







# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2018/0211(COD) Awaiting Council's 1st reading position
EU anti-fraud programme 2021?2027 Repealing Regulation (EU) No 250/2014 <a href="#">2011/0454(COD)</a>	
Subject 8.70.04 Protecting financial interests of the EU against fraud	
Legislative priorities <a href="#">Multiannual Financial Framework 2021-2027</a>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 <a href="#">Budgetary Control</a>		26/09/2019
		 <a href="#">DEUTSCH Tamás</a> Shadow rapporteur	
		S&D <a href="#">PENKOVA Tsvetelina</a>	
		ECR <a href="#">CZARNECKI Ryszard</a>	
		Verts/ALE <a href="#">RIVASI Michèle</a>	
	Former committee responsible		
	 Budgetary Control		12/07/2018
		PPE <a href="#">SALAFRANCA SÁNCHEZ-NEYRA José Ignacio</a>	
	Former committee for opinion		
	 Budgets		11/07/2018
		ALDE <a href="#">ALI Nedzhmi</a>	
Council of the European Union			
European Commission	Commission DG <a href="#">European Anti-Fraud Office (OLAF)</a>	Commissioner OETTINGER Günther	

Key events			
30/05/2018	Legislative proposal published	<a href="#">COM(2018)0386</a>	Summary
14/06/2018	Committee referral announced in Parliament, 1st reading/single reading		
29/01/2019	Vote in committee, 1st reading/single reading		
05/02/2019	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0064/2019</a>	Summary
11/02/2019	Debate in Parliament		
12/02/2019	Results of vote in Parliament		

12/02/2019	Decision by Parliament, 1st reading/single reading	<a href="#">T8-0068/2019</a>	Summary
08/10/2019	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
09/10/2019	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		

### Technical information

Procedure reference	2018/0211(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Regulation (EU) No 250/2014 <a href="#">2011/0454(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 325-p4; Treaty on the Functioning of the EU TFEU 033
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	CONT/8/13488

### Documentation gateway

Legislative proposal		<a href="#">COM(2018)0386</a>	30/05/2018	EC	Summary
Document attached to the procedure		SWD(2018)0294	30/05/2018	EC	
Economic and Social Committee: opinion, report		<a href="#">CES4019/2018</a>	17/10/2018	ESC	
Court of Auditors: opinion, report		<a href="#">N8-0016/2019</a> <a href="#">OJ C 010 10.01.2019, p. 0001</a>	15/11/2018	CofA	Summary
Committee opinion	<b>BUDG</b>	<a href="#">PE626.966</a>	23/11/2018	EP	
Committee draft report		<a href="#">PE630.376</a>	26/11/2018	EP	
Amendments tabled in committee		<a href="#">PE632.760</a>	20/12/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0064/2019</a>	05/02/2019	EP	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T8-0068/2019</a>	12/02/2019	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2019)354</a>	16/04/2019	EC	

### Additional information

Research document	<a href="#">Briefing</a>
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## 2018/0211(COD) - 30/05/2018 Legislative proposal

PURPOSE: to establish the EU anti-fraud programme affecting the EU budget (2021-2027).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: fraud affecting the EU's financial interests is a cross-border phenomenon affecting all EU Member States. Experience shows that the Union's financial interests are impacted by both fraud and irregularities.

The implementation of the past Union multi-annual budgets has been accompanied by a set of measures to support the Member States and the Union as a whole in preventing and fighting fraud affecting the Union's financial interests, and supporting mutual administrative assistance and cooperation in customs and agriculture matters.

These measures include:

- the [Hercule III](#) spending programme which supports activities against fraud, corruption and any other illegal activities affecting the financial interests of the Union;
- the Anti-Fraud Information System (AFIS) which is an operational activity consisting essentially in a set of customs IT applications operated under a common information system managed by the Commission;
- 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.

Although it is difficult to quantify their financial impact, these measures have contributed to bringing back large amounts of money into the EU budget. For example, Hercule funded the development of the Automated Monitoring Tool (AMT), an IT tool that identifies anomalies in trade flows and was instrumental in identifying large undervaluation fraud schemes in the import of textile and footwear from third countries in 2017.

