

**DECISION OF THE EUROPEAN PARLIAMENT OF 18 NOVEMBER 1999  
CONCERNING THE TERMS AND CONDITIONS FOR INTERNAL INVESTIGATIONS IN  
RELATION TO THE PREVENTION OF FRAUD, CORRUPTION AND ANY ILLEGAL  
ACTIVITY DETRIMENTAL TO THE COMMUNITIES' INTERESTS**

The European Parliament,

Having regard to the Treaty establishing the European Community, and in particular Article 199 thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 25 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 112 thereof,

Having regard to its Rules of Procedure, and in particular Rule 186(c)<sup>1</sup> thereof,

Whereas:

Regulation (EC) No 1073/1999 of the European Parliament and of the Council<sup>2</sup> and Council Regulation (Euratom) No 1074/1999<sup>3</sup> concerning investigations conducted by the European Anti-Fraud Office provide that the Office is to initiate and conduct administrative investigations within the institutions, bodies and offices and agencies established by or on the basis of the EC Treaty or the Euratom Treaty;

The responsibility of the European Anti-Fraud Office as established by the Commission extends beyond the protection of financial interests to include all activities relating to the need to safeguard Community interests against irregular conduct liable to give rise to administrative or criminal proceedings;

The scope of the fight against fraud should be broadened and its effectiveness enhanced by exploiting existing expertise in the area of administrative investigations;

Therefore, on the basis of their administrative autonomy, all the institutions, bodies and offices and agencies should entrust to the Office the task of conducting internal administrative investigations with a view to bringing to light serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials and servants of the Communities, as referred to in Articles 11, 12, second and third paragraphs, 13, 14, 16 and 17, first paragraph, of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as 'the Staff Regulations'), detrimental to the interests of those Communities and liable to result in disciplinary or, in appropriate cases, criminal proceedings, or serious misconduct, as referred to in Article 22 of the Staff Regulations, or a failure to comply with the analogous obligations of the Members or staff of the European Parliament not subject to the Staff Regulations;

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<sup>1</sup>Rule now deleted.

<sup>2</sup>OJ L 136, 31.5.1999, p. 1.

<sup>3</sup>OJ L 136, 31.5.1999, p. 8.

Such investigations should be conducted in full compliance with the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, of the texts implementing them and the Staff Regulations;

Such investigations should be carried out under equivalent conditions in all the Community institutions, bodies and offices and agencies; assignment of this task to the Office should not affect the responsibilities of the institutions, bodies, offices or agencies themselves and should in no way reduce the legal protection of the persons concerned;

Pending the amendment of the Staff Regulations, practical arrangements should be laid down stipulating how the members of the institutions and bodies, the managers of the offices and agencies and the officials and servants of the institutions, bodies and offices and agencies are to cooperate in the smooth operation of the internal investigations,

HAS DECIDED AS FOLLOWS:

### **Article 1**

#### **Duty to cooperate with the Office**

The Secretary-General, the services and any official or servant of the European Parliament shall be required to cooperate fully with the Office's agents and to lend any assistance required to the investigation. With that aim in view, they shall supply the Office's agents with all useful information and explanations.

Without prejudice to the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, and of the texts implementing them, Members shall cooperate fully with the Office.

### **Article 2**

#### **Duty to supply information**

Any official or servant of the European Parliament who becomes aware of evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the interests of the Communities, or of serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials or servants of the Communities or staff not subject to the Staff Regulations liable to result in disciplinary or, in appropriate cases, criminal proceedings, shall inform without delay his Head of Service or Director-General or, if he considers it useful, his Secretary-General or the Office direct, in the case of an official, servant or staff member not subject to the Staff Regulations, or, in the case of failure to comply with the analogous obligations of Members, the President of the European Parliament.

The President, the Secretary-General, the Directors-General and the Heads of Service of the European Parliament shall transmit without delay to the Office any evidence of which they are aware from which the existence of irregularities as referred to in the first paragraph may be presumed.

Officials or servants of the European Parliament must in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in the first and second paragraphs.

Members who acquire knowledge of facts as referred to in the first paragraph shall inform the President of Parliament or, if they consider it useful, the Office direct.

This article applies without prejudice to confidentiality requirements laid down in law or the European Parliament's Rules of Procedure.

### **Article 3**

#### **Assistance from the security office**

At the request of the Director of the Office, the European Parliament's security office shall assist the Office in the practical conduct of investigations.

### **Article 4**

#### **Immunity and right to refuse to testify**

Rules governing Members' parliamentary immunity and the right to refuse to testify shall remain unchanged.

### **Article 5**

#### **Informing the interested party**

Where the possible implication of a Member, official or servant emerges, the interested party shall be informed rapidly as long as this would not be harmful to the investigation. In any event, conclusions referring by name to a Member, official or servant of the European Parliament may not be drawn once the investigation has been completed without the interested party's having been enabled to express his views on all the facts which concern him.

In cases necessitating the maintenance of absolute secrecy for the purposes of the investigation and requiring the use of investigative procedures falling within the remit of a national judicial authority, compliance with the obligation to invite the Member, official or servant of the European Parliament to give his views may be deferred in agreement respectively with the President, in the case of a Member, or the Secretary-General, in the case of an official or servant.

### **Article 6**

#### **Information on the closing of the investigation with no further action taken**

If, following an internal investigation, no case can be made out against a Member, official or servant of the European Parliament against whom allegations have been made, the internal investigation concerning him shall be closed, with no further action taken, by decision of the Director of the Office, who shall inform the interested party in writing.

### **Article 7**

#### **Waiver of immunity**

Any request from a national police or judicial authority regarding the waiver of the immunity from judicial proceedings of an official or servant of the European Parliament concerning possible cases of fraud, corruption or any other illegal activity shall be transmitted to the Director of the Office for his opinion. If a request for waiver of immunity concerns a Member of the European Parliament, the Office shall be informed.

**Article 8**

**Effective date**

This Decision shall take effect on the date of its adoption by the European Parliament.