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Department of International and European Studies

Master's Degree in International Public Administration

THE IMPLEMENTATION OF EU FISCAL POLICY AND THE EXTERNAL AUDIT SCHEMES OF BUDGETARY EXPENDITURE AND REVENUE IN EU AND GREECE

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ABSTRACT

This thesis apposes, illustrates and investigates the fiscal policy and the external schemes of EU's budgetary revenues and expenditures.

After a general analysis of fiscal policy in the first chapter the thesis continues with the external corrective mechanisms, like the European Court of Auditors, as well as others corrective mechanisms of European Commission. Therefore, a comparison is made in order to understand better their common aspects and their differences.

Lastly, the last chapter highlights the aspects of the Greek Audit Court and its cooperation with the ECA, giving this way the opportunity to the reader to have a global view of audit schemes not only in Europe but also in Greece.

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ABBREVIATIONS

Art: Article

SPG: Stability and Growth Pact

ECA: European Court of Auditors

OLAF: European Anti-Fraud Office

EU: European Union

GDP: Gross Domestic Product

AD: Aggregate Demand

ERM: Exchange Rate Mechanism

ECB: European Central Bank

MTO: Medium Term Objective

CAB: Cyclically Adjusted Balance

OGWG: Output Gap Working Group

EPC: Economic Policy Committee

GNI: Gross National Income

VAT: Value Added Tax

CAP: Common Agriculture Policy

EAGGF: European Agricultural Guidance and Guarantee Fund

ERDF: European Regional Development Fund

FIFG: Financial Instrument for Fisheries Guidance

ECJ: European Court of Justice

ECC: European Economic Community

EAEC-ERATOM: European Atomic Energy Community

TFEU: Treaty on the Functioning of the European Union

ECSC: European Coal and Steel Community

EC: European Community

ESF: European Social Fund

EDF: European Development Fund

EFTA: European Free Trade Association

SoA : Statement of Assurance

OJ: Official Journal of the European Communities

TOR: Traditional Own Resources

CUFAF: Coordinating Unit for the Fight Against Fraud

COCOBU: Parliament Budgetary Control Committee

CFI: Court of First Instance

EPPO: European Public Prosecutor's Office

MFFs: Multiannual Financial Frameworks

AFIS: Anti-Fraud Information System

IMS: Irregularity Management System

CJEU: Court of Justice of the European Union

CAFS: Commission Anti-fraud Strategy

FDR: Fraud Detection Rate

INTRODUCTION

Definition of fiscal policy and short historical reference

Fiscal policy is a key tool that government uses in order to influence its economy. Fiscal policy is divided into two key tools for every government. The first one is taxation which brings revenues into the government budget. Equally, the second one is government spending which presents the expenses of government's budget.

In 1960 fiscal policy was much more different than today. Apparently, nowadays fiscal policy has lost its relevance both in short term and also in long term. Analyzing the first case, fiscal policy in short terms was a tool to stabilize, in some way, the business cycle. Nonetheless, monetary policy appears to be the one that gained the lost relevance from fiscal policy. Since there is a need to elaborate more on this issue, we might explain the two major reasons for the downgrading of fiscal policy through the years. Firstly, the huge gap that left behind from public deficits and the enormous levels of public debts. Those debts were created by the increase on government and public spending, the cuts in taxation and from a strict monetary policy followed by immense and huge interest rates. Secondly, despite the predominant theory of Keynesian economic policies that was ruling in the nineteen-sixties, neoclassical theories signalized that imbalances on fiscal sector and the large amount of public revenues and expenditures would have a negative impact on short and long term.

Consequently, the rules and the institutional framework of fiscal policy in European Union follow the theoretical basis mentioned above. Fiscal imbalances have been reduced in national fiscal policies due to the rules imposed by the Maastricht Treaty and the Stability and Growth Pact (SGP) stabilize the fiscal discipline due to the fear of relaxation. With the SGP the deviations of fiscal policy have been lowered and this made to a large extent fiscal policy subordinated to the monetary one. The violations of fiscal rules led to a reformation of SGP in 2005 giving at national fiscal policies more flexibility. However, there are many criticisms for the current fiscal framework in Europe due to the lack of federal budget and due to the absence of national fiscal policies.

External audit institution of European Union and the audit control in Greece

European Court of Auditors is an audit institution and more specifically the independent external audit institution of European Union. ECA is located at Luxembourg. Its purpose is to beware of interests from European taxpayers. Also, the audit of revenues and expenditure of EU is of major priority. Various annual reports are drafted for Court of Auditors to European Commission and specify any suspected fraud, corruption or any other illegal facility. Reports are also sent to European Anti-Fraud Office (OLAF) for further investigation. Summarizing, ECA is crucial European institution whose responsibility is to check any moment EU's funds and to improve EU's financial management.

The audit control in Greece took place under the authority of Greek Court of Audit which is one of the three biggest Bodies of Greek Public Administration. Furthermore it is not only an administrative organ but also the Supreme Administrative Court with a special jurisdiction. Finally, its main responsibilities are the advice competence, the jurisdictional competence and lastly the auditing competence.

CHAPTER I

Definition of fiscal policy focusing on its managerial effect with regard to public finances

''When a business or an individual spends more than it makes, it goes bankrupt. When government does it, it sends you the bill. And when government does it for 40 years, the bill comes in two ways: higher taxes and inflation. Make no mistake about it, inflation is a tax and not by accident''

-Ronald Reagan (1993). "Actor, Ideologue, Politician: The Public Speeches of Ronald Reagan", Greenwood Publishing Group

Introduction

Fiscal policy along with the monetary policy are two of the most common, widely known and recognized tools of every nation's economic activity through the years. Fiscal policy particularly, could be characterized as a corporate term for any government activity like expenditure, borrowing and taxation. Any impact in nation's economy could be interpreted as a good interaction of government's revenue and expenditure which require good timing and surely a lot of luck.

1 Historical background of fiscal policy based on Keynes's theory

Giving a great historical example of fiscal policy evolution, we could present the Keynesian analysis dealing with the concept of aggregate demand. This fact made the comprehension of fiscal policy easier. Keynes's analysis facilitates also the understanding of how income tax system supplies the economy of any government with automatic stabilizers. The development of many economic theories by the British author during the Great Depression changed the way that fiscal policy was exercised until the early twentieth century. Most of the economists and government advisers until that time favored budget balances and budget surpluses. The revolution of demand driven macroeconomics gave in the governments the convenience along with the facility to spend more than they brought in. From now on, governments could borrow money and increase spending as a part of a targeted fiscal policy.

But what exactly is Keynesian economics; In fact, we could say that it is an economic theory of total spending in the economy and its effects on output and economy [(1)].

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1) 'Keynesian Economics', INVESTOPEDIA, <https://www.investopedia.com/terms/k/keynesianeconomics.asp >

By that theory, the stimulation of the demand is of high priority and pushes government to increase expenditures and to lower taxes. In his book "The General Theory of Employment, Interest and Money", which was written during the time of great recession, many of the economic phenomena couldn't be explained by classical economic theory.

Keynes was not keen and positive with the idea of a state of equilibrium in the economy. In contrast, he insisted a countercyclical fiscal policy where in expansion period government may increase taxes and cut spending and in economic disaster may proceed to deficit spending.

However, the "injection" may lead to an added business activity. Furthermore, the generation of more income will make consumers more eager to spend more money, resulting to a growth in the gross domestic product (GDP) which could be greater than the initial stimulus account. This multiplier effect is based in the simple concept of the increase in consumer's spending power resulting to a cycle of money all over the individuals.

In conclusion, Keynesian economics is based in the demand-side solutions during recessionary periods while an intervention of government is always crucial for the decrease of unemployment and low economic demand.

2 Mechanisms of fiscal policy

2.1 Main types of fiscal policy

When we stimulate or constrain fiscal policy, there is always a proper characterization for each occasion.

Consequently, stimulating policy is used in periods of a big slump where state's expenditures are increased, taxes are reduced while usually in a short term period business cycle is being softened. In a long term period, on the other hand, a big economic growth is stimulated.

The constraining period in fiscal policy is characterized by a reduction in expenditures of any state, an increase in taxes or a combination of those two along with other measures. While the cumulated demand on a short term period of a constraining policy is reduced, on the other hand, in a long term period productivity is affected and there is also an increase in the unemployment [(2)].

2)Nassir Salim, "The impact of Fiscal Policy on Particular Economic Sectors in Turkey and Libya'', Dissertation Thesis, Czech University of Life Sciences, Prague, 2012

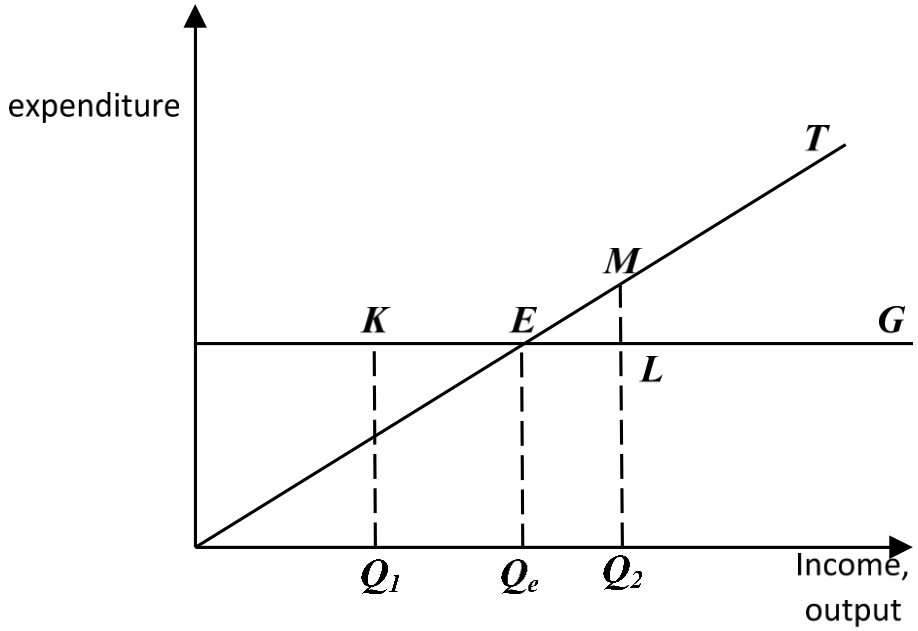
Example of budgetary deficiencies and surpluses through full employment budget

During the analysis of State's budget we could analyze the results of a sound fiscal policy. By using full employment budget in our example given below, we could investigate the impact of an economy in a state's budget and whether it may be in deficiency or in surplus.

More analytically, in figure 1 there is a budget's balance point (E) at a volume of a hypothetical release (Qe). Mark (Q_1) in our figure is the actual volume of output and the mark (Q_2) is a new potential at full employment. Marks (K) and (L) depict budgetary deficiency of Q_1 output.

However, we understand that the full employment budget has a surplus (M). The lines of state's expenditure and of taxes remain on the same place. So, there were no further stimulating measures. The conclusion is that the deficiency occurs from the slump in production.

Figure 1: Budgetary deficiencies, surpluses and the full employment budget



Source: Nassir Salim, "The impact of Fiscal Policy on Particular Economic Sectors in Turkey and Libya''

Further fiscal measures should be taken when the production of the state is below average like for example a stimulation of cumulative demand. A costly fiscal policy can affect the way that cumulate demand operates. Reduction or expansion on cumulate demand corresponds to a constraining or to a stimulating fiscal policy respectively, which implies from the factor of the increase in the surplus of the budget of the full employment.

2.2 Discretionary and automatic fiscal policy

Any adjustment on government's economic situation depends on discretionary and automatic fiscal policy.

2.2.1 Expansionary discretionary fiscal policy

In discretionary fiscal policy the government changes the taxes and the levels of government spending [(3)].The first type of discretionary policy is expansionary fiscal policy. Analyzing expansionary policy we could say in a few words that government increases expenditure and decreases taxes, resulting in jobs creation. By cutting taxes it gives a boost by putting more money into the economic cycle and giving the chance to customers to spend more. However expansionary fiscal policy may create a big budget deficit because of government's expenditures are more than its revenues.

This type of fiscal policy is usually used in a recession period [(4)]. As we said above, an increase in aggregate demand leads to a higher economic growth. Apart from that there could be a possibility of inflation because of the higher demand in the economy.

The purpose of expansionary policy is to boost growth in the economy [(5)]. Main advantages of this policy could be the lower unemployment and most important, the reinstatement of costumers and business confidence for the government because if they don't trust the government's policies the economy would lead in a depression period. On the other hand, main disadvantages are the decrease of government's revenues and the creation of a budget deficit. This unnecessary policy is principally used in election periods from politicians in order to get more votes.

2.2.2 Contractionary discretionary fiscal policy

Contractionary fiscal policy is when the government raises taxes and cuts expenditure. With this kind of economic growth slows. Opportunities for job growth are reduced due expenditures' reduction meaning in less money for the employees. [(6)]

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3) Tejvan Pettinger, "Discretionary Fiscal Policy'', Economics Help, <https://www.economicshelp.org/blog/1131/economics/expansionary-discrectionary-fiscal-policy> , January 13, 2018

4) Prateek Agarwal, "Discretionary Fiscal Policy'', Intelligent Economist, <https://www.intelligenteconomist.com/discretionary-fiscal-policy> , June 6, 2018

5) Kimberly Amadeo, "Expansionary Fiscal Policy'' , The Balance, <https://www.thebalance.com/expansionary-fiscal-policy-purpose-examples-how-it-works-3305792 >, February 22, 2018

6) Kimberly Amadeo, "Contractionary Fiscal Policy'', The Balance, <https://www.thebalance.com/contractionary-fiscal-policy-definition-purpose-examples-3305791>, March 31, 2018

When fiscal policy is contractionary, revenues are higher than expenditures and an example for this is when government's budget is in a surplus.

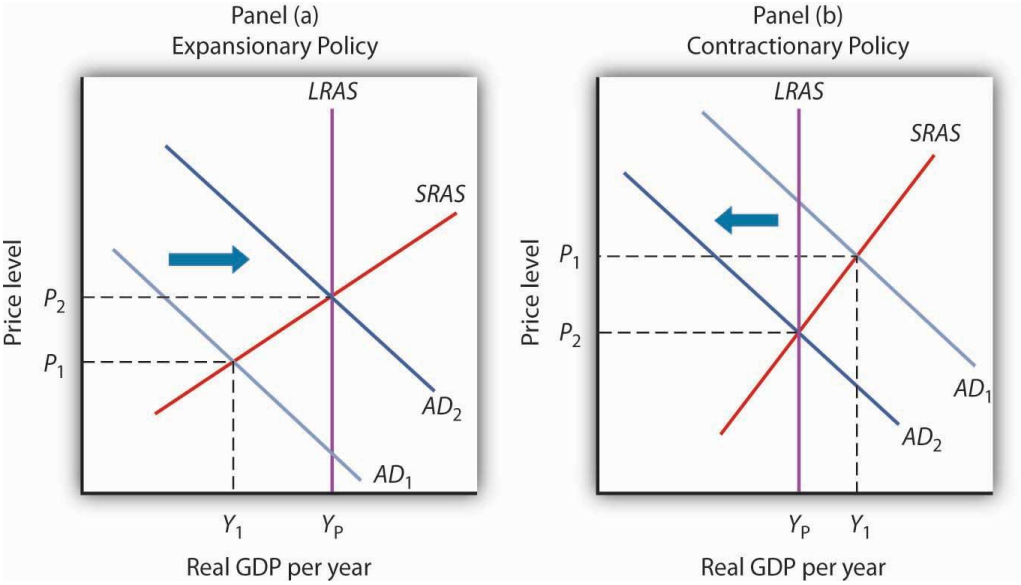
The purpose of contractionary policy is to slow growth and to maintain its rate between 2 or 3 percent a year because inflation could be created if the economy grows more than 3 percent, or additionally an increase in prices of investments, or fluctuation with asset bubbles from unsustainable high growth that might lead to a recession and finally a decrease of unemployment below the natural level of unemployment leading to a smaller growth from the production side due to demand for employees.