This proposal aims at streamlining the financial support for these tools, for the duration of the next multi-annual financial framework 2021-2027.

The Commission stressed that the next multiannual financial framework shall be implemented against the background of significant changes in the legislative and institutional framework for the protection of the Union's financial interests, in particular with the establishment of the [European Public Prosecutors Office](#) and the implementation of [Directive \(EU\) 2017/1371](#) of the European Parliament and the Council on the fight against fraud to the Union's financial interests by means of criminal law.

CONTENT: the proposed Regulation - presented for a Union of 27 Member States - seeks to establish the EU anti-fraud programme. It lays down the objectives of the programme, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

The new programme is intended to replace the Hercule III programme and shall have a budget of EUR 181 million for the period 2021-2027. Its general objectives shall be to protect the financial interests of the Union and to support mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

The specific objectives of the programme shall be threefold:

- assist Member States and the European Union to prevent and combat fraud, corruption and any other illegal activities affecting the EU's financial interests, by financing activities (technical assistance and training) which otherwise might not be available at national level (EUR 114.2 million);
- support the reporting of irregularities, including fraud, with regard to the shared management and pre-accession assistance funds of the Union budget (EUR 7 million);
- provide tools for information exchange and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters (EUR 60 million).

Implementation: the proposal specifies how the programme shall be implemented through grants, including the possible beneficiaries of the grants. The latter include public authorities which are likely to contribute to the achievement of one of the objectives of the programme, from any of the following countries: a Member State or an overseas country or territory linked to it, a third country associated with the programme or a third country listed in a work programme.

The programme shall be implemented by OLAF, the European Anti-Fraud Office.

## 2018/0211(COD) - 15/11/2018 Court of Auditors: opinion, report

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Opinion No 9/2018 of the Court of Auditors on a proposal for a Regulation of the European Parliament and of the Council establishing the EU anti-fraud programme.

As a reminder, the EU Anti-Fraud Programme would combine Hercule III with the financing basis for the Anti-Fraud Information System (AFIS) and the Irregularity Management System (IMS). While these two systems would continue to be bound operationally by their respective legal instruments (Regulation (EC) No 515/97 for the former and multiple sector-specific regulations for the latter), the AFIS financing provisions would be transferred to the new programme.

The Court welcomed the Commission's initiative to streamline the budgetary management of the programme in this way. However, it considered that there is a risk of overlaps and a lack of synergies with measures to finance similar or identical actions. This calls into question the added value of the programme.

The Court also raised the following issues:

- no comprehensive and documented impact assessment was carried out for the development of the proposal. The Court noted that the Commission did not carry out an evaluation to examine the possible overlaps and synergies between the programme and other EU actions, and better evaluate its added value;

- the proposal does not specify the co-financing rate, i.e. the percentage of the EU contribution to the costs of the actions (the difference being

borne by the Member States). The Court recalled its previous recommendation to set a maximum co-financing rate of 50 % for the technical equipment component and 80 % for other actions;

- some of the general and specific objectives are neither measurable nor specific, and the performance indicators are not sufficiently clear and robust. The Court considered that this could limit the monitoring of implementation, the evaluation of results and the effective targeting of funds to actions producing added value. Nor does the proposal specify the frequency of performance reporting.

The Court recommended that the legislative bodies undertake the following as soon as possible to:

- better specify the programmes objectives and the indicators that would be used to monitor its implementation and evaluate its results;
- clarify the frequency of performance reporting, set maximum co-financing rates and state that evaluations should be carried out by an independent evaluator;
- ask the Commission to carry out an assessment to explore the programmes overlaps and synergies with other EU actions and to better evaluate its value added.

## 2018/0211(COD) - 05/02/2019 Committee report tabled for plenary, 1st reading/single reading

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The Committee on Budgetary Control adopted the report by José Ignacio SALAFRANCA SÁNCHEZ-NEYRA (EPP, ES) on the proposal for a regulation of the European Parliament and of the Council establishing the EU Anti-Fraud programme.

