CONTENT

The protection of the financial interests of the European Union is a key element of the EU policy agenda. Such protection is aimed at strengthening and increasing the confidence of citizens and ensuring that sound financial management of EU funds, as well as at supporting the actions of the European Anti-Fraud Office (OLAF) in combating fraud and irregularities in the implementation of the EU budget. In recent years, there has been an increase in the number of legislative texts and recommendations dealing with the protection of the Union’s financial interests.

In July 2012, the European Commission submitted a proposal on the fight against fraud affecting the Union’s financial interests by means of criminal law. The proposal was aimed at strengthening administrative and criminal law procedures to fight fraud against the Union’s financial interests. The objective of what is known as the PIF directive was to deter fraudsters, improve the prosecution and sanctioning of crimes against the EU budget, and facilitate the recovery of misused EU funds, thereby increasing the protection of EU taxpayers’ money.

The Council adopted a general approach at first reading on 6 June 2013. The European Parliament adopted its position on 16 April 2014. In a report issued on 25 March 2014, the European Parliament’s Committees on Budget and Civil Liberties, Justice and Home Affairs expressed concern about the existing differences in the sanctioning of fraud between the Member States’. National criminal proceedings appeared neither effective nor equivalent, and the degree of success in prosecution varies between Member States. The rapporteurs therefore pointed to the necessity of providing a strong and coordinated response to fraud and any other illegal activities affecting the financial interests of the Union. In this respect, the rapporteurs supported the establishment of minimum and maximum criminal sanctions to ensure a degree of consistency across the EU on sanctions concerning financial fraud. Such a step, would in the view of the Committees, also discourage forum shopping on the part of money-launderers and fraudsters. The Committees’ report also strongly supported the European Commission on the inclusion of VAT fraud in the scope of the directive.

On 25 April 2017, the Council adopted the PIF Directive. The directive provided common definitions of a number of offences against the EU budget. Those offences included cases of fraud and other related crimes such as active and passive corruption, the misappropriation of funds, money laundering, amongst others. On 22 June 2017 the European Parliament approved the Council position at first reading and instructed its President to sign the act with the President of the Council and to forward its position to the Council, the Commission and national Parliaments.
The definition of the Union’s financial interests contained in the directive covers infringements of the common VAT systems where they are linked to the territory of two or more Member States and involve losses totalling at least EUR 10 million. The definition of criminal offences covers active and passive fraud, as well as the misuse of funds. Minimum penalties are laid down for natural persons, and limitation periods are established that make it possible for the law to apply over a sufficient time to ensure that infringements can be addressed in an effective way. The directive also introduces an obligation for the Member States, the Commission, the agencies and the Court of Auditors to cooperate. Finally, the directive lays down the legal basis for the powers of the European Prosecutor by defining its competences. The European Public Prosecutor’s Office will be a decentralised prosecution office of the European Union with exclusive competence for investigating, prosecuting and bringing to judgment crimes against the EU budget. It will have uniform investigation powers throughout the Union based on and integrated into the national law systems of the Member States. The European Parliament welcomed the proposal for a regulation on the establishment of the European Public Prosecutor’s Office, and stressed the need to establish a consistent, complementary system for protecting the Union’s financial interests. It also urged the Commission to provide a clear EU-level definition of the roles of the future European Public Prosecutor’s Office, Eurojust and OLAF, delimiting their respective remits.

References:

- European Parliament, Legislative resolution of 16 April 2014 on the proposal for a directive on the fight against fraud to the Union’s financial interests by means of criminal law, first reading, 2012/0193(COD)
- EP Legislative Observatory, Procedure file of Directive on Fight against fraud to the Union’s financial interests by means of criminal law, 2012/0193(COD)

Further reading:

- European Parliament, EPRS, Protecting the financial interest of the Union. The role of administrative investigations, Briefing, March 2013

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