse of procurement procedures where they affect the EU budget; (iii) irregularities as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95 (insofar as they are intentional but not already captured by the criminal offences referred to above); and (iv) serious breaches of professional obligations by staff or members of the Union's institutions and bodies, as referred to in Article 1(4) of the OLAF regulation and in the second subparagraph of Article 2(1) of Commission Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-Fraud Office<sup>1</sup>;
55. Welcomes the new priorities of the new CAFS, such as improving the understanding of fraud patterns, fraudsters' profiles and systemic vulnerabilities relating to fraud affecting the EU budget, as well as the optimisation of coordination, cooperation and workflows for the fight against fraud, in particular among Commission services and executive agencies;
56. Deplores that only eleven Member States have adopted a national anti-fraud strategy (NAFS); calls on all remaining Member States to advance with the adoption of their NAFS; calls on the Commission to push the remaining Member States to advance their adoption of NAFS; calls on the Commission to consider adopting national anti-fraud strategies as a condition for access to EU funds;
57. Welcomes the new proposal of the EU Anti-Fraud Programme 2021-2027, which will be implemented by OLAF under its direct management; notes that the EU Anti-Fraud Programme includes (i) the Hercule III spending programme, which supports activities against fraud, corruption and any other illegal activities affecting the financial interests of the Union, (ii) the Anti-Fraud Information System (AFIS), which is an operational

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<sup>1</sup> OJ L 136, 31.5.1999, p. 20.

activity consisting essentially in a set of customs IT applications operated under a common information system managed by the Commission, and (iii) 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;

58. Notes that that the EU Anti-Fraud Programme and its new priorities need sufficient funding in order to achieve results; is therefore concerned about the proposal of the president of the European Council to decrease the budget of EU Anti-Fraud Programme from EUR 156 million for the period 2014-2020 to EUR 111 million for the period 2021-2027;
59. Reiterates the need to include in national anti-fraud strategies proactive anti-fraud methods which ensure not only that fraud is detected, but that it is also effectively prevented;

### ***EPPO establishment progress***

60. Notes the appointment of an interim Administrative Director in 2018;
61. Underlines that the creation of the EPPO marks a fundamental development in protecting the Union's financial interests; highlights the importance of the EPPO in combating fraud, corruption and serious cross-border VAT fraud;
62. Welcomes the fact that in 2018 the Netherlands and Malta decided to join the EPPO; notes that by the end of October 2019 five Member States had not joined the EPPO; recalls, however, that under recital 9 of Regulation (EU) 2017/1939 they can join at any time this cross-border cooperation; encourages all remaining Member States to join the EPPO as soon as possible; calls on the Commission to actively promote and incentivise EPPO membership among so-far reluctant Member States, in order to ensure effective and efficient cross-border functioning across the EU;
63. Stresses that the selection procedure of the European Chief Public Prosecutor was finalised in 2019; welcomes the appointment of Mrs. Laura Codruta Kovesi as the first European Chief Public Prosecutor, following a selection procedure involving the European Parliament, the Council and an independent group of experts selected by the Commission;
64. Stresses that the underfinancing and understaffing of the EPPO during its build-up-phase is unacceptable; deeply regrets that the resources needed were largely underestimated by the Commission; emphasises that the EPPO has to process up to 3 000 cases per year, from the very first moment of its operation; emphasises that the EPPO is in need of at least 76 additional posts and EUR 8 million to become fully operational as foreseen by the end of 2020; opposes the principle of part-time prosecutors; asks Member States to appoint full-time public prosecutors as soon as possible; strongly encourages that the Commission presents a draft amending budget;
65. Stresses that after the creation of the EPPO, OLAF will remain the sole office responsible for protecting EU financial interests in the Member States that decided not to join the EPPO; highlights that according to opinion 8/2018 of the European Court of Auditors, the Commission proposal amending the OLAF regulation does not resolve the

issue of low effectiveness of OLAF's administrative investigations; underlines the importance of ensuring that OLAF remains a strong and fully functioning partner to the EPPO;

