How to Protect the Financial Interests of the European Union: Between European Public Prosecutor and *Corpus Juris*

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Abstract

Fraud of the European Union (EU) budget has been a perennial issue, as the budget with not insignificant amount of money fulfills some public policies such as the Common Agricultural Policy and Regional Policy across the 27 Member States of the EU. This paper makes a critical examination of the current fragmented structure, legal and organizational, to tackle the 'public scandal' and suggests that both a body of criminal law applicable uniformly across the Member States and European Public Prosecutor's Office should be achieved as a long-term objective. In the meantime, such short- and medium-term efforts to refocus the budget on competitiveness-enhancing measures should also be redoubled.

Key words: European Union (EU) budget management, Euro-fraud, OLAF (The European Fraud Prevention Office), Common Agricultural Policy, Structural Policy, *Corpus Juris* and European Public Prosecutor

I. Introduction

The European Commission (hereafter referred to as the Commission), an executive arm of the European Union (EU), has purported to represent the European interests rather than those of the Member States. Yet early 1999, such claims proved groundless after the Committee of Independent Experts entrusted to investigate

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the instances of fraud and mismanagement inside the Commission found that widespread mismanagement and cases of suspected fraud did take place in the organization.2) The case highlighted the problems and difficulties associated with managing the EU budget.

The Commission is tasked with managing the budget revenue and expenditure. It disburses the EU money both to the member states through various common policies like the Common Agricultural Policy (CAP) and Regional Policy and to other institutions. But rather than the fraud or irregularities allegedly committed by the member governments, as was often the case, the Commission itself was found out to be culpable of such wrongdoing. Hence, the report provoked a huge furore in Europe and raised the issue of budget management and protecting the financial interests of the Union once again.

In addition to the problems inside the Commission, there has been a growing concern that the EU's response to the ever-sophisticating transnational fraud against its financial interests has not been sufficient.3) Single market in the 27 Member States has provided the highly organized and mobile crime rings with many opportunities to try to take away chunks of EU money, while the actions both at the European and national level have been slow and fragmented. Internal market in the Member States where goods, services and capital and labour as well move freely without any border also led to common market for fraudsters.4)

As the most advanced form of international cooperation, the EU is in a hybrid nature. In some policy sectors such as monetary and