Example of expansionary and contractionary fiscal policies to shift aggregate demand

The figure illustrates the use of fiscal policy to shift aggregate demand regarding recessionary and inflationary gap.

In the first panel, mark (Y_1) shows the GDP produced by economy. However it is below its potential level of (Y_p). Expansionary policy shifts aggregate demand to AD_2 trying to close the gap. On the other hand, in the second panel economy has an inflationary gap at Y_1. The reduction of aggregate demand to AD_2 is produced by contractionary policy and closes the gap. However, effects of fiscal policy on the economy don't affect interest rates or exchange rates [(7)].

Figure 2: Expansionary and constractionary fiscal policy to shift aggregate demand



Source: https://courses.lumenlearning.com/macroeconomics/chapter/tax-changes/

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7) University of Minnesota Libraries Publishing, "Principles of Macroeconomic'', Chapter 12.2, <http://open.lib.umn.edu/macroeconomics/chapter/12-2-the-use-of-fiscal-policy-to-stabilize-the-economy/#rittenmacro-ch12_s02_s02_f01>, 2011

2.2.3 Automatic fiscal policy

The second kind of fiscal policy, which is non discretionary, is the automatic fiscal policy.

The alteration on economic conditions changes automatically government's taxes and expenditures, which decreases inflation and unemployment. Simultaneously there is no need for any intentional action. This kind of policy is very important because it stimulates aggregate spending during a recession and reduces aggregate spending during an expansion. However, there are two main types of automatic stabilizers. The first one is transfer payments like unemployment compensation and the second one is personal tax receipt (income).

Being more specific, during a recession people lose their jobs and those individuals are benefited by unemployment advantages. Secondly, the income taxation which is progressive tends to fluctuate in different rates while at the same time many of the unemployed people pay less tax for their income or they are given a tax refund. Thus, the quick response deters a possible fall by providing additional money to households for spending.

On the other hand, while an economy expands, automatic stabilizers remove expenditures from the economy to reduce demand inflationary pressures. As a result, while many individuals are employed, government uses their high incomes as an additional tax support. In other words, as the economy grows up, leading to full employment, automatic stabilizers decrease a possible inflation [(8)].

The significance of stabilizers is summed up for their softening of the impact of a possible contraction or expansion. The way that stabilizers ''penetrate'' into the economic cycle and their usefulness along with their results makes them a credible way to combat an economic imbalance. However, in an appearance of an inflation or recession threat stabilizers can't face them without any deliberate action of the government.

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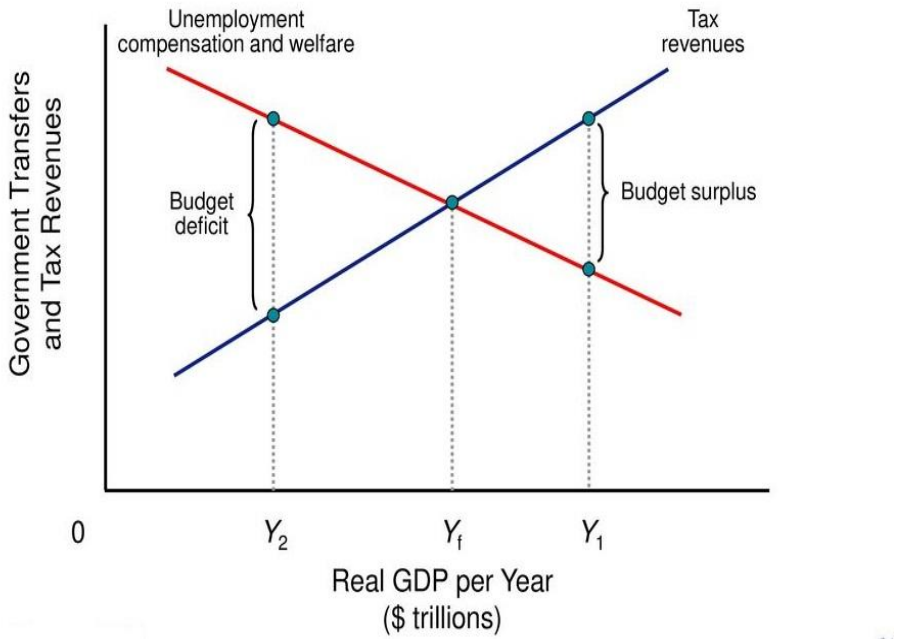
8) Sanket Suman, "Difference between Discretionary and Automatic Fiscal Policy'', Economics Discussion,< http://www.economicsdiscussion.net/fiscal-policy/difference-between-discretionary-and-automatic-fiscal-policy/12823>

Example and figure of automatic fiscal stabilizers

According to statements written above, we assume that there is not always need for deliberate action of government.

Figure 3: Automatic stabilizers



Source: https://slideplayer.com/slide/12862689/

In fact, when output tends to increase, tax revenues are about to increase because incomes of households along with firm revenues increase. Now it is quite logic that households move up to higher tax supports and thus they pay higher rates. Correspondingly, the dependence of households right on government's support decreases and so as government's expenditure, creating this way a budget surplus after a long effort to slow down an overheated economy.(Y_1).

Conversely, when output falls, firstly tax revenues fall automatically. Also, at lower incomes levels many households pay a lower tax rate than before. When aggregate demand decreases there is also an additional decrease in revenues and incomes. Secondly, government's expenditures increases automatically because more and more households receive an extra government welfare payment and also more workers receive government unemployment benefits (Y_2). As a result, the gap between taxes revenues and unemployment compensation creates a budget deficit.

Finally, to put it another way, many of the automatic changes tend to drive the economy towards its full employment output level (Y_f).

CHAPTER II

Fiscal policy in the preparation of EU budget and the examination of its revenues and expenditures

Introduction

Fiscal rules in EU have been in place for many years. In order to reach the present fiscal situation which governs this supranational organization it is necessary to mention that during the years there were a couple of efforts in order to reach in a stable and permanent framework. As for the European budget, it is notable that there should be many alterations regarding the size and the future outlooks if EU wants to evolve into a completed political entity like the governance of a federation in the USA.

1 Short historical reference about EU and Treaties that reformed fiscal policy in Europe

European Union is a supranational organization comprising by 28 member-states that are located in Europe. There is a common economic, social and security policy among all of its members. The ultimate aim of EU is to provide to its citizens a variety of goods and services which are for example the free movement of European people, the opportunity of choice through a wide range of products from an integrated and internal market. The integration of common economic policies, like fiscal and monetary policies, is a major goal in EU. On the other hand, policies aiming to the development of trade, agriculture or even regional growth and prosperity, could be promoted in order to serve and accomplish the higher standards of European integration.

In 1992 the European Community was renamed as the European Union (EU). The agreement was signed in the city of Maastricht (also known as the Treaty of Maastricht) on 7 February 1992 and created the European Union. Also, with this Treaty euro banknotes and coins of European countries replaced all national currencies of the twelve member states in that period. Nowadays Euro is the common currency in 19 of 28 member states.

Stability and Growth Pact is a rule-based coordination of national fiscal policies and its main purposes were to create sound fiscal finances. Also the SGP consists of a preventing and a deterring arm. The SGP enacted in 1997 and established rules that all member countries must maintain a standard rate on annual budget deficit and on national dept.

2 The present fiscal framework in EU

2.1 The Maastricht Treaty

The issue of a sound fiscal policy has been examined through many Treaties that EU has signed. Thus, the Maastricht Treaty in 1992 imposed several limits on the member-states joining the euro area. More specifically, it foresaw that many fiscal policies would remain in the administration of national governments, although limited by compulsory rules [(9)].

Five convergence criteria of the Treaty were particularly, firstly the prohibition of inflation rates to be more than 1.5 percentage points higher than the average of the three best performing members of EU. Also, the exchange rates stability with the participation in exchange rate mechanism (ERM II) for at least two years without severe tensions. Thirdly, long term interest rates should not be more than 2% above the rate of the three best performing members in terms of price stability.

Two more criteria about government finance, restrictions to be imposed regarding public deficit to no more than 3% of GDP and also the public debt should not exceed 60% of GDP. Furthermore, it foresaw the prohibition of monetary financing regarding public deficits as long as a constitution of an additionally clause of national responsibility for any public dept. This was called as "no bail-out" [(10)].

However, regarding excessive government borrowing, the concern of liberalization of international markets might lead the governments to borrow money in order to finance fiscal deficits through foreign borrowing. It is worth of mention that this kind of recommendation was not explicitly referred among the convergence criteria. Although, an indirect reference in the Treaty was made suggesting implicitly that members with excessive deficits may be restricted to borrow from abroad [(11)].

Identically, there was a need for a solution to retain a policy instrument with an international identity which will supervise the procedure from the creation and maintenance of excessive public deficits through limitative rules and at the same time to promote coherence among national fiscal policies and monetary policy through coordination mechanisms.

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9) Michael Bergman, Michael M. Hutchison, Svend E. Hougaard Jensen, "Do sound public finances require fiscal rules or is market pressure enough?", European Commission, Economic Paper 489, April 2013

10) Jesus Ferreiro, Guiseppe Fontana, Felipe Serrano, "Fiscal policy in the European Union" , Palgrave Mackmillan, 2008

11) B .Eichengreen, J. Frieden, J von Hagen, "Monetary and Fiscal Policy in an Integrated Europe", Chapter 6, pages 118-119, Springer Publications

2.2 The Stability and Growth Pact (SPG)

Limits of fiscal policy became permanent with SGP in order to ensure the maintenance of fiscal discipline, mainly with two kinds of mechanisms. The first one which was the preventive, secured budgetary balance as a medium-term goal and allowed automatic stabilizers to handle any crucial economic situation with a small interference when a less favorable economic policy occurs. Corrective mechanisms established a stable framework of operation regarding excessive deficit process, defining that way the specific sanctions that are imposed in any case and exemplifying at the same time any situation of exception.

Nevertheless, criticism on SGP was unavoidable and many European officials proposed numerous suggestions for bigger flexibility in rules and a realization of future aims. Main reasons were that during a case of economic crisis there could be a possibility for governments to use counterproductive fiscal policies, the continued periods of economic inactivity for member states and finally the time period for this inactivity situation was too short.

However, all those worries led to a reform of SGP in 2005 which include the following features. At first, the deadline for the correction of public deficits was extended. Secondly, continued situations of low effective product growth should be assumed as exceptions and could be banned with sanctions. Finally, additionally the contribution of many pertinent factors may lead to a smoothing of lower public deficit situations [(12)].

Notwithstanding those changes gave huge field of choices for governments, making that way the Pact more flexible, but on the other hand it became less enforceable due to the involvement of various pertinent factors that were referred before [(13)].

In sum, the reformed SGP made also more difficult the security of fiscal discipline. Obviously, the lack of infliction has remained. Apparently, during the period of crisis in EU there was not a crisis mechanism for the strengthening of EU enforcement. Thus, there are not any incentives for member-states to create budget surpluses during prosperous and boom periods in order to use them in difficult periods by reducing government dept and leaving room for expansionary fiscal policy.

Analyzing with a small criticism the SGP we could say that it has both pros and cons. At first, regarding the benefits a risky government's fiscal policy may become insolvent and that gives one option of a "bail out" from the European Central Bank (ECB) [(14)].

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12) Kopits George, Symansky A. Steven, "Fiscal Policy Rules", IMF , Occasional Paper 162, 1998
13) Rui Henrique Alves, Oscar Afonso, "The New Stability and Growth Pact: More Flexible, Less Stupid?", Intereconomics, Volume 42, Issue 4, pages 218-225, 2007
14) Tilman Bruck, Rudolf Zwiener, "Fiscal policy for stabilization and growth: A simulation analysis of deficit and expenditure targets in a Monetary Union", German Institute for Economic Research, January 2004

Although, Monetary Union does not assume a bail out, the SGP internalize the externalities with a fiscal policy which was almost decentralized. When we borrow money and simultaneously have deficits in a Monetary Union we raise interest rates. Thus, an additional impact in one country has also a negative impact in another.

On the contrary, many disadvantages occur and more specifically it does not refer on how governments should behave in a surplus period, as we mention above, and does not allow exemptions from the 3% if the dept is below 60% of GDP. Nevertheless, sanctions from the Commission are not automatic and predictable.

3 The use of fiscal policy in the preparation of EU budget

As we all know, the budget of EU is the only instrument for the implementation of fiscal policy in EU. Bearing in mind that EU is a complex economic and political organization, we could say that only a small number of functions which have something in common are financed.

Budgetary revenues and expenditures come from fiscal policy due to its impact on aggregate demand. The intervention of fiscal policy on aggregate demand could be achieved with firstly: automatic stabilizers, secondly with discretionary fiscal policy or finally with the establishment of new rules [(15)].

3.1 Dimensions of fiscal framework

Moreover, the European framework could be summarized along three dimensions: the long-term, the medium-term and the short-term perspective.

Long term perspective

The aim of long term perspective is to protect the sustainability of public finances and for that European framework uses an indicator showing the budgetary efforts that are needed in order to stabilize the GDP-ratio dept.

In the example below we could see that the European indicator in comparison with a Dutch national indicator does not improve the sustainability through the years having at last a negative mark of -4,5% in 2016.

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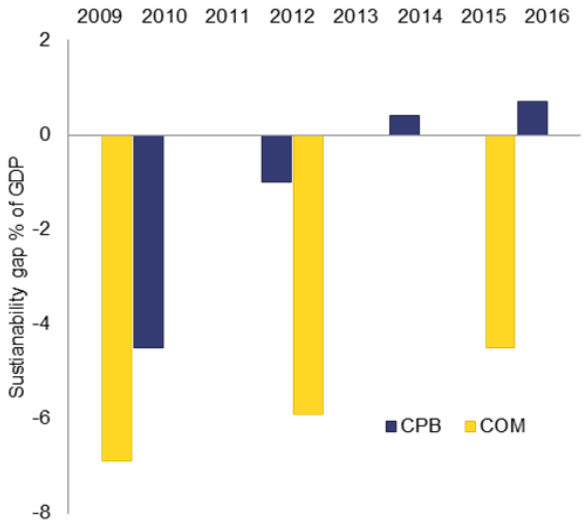
15) Jurković, P., " Fiskalna politika u ekonomskoj teoriji i praksi", Zagreb, 1989

Fiscal sustainability report is based on a no-policy-change assumption and requires a higher level of detail and credibility to be included.

Figure 4: Comparison of sustainability indicators



Source: European Commission

However, there are some differences between the two indicators. EU methodology indicates a constant share of indirect tax revenues for the GDP [(16)].

Medium-term perspective

Medium term objective (MTO) is an integral part of preventive arm because it illustrates the country's budgetary objective defined as a target value for structural balance. There are three reasons of medium-term objectives. The first one is that it represents a safety scope for the 3% of threshold responsible for deficits. Secondly it secures fiscal sustainability by stabilizing dept to 60% of GDP. Thirdly, MTO allows budgetary manoeuvre for all public investments.

