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European Union**

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	22 March 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 149 final
Subject:	Communication from the Commission to the European Parliament pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council on the adoption of a Regulation of the European Parliament and of the Council establishing the Union Anti-Fraud Programme

Delegations will find attached document COM(2021) 149 final.

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2018/0211 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a Regulation of the European Parliament and
of the Council establishing the Union Anti-Fraud Programme**

(Text with EEA relevance)

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**COMMUNICATION FROM THE COMMISSION
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position of the Council on the adoption of a Regulation of the European Parliament and of the Council establishing the Union Anti-Fraud Programme

(Text with EEA relevance)

1.   **BACKGROUND**

Date of transmission of the proposal to the European Parliament and to the Council (document COM(2018) 386 final – 2018/0211 COD):	30 May 2018
Date of the Opinion of the Economic and Social Committee:	17 October 2018
Date of the Opinion of the European Court of Auditors	15 November 2018
Date of the position of the European Parliament, first reading:	12 February 2019
Date of adoption of the position of the Council:	16 March 2021

2.   **OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION**

In the context of the preparation of the next Multiannual Financial Framework (MFF, 2021-2027), the Commission has proposed to establish an Anti-Fraud Programme. The Programme has two general objectives:

(1)   Protect the financial interests of the European Union;

(2)   Support to 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.

Deriving directly from the general objectives, the specific objectives of the Programme will be threefold:

(1) Preventing and combating fraud and any other illegal activities affecting the financial interests of the Union;

(2) Supporting the reporting of irregularities, including fraud, with regard to the shared management and pre-accession assistance funds of the Union budget;

(3) Providing tools for information exchange and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters.

The Anti-Fraud Programme will largely roll over the current Hercule III spending programme supporting activities against fraud and any other illegal activities affecting the financial interests of the Union, and combine it with the financing basis for two operational activities:

(1) The Anti-Fraud Information System (AFIS), which is an operational activity consisting of a set of customs IT applications managed by the Commission to perform the tasks entrusted to it by Regulation 515/97 on mutual administrative assistance in customs and agriculture; and,

(2) The Irregularity Management System (IMS), for the reporting by Member States of detected fraud and irregularities, and their management and analysis by the Commission.

3. **COMMENTS ON THE POSITION OF THE COUNCIL**

The position of the Council as adopted in the first reading fully reflects the agreement reached in the *trilogue* between the European Parliament, the Council, and the Commission, as concluded on 8 December 2020. The main points of this agreement include the following:

– The financial envelope for the Programme amounts to EUR 181 207 000 in current prices;

– The Programme should be established for the duration of the multiannual financial framework 2021-2027 laid down in Council Regulation (EU, Euratom) No 2020/2093;

– It provides for the adoption the work programmes through implementing acts without comitology, which strikes the right balance between the procedural requirements and the size of the Programme;

– It provides for an indicative breakdown of the financial envelope between three components of the programme and for the possibility to reallocate amounts between the three components of the Programme if necessary;

– It provides a ceiling of 2% for expenditure on technical and administrative assistance in the implementation of the programme, such as preparatory,

monitoring, control, audit and evaluation activities, including corporate information technology systems;

– It contains a non-exhaustive list of actions eligible for grants and establishes maximum co-financing rates for grants of 80% of eligible costs, which in exceptional cases can increase to maximum 90% of eligible costs;

– It provides for a delegation of powers to the Commission to develop a monitoring and evaluation framework of the Programme and to amend Annex II that contains a list of monitoring indicators;

– It introduces the requirement for the Commission to report annually on the performance of the Programme to the European Parliament and to the Council in the framework of the report on the Protection of the Union's Financial Interests. The Commission should duly take into account recommendations from the European Parliament expressed in this context;

– It introduces provisions on the retroactive application of the Programme from 1 January 2021 to allow continuity of activities funded by the Programme.

4. CONCLUSION

The Commission accepts the position taken by the Council.