66. Stresses that the future cooperation between OLAF and the EPPO should be based on close cooperation, efficient exchange of information and complementarity, while avoiding duplications or conflicted competences; reminds that the Parliament opposes that OLAF's staff is reduced by 45 posts;
67. Calls on the co-legislators to reach an agreement on the revision of the OLAF regulation on time, to ensure a clear division of competences between OLAF and EPPO without overlap before EPPO becomes functional;

### *Areas for improvement*

68. Points out two areas for improvement: firstly, to improve fraud risk assessment and fraud risk management, the Commission and Member States should strengthen their analytical capacity order to better identify data on fraud patterns, fraudsters' profiles and vulnerabilities in EU internal control systems; secondly, to ensure consistency and to optimise efficiency and effectiveness, the assessment and management of fraud risks need to be strongly coordinated and monitored;
69. Highlights that the connection between corruption and fraud in EU may have a negative impact on the EU budget; regrets that the Commission no longer deems it necessary to publish the anti-corruption report; calls on the Commission, moreover, to consider establishing a network of corruption prevention authorities within the European Union; deplores the Commission's decision to include anti-corruption monitoring in the European Semester economic governance process; takes the view that this has further reduced monitoring by the Commission, with data available for only very few countries; further regrets the fact that this change of approach concentrates mostly on the economic impact of corruption and almost completely overlooks the other dimensions that corruption can affect, such as the trust of citizens in public administration and even the democratic structures of the Member States; urges the Commission, therefore, to continue publishing its anti-corruption reports; reiterates its call on the Commission to engage in a more comprehensive and coherent EU anti-corruption policy, including an in-depth evaluation of the anti-corruption policies in each Member State;
70. Reiterates that the 'revolving door' effect can be detrimental to relations between the institutions and interest representatives; calls for the EU institutions to develop a systematic approach to this challenge;
71. Reiterates its call to the Commission to set up an internal evaluation mechanism of corruption for the EU institution;
72. Calls on the Commission to devise a Europe-wide strategy for the proactive avoidance of conflict of interests for all financial actors implementing the EU budget, as one of its overarching priorities;
73. Considers that further initiatives are needed for measuring the customs gap and developing an effective methodology for such measuring, at least for its main elements;

74. Considers also that customs controls should be adapted to new fraud risks and to the rapid expansion in cross-border trade facilitated by e-commerce as well as by paperless business;
75. Observes that the expansion of e-commerce is a serious challenge for tax authorities, e.g. the absence of a seller's taxable identification in the EU and the registration of VAT declarations well below the real value of the declared transactions;
76. Emphasises that a system enabling the authorities to exchange information would facilitate the cross-checking of accounting records for transactions between two or more Member States in order to prevent cross-border fraud in respect of the structural and investment funds, hence ensuring a cross-cutting and comprehensive approach to the protection of Member States' financial interests; reiterates its request to the Commission to submit a legislative proposal on mutual administrative assistance in those areas of expenditure of EU funds where no provision is made for this;
77. Is concerned about the risk of undervaluation of supplies of e-commerce goods from third countries; welcomes the steps taken by OLAF to solve the problem of e-commerce VAT fraud;
78. Recalls that the Commission does not have access to the information exchanged between Member States with a view to preventing and combating Missing Trader Intra Community (MTIC) fraud, commonly called carousel fraud; is of the opinion that the Commission should have access to Eurofisc, in order to better control, assess and improve the exchange of data among Member States; calls on all Member States to participate in all of Eurofisc's fields of activity so as to facilitate and accelerate information exchange with judicial and law enforcement authorities such as Europol and OLAF, as recommended by the European Court of Auditors; calls on the Member States and the Council to grant the Commission access to these data in order to foster cooperation, strengthen data reliability and fight cross-border crime;
79. Invites OLAF to inform Parliament on the outcome of its investigations related to e-commerce imports of low-value garments; calls on the Commission and the Member States to monitor e-commerce transactions involving sellers based outside the EU who declare no VAT (for example by undue use of the 'sample' statute), or deliberately underestimate the goods' value in order to avoid VAT altogether or reduce the amount due;
80. Highlights the need to address certain shortcomings of the current EU anti-fraud enforcement system, in particular with regard to the collection of accurate data on fraudulent and non-fraudulent irregularities;
81. Urges the Commission and Member States to utilise and improve, where possible, common reporting methods in order to provide comprehensive and comparable information on the detected fraud level in EU spending;
82. Calls on the Commission to ensure the effectiveness of the IT system known as 'Irregularity Management System' (IMS) managed by OLAF, so that information on criminal investigations related to fraud affecting the EU's financial interests is reported in a timely manner by all competent authorities;