16) Hauke Vierke, Maarten Masselink, "The Dutch budgetary framework and the European fiscal rules", European Commission , Economic Brief 027, May, 2017

Short-term perspective

The short-term perspective is related with the annual budgetary aims. Regarding European framework, every fiscal rule is examined annually by the Commission. Member-states that have not adjusted their MTO should make reforms in order to reach it and at the same time to maintain their budgetary position by letting the automatic stabilization to work independently. The evaluation of the short-term budgetary position is recognized mainly by two indicators. The first on is the structural balance pillar which measures the distance of the structural balance from MTO and the convergence towards it and the second one is the expenditure benchmark which points a reference ratio for public expenditure growth based on the economy's potential growth rate.

3.2 Cyclically Adjusted Balance in the EU fiscal framework

Cyclically adjusted framework was pioneer in the fiscal surveillance of EU framework. Along with the revised SGP of 2005 the balance adjusted for cyclical effect became an indicator for state's medium–term fiscal objective (MTO) under the preventive arm and the assessment of effective actions in a case of fiscal deficit procedure like the corrective arm. The preventive arm secures sound fiscal policies leading to sound public finances in a short or long term period by requiring member-states to ensure a specific MTO for their budgetary positions. On the other hand for countries that do not reach MTO, an appropriate adjustment in their MTO with a rate of 0,5% of GDP improvement every year is very important. By setting these rules the preventive arm secures finally the sound fiscal medium-term sustainability, allowing at the same time free operation of automatic stabilizers. On the other hand, corrective arm for member-states with excessive deficits to have a minimum annual improvement of 0,5% of GDP as a benchmark in structural terms [(17)].

Moreover, CAB elucidates important fiscal aspects and makes easier the decomposition of fiscal positions in the automatic fiscal response of the budge to changes. Apart from that, CAB is useful for the evaluation of fiscal sustainability issues. One characteristic of major importance is the avoidance of mistakes during the assessment of the potential output during crises.

As mentioned before, after the reform of SGP, CAB has been strengthened with the Six –Pack of December 2011 which strengthens requirements on SGP by specifying when mistakes regarding cyclically adjusted balance are significant and if members would not comply with these rules the last step is the settlement of sanctions.

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17) Martin Larch, Alessandro Turrini, "The cyclically adjusted budget balance in the EU policy making", Economic Paper 374, European Commission, March, 2009

Also, with the so-called fiscal compact of March 2012, member-states argued to establish rules like that of preventive arm to measure their deficits. So, when a deviation or a leeway of CAB from the MTO will occur, the national correction mechanisms will be set in force.

A CAB approach of ''top-down'' is a discretionary fiscal policy for non-structural elements. An annual change in the CAB could be interpreted as a discretionary fiscal policy. ''Bottom-up '' approach is the opposite and it considers the sum of the budgetary impact of discretionary budgetary measures.

The methodology of CAB in European framework has been meliorated by the Commission and its amendments has been reviewed by the Output Gap Working Group (OGWG) and confirmed by the Economic Policy Committee (EPC) [18] .

4 Types and size of revenue in EU budget

The budget of EU has its own resources. The maximum amount to which member-states can contribute is up to 1.27% of Gross National Income (GNI) of EU. The revenues of the budget are divided into these categories:

1) Custom duties which are duties that are collected according to Common Custom Tariff on the import of a variety of products outside of the EU
2)Agricultural duties which are the duties from the import of farm products
3) Revenues from VAT according to a specific rate on a standard tax base which is established according to EU rules. In 1999 this base was not allowed to exceed 50% of the GNI.
4) Revenue as a percentage of GNI of EU's Member-States. The calculation of this revenue become with a specific procedure that a rate is formulated to the difference between GNI and the VAT base.
5) Other sources like income taxes, fees, fines and interests from EU's personnel and from EU's institutions.

18) Gilles Mourre, George Marian Isbasoiu, Dareo Paterrnoster, Matteo Salto , "The cyclically adjusted budget balance: an update", Economic Paper 478, European Commission, March, 2013

Example of EU's Budgetary Revenues

Table 1: EU Budgetary Revenue (in % of total revenue)

	2002	2003	2004
Import duties	10.7	11.0	10.2
Agricultural duties	1.5	1.5	1.2
Collection costs	-2.1	–	–
Revenue accruing from VAT	23.6	24.7	14.4
Revenue accruing from GNI	48.7	60.9	73.4
Other duties	17.6	1.9	0.8
Total revenue (billion euros)	95.7	97.5	99.7
Total revenue [resources] (% of GDP of EU 15)[a]	1.04	1.05	1.03

Source: European Commission (2003; 2004b)

As we can see, EU's revenues in table 1 in the last few years occur mostly by VAT and GNI which account both more than 80% of total revenues. Apparently, a fall in VAT is quite logical because of the reduction of the single rate in the harmonized tax base of EU member-states while at the same time the opposite occurs for GNI's revenues. However, in this table it is illustrated the ratio of EU's budgetary revenues and the GDP of member-states in that time period which is only 1% and indicated a very small scale of EU budget compared with the GDP of EU.

Despite EU's own revenues sources, the base of revenues is different from the base of the classic budgets of nation states. EU's revenues derive from tax revenues of the national budgets of member-states controlled by national governments. Additionally, budget of EU has not classic tax base like VAT for example, income tax or profit tax. Also, regarding EU's revenues, central budget gathers most of the tax revenues and provide an assist in the lower levels of government through various transfers. On the opposite side, member-states have their own tax revenues from where EU's revenues come from. So, we conclude that EU's budget does not participate in any redistribution or allocation of resources mainly due to its size.

5 Types and size of expenditure in EU budget

Financial Perspective is an instrument with which EU forms and shapes the budgetary discipline with the creation of a standard base analyzing any available revenues. Respectively, EU's budgetary expenditures are designed over the medium term as part of the system of Financial Perspective.

As for the Financial Perspective system, it was established through to an inter-institutional agreement between the European Council, the Commission and the Parliament. This system was created because of budgetary crises in 80's century. Two were the most significant reasons for the creation of this peculiar system. The first one was the disproportion of revenues and expenditures while the second one was the advanced and significant role of European Parliament in decision making of the EU. Nevertheless, frictions and conflicts were created between European Council and European Parliament with a negative aspect in the formation and adaption of the budget leading to the creation of a delay.

After the small historical reference, resources of EU's budgetary expenditure are redistributed for the development and the implementation of common policies of EU where specific areas of EU are financed. Consequently, EU's budgetary expenditures are divided into seven categories.

1) In the agriculture group there exist expenditures for the CAP (Common Agriculture Policy) and more specifically expenditures of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF). A major part of CAP is used to provide standard prices for the farm products of domestic producers.
2) The second category is structural operations. Expenditures for structural policy cover the domain of regional and social policy. The majority of these recourses are distributed to the Structural Funds like the European Regional Development Fund (ERDF), to the EAGGF's Social Fund like the ESF and lastly to the Financial Instrument for Fisheries Guidance (FIFG). As for the size of structural operations' expenditures, the referred ones are the biggest in EU budget after agricultural expenditures.
3) Internal policy is the third category of budgetary expenditures and they are divided into five sets which are for example expenditures for transport, education, culture, employment, nuclear protection, media, energy policy, activities related to internal market, research, justice and security.
4) Foreign activities is also a category and it conclude activities related with expenses for assistance to countries outside of the EU, except those categorized into expenditures for the enlargement of the EU and the ERDF. Such examples are food aid costs, charitable aid and programs related with the collaboration of Balkan countries, former USSR, Mediterranean countries and others in the whole world.
5) Administrative costs are related with the costs of European Union institutions and establishments while the Commission has the biggest percentage of those costs with 60% followed by the Parliament with 20%, the Council, the Court of Justice and lastly the Court of Auditors.

6) The next category is the reserves where there are three kinds of these. The first one is monetary reserves, the second one is reserves for emergency aid and the last one is guarantee reserves. In a case of an unpredictable condition where an additional expenditure will be needed for the execution of the budget those funds will be used.
7) The last group of EU budgetary expenditure is the assistance to future members regarding mainly foreign activities but due to its significance and the amounts of the costs it is regulated apart. This group is about the finance of future EU members which are divided into two groups. The first group is the countries of Central and Eastern Europe and the second one is the Mediterranean countries. The assistance is allocated through three programs , the SAPARD for agriculture, the PHARE for the aid to the countries of CEE and ISPA through which infrastructure projects in transport and environmental protection are financed.

Example of EU's Budgetary Expenditures

Table 2: EU budget expenditure (in % of total expenditure)

	2002	2003	2004
Agriculture – CAP	46.3	46.4	42.7
Structural operations	33.4	33.3	35.6
Home affairs	6.5	6.7	7.6
Foreign affairs	4.8	4.9	4.4
Administration	5.0	5.1	5.2
Reserves	0.7	0.4	0.4
Aid to future members	3.3	3.3	3.0
Total expenditure (billion euros)	100.6	102.1	115.4
Total expenditure (as % of GDP of EU 15)[a]	1.09	1.1	1.18

Author's calculation, Source: According to the European Commission (2004b)

As we can see, during the last few years the ratio of expenditures for the CAP and structural operations in EU budget has changed with the last to be benefited more than the first. The reason is simple and it is to create an efficient economic environment beyond the borders of EU opposing the creation of competitiveness by custom duties and quotas.

Apparently budgetary expenditures are quite restricted in a small specter compared to other nation-states. Two big groups of expenditure are the common agricultural policy and the structural policy. Sectors like insurance, health care, education and defence have a descent analogy in national budgets but these sectors contribute to the service of national or public debts. In EU budget there is no contribution to the dept creating this way a different allocation of budget resources [(19)].

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19) Hrvoje Šimovic, "The European Union Budget", Review article UDC 336.12(4-67 EU) JEL H72, March, 2005

CHAPTER III

The European Court of Auditors as the EU's independent external audit body

'' Two-thirds of the Earth's surface is covered with water. The other third is covered with auditors from headquarters.''

- Norman Ralph Augustine

Introduction

In an international organization like European Union there is a necessity of an audit institution like ECA. Due to the high responsibility of financial transactions and money collection of the organs of European Commission, an audit body seems to be the appropriate solution for the regulation of such things. Charged with the responsibility of supervision and auditing, ECA ensures the transparency and the sound management of public resources along with the supervision of the interests of EU's taxpayers.

1 Historical background of European Court of Auditors

The audit control in the EU during the first years was implemented by each Community. The benchmark for the evolution of audit control was the Merger Treaty on 8 April 1965 which in fact replaced any previous audit body and established the Audit Board of the European Communities. Correspondingly, the overall budget of the European Economic Community and from the European Atomic Energy Community was managed by an Audit Board. However, after the join of at least three or four European powerful nations in the sector of independent public administration auditing, the need for an establishment of a common European audit system was more than imperative. After collaboration and long-term negotiations between the three bigger organs of EU (Parliament, Commission, Council), the signing of the Second Budget Treaty on July 22 1975 in Brussels established officially a European Court of Auditors.

The enlargement of the amounts in the transactions between funds in the European Community made a mandatory necessity the upgrade to a stronger and more independent body. On 1993 the Treaty on European Union made the ECA an institution just like the already existed Parliament, Council, Commission and the Court of Justice. Also this Treaty required in some way the ECA to provide the Parliament and the Council with Statements of Assurance on a regular basis regarding the liability of European transactions.

Further legal competences were aggregated to ECA after the signing of Amsterdam Treaty on October 2 1997 altering many provisions such as like the range of the audit competences including any pertinent European institution, natural liable legal person to European interests with regard to revenues and expenditures in all of the EU's premises across European community.

Lastly, according to Nice Treaty on February 1 2003, few more alterations were added apropos the establishment of internal chambers for better management inside the ECA and also the amelioration of relationships and cooperation between ECA and national audit bodies.

The exact location of ECA is in Luxembourg.

2 The institutional position of ECA and its legal basis

At first ECA was not deemed as a European institution. In fact, the ECJ clarified its opinion by mentioning that ECA was an institution that appertained to the whole European Community with regard to Staff Regulations.

However, Treaty on EU with article 13 recognized ECA as a EU's institution. Correspondingly, articles 285-287 of the Treaty on the Functioning of the European Union (TFEU). More specifically, under article 285 ECA should be the responsible institution for the audit in EU and moreover it should consists of one national of each member state. Article 286 refers to the terms of appointment and the terms of the office of member of the ECA and lastly article 287 regulates the annual report that have to be presented by the end of each financial year along with other special reports and opinions [(20)].

The Court did not have legal power until the Maastricht Treaty when became the fifth institution. However, after been benefited with further authority, since the ECA could only supervised the first pillar such as the European Community pillar which is related with social, environmental and economic policies, the Treaty of Amsterdam came to transmit full audit power to the ECA concerning the whole EU structure.

It is also worth notable that Maastricht Treaty solved any kind of vagueness irrevocably regarding the institutional status. After Maastricht Treaty, the treaty of Amsterdam altered article 5 of the EU Treaty leading officially to the ECA's entry to the institutions of EU.

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20) Eric Davies, "Information Guide on the European Court of Auditors", European Sources Online, November 2013

3 Administrative and operational organization of ECA

3.1 Members of ECA

The operation of ECA is as a collegial body of 28 members which is one for each State. All the audit reports and the opinions are adopted in some way by this body concerning all the decisions for the ECA's organization and administration.

Indeed, all relevant provisions about membership are included in the article 247. However, no provision in the Treaty is referred into the nationality of each member in the ECA. The time period for the designation of members is a six-year term.

Furthermore, the democratic character of the European Union seems to have a tension of increase due to the Parliament's involvement in the designation of officials in European bodies. However, if the Parliament deems that one candidate does not have the appropriate qualifications and assets ,then after a thorough examination, it may express its disapproval because the candidate might not be suitable for this job. The whole procedure of a candidate's appointment, with the consultation of Parliament's opinion, indicates the solidity and the durability of the European structure.

One more crucial factor along with other ethical guidelines in the membership of the Court is the impartiality of each one of the members. By using the term impartiality we infer that any of the ECA members shall refrain from any kind of action that could be detrimental for decision-taking. More specifically, according to the ethical guidelines for the ECA which is a seven pages index written by the ECA in 2011, a specific regulation about the appropriate behavior is registered. Articles 3.6 until 3.9 reveal these regulations [(21)]. There are plenty of those articles regulating trust, credibility, integrity as well as independence and objectivity of the ECA members.

Finally, we could add that only the ECA has the competence to determine whether a member is absolutely in accordance with the Treaty's conditions and ECJ could help that way by removing and depriving of their rights any of those members. The last one where only the ECA could ask for their removal indicates its independence. Lastly, the termination of a member's duties could occurs either by his demise, either by replacement either by his resignation.

The President of ECA is elected for a renewable term of three years by the Members and ensures the sound financial operation and implementation of the institution. The current President of ECA is the German Member Klaus-Heiner Lehne.

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21) "Ethical guidelines for the European Court of Auditors", Adopted by the European Court of Auditors, 20 October 2011

3.2 Personnel of ECA

Contrary to the appointment of the members, for the personnel there is no exactly provision. The last one means that when it comes to the personnel the ECA has the absolute responsibility about their appointment.

Firstly, because of the ignorance about ECA's functioning needs the new institution was recruited by the personnel of the Audit Board and the ECSC Auditor. However, there is a division of the staff into two categories which are 1) the auditors and 2) the administrative personnel. The second category, the administrative personnel, is also divided into those dealing with administrative services in general, like personnel and budget for example, those dealing with translation and interpretation of ECA's documents and those dealing with general services like library and professional training. Also, personnel are at the disposal of members of ECA in their cabinets mainly as helping staff.

The selection of auditors comes after intense survey regarding their qualifications while they are selected by a wide majority of professional backgrounds like audit, finance and law. Nonetheless, the complex audit system of each State demands high quality audit personnel with various assets in their professional career like being bilingual for example.