The proposed programme would have two general objectives: 1) to protect the financial interests of the European Union and 2) to support mutual assistance between the administrative authorities of the Member States and collaboration between these and the Commission to ensure the proper application of customs and agricultural legislation.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows:

### Budget

Members proposed that the financial envelope for the implementation of the programme for the period 2021-2027 should be set at EUR 321 314 000 at 2018 prices (EUR 362 414 000 in current prices), compared with EUR 181 207 000 in current prices proposed by the European Commission.

This envelope would be distributed as follows:

- EUR 202 512 000 at 2018 prices (EUR 228 414 000 in current prices) to prevent and combat fraud, corruption and any other illegal activity affecting the Union's financial interests;
- EUR 12 412 000 at 2018 prices (EUR 14 000 000 in current prices) to encourage the reporting of irregularities, including fraud, with regard to shared management and pre-accession aid funds from the Union budget;
- EUR 106,390,000 at 2018 prices (EUR 120,000,000,000 at current prices) to provide tools for the exchange of information and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters.

The Commission would be given the power to redistribute funds between the different objectives. In view of the need to protect the EU's financial interests, the indicative breakdown should give due consideration to the fact that the programme is the only one specifically to protect the expenditure side of the EU budget.

### Co-financing rates

The maximum rates for co-financing for grants under the Programme should not exceed 80 % of the eligible costs. In exceptional and duly justified cases, defined in the work programme, such as cases concerning Member States exposed to a high risk in relation to the financial interests of the Union, the maximum co-financing rate should be set at 90 % of eligible costs.

### Synergies

When the supported action requires the acquisition of equipment, the Commission should ensure that the funded equipment contributes to the protection of the Union's financial interests. Members stressed the need to avoid duplication and establish synergies between the programme and other relevant programmes in areas such as Justice, Customs and Home Affairs when preparing work programmes.

## 2018/0211(COD) - 12/02/2019 Text adopted by Parliament, 1st reading/single reading

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The European Parliament adopted by 529 votes to 14 with 130 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing the EU Anti-Fraud programme.

The proposed programme would have two general objectives: 1) to protect the financial interests of the European Union and 2) to support mutual assistance between the administrative authorities of the Member States and collaboration between these and the Commission to ensure the proper application of customs and agricultural legislation.

The position of the European Parliament adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

### Budget

Members proposed that the financial envelope for the implementation of the programme for the period 2021-2027 should be set at EUR 321 314 000 at 2018 prices (EUR 362 414 000 in current prices), compared with EUR 181 207 000 in current prices proposed by the European Commission.

This envelope would be distributed as follows:

- EUR 202 512 000 at 2018 prices (EUR 228 414 000 in current prices) to prevent and combat fraud, corruption and any other illegal activity affecting the Union's financial interests;
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The Commission would be given the power to redistribute funds between the different objectives. In view of the need to protect the EUs financial interests, the indicative breakdown should give due consideration to the fact that the programme is the only one specifically to protect the expenditure side of the EU budget.

#### Eligible actions

To be eligible for funding, the actions supported should include:

- provide technical knowledge and provide specialised and technically advanced equipment and effective IT tools improving transnational and multidisciplinary cooperation and cooperation with the Commission;
- intensify staff exchanges in the context of specific projects and facilitate investigations, including the establishment of investigation teams and joint cross-border operations;
- provide technical and operational support to national surveys;
- strengthen the IT capacities of all Member States and third countries;
- organise specialised training, risk analysis workshops, conferences and studies aimed at improving cooperation and coordination between the services concerned.

When the supported action requires the acquisition of equipment, the Commission should ensure that the funded equipment contributes to the protection of the Union's financial interests.

#### Co-financing rates

The maximum rates for co-financing for grants under the Programme should not exceed 80 % of the eligible costs. In exceptional and duly justified cases, defined in the work programme, such as cases concerning Member States exposed to a high risk in relation to the financial interests of the Union, the maximum co-financing rate should be set at 90 % of eligible costs.

#### Synergies

The Commission should explore possible synergies between the programme and other relevant programmes in areas such as Justice, Customs and Home Affairs, and ensure that duplication is avoided in the preparation of work programmes. The work programmes should be published on the Commission's website and forwarded to the European Parliament.