83. Points out that complete transparency in accounting for expenditure is essential, especially as regards infrastructure works financed directly through EU funds or financial instruments; calls on the Commission to provide for EU citizens to have full access to information on co-financed projects;
84. Reminds the Member States that working in cooperation with the Commission is necessary in order to ensure effective spending and evaluate results;
85. Notes that, in the area of shared management, the Commission does not have the power to initiate the exclusion of unreliable economic operators from receiving EU funding when Member State authorities do not do so; calls on the Member States to promptly report fraudulent irregularities in the IMS and to make the best use of the Early Detection and Exclusion System;
86. Insists that Member States make effective use of the fraud prevention tool offered by the ARACHNE database, by submitting timely data and exploiting the opportunities that big data offers to prevent the fraudulent and irregular use of EU funds; calls on the Commission to consider making the use of ARACHNE mandatory;
87. Highlights the role and responsibility of the Member States in the implementation of administrative cooperation agreements, the effectiveness of controls, the enforcement of data collection, and the monitoring of traders' compliance with the regulatory framework;
88. Calls on the Commission to provide for proper legal protection for investigative journalists along the lines of that provided for whistleblowers;

### ***Public procurement***

89. Notes that a significant amount of public investment is spent through public procurement (EUR 2 trillion per year); emphasises the benefits of e-procurement in fighting fraud, such as savings for all parties, increased transparency, and simplified and shortened processes;
90. Regrets the fact that only a few Member States are using new technologies for all the major steps of the procurement process (e-notification, e-access to tender documents, e-submission, e-evaluation, e-award, e-ordering, e-invoicing, e-payment); calls on the Member States to make all the forms of the public procurement process, as well as publicly accessible contract registers, available online in a machine readable format;
91. Welcomes the Commission's timetable for the rollout of e-procurement in the EU and calls on the Commission to follow up on it;

### ***Digitalisation***

92. Calls on the Commission to elaborate a framework for the digitalisation of all processes of implementation of EU policies (calls for proposals, application, evaluation, implementation, payment) to be applied by all Member States;
93. Calls on the Commission to develop incentives to create an electronic profile of contracting authorities for those Member States where such profiles are not available;



94. Welcomes the decision of the EU to finally join the GRECO as an observer; calls on the Commission to restart negotiations with GRECO as soon as possible to assess in a timely manner its compliance with the United Nations Convention against Corruption (UNCAC) and to set up an internal evaluation mechanism for the EU institutions;