High professional standards, independence from external interventions, comprehension of the already existing system of internal audit in the organization under audit along with the high responsibility to perform the duties as an ECA personnel by preparing reports and performing audits are mainly some of the criteria for an auditor (including ECA auditors).

Due to the heterogeneity because of the origin of candidates from all Member-States, ECA has established a Training and Working Methods Service in order to supply its staff with the appropriate guidelines and train them with various programs [(22)].

3.3 Organization

The organization of ECA is regulated by EC Treaty where first of all a President is elected among their members for a three years term, given also the opportunity for his re-election.

However, ECA acts as a corporate body which according to the article 248 of the EC Treaty is clearly stated that any of the decisions in the Court shall be taken by a majority of its members. This kind of cooperation has been achieved and made the conduct between members much easier by sharing the competences and the responsibilities among them. Working that way, it makes the ECA's members to have fewer conflicts and also to facilitate the general function of the Court for the preparation and implementation of Court's decisions in particular areas.

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22) Skiadas Dimitrios, "European court of auditors: the financial conscience of the European Union", Durham Theses, University of Durham, 1998

As we proceed to the analysis of the tasks we could mention that they are divided into vertically and horizontal tasks. Vertical tasks deal with audit operations and investigation activities of the ECA while on the other hand horizontal tasks deal with the internal activities of the Court like the working schedule, the intersectional coordination and the administration of the ECA's personnel.

Apart from the tasks, ECA is also divided into five audit groups. More specifically, each of these groups is comprised by three or five members. Only one member is the responsible head (chief) for his group and commands his group in order to gain the appropriate audit results by the end of each year.

Table 3 : Five groups of ECA

Audit group 1	EAGGF (European Agricultural Guidance and Guarantee Fund)
Audit group 2	ERDF (European Regional Development Fund), ESF (European Social Fund), Cohesion Fund, ECSC, Tourism, Assistance to Central and Eastern Europe, Energy
Audit group 3	European Development Funds, Administrative expenses, Own resources, Cooperation with non-European countries
Audit Developments and Reports group	Annual report, Training and computer audit support, Coordination, Working methods and Audit manual
Statement of assurance group	Statement of assurance and the relevant supporting accounting work

Source: The European Court of Auditors, Skiadas Dimitrios

A small analysis of the table illustrates that the first group deals with the European Agricultural Guidance and Guarantee Fund (EAGGF).The second deals with the European Regional Development Fund (ERDF), the European Social Fund (ESF), Cohesion Fund etc. Group 3 is responsible for European Development Funds, own resources and administrative

expenses while the Audit Developments and Reports group deals with annual reports and the coordination. Lastly, the Statement of assurance group helps the supporting accounting work.

The rest of the members are entitled and delegated, along with the staff of ECA, to accomplish the tasks assigned to them and when they do so they present their results in front of the other members.

In conclusion, the place of ECA as the Court's Seat was temporary placed in Luxembourg. Nevertheless, the European Council approved the current location of ECA with a specific decision on the seats of the existing institutions. In that event, criticisms were showed up because of the 200km distance between the rest of the Europeans institutions and the ECA. Nonetheless, the creation of "liaison" officers due to the implementation of Communities' policies by the national authorities was imperative. The new officers were located into the national audit institutions and improved the implementation of EU policies.

4 Scope and extent of ECA's competences

The competences of the Court are regulated by the EC Treaty and more specifically on article 246 where is stated that ECA should be the pertinent body for the audit. One more article which is 188a and states more specifically that ECA's primary task is to examine all revenues and expenditures from Community's accounts.

However, one difference that needs to be cleared is the kind of audit from the Audit Board and from the ECA. Regarding the first one, it can only examine revenues and expenditures shown in the budget while on the other hand ECA has no limits in its audit even when controlling revenues and expenditures from outside of the general budget.

Among its competences the examination of European's Development Fund (EDF) and European's Coal and Steel Community (ECSC) by preparing an annual report controlling and auditing that way all kind of their transactions. Furthermore, the EC Treaty obliges the extensive audit of member states of European's Free Trade Association (EFTA) transactions. A series of organizations are being examined by ECA, like the Decentralized Community Bodies, the Euratom Supply Agency etc.

On the contrary, all those resources which are managed by national authorities on behalf of the European Commission are appertained to the ECA's audit. Regardless how unacceptable and difficult is for national authorities to be under the examination of ECA, they often make political compromises and favors in order to be reelected and support their political decisions. It is obvious that when ECA examines their economic data and accounts, many irregularities and inaccuracies to be found.

5 Products, annual report and opinions of ECA

5.1 Statement of Assurance

With regard to the legality of EU's transactions the ECA supply annually the European Parliament and the European Council with a Statement of Assurance (SoA). Only on accordance with the mandate there is an examination on whether EU budget is in compliance with the applicable rules [23].

In practice, European financial regulations and national rules and legislations are considered. Against overall opinion specific assessments regarding selected areas of EU budget including cohesion policies are provided. It is obvious that all this kind of work and audit demands plenty of time in order to be completed because the Court has to conduct an examination of expenditures until the last recipient of EU's funds.

In the case where huge irregularities are to be found during the survey the Court has every right to postpone and refuse the production of the Statement of Assurance. There were many occasions of postponing the Statement during the past few years like 1994 until 1998 because of high rate of errors concerning transactions. So, if ECA deems that an alteration needs to be done for an institution or a body then ECA obliges the latter one to comply with its rules and its alteration otherwise there would be negative comments in the Court's Annual Report and a postpone of the production of Statement of Assurance.

The SoA has contributed much progress through the last 20 years in EU financial management. Indeed, SoA's approach is absolutely right while we all recall that all those previous years internal budget control was weak and European Commission couldn't provide many information about the legality and the regularity of EU's spending. European Parliament demanded for more geographical and fund-specific insights into EU's financial management.

Lastly, efforts were made in order to increase the added value of SoA, providing that way a better audit for EU budget [24].

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23) "The ECA's modified approach to the Statement of Assurance audits in Cohesion'', Background Paper, European Court of Auditors, December 2017

24) "Fostering trust through independent audit ", European Court of Auditors' strategy for 2018-2020, June 2017

5.2 Annual report

Every year an annual report is produced by the ECA which presents its results and replies of the auditees to its comments. The ECA transmits to the Commission and any institution concerned only by 15 of July of each year, any comments that should be in the annual report, after a complex and long procedure of examination.

The deadline for the response of the institution been audited is the latest until 31 of October and all of the ECA's comments are confidential and under absolute secrecy and privacy. The continuation of the whole procedure is with the transmission of the annual report along with the institution's report from the ECA to the pertinent authority for giving discharge only until 30 of November. Meanwhile, the publication in the Official Journal of the European Communities (OJ) ensures the legality of the annual report.

Additionally, the annual reports ensure the soundness of the financial management while on the other hand the ECA must ensures that the responses of each institution will be published right after its comments.

On the comparison, many problems have been during the cooperation of ECA and the Commission but progress has been made with firstly the addition with statistical information to the annual report from ECA facilitating that way the Commission regarding the EU's finances. Secondly, ECA tried to facilitate the budget discharge and after having many disagreements with the Commission, regarding the reports' comments then in 1982 the two institutions came with an agreement establishing a new procedure which is described in the Financial regulations.

5.3 Special reports-Opinions

Except from the SoA and the annual reports, the ECA provides some special reports for an issue that might emerge or after a demand of a European institution. There is a difference between the way of annual's reports and special report's preparation. With greater time flexibility than annual reports, special reports search in depth any kind of problem that occurs and despite their content complexity they are more easily handled by the authorities to whom they are addressed. Many different opinions have been expressed and one of those is that there is not always plenty of time for special reports to be examined by the EU institutions but it is obvious that it is not true because the contribution of special reports in the discharge procedure is huge.

As for the opinions of ECA anything that concerns them by the ECA must be characterized as ''Consultative Competence''. There are two kinds of them. Firstly there are opinions which are not obligatory for an institution but it is for its financial good to follow them and secondly opinions from ECA to the Council concerning the establishment and the implementation of the budget. The Council could act without taking consideration of the ECA's opinion but it is widely known that those kind of opinions also published in the OJ have some kind of further weight for the EU's decision making.

5.4 Example of ECA's products

Table 4: Reports of the Court of Auditors 1993–1998

Annual Reports/Statements of Assurance	6
Special Annual Reports	76
Special Reports	46
Opinions/Observations	38
Total	166

Source: Annex 3, 1998 Annual Report of the Court of Auditors.

One fact is that in 1990 the visibility of Court's reports increased considerably [(25)].The continuous annual's reports coverage by the media was obvious that period.However, in 1997 the ECA altered a little bit the content of annual reports and products.

The products of ECA became part of the discharge procedure in European Parliament and in European Council because of its validity. Therefore, the ECA established a new policy for its products which deals sometimes with more specific sectors through its special reports.

Using this method, the Court differentiated between its general response to Union's budgetary programs and in its detailed observations on specific programs and practices. It is obvious that according to table 4 above the number of special annual reports and the number of special reports are quite bigger than the other two of the table. Consequently this new approach of ECA continued also in the latter years.

25) Brigid Laffan, "Auditing and accountability in the European Union'', Journal of European Public Policy, 2003

Table 5: Focus of Court of Auditor's Special Reports in 1998

External Expenditure
Special Report 1/98 Co-operation with non-member Mediterranean states
Special Report 5/98 Reconstruction in former Yugoslavia
Special Report 7/98 on development aid to South Africa
Special Report 11/98 on Phare and Tacis
Special Report 24/98 European Development Funds
Special Report 25/98 on nuclear safety measures in the CEECs and NIS
Internal Programme Expenditure
Special Report 2/98 on clearance of EAGGF accounts
Special Report 4/98 on EU action as regards water pollution
Special Report 12/98 Rural Development 2
Special Report 14/98 ERDF Assistance
Special Report 15/98 Structural Fund Interventions
Special Report 16/98 Structural Operations
Special Report 17/98 Energy Programmes
Special Report 18/98 Fisheries Sector
Special Report 19/98 BSE Crisis Measures
Special Report 21/98 EAGGF Clearance of Accounts
Special Report 22/98 Equality Programmes
Special Report 23/98 Information and Communications Measures managed by the Commission
Customs Union/Revenue Base
Special Report 4/98 on reduced rate of levy on New Zealand milk and Swiss cheese
Special Report 6/98 on assessment of VAT and GNP
Special Report 9/98 Protection of EC financial interests in VAT on intra-Community Trade
Special Report 13/98 Risk analysis in customs control
Special Report 20/98 Audit checks on agricultural products receiving export refunds
EU Institutions
Special Report 8/98 on UCLAF
Special Report 10/98 Allowances of MEPs

In accordance with the previous table 4 brief analysis, in table 5 we could see analytically the categories of the 1998 special reports. Special reports had a very important role in the ECA's activities that period and ECA's emphasis on them is illustrated in table 5.

More specifically, a big part of ECA's audit takes the EU's internal policies concerning the CAP and structural expenditure followed by six special reports regarding external expenditure multiplying that way the EU's budget.

The last two reports of the Co-ordination of Fraud Prevention (Unite de Co-ordination de la Lutte Anti-Fraude – UCLAF) and the allowances paid to Members of the European Parliament (MEPs) had a goal to audit practices in the institutions of EU.

5.5 Auditee's replies

The ECA gives the opportunity to the institution been audited to reply to its findings and to formulate counter-arguments. This kind of procedure is also known as ''Contradictory Procedure'' where the audited institution has the right to reply for ECA's findings.

For this reason, the legality and the cooperation is succeeded through the right of the auditee to reply to the report received. The aim is to make the institution conform to the rules of financial management and legality.

This kind of ''dialogue'' between the institutions and the ECA secures the prudent cooperation among them and helps them create better relations and collaboration in a possible future problem.

6 Principles of ECA's audit and auditing methods

Principles of legality, regularity and sound financial management

The ECA conducts its audit under specific principles with follows them in order to achieve the greatest result. ECA examines all payments as to legality and regularity and whether they are in accordance with legal provisions like sectoral regulations, conventions, mandates, agreements and contracts. As for the legality audit ECA examines also its compatibility with EU's Treaties and legislations like budget, financial regulations and internal management rules. The Court except of the examination of Communities accounting system it also respects during its audit the budgetary rules and it reports any case of fraud.

Regarding sound financial management there are three aspects of management and those are: economy, efficiency and effectiveness. Economy illustrates the examination with the least expensive means of achieving a goal, efficiency illustrates the means adopted in the best manner and effectiveness measures in what degree the target has achieved. However, ECA should not search for the reasons that any decision has been taken by EU's institutions but it will investigate whether the financial implementation was adequate.

The biggest problem of ECA's finding could be detected on whether it should cross the line between presenting its findings and whether it makes political suggestions. There is much criticism regarding its competences but for many it is reasonable because ECA could not impose sanctions so it makes political suggestions in order to prevent fraud in EU's transactions.

7 The existence of fraud and corruption in EU and the role of ECA

Given the definition of fraud and corruption we could say that it is the reduction of economic performance of a country especially in its long-term economic growth, affecting mainly investments, taxation, public expenditure and human development [(26)].Fraud is an omission by deceiving others resulting in victims suffering and corruption is any act of omission which measures official authority. The European Commission is responsible for the protection of European's citizen finances. EC shares the responsibility to Member states through the areas of EU's budget shared management and of Traditional Own Resources (TOR). The term fraud regarding EU's finances is a lengthy one and it is referred in the "Convention on the protection of the European Communities' financial interests". Nevertheless, there exist many institutions and bodies in EU that combating with fraud. More specifically:

Figure 5 : EU and Member State bodies involved in managing the risk of fraud

Bodies	Prevention (anti-fraud governance and leadership, fraud risk assessment, anti-fraud strategies, preventive controls, intelligence)	Detection (detective fraud control, fraud complaint mechanisms)	Investigation (administrative and criminal)	Response (sanctions, recoveries, prosecution, performance measurement and reporting)
OLAF	✔	✔	✔	
IDOC			✔	✔
Commission DGs	✔	✔		✔
Eurojust				✔
Europol	✔			
National administrative authorities	✔	✔	✔	✔
National judicial and law enforcement authorities			✔	✔
EPPO			✔	✔

Source: ECA

26) " Fighting fraud in EU spending", Audit brief, European Court of Auditors, October 2017

At first, issues of fraudulent use of EU's resources were brought to public by media coverage of 1993 Annual report of ECA which was published on 15 November 1994 [27]. As we pointed out previously, the Court has to examine the legality, the regularity of all transactions and whether they comply with the existent regulations of numerous policies and schemes at EU and national level without omitting the administrative error due to the large legal and bureaucratic complexities.

The frauds detected are not *a priori* fraudulent and ECA recommend their alteration in order to comply with the appropriate law. In contrast, irregularities that are intentional breach of laws are considered as fraud. For that reason ECA has suggested that when many auditing systems are weak the flows of funds through them should be suspended until an alteration in laws will to be taken.

7.1 Dimensions of fraud in EU

The EU's problem of fraud has four dimensions. The first one has a relation with ''direct effects'' which means that resources of money are distributed wrongly and not under the criteria of Communities' rules and policies. Secondly, ''indirect effects'' affect the external opinion about the European Community regarding the public opinion and the capacity of EU to reach further goals. Thirdly, the next dimension affects the collaboration between EU and Member States along with the whole course towards european integration. Lastly, the last dimension is that the fraud gives an extra motive to EU for an organizational rebuilt of the European Communities which is based in the institutions' reports for fraud limitation.

7.2 Reasons facilitating fraud and corruption

In order to locate the main reasons concerning these kind of irregularities maybe we should search in the foundations of EU. The current structural dimension is characterized as a complex system of transactions between European Community and national agencies which is very vulnerable to fraud. On the contrast, the current situation regarding the European integration does not favor any different system to be implemented.

