

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 February 2005

amending Decision 94/140/EC setting up an advisory committee for the coordination of fraud prevention

(2005/223/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Commission were adopted in Council Regulation (Euratom, EC) No 2185/96 ⁽³⁾.

Having regard to the Treaty establishing the European Community,

Whereas:

(1) By Commission Decision 94/140/EC ⁽¹⁾, the Commission set up an advisory committee for the coordination of fraud prevention (the committee) attached to it and responsible for advising it on any matter relating to the prevention and prosecution of fraud and irregularities and to cooperation between Member States or between Member States and the Commission to counter fraud.

(2) Since the committee was set up, the Community provisions for the protection of the financial interests of the Community have been substantially developed and strengthened, in particular by new legislative measures and organisational changes in the Commission.

(3) General rules defining irregularities and laying down related measures and penalties in the field of the protection of the financial interests of the Community were adopted in Council Regulation (EC, Euratom) No 2988/95 ⁽²⁾, and specific rules applicable to all areas of Community activity concerning on-the-spot administrative checks and inspections carried out by the

(4) Article 280, inserted in the EC Treaty by the Treaty of Amsterdam, provided a new institutional framework for the fight against fraud; it provides in particular for powers to be shared between the Community and the Member States and for close and regular cooperation between the competent authorities of the Member States and the Commission for the protection of the financial interests of the Community.

(5) Commission Decision 1999/352/EC, ECSC, Euratom ⁽⁴⁾, established the European Anti-Fraud Office (OLAF) as the service responsible for administrative anti-fraud investigations, extending to all the activities linked with the protection of Community interests from irregular acts likely to lead to administrative or criminal proceedings.

(6) Regulation (EC) No 1073/1999 of the European Parliament and of the Council ⁽⁵⁾ and Council Regulation (Euratom) No 1074/1999 ⁽⁶⁾ determined the legal framework for OLAF's activities, making it responsible in particular for ensuring cooperation between the competent authorities of the Member States and the Commission for the coordination of action to protect the financial interests of the Community against fraud.

⁽¹⁾ OJ L 61, 4.3.1994, p. 27.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁴⁾ OJ L 136, 31.5.1999, p. 20.

⁽⁵⁾ OJ L 136, 31.5.1999, p. 1.

⁽⁶⁾ OJ L 136, 31.5.1999, p. 8.

- (7) In the field of protecting the euro against counterfeiting, the Commission has been given specific responsibility for ensuring the overall protection of the single currency by means of consultations within an advisory committee under Council Regulation (EC) No 1338/2001⁽¹⁾ in the context of close and regular cooperation between the national authorities and the Commission itself. Council Decision 2001/923/EC⁽²⁾ gave the Commission responsibility for managing and implementing a Community exchange, assistance and training programme for the protection of the euro against counterfeiting (the Pericles programme) in cooperation with the Member States.
- (8) Given these new dimensions in Community legislation and the committee's horizontal function, the committee's advisory powers should be adapted, as should the representation on it of the Member States, whose representatives must be able to be assisted by the competent national authorities. In the interests of flexibility there should also be provision for the possibility of setting up sectoral working parties.
- (9) Decision 94/140/EC must be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 94/140/EC is amended as follows:

1. Article 2(1) is replaced by the following:

'1. The Commission may consult the committee on any matter relating to the prevention and prosecution of fraud and all other illegal activities adversely affecting the financial interests of the Community, and on any matter relating to cooperation between Member States or between Member States and the Commission to protect the financial interests of the Community, in order to organise more effectively close and regular cooperation between the competent authorities to counter fraud.

The Commission may consult the committee on any matter relating to the protection of the financial interests of the Community and the protection of euro notes and coins against counterfeiting.

The Commission may also consult the committee on any matter relating to the legal protection of the financial interests of the Community, in particular with regard to the police and judicial aspects of developing, and cooperating on, the fight against fraud.'

2. Article 3 is amended as follows:

- (a) Article 3(1) is replaced by the following:

'1. The committee shall consist of two representatives for each Member State; they may be assisted by two representatives of the competent national authorities.'

- (b) Article 3(3) is replaced by the following:

'3. In agreement with the Commission, working parties may be set up by the committee to facilitate its work on sectoral matters within its remit.

The Commission shall provide secretarial services for the committee.'

3. In Article 6 the reference to Article 214 of the Treaty is replaced by a reference to Article 287 of the Treaty.

Article 2

This Decision shall take effect from the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 25 February 2005.

For the Commission
Siim KALLAS
Vice-President

⁽¹⁾ OJ L 181, 4.7.2001, p. 6.

⁽²⁾ OJ L 339, 21.12.2001, p. 50.