### ***International cooperation***

95. Takes into account the entry in force on 1 September 2018 of the EU-Norway agreement on administrative cooperation and recovery assistance in the area of VAT;
96. Welcomes the organisation of the annual seminar (held in Bosnia and Herzegovina in June 2018) for partner authorities in candidate and potential candidate countries on best practices in successful fraud investigations, as well as the workshop held in Ukraine in July 2018 with the participation of all relevant anti-fraud services, in the framework of the EU-Ukraine Association Agreement;
97. Strongly encourages the Commission, OLAF and all the other institutions and bodies of the Union entrusted with the protection of the financial interests of the Union to actively engage and collaborate with partner authorities in candidate, potential candidate and EaP countries, promoting measures to effectively address possible fraud cases; calls on the Commission to develop specific and regular mechanisms to effectively prevent and combat fraud with EU funds in these states;
98. Welcomes the signing by OLAF of two administrative cooperation arrangements with the African Development Bank and with the Office of the Inspector General of the United States Agency for International Development (USAID) respectively;
99. Points out the problems surrounding third-country enforcement as regards implementation of the Framework Convention on Tobacco Control ('FCTC Protocol');
100. Urges the EU agencies, in particular Europol, Eurojust and OLAF, to cooperate ever more closely with national authorities in order to detect fraud more effectively;
101. Emphasises the important role of whistle-blowers in fraud prevention, detection and reporting; stresses the need to protect whistle-blowers and to encourage investigative journalism by legal means both in the Member States and within the Union; welcomes the new EU Whistleblowing Directive, which from December 2021 will provide protection for individuals from the private or public sector that report breaches; calls on the Commission to closely monitor and assist the Member States, ensuring the complete, correct and timely transposition of the Directive;
102. Is of the opinion that investigative journalism plays a key role in fostering the necessary level of transparency in the EU and the Member States, and that it must be encouraged and supported by legal means both by the Member States and within the EU; calls on the Commission to develop comprehensive measures for the protection of investigative journalism, including a rapid response mechanism for journalists in distress and effective anti-SLAPP legislation;
103. Highlights the central role that transparency plays in the prevention and early detection of fraud and conflict of interest cases; calls on all Member States to step up their efforts in order to increase budgetary transparency, by ensuring that relevant data concerning

public procurement procedures and the attribution of publicly funded contracts is available and easily accessible to the general public;

***Transparency rules and cross-cutting provisions***

104. Welcomes the adoption of the ‘omnibus regulation’ and expects that it will drastically reduce the fraud rates for the agriculture and cohesion policies, while simplifying the EU’s financial rules;
105. Calls on the Member States to step up their exchange of information about possible fraudulent companies and transactions through the Eurofisc network; points out that exchange of, and access to, information by judicial and investigating authorities, while respecting the protection of personal data, is essential in combating fraud and organised crime;
106. Recognises the importance of Article 61 of the Financial Regulation and its enlarged definition redefinition of conflict of interests for all financial actors implementing the EU budget in the various management modes, including at national level;
107. Calls on the Commission, as Guardian of the Treaties, to fight all forms of conflict of interests and to evaluate on a regular basis the preventive measures taken by the Member States to avoid them; calls on the Commission to propose common guidelines for the avoidance of conflicts of interest of high-profile politicians;
108. Points out that many Member States do not have specific laws against organised crime, while its involvement in cross-border activities and sectors affecting the EU’s financial interests is constantly growing;
109. Urges the Council to adopt common ethical standards on all issues related to conflicts of interest and to push for a common understanding of the issue in all Member States; underlines that given the widespread problems of conflict of interests in the distribution of Union’s agricultural and cohesion funds; it is unacceptable for the members of the European Council and the Council of the EU, or their family members to take part in decisions on the future MFF or national budgets allocations in case they’d anyhow personally profit from these decisions;
110. Recalls the importance of cooling-off periods for officials formerly employed by the Union institutions or agencies as un-addressed conflict-of-interest situations may compromise the enforcement of high ethical standards throughout the European administration; underlines that Article 16 of the Staff Regulation enables Union institutions and agencies to turn down a former official’s request to take a specific job if restrictions are not sufficient to protect the legitimate interests of the institutions; further calls on the EU administration to strictly publish their assessment of each case as required under the Staff Regulation;
111. Reiterates its position for the need of a clear legal basis enabling OLAF to access bank account information through the assistance of national competent authorities and to deal with VAT fraud, expressed with regard to the revision of Regulation (EU, Euratom) No 883/2013;

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112. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice of the European Union, the European Court of Auditors, the European Anti-Fraud Office (OLAF), the OLAF Supervisory Committee and the European Public Prosecutor's Office (EPPO).