One more fraudulent activity that may not come so easily in our mind is the corruption of high European officials. Elaborating more into this issue we could easily distinguish that the lack of accountability of officials leads to this behavior. Since the control system of European Commission absolves everyone from any financial responsibility then policy makers and operators have always an alibi.

Highlighting the present spending culture of the European Communities where spending is more important than deciding priorities or obtaining value for money, we could understand that there exist a fertile background for officials to turn into fraud and corruption.

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27) Terrence James & Neil Usher, "Fraud and the audit of the EU budget", Public Money & Management, 1995

7.3 Identification of a fraudulent activity

When we have to deal with fraudulent activities in EU we have to confirm firstly many circumstances. The first one is that we have to acknowledge which behavior is characterized as fraudulent, then to identify its characteristics and lastly to identify the criminal nature of these activities and to recognize the incompetence of EU's institutions to tackle it.

The solution of these problems came with the following measures taken. For the first problem the implementation and the management of EU's budget was the point of reference of fraud. For the second problem the solution came by using these concepts of fraud that were established in the Member-States. The third problem is more complicated than the others and has its roots in the unwillingness of member states to transfer their powers regarding their criminal systems. That's why they do not give many of their legal power to European institutions.

In the past, there was no a Community definition about fraudulent activities. Until 1995 there was only one brief reference by the ECA in its annual reports. At first, there was used the term "irregularities".

Lately, one legislative definition of fraud in European Communities was given in the Convention of the Protection of European Communities' financial interests which was close enough to the one given by the ECA.

In 1995 measures have been taken in order to tackle fraud and corruption with the Protocol to the PFI Convention and one Convention against corruption by officials of European Communities or officials of member states of EU. However, "loopholes" on such provisions exist because there is not the appropriate criminal law scheme against such phenomena.

In order to tackle any corruption and fraud a research group which name was the Association of European Lawyers was formed for the preparation of relevant studies. The 1997 study named "Corpus Juris" tried to tackle fraud and make and attempt to establish a European System of criminal procedure involving the European Public Prosecutor", the whole prosecution procedure and special national courts.

More specifically, the Corpus Juris has two parts. The first has substantial provisions about punishable offences while the second contains provisions about criminal procedure, investigations and trial structures.

Corpus Juris facilitated the manner and the mode of frauds' solutions. However, there was not a mechanism for the protection of human rights of a person involved in a criminal activity. For this reason it is necessary for human rights to be ensured even before the establishment of such prosecuting schemes because EU should not sacrifice all of its principles in the name of fraud and corruption combating.

7.4 The role of ECA in combating fraud and corruption

The actual point is that the ECA is that its main priority is the deterrence and the prevention of fraud and not its detection. While the ECA was deemed that it was created only for combating individual occasions of fraud the truth is that ECA gives recommendations on general issues.

Therefore, ECA in its reports should investigate any irregularity concerning the management of Communities' resources at national and EU level. As for the issue of corruption (active or passive) the ECA has established the same prevention like the fraud by informing if it is needed and other European institutions and member states but not again searching for specific cases of corruption. Analyzing the previous statement, many occasions of corruption are detected by the ECA but its competences are limited and it does not investigate if and whether an official personnel is bribed or not. It is notable that the latter task is a competence of others EU institutions and does not included in any of ECA's jurisdiction.

The cornerstone maybe for a number of reforms came in 1997 where an OECD's inquiry suggested and presented a number of anti-corruption measures. The most important of them are firstly the existence and operation of a supreme national audit authority which is independent of any government and its competences are to investigate, regulate and report any financial management. Secondly, the necessity of a system of financial management controls in order to prevent and deter corruption practices.

After one year in 1998, a recommendation was adopted by OECD for ensuring the ethical conduct in any public service where more specifically anticorruption measures were taken into consideration and member states were recommended *inter alia* to apply such policies. For this reason only an institution like ECA could ensure to counter corruption and deter it.

Nonetheless, ECA's reports are not included into provisions for criminal law by the European Commission but it is an urgency to include provisions regarding the cooperation of ECA along with national and European authorities like Europol for example which carries out researches concerning this kind of issues.

From 1997 and on, namely from Amsterdam Treaty and on, the European institutions when it comes to fraud and corruption issues then they consult the ECA which is the pertinent European institution.

As for the already existing Community legislation on fraud and corruption it is deemed that it is beyond ECA's competences and jurisdiction. On the contrary, when the legislation above is used as a management handbook then it can be scrutinized and receive amendments including also the alteration of its legislative rules.

8 The European Anti-Fraud Office

8.1 Historical background, institutional position of OLAF and its legal base

It is true that the cooperation between European institutions against fraud and corruption is something common and quite rational. Similar previous efforts were made in the past in order to control such occasions. One example is the 1988 Commission's Coordinating Unit for the Fight Against Fraud (CUFAF) for the prevention and the suppression of fraud along with the cooperation with other institutions and member states. The change became in 1999 when the previous institution was replaced by a new one named OLAF *(Office européen de lutte antifraude* in French) which is the European Anti-Fraud Office. Its main characteristics are that it is operationally independent from any European institution and thereafter it does not have legal personality.

OLAF's mission is to protect the financial interest of the EU from any kind of illegal activity. We should therefore bear in mind that the investigations of OLAF start after allegations. It is remarkable that this institution has no prosecuting power on its own. So, briefly we conclude that OLAF is an independent investigatory body situated within the European Commission.[28]

Its legal basis for the fight against fraud lies on Article 325 of the Treaty on the Functioning of the European Union (replacing Article 280 of the EC Treaty). [29] However, the Regulation No 883/2013 which governs the work of OLAF came into force on 1 October 2013 and strengthens the effectiveness of its investigative activities. Also, it facilitates the cooperation between the audit European institutions and the collaboration between other law enforcement bodies and third countries.OLAF has budget and administration autonomy leading to an operational independence. However, same aspects of its work such as the legislative and some ''fraud proofing'' functions are closely related with the Commission. The location of OLAF's premises is in Brussels.

8.2 Types of fraud and corruption combating by OLAF

There are mainly two types of fraud that pertinent European institutions have to check and those are firstly the income and receipt fraud and secondly the expenditure fraud. Into the first category there are four elements and those are the agricultural levies, the custom duties collected on imports on the Community, a percentage of VAT and lastly a budgetary resource of member-states GNP.

A common manner is the deliberate misstatements on custom declarations by cheating on value, tariff, origin and destination on custom duties and CAP. One major disaster not only for EU budget but also for national budgets is the concealment of the real data regarding VAT either these are false registration or fake taxes documentaries. On the other side, as for the expenditure there could be a defalcation or an abuse of the money from various European Social Funds or other structural funds.

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28) "Strengthening OLAF, the European Anti-Fraud Office", European Union Committee, Report with Evidence, House of Lords, London, 2004

29) "New OLAF Regulation enters into force", European Anti-Fraud Office, < https://ec.europa.eu/anti-fraud/about-us/legal-framework/memo_en >, 11 October 2013

8.3 Administrative and operational organization of OLAF

8.3.1 Personnel of OLAF

The personnel of OLAF is approximately 430 multidisciplinary staff members. The staff is divided into three directorates. Specifically, the directorate A is responsible for the sector of producing the anti-fraud strategy dealing with policy, legislation and legal affairs. Directorate B has the responsibility for investigations and operations which is composed by national auditors and investigators from national audit services and lastly directorate C is competent for the intelligence, operational strategy and information services and provides facilities to OLAF and to national authorities. It is probably the most significant directorate among the other three because it gathers and analyses strategic information while it monitors the fraudulent activities on a European basis.

8.3.2 Director General of OLAF

As for the higher officials of this body, the Director- General of OLAF is appointed by the European Commission after consultations with the European Parliament and the Council of Ministers for a sever year term and this term is not renewable.[30] The Director General has the final decision upon the appointment of OLAF's staff.

Many of his liabilities are the independence regarding his decisions. So, he does not accept neither seeks instructions from governments, institutions or any office and agency. The last liability is that the Director is entitled to bring actions against the Commission before the European Court of Justice if he considers that a measure of the Commission enable its independence into question. On the other side, the Director General might conduct any investigation he wants only by his own initiative.

Recently, there was a new appointment into the position of Director-General the Mr Ville Itälä who is from Finland.

8.3.3 The Supervisory Committee of OLAF

At first the Supervisory Committee was established in order to supervise all of the OLAF's activities. The composition of this body is made of five independent persons who are outside of the EU's institutions. There have to be an agreement on their appointment followed by the accordance of three EU institutions. (Parliament, Council, Commission)

Moving on the main competences of the Committee we should point out maybe its main one which is the monitoring of OLAF's policies implementation. Therefore the Director ought to keep informed the Supervisory Committee concerning any of its activity along with results, investigations and also measures taken.

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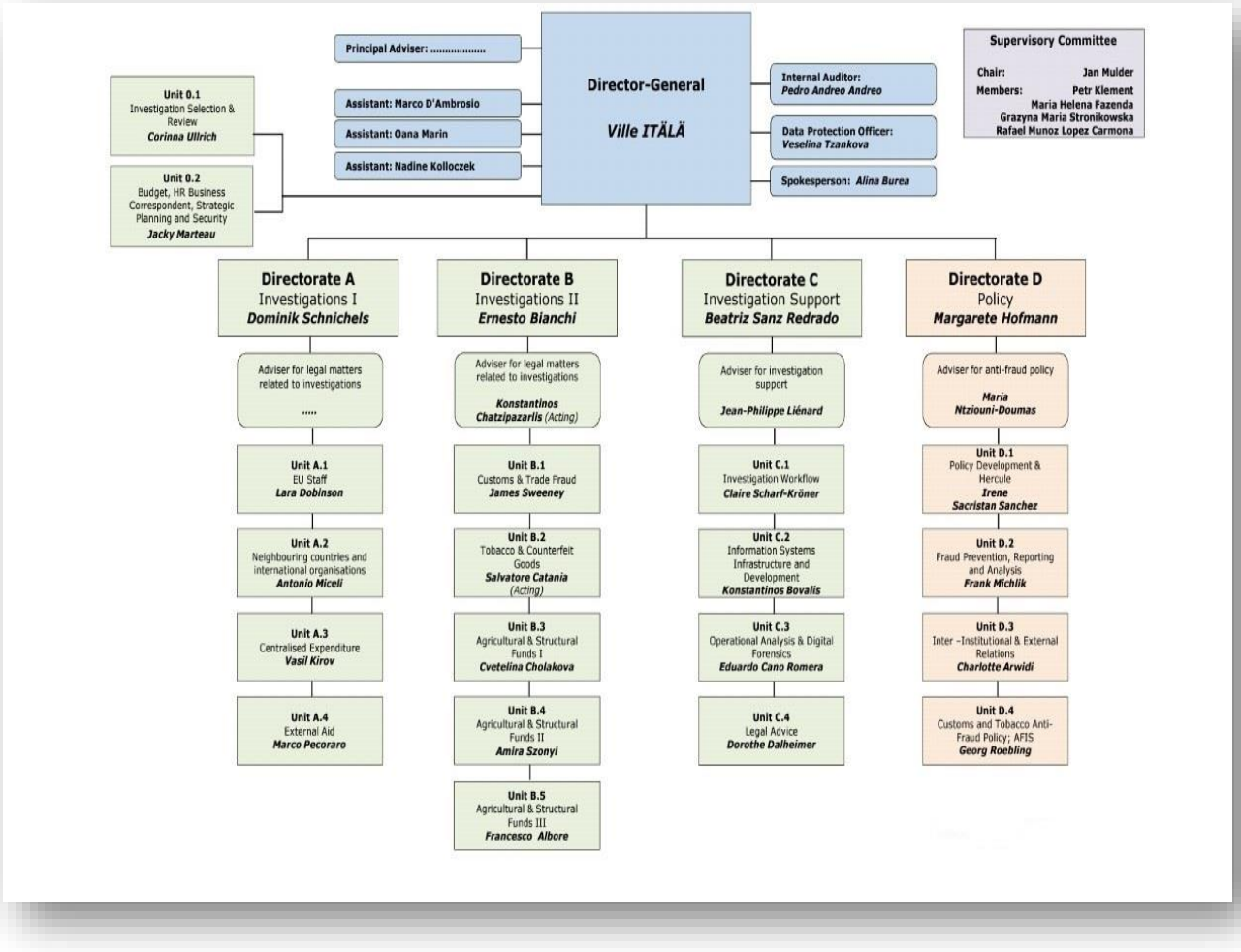
30) Neil Ritchie, "European Anti-Fraud Office", Investigations 1, centralized expenditure A.3, inquiry from head of sector-directorate A Neil Ritchie, 18 June, 2018

The Committee is also informed when the institution or the body that has been rebuked has failed to make any alteration or recommendations imposed by OLAF. Also it should be informed in cases wherever there is a reference into national judicial authorities. During the years according to many highest officials' opinions and statements, the Supervisory Committee has become a kind of management Committee because it is involved into the administrative structures and decisions of OLAF.

Figure 6: Organization Chart of OLAF



Source: http://ec.europa.eu/anti fraud, 1/12/2018

While the Supervisory Committee reports the investigations found, at the same time it also impose, as we previous said, its influence on those findings. This kind of audit on the results leads to the production of at least one report each year concerning OLAF's activities. All of the reports are forwarded and submitted to the Community's institutions.

8.4 Accountability of OLAF

8.4.1 Liability to other institutions and bodies

Apart from its independence in specific decisions and operations, this body has also liabilities and it has to be accountable to someone. Although, the position of OLAF is a little bit complex the accountability to a number of institutions is determined.

Starting with the European Commission, OLAF is accountable for disciplinary control by the Commission as its body. The Commission is also amenable for its body against and before the European Parliament and the European Court of Justice.

Following institution is the Supervisory Committee, as we have already mentioned above in our previous statement, while the Director General gives any kind of result and information. The Committee is also informed when a case leads to a national judicial authority and also when the body or the institution inflicted denies and refuses to formulate with the recommendations imposed by the OLAF.

The European Parliament is next in the list, where the Commission has to provide an annual report to the Council, the Parliament and the European Court of Auditors providing results and measures taken. More significantly, the Parliament Budgetary Control Committee (COCOBU) is responsible for the supervision of OLAF where the Director with oral reports on closed sessions informs this control Committee.

The next European institution which OLAF is accountable is the European Court of Justice where the legality of the actions and measures taken is checked. The pertinent organ of ECJ which is pertinent for this kind of issues is the Court of First Instance. In a trial the Commission's lawyers defend OLAF while in the most cases it is known that the Court of First Instance is unwilling to investigate a supposedly issue if the investigation is not completed.

The Court of Auditors also checks OLAF through the annual report that ECA has to present and also through the Statement of Assurance which regulates the legality and regularity of European financial transactions. As for the historical reference the establishment of OLAF became after a special report of ECA that showed the urgency of immediate measures to be taken against fraud and corruption in the EU. We could also figure out the resume of OLAF to the ECA after its recommendations to OLAF's peculiar "hybrid" status of investigative autonomy, its weaknesses in the legal framework, in the scant training of its staff and finally into its weak cooperation with Member State's authorities [(31)]. The cooperation between these two institutions is frequent due to the audit nature of these two bodies which are of vital significance for the EU.

The last institution that OLAF has liability to is the European Ombudsman. It is true that the latter treats OLAF as an independent body of European Commission. There is an explanation behind this decision and that is because many times european civilians and european parties have complained about occasions of mismanagement.

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31) "Financial Management and Fraud in the European Union", European Union Committee, Volume I, House of Lords, London, 2006

8.4.2 Liability to institutions and individuals been audited

There have been frequent complaints about infringement the rights of individuals been audited. The addressee was usually the European Ombudsman, the Supervisory Committee and the Court of First Instance (CFI). Whenever there is a possibility of an investigating a higher official or an institution then OLAF is obliged to inform them. It is necessary to have the right content of justification in order to proceed into an audit. The documents have to include the identity of the person which is under investigation, secondly a summary of the audit along with any kind of information which is useful in order to take administrative measures for the protection of European interests. However, there had to be a lot of effort in order to create a more structured information flow between OLAF and Commission. In fact one report in 2003 managed for the establishment of a Memorandum leading to a limited flow of information for internal investigations.

Different opinions have expressed from higher european officials as for the necessity of OLAF to disclosure any information before or during the investigation from the Commission because if they do not follow so they could have concealed the investigation procedure being conducted, something that is quite opposite to the individual's dignity.

On the other side, the Commission has every right to know if there exists any kind of irregularity regarding the vast section of european finance. For this reason, it is necessary for specific articles regarding the conduct of OLAF in these issues, to be amended. The Director-General should have the appropriate and the adequate margins to behave in the way he believes (when, to whom and how much information) that it would be better both for his institution. Furthermore, for the subordinate side of the audited institution or individual it should also be on obligation on the recipient to confine to information received, not to distribute it keeping thus its confidentiality.

8.5 Powers and functions of investigation and inspection process

8.5.1 Internal and external investigations

One of the most crucial points that have to be emphasized is that OLAF might conduct numerous investigations under the shield of independence whilst its subsumption to the European Commission as an administrative part of it. [(32)] One more important fact is that the audit of OLAF is not restricted into the boundaries of a european institution but also in the spectrum of economic operators in the member states.

There are two kinds of investigations: the internal and the external. The internal investigative function involves inquires to all Community's institutions and bodies including also and the Committee of the Regions. Furthermore, the European Court of Justice has cancelled a recently proposal of European Central Bank and from European Investment Bank for the maintenance of competences over investigations regarding their respective internal cases.

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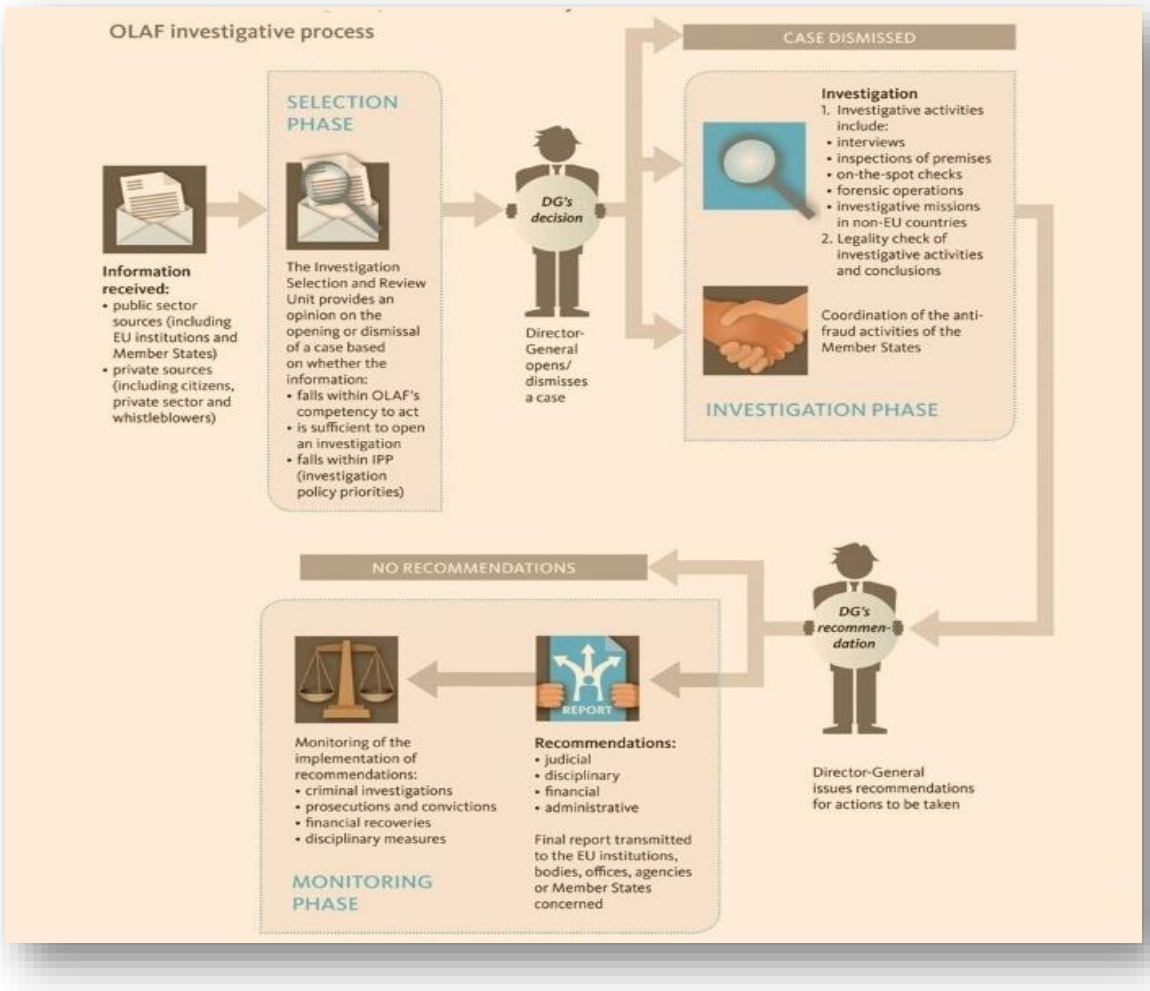
32) Giovanni Kessler, Former Director-General of OLAF 2011-2017, " European Anti-Fraud Office, a brief overview'', A statement of a former Director-General of OLAF

As for the external investigations, these are inquires in all of the Member-States, according to the Regulation 2185/96 [(33)], where OLAF could conduct an inquiry on individuals businesses' records and ask for explanations. Then the Commission informs the competent authorities of Member-State. Due to the absence of authoritative power of OLAF against individuals and businesses the Council Regulation itself obligates the Member-State to take actions by providing the appropriate assistance to help the auditors accomplish their investigation.

8.5.2 Phases of OLAF's investigative process

The investigative process of the body has three phases: the selection phase, the investigation phase and lastly the monitoring phase.

Figure 7: OLAF's investigative process



Source:"European Anti-Fraud Office, a brief overview"

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33) The Council of the European Union, "Council Regulation (Euratom, EC) No 2185/96", A regulation concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, The Brussels, 11 November, 1996

During the selection phase, when a complaint is received by OLAF institution the Investigation Selection and Review Unit examines it and provides its opinion. Then it is Director's General decision if he would dismiss it or forward it into the investigation phase.

When the case reaches into the investigation phase then a whole mechanism, including the contribution of Member-States, is mobilized. The Director-General then makes any recommendation that is deemed necessary.

Moving into the last phase, the phase of monitoring, different recommendations could be arisen (disciplinary, financial, judicial and administrative) along with the monitoring of their implementation or following the other way of no recommendations at all.

It is worth notable that the period of 2010-17 OLAF has conducted over 1800 investigations and made over 2300 recommendations concerning judicial, financial, disciplinary and administrative action to be taken by the competent authorities of the Member States and the EU.

As a result, large amount of unduly spent has returned to EU budget showing that the better anti-fraud safeguards were established through Europe.

Figure 8 : OLAF's investigative activity in 2017

Source: European Commission, OLAF

Lastly, OLAF's budget for 2016 was 57,7 million € while at the same time in the budget for 2017 there was a small increase to 60 million €.

8.6 Cooperation between ECA and OLAF

The cooperation between these two bodies is frequent and very useful for the financial stability and integrity of EU's finances. The two higher officials of the two institutions (President and Director-General) shall handle each situation with high responsibility according to a decision regarding their conduct. However, there were many obstacles to be overtaken regarding the investigation policy of OLAF, the management of priorities and the procedures for collaboration within the authorities of the member state. (34)

More specifically, when an investigation of a suspected fraud is about to begin then the President should provide the Director-General with specific details and require from him to inform the ECA if OLAF will open any investigation or not and if so what subsequent change will made.(35)

One more aspect of this recent decision is the possible disclosure of informant's identity. If an informant would like to keep his anonymity then the ECA should inform OLAF to do so and if the latter insist to disclosure his name then the ECA should provide that information if the informant consent to.

Also, ECA during an audit shall not inform other EU's institution or body that has forward the information to OLAF unless specific circumstances require so. On the other hand ECA could inform the auditee about his financial irregularity concerning a fraud activity.

Furthermore, when OLAF requires additional information about an individual case then the President should forward it through the contact persons who are responsible for this job.

As concerns previous cases of fraudulent activity, the President should request from OLAF an annual report regarding the open cases and of cases closed during the year and then to prepare an annual report including OLAF's contribution and information.

During an open investigation ECA will continue to conduct an audit with the related audit task unless this risks OLAF's investigation activity where in that case the President will demand more information about a possible problem during his involvement.

Lastly, the President is accompanied and assisted by his Legal Service which coordinates the whole procedure at operational level along with OLAF.

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34) Lars F Tobisson, "The European Court of Auditor's special report on the management of OLAF", A report of an ECA member , Brussels, 12-13 July, 2005

35) European Court of Auditors, " Decision No 43-2017 on cooperation between the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) concerning cases of suspected fraud identified by the ECA during its audit work or provided to it as unsolicited denunciations from third parties", Luxembourg, 14 September, 2017

9 The European Public Prosecutor's Office (EPPO)

The European Public Prosecutor's Office is a decentralized and independent prosecution office whose main competences are the combating of fraud in EU.

9.1 Institutional position, legal basis and establishment of EPPO

It was April 2017 when 16 Member-States agreed to collaborate more closely regarding the fraud in the EU. Based on a mandate from the Treaty of Lisbon the European Commission proposed the establishment of an office like this. This effort mobilized six more Member-States reaching the number of 22 participators where in November 2017 the EU adopted the Regulation 2017/1939 establishing the EPPO.

Its legal basis lies on the article 86 of the "Treaty on the functioning of the European Union" of the Lisbon Treaty. The European Member-States which are not participants in the EPPO are Hungary, Denmark, Ireland, Poland, Sweden and the United Kingdom.

The exact location of EPPO's premises is in Luxembourg.

9.2 Role, administrative and operational organization of EPPO

9.2.1 Role and competences of EPPO

The ability of european institutions to combat any fraudulent activity across EU's borders is limited. The new established office of EPPO could act independently without taking in mind any lengthy national judicial operation. Its operations are fully independent from any EU institution or national authorities of Member-States. So, its prosecutors are authorized to conduct an audit in Member-States.

The scope of its actions might differ and it could be any accounting or tax analysis. The use of smooth channels of communication could facilitate the cooperation between Member-States and EPPO while the latter might adopt a single prosecution policy across the EU abolishing that way the current prosecution approach.

EPPO investigates, prosecutes and brings to justice any crime concerning fraud on EU budget or cross-border VAT fraud above 10 million €. [36] It is true that a big amount of european VAT frauds is lost due to transnational fraud. The incapacity of EU's bodies like OLAF and Eurojust to make any criminal prosecution in Member-States led to the establishment of EPPO which has the authority to overcome such deficiencies by conducting any investigation affecting EU's finances.

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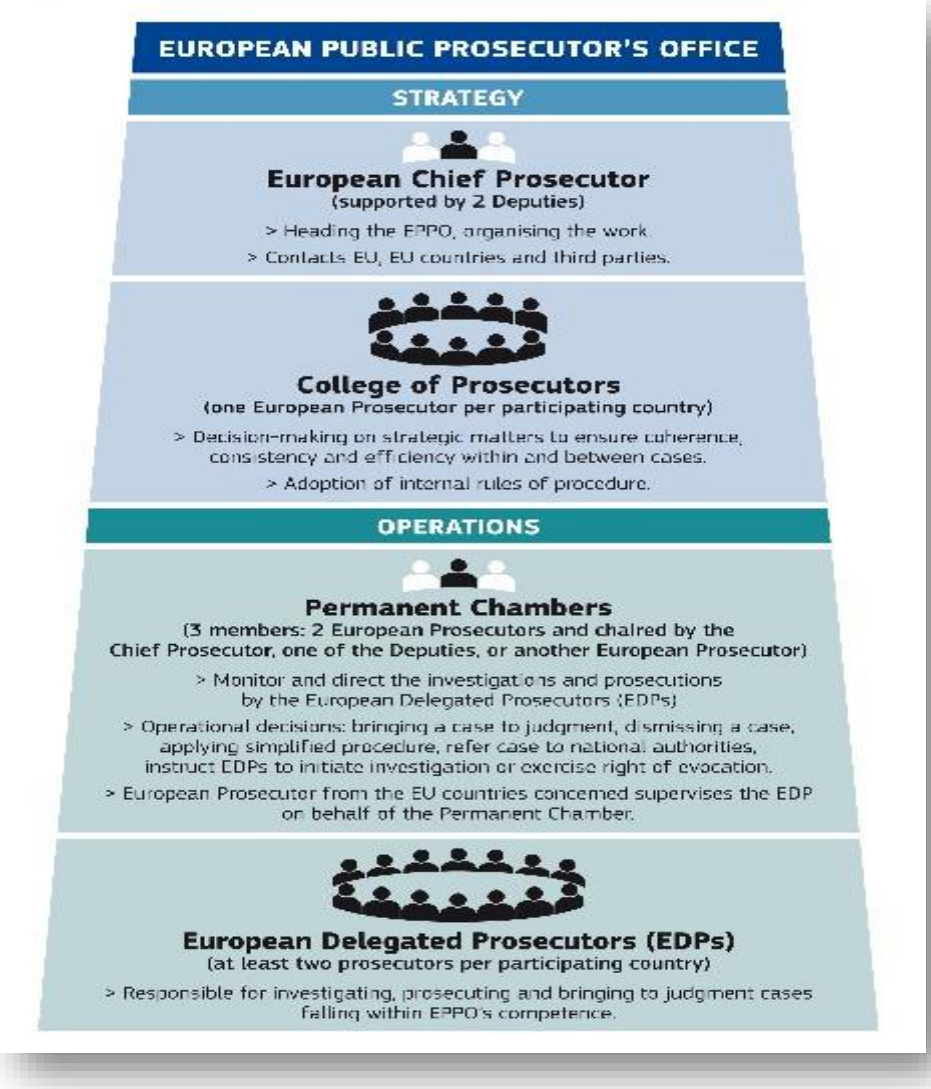
36) "Frequently Asked Questions on the European Public Prosecutor's Office", European Commission - Fact Sheet, Brussels, 1 August 2018

9.2.2 Structure of EPPO

The EPPO is built on two levels: the central and the national. However, it is true that the first level supervises the operations of the second level. The first level consists of the European Chief Prosecutor who is responsible for the management of the office and for the organization of its work. Then, there is a college of prosecutors responsible for decisions concerning strategic issues. This college is consisted of 22 European prosecutors (one for each participant Member-States) two of whom work as Deputies for the European Chief Prosecutor, the Administrative Director along with a group of investigative staff.

Figure 9 : EPPO Structure



Source: European Commission

The second level which is the decentralised or national level consists of European delegated prosecutors who are located in each participant Member-State and have the competences of prosecuting and making criminal investigations. Apart from the delegated prosecutors there is also a body of permanent chambers which supervises the investigations and the audits while it proposes and takes operational decisions.

9.3 Aspects of EPPO independence

There are several aspects emphasizing the independence of EPPO. Firstly, according to its Regulation EPPO should not be influenced or take instructions for favour of any Member-State acting this way like an impartial body.

Another reason strengthening the independence is that the location of EPPO would be totally different from other EU's institution or organization premises.

Thirdly, one significant aspect is that the appointment of European Chief Prosecutor is taken after a decision of European Parliament and the Council. The time period as the highest official of EPPO is seven years deemed that way as an adequate duration to implement his policies and not seek for re-election. His dismissal could only become by an ECJ's decision.

Finally, one last aspect concerns the European Delegated Prosecutors as the Regulation demands the national prosecutors to be completely independent from the national prosecution authorities.

9.4 Accountability of EPPO

Just as every european institution has the right to make accusations against certain individuals or companies, thus the defendants should have the right to protect and defend themselves. This aspect is ensured by the Regulation which includes a set of procedural safeguards. Those safeguards protect the defendants according to the existing EU regulation and to the national defence rights.

Some of the rights which are granted by the EU regulation and from the Charter of Fundamental rights of the EU could be presented below. Those are at first the interpretation and the translation regarding the case been prosecuted for. Next, the access to the information materials and additionally the access to a lawyer whereas in a case of detention the ability to communicate with third persons and to appoint experts to handle any decision. Lastly, the right to remain silent using also the defend right of his national law which governs the whole procedure.

CHAPTER IV

The Greek Court of Audit as an audit body

Introduction

The Greek Court of Audit or Chamber of Accounts has double nature and that is as an administrative organ (along with the other two bodies of Greek Public Administration) and as a Supreme Administrative Court with specific jurisdiction.

1 Historical background of Greek Court of Audit

Going back into the ancient years there were evidences and types of sound financial control both in the ancient Greece but also in the period before and during the Greek revolution of 1821.

A brief analysis of the first case during the ancient Greece is that in Athens the king along with an independent body of public auditors was conducting in a tactical base an analysis and a control of state's public finances. That kind of audit deemed to be the ultimate type of audit in the ancient Greek years and set to be the cornerstone of the contemporary type of Greek Court of Audit.

During the period of the Greek revolution the cause that made an urgent the establishment of an audit institution is the appearance of types of financial fraud while the Greek state that period was at the edge of an economic disaster. Efforts were made with the establishment of temporary Committees and bodies in order to handle the disastrous consequences and results of the Greek economy. It was obvious that way the need for an independent audit body for the rationalization of Greek finances.

The Greek authorities of that period tried to create an audit body according to the European standards. They did not however try to formulate and integrate a body according to the needs of the already Greek financial situation but they proceeded to the formulation of a body according to the European standards and more specifically according to the French authorities. This kind of rush could have been detrimental to the Greek political authorities because the decision taken for French standards could not be adjusted into the already administrative type of Greek authorities.

The idea of the creation of the Greek Court of Audit as we know it now, became in 1833 after a recommendation of a French person named Jean-Francois Artemond Regny [37] who contributed also in its organization. So, the name of the Greek body was taken by the French word "Cour de comptes" which has been set up by the Napoleon in 1807 and after the Decree "27 September- 9 October of 1833" which is comprised by 63 articles regarding the organization and the operation of the new body. [38]

Worth notable among all the other constitutional revisions is the revision of 2001 when it was clarified clearly in the Greek Court of Audit the discrimination of its three competences and tasks. More specifically, the clarification of discrimination into audit competences, into advisory competences and into jurisdictional competences.

The location of the Greek's Court of Audit premise is in Athens.

2 The institutional position of Greek Court of Audit and its legal basis

During the past years there was a confrontation between Greeks authorities if the Greek Court of Audit should have administrative and judicial jurisdiction. The founder of the Greek body, Artemond Regny, has tried to emphasize the legal capacity of the body by defining its double nature as an auditor of financial accounts and as a council with the competence of financial accounts management.

Lately, in 1975 it was mentioned that the administrative nature of the body was above its judicial because the latter was a continuation of the administrative competence of Greek Court of Audit. [39]

After 1975 the body obtained purely judicial nature while we could say that the dispute of its judicial nature came after opposing non judicial competences through the years. The highest judicial and administrative authorities were in controversy over the body's nature. More specifically, the Supreme Court of Greece supports Audit's double nature while the Council of State accepts the opinion of the purely judicial body.

37) E. Asanaki, "Artemond Regny, The French economist and his contribution to Greece, 1831-1841", Athens, Greece, 1989
38) A.G. Dimitropoulos, " Organization and operation of the State, traditions of constitutional law", Athens, 2001
39) Milionis Nikolaos, "The institutional role of the Greek Court of Audit", Athens, 2002

3 Administrative and operational organization of Greek Court of Audit

The operation and the function of the body is regulated by the General Commissioner of the State. The body exerts its competences into a wide range of higher sections while at the same time they are published in the Government's Gazette.(40)

3.1 Structure of the Greek Court of Audit

The Greek Court of Audit consists of the President (Ms. Theotokatou Androniki), six vice Presidents, twenty advisors-consultants, forty reeves and forty rapporteurs.

The President supervises the operation and the employees into the body, the meeting along with the conferences and makes any suggestion he deems that is the appropriate one. The vice-presidents direct the operation of the sections where they preside but they can also exercise advisory tasks and duties. The President is furthermore substituted and replaced by the senior vice president, while the vice president is replaced either by other vice president or from a senior consultant. Finally, the consultants into the judicial and advisory formations they recommend the cases been nominated for.

Reeves are appointed the rapporteurs of the Audit Court with at least seven years of services into the body and their tasks differentiate. One of them is the participation in conferences with advisor opinion and vote.

Also, the reeves might appoint the consultants and the official appointment as long as and the promotion which is decided by the Ministry of Justice.

Additionally, there is one more authority into the Audit Court which is the General Supervision of State and is comprised from the General Commissioner of the State, the Commissioner of the State and three vice Commissioners of the State.

The Commissioner General is the President and he is appointed by a decree while the vice Commissioner is appointed by the Ministry of Justice.

40) Raikos.A., "Constitutional law, introduction-organization", Vol. II , Athens-Komotini, 1991

3.2 Role and scope of Greek's Audit Court

As laid down from article 98 of the Greek constitutional law the competences of the body could be presented as follows:

1) The audit of State's expenditures as well as the supervision of local authorities and self-governments
2) The audit of covenants which are of high financial value where the public sector is involved
3) The audit of individuals, local self-governments or other legal person
4) The consultation for drafts concerning pensions or service recognition according to paragraph 2 of article 73
5) The composition and submission of a draft towards the Greek Parliament for the balance sheet of the State
6) The judgment of individuals regarding pension allocation
7) The judgment of cases regarding civil servants for every fraud or data concealment

As follows from above, the competences of the body are divided into three categories: the jurisdictional, the audit and the advisory competences

Jurisdictional competences are those dealing with account audits, the pension distribution and the liability of civil servants.
Audit competences are those dealing with the preventing control of public expenditures, the high financial value contracts and the repressive control of civil servants' account.
Advisory competences are those dealing with the official statement of Audit Court regarding the balance sheet of the State.

4 Preventive control of public expenditures

In Greece the State's budget is in the competences of the executive authority but the decision of the accomplishment is taken by the Ministers. During a decision there are various stages in order to be implemented and these stages are examined thoroughly for their expenditures by the Audit Court.

The content of audit competences of preventive control contains:
1) The submission of a draft to the Parliament regarding the balance sheet
2) The audit of State's and local self-government's expenditures
3) The supervision of any individual who manages and administers public funds
4) The monitoring of public revenues
5) The examination of contracts' legality

The audit of Ministries' expenditures is conducted by the reeves while the audit of smaller authorities like local self-governments is conducted by the Commissioners of the Audit Court. This audit concerns the regularity of public expenditures and not their feasibility which each Minister is responsible for.

The procedure of preventive control is regulated by the Audit Court while a Commissioner could cancel or forward the decision of public expenditure. The Commissioner could also examine if the expenditure is legal and accompanied by the correct documents.

Furthermore, preventive control could also be conducted from other organs of the body which examine the legality of administrative actions according to article 17 paragraph 3 from Audit's Court organism.

The audit of high financials' value contracts is solely conducted by the Audit Court according to the revised article 98. With this regulation it is constitutionally fortified the already competence of the body to examine public sector's contracts which are exceeded a specific financial value limit.

The results of preventive control which is conducted before the disbursement of public funds might be either the protection of public administration's financial interests, either the security of transactions among creditors, suppliers and public sector either finally the protection of public amenable individuals against the Audit Court. (41)

5 Repressive control of public expenditures

According to article 98 paragraph 1 of Greek Constitution in the competences of Audit Court is included the account audit of public amenable individuals. The main difference between repressive and preventive control is that the first one is conducted after the completion of a short time management while the second one is conducted before the completion of the financial transaction.

Public amenable individuals are not only those who manage public property but also those who without any legitimate authorization manage property and funds so they are called de facto amenable persons.

The account is prepared by the amenable persons and should be accompanied by the legitimate documents so that the Audit Court could examine them.

Depending on the direct or indirect submission of documents to the Audit Court the amenable individuals are categorized into main and subordinate persons.

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41) Milionis Nikolaos, "The Greek Audit Court, Modern Trends and development", Nomiki Viliothiki, Athens, 2012

As main amenable persons are the individuals of public administration services who have the liability to the Audit Court for the submission of accounts while subordinate persons are those who are accountable to main persons and their exemption is related with the exemption of main subordinate persons.

The repressive control is exercised by the echelon of the audit Court and the account examination is conducted by services of the body against legal persons of local self-governments and local communities.

The examination starts with the submission of the appropriate justifications to the Audit Court. During the audit it is examined the regularity and the legality of management and the accuracy of the accounts.

After the examination the echelon proceeds in the exemption of amenable persons and if there occur doubts then the Court proposes a draft of alterations and deficiencies.

The deficit is charged to the amenable persons with an imputation which means a judicial or an administrative act. The Court could impose sanctions in a case of omission even in a case of limited negligence and on the other side the amenable person should provide that the negligence was not in his culpability.

6 Examination of high financial value contracts

6.1 General information

According to article 98 paragraph 1 of the revised constitution it is fortified the competence of the Audit Court to examine any contract of high financial value. This audit is conducted during the frame of preventive control before the sign of the contract. For this reason if a pre-signed contract would be sent into the Court, the latter might abstain of the audit.

More specifically, it could be asked from the pertinent Minister to be examined for all contracts which exceed a certain big amount. The examination of this kind of contracts has been fortified constitutionally after the State's effort to co-respond into time period requirements where the fraud in public's sector framework is a usual phenomenon.

The audit of each public contract is regulated both in a preventive way and in a repressive way. Specific echelons from the Court are established in order to decide which of the public contracts could be detrimental for the public prosperity and which not.

6.2 The audit technique

The Audit's echelons have developed a technique which signifies that the Audit is responsible for the examination of contracts' legality procedure without checking the soundness of them. Additionally, the Court, according to the echelons, investigates as a judicial organ whether the public administration implements sound techniques regarding the public administration's contracts.

Moreover, only in a case of misdemeanor in the management of public's funds could lead to a negative opinion from the echelons. Misdemeanors of less importance are deemed the law's violations regarding the internal organization and function of the administration without having any impact on third parties.

More specifically, it is checked the competence of the organs that took the decision, the procedure that was selected, the declaration selected and the publicity of the contest. Also, if there were excluded with purpose specific companies and individuals from the contest. The echelon decides also if the contest committee's decision was right.

Lastly, the echelon distinguishes its decisions between the self-appointed and the non self-appointed where the last one is guided by the administration of the Court and the first is not regulated by the Court and concerns the declaration and the procedure of the contest. (42)

7 Relationship between Greek Court of Audit and ECA

One big and significant aspect of ECA is its cooperation with national audit courts of EU's. According to a specific article of the Treaty of EU the ECA is in close cooperation with national audit authorities.

Furthermore, the Treaty of Amsterdam punctuates that all european audit courts are equal along with trust spirit retaining at the same time their independence. The promotion of this cooperation is preserved by one Contact Committee of Courts' presidents which makes an annual meeting discussing about relevant issues and analyzing various results of their inquiries.

The cooperation between the European and the Greek authorities ought to be according to international audit standards where nowadays the relationship between ECA and Greek authorities is something more than a practical necessity which is illustrated with closer collaboration between them.

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42) Sarmas loannis, "State and Justice, public money under control", Athens-Komotini, 2003

More specifically, the Greek Court applies the European Law and acknowledges at the same time the primacy and the supralegality versus the internal law.

The relationship between two institutions is based into the following principles:

1) The principle of independence and equality. It is true that the two bodies are self-contained, independent and equivalent organs of the legal order which has different mission and are governed by different legal status quo. Nevertheless, in the European Community Law there are significant exceptions regarding the law above like the adoption of rules of law which have direct application.

2) The principle of Community's Law superiority against the national one. The superiority of community against national law prevails and renders the latter one as a non-applicable.

3) The principle which is imposed by the Community allegiance. More specifically, the Member-States and national authorities take every specific or general standard which is appropriate in order to fulfill any liability from the Treaty or result from Community's organs. Also, the Member-States facilitate the Community in its mission accomplishment and abstain from every measure which might risk the accomplishment of Treaty's interests.

4) The principle of subsidiarity. In the degree regarding different sectors of the exclusive competence of the Community this principle could not be implemented. However, in the case of Community's and Member-States competence, this principle has full application.

CLOSING REMARKS

I. Remarks by the ECA concerning the EU Anti-Fraud Programme

As we know the EU Anti-Fraud Programme has as its main objective the prevention and the fight against fraud. The Multiannual Financial Frameworks (MFFs) of the previous years, includes the programs "Hercule I,II,III". Apart from the Hercule program which was implemented in order to tackle fraudulent activities in the EU, two other key systems were financed. The first is Anti-Fraud Information System (AFIS) regarding the activities of the European Commission and the second is the Irregularity Management System (IMS) which advises the EU Member-States regarding their obligation to report any fraud concerning EU's funds.(43)

The EU Anti-Fraud Programme has as its main objective to tackle and prevent EU's fraud and corruption and to provide tools for information exchange and support for any operational activity in the fields of customs and agricultural matters.

However, there is a continued criticism of ECA against this Programme because as it was observed while the initial efforts from the Commission were towards the right direction many overlaps between the programs occurred.

Also there is a lack into specific rules for the accession of the eligibility of actions that are financed. One more issue that seems to remain vague is the amount of Member –States contribution through their national budgets for the co-financing rate which is the actual percentage of EU contribution to the cost of the actions. (44)

Recommendations

Bearing in mind the majority of ECA's remarks for the EU Anti-Fraud Programme the ECA proposes to continue the current Hercule program and the finance of AFIS and IMS only by combining actions in similar areas leading to the efficient and effective use of resources. Regarding the program's objective and indicators there should be better specification in order to evaluate and monitor the implementation of the results because in the current situation the indicators, which are not relevant and credible, do not measure the results and the impact of actions taken to support the protection of EU's financial interests. Furthermore, measures for the clarification of the frequency of performance reporting, the regulation of a maximum co-financing rate and the evaluation by an independent evaluator. Lastly, there is a recommendation by the ECA to the Commission in order to curry out the assessment to explore the program's overlaps and synergies with other EU actions.

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43) Council Regulation (EC) No 515/97 of 13 March 1997 on 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

44) "Official Journal of the European Union", Information and Notices, Volume 62, 10 January 2019

II. Remarks by the ECA concerning the cooperation between OLAF and EPPO

As we know due to the future participation of EPPO in the financial audit of EU's resources and funds the ECA proposed few alterations regarding its cooperation with OLAF. The ability of EPPO to investigate and prosecute crimes across the Members-States' borders may change the current legal and institutional fraud procedure.

However, numerous proposals have been made regarding the effectiveness of OLAF's investigations, like for example the access of OLAF to bank accounts and the clarification as to whether the national or European law is applied in an OLAF's investigation.

The current investigative OLAF's framework should change and the Commission shall make two amendments into the medium and short term where in the first the Commission may propose further legislative actions while in the second it should address the overall issue of OLAF's effectiveness.

We all know that the legal framework along with the core features of OLAF has not been modified during the past few years. Although, progress was made due to the alterations of 2017 regarding the violations of EU funds through VAT's irregularities and additionally the Council's decision to charge the EPPO with investigative and prosecuting powers concerning any criminal financial irregularity.

OLAF's activities spread through the area where EPPO has no responsibility and competence like for example when EPPO decides not to investigate or in Member-States which are not EPPO's participants.

However, there is no time for the Commission for an action-plan with specific deadlines neither for the specification of the exact issues which would be addressed by OLAF. For this reason, OLAF would remain an administrative body with the power of sanctions against the financial irregularities. The procedural guarantees, which help OLAF in its investigations since 2013, remain insufficient because EU Courts no actions for the annulment are permitted against OLAF's investigative acts including, of course, its final reports. Also the proposal for a Controller of procedural guarantees is only provide for a non-binding control of OLAF's activities and additionally those activities should be submitted to a review of the Court of Justice of the EU in order to ensure the procedural safeguards that have been applied.

Aspects of cooperation between OLAF AND EPPO

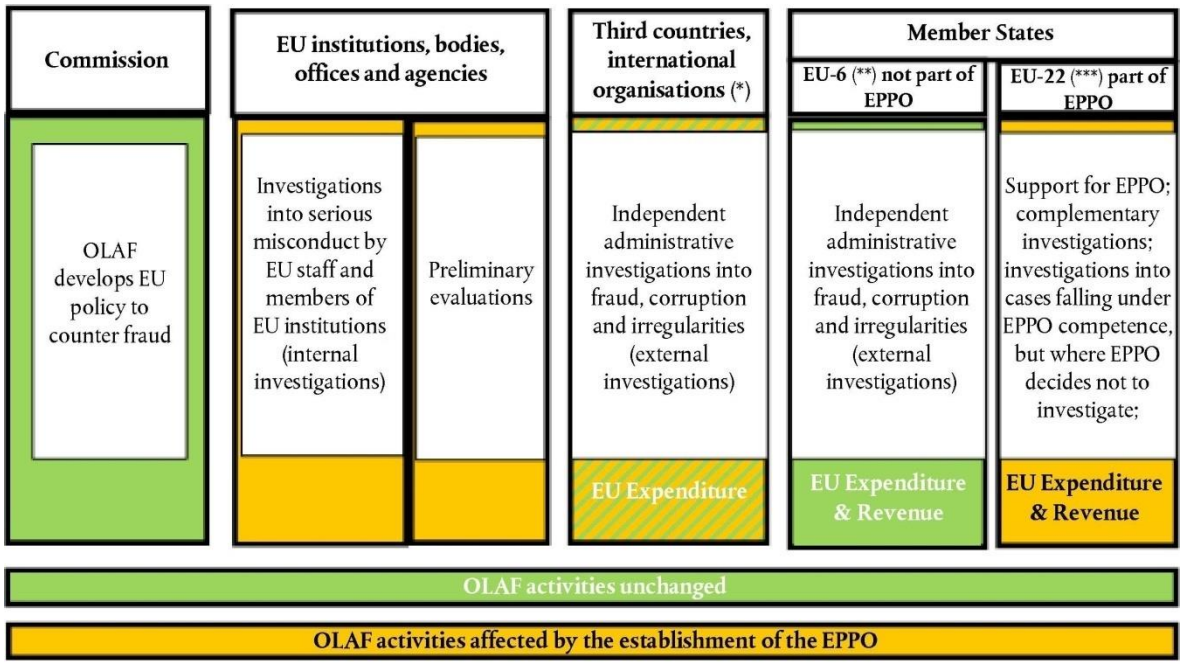
Four principles govern the cooperation between OLAF and EPPO and those principles are: close collaboration, exchange of information, non duplication of work and complementarity. Also OLAF and Member-states should inform EPPO about any information which falls into its competence. Various offices and EU bodies could be benefited from OLAF's investigations but this could also increase the time needed for information to reach the EPPO. So, any preliminary evaluation, which takes much time, may jeopardize the success of any action.

On the other side if the EPPO asks OLAF for any additional information, analysis and operational support then OLAF has to facilitate the procedure and contribute towards this effort.

Furthermore, any evidence which is collected by OLAF on behalf of the EPPO should be admissible in national court in the same way as it was an EPPO's evidence. On the opposite side, OLAF is not required to forward any evidence to EPPO unless this evidence interfered in the EPPO's investigations.

The duplication of OLAF's and EPPO's work is avoided but OLAF could conduct a new investigation if the adaptation of precautionary measures and disciplinary action is needed. Regarding the exchange of information in the proposal it is not referred when and whether the Commission and the OLAF should receive any information from EPPO in dismissed cases and in cases which lead into indictment. (45)

Figure 10: OLAF's activities affected by the establishment of the EPPO



(*) See Article 23 of the EPPO Regulation.
(**) Denmark, Ireland, Hungary, Poland, Sweden, United Kingdom.
(***) Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Cyprus, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain.

Source: Official Journal of the European Union, volume 62

45) "Official Journal of the European Union", Information and Notices, Volume 62, 1 February 2019

Recommendations

Firstly, the Commission should specify the kind of information that the Commission and OLAF should take from EPPO in order to increase the tasks of developing EU policies against fraud and corruption. As we said before, the legislative bodies should ensure that OLAF should foreword to EPPO any information without delay. Also, there should be a specification of the status in national and European Courts of evidence collected by OLAF and an obligation for OLAF to forward all evidence to the bodies which are responsible. Furthermore, OLAF's reports constitute acts that affect adversely the persons concerned and for this reason they are submitted to a review from Court of Justice of the European Union (CJEU). Also, the clarification of OLAF's role in any case that EPPO involves in a participating or non-participating Member-State and also taking into account any legal instrument for the judicial cooperation. Lastly, in the short term the role of OLAF should be modernised, turning this way into more strategic, thus becoming more effective. In the medium term, the cooperation between the two institutions should be evaluated followed by an analysis on whether EU bodies enhance the administrative and criminal investigations and lastly the need to consolidate all pertinent legal instruments in order to tackle fraud in a single regulatory framework.

III. Remarks by the ECA concerning OLAF's, Commission's and EPPO's contribution against fraudulent activities

Despite the huge and long effort from the Commission to tackle fraud, ECA noticed that the Commission has not comprehensive information regarding the nature, the scale and the cause of fraudulent activity across the EU. This has led to a false evaluation of Commission's Anti-fraud Strategy' (CAFS) risking its future strategic plans.

OLAF along with its IT system which is for example the Irregularity Management System (IMS) where the Member-States could signify any fraudulent activity and taking into consideration its own resources, the Commission finally publishes its data. Nevertheless, according to ECA's opinion, the Member-States' authorities do not report all of the cases that are investigated by OLAF. More specifically, only three cases out of twenty were investigated and recorded by the IMS. (46)

Intermediate public bodies during the implementation of EU programs may create small fraudulent activity and that is because EU, in order to reduce its administrative burden, obliges only the case that are above the amount of 10000 € to be reported by the Member-States. Apart from the Commission's guidelines regarding the identification and the report of a fraudulent activity from the Member-State this issue remains vague due to the different interpretation of a fraudulent activity from a Member-State. For this reason OLAF in 2015 introduced two new indicators which are the fraud detection rate (FDR) and one more which was created for non-fraudulent activities.

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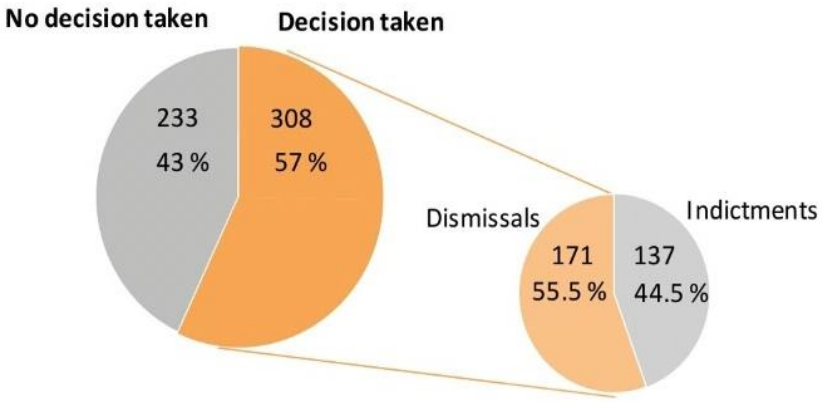
46) "Fighting fraud in EU spending: action needed", ECA's Special Report, 2019

However, the indicators mentioned before illustrated that there are a lot of disparities in the level of irregularities and in the level of fraud detected by each Member-State. On the other side, the Commission stated that each Member-State's national system is responsible for the fight against fraud but it is true that the Commission lacks of comprehensive checks of the quality of data reported in the IMS. Furthermore, national authorities have not different system of evaluation between irregularities affecting the national interests and irregularities affecting EU interests resulting in a further impediment of OLAF's efforts to gather information on criminal cases regarding the EU's financial interests.

According to OLAF's and Commission's opinions the fraudsters are not always organised criminals but on the other side they are individuals who have benefited by EU funds and intentionally broke the law. The issue become more complicated when it comes to the discretion criteria where each Member-State has to distribute the EU fund equally.

There is also a differentiation regarding Commission's fraud proofing legislation where a specific unit was integrated in OLAF back in 2000 in order to ensure that spending schemes had specific legal provisions against fraud. During the years, efforts were made for the evaluation of measures taken while in December 2016 the Commission signed a contract with a consultancy company in order to evaluate the measures taken by Member-States to prevent and detect fraud from any european fund.

Figure 11: OLAF's judicial recommendations in 2009-2016

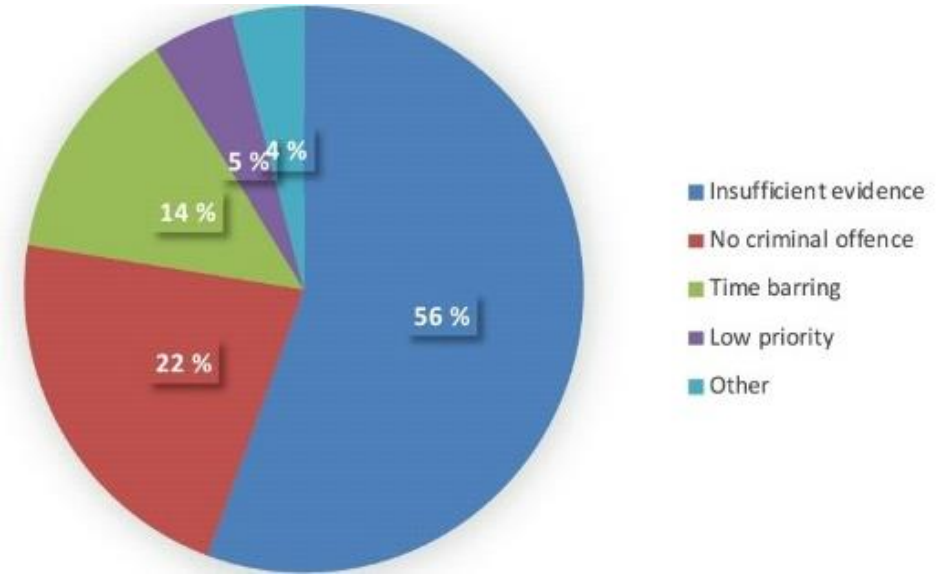


Source: The OLAF Report 2016, p. 33

As a result between the years 2014-2016 OLAF made more than 100 recommendations regarding the false fraud prevention by the Commission while only by the end of 2014 the Commission has included comprehensive Anti-Fraud provision in top level spending rules.
Also, the contribution of OLAF in inter-service consultations was increased, where it was responsible for the proposed laws which evaluate the risk of fraud.

In the period 2014-16 OLAF contributed in 1716 of 2160 inter-service consultations resulting in a positive opinion of only 304 of them. Nevertheless, between 2009-2016 OLAF contributed to more than 541 judicial actions and recommendations where 308 of them was taken into consideration by the Member-States while only 137 led to indictments and 171 cases were dismissed.

Figure 12: Main reasons for dismissal of OLAF's investigative activity



Source: Analysis of Member States' follow-up of OLAF's judicial recommendations issued between January 2008 and December 2015; page 1

Main reason for the dismissal of many cases was the insufficient number of old evidences that could lead to a prosecution, also some cases investigated by OLAF were not considered as a fraudulent activity under the national law and lastly the time limit for the initiation of a criminal procedure was passed in many occasions so the termination of the investigation was inevitable.

The dismissal of OLAF's investigations has shown the importance of close collaboration between OLAF and national authorities because according to ECA's opinion many national prosecutors in the Member-States reported that they had no contact with OLAF before the finalization of each case and that they prefer to be informed much earlier.

Opinions on EPPO's contribution

In order for EPPO to supervise the operational work of the delegated prosecutors it will need adequate expertise in national criminal law along with its translation in many cases. This means respectively that EPPO will need further staff including national legal experts.

One more aspect of EPPO's supervision is that any investigation will be conducted by Member-State's investigators under the supervision of EPPO meaning that national authorities will have the upper hand in every occasion.

According to EPPO's regulation the OLAF could pre-investigate and pre-evaluate cases that forwarded to EPPO so their close collaboration would contribute to a quick response on whether a criminal procedure should be initiated or other issues like when a case of investigation should be forwarded.

Recommendations

Firstly, the Commission should establish a new and robust fraud reporting system by enhancing the role of IMS so that the information for an investigation to be reported by all competent authorities. Also, the Commission has to increase the ability to collect any information from different sources by using different methods and to increase its antifraud strategy.

Secondly, the Commission should ensure that its new antifraud strategy should have a comprehensive analysis of the targets as well as of the objectives and of measurable indicators. Furthermore, the Commission should perform a fraud risk assessment and ask from the Member-States to adopt a similar assessment before the implementation of any program.

Lastly, the Commission should reconsider OLAF's role along with its responsibilities regarding fraud because of the EPPO's establishment. More specifically, the European Parliament and the European Council should be informed about OLAF's strategic role against EU fraud. OLAF should lead the design and supervise any implementation of Commission's policy and co-ordinate additionally anti-fraud activities in Member-States.

CONCLUSION

Fiscal policy is maybe the most crucial form of an economic regulation in every State's finances and ever more in a Member-State of EU which has to adapt its economic policy according to european fiscal standards.

For this reason the first chapter is referred into the Keynesian analysis dealing with the aggregate demand making a smooth introduction into the fiscal policy. The second chapter deepens its analysis into the current EU's fiscal framework from where it results that the EU with specific Treaties has managed to regulate its fiscal imbalances across its Members through different fiscal and economic mechanisms.

It is worth notable that in the next chapter there is an extensive analysis of european's audit schemes that regulate the fiscal status and according to them, it is obvious that EU has managed to establish robust and effective bodies in order to protect its fiscal interests.

Lastly, EU's audit schemes have close collaboration with national audit courts of EU's Member-States. One example is ECA's and Greek's Court cooperation from where we could deduce that the latter has more complex organizational structure and quite different scope and extent of competences than the first one.

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