



Directorate General Internal Policies of the Union

BUDGETARY SUPPORT UNIT

BUDGETARY AFFAIRS

Financial Aspects of the Constitution for Europe

Does the draft Constitution for Europe strengthen or weaken the European Parliament's powers over the Union's finances?

NOTE

Executive summary:

The modifications introduced by the draft Constitution for Europe were largely inspired by the practice the Institutions have followed over the last decades.

The budgetary procedure was, at least formally, simplified, whilst respecting the balance of powers between Parliament and Council as foreseen in the current Treaty, and improved financial stability was introduced through incorporation of the multi-annual financial framework (MFF) into the Treaty.

The protection of EU financial interests might be reinforced by the Constitution for Europe which paves the way for the creation of the European Public Prosecutor.

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Does the draft Constitution for Europe strengthen or weaken the European Parliament's powers over the Union's finances?

Introduction

Budgets have been set successfully on the basis of Article 272 of the EC Treaty for the last 30 years, and will continue to be adopted in an enlarged Union thanks to the use of majority voting. In the worst case, the Union's finances will continue to flow on the basis of the provisional twelfths rule also described in Article 273 of the EC Treaty.

The procedure is, however, complex and rigid. Improvements in flexibility, which fully maintained the balance of powers between the institutions, have been delivered by interinstitutional agreements on budgetary discipline. And the use of financial perspectives since 1988 has helped improve financial stability.

The draft Constitutional Treaty introduced further improvements, mainly on the expenditure side. Subsequent developments have focussed more on improving the revenue side, which remained largely untouched by the draft Constitutional Treaty.

1. The Constitution for Europe

During negotiation of the draft Constitutional Treaty, the Wynn report, adopted in March 2003¹, the European Parliament set down the acceptable scope and limits for the reforms concerning the current procedures laid down in the EC treaty.

"1. - confirms the need for reforming, updating and simplifying the budgetary principles and procedures on the basis of the experience and achievements of the past and in respect of institutional balance"

"5. - recalls that it will oppose any attempt to reduce European Parliament's powers as part of the budgetary authority or to introduce more rigidity into the current system improved by budgetary discipline"

The draft Constitutional Treaty contains the following elements regarding the Union's finances:

- simplified budgetary procedure
- abolition of the distinction between compulsory and non-compulsory expenditure
- introduction of a binding co-decision procedure for agreeing annual budgets
- inclusion of the multi-annual financial framework in the Treaty
- principle of necessary means
- Commission's right of initiative in budgetary matters
- interinstitutional cooperation
- possible creation of a European Public Prosecutor

¹ Report on reform of the budgetary procedure : possible options in view of the revision of the treaties - Committee on Budgets, adopted 11-03-2003, A6-0046/2003

2. Analysis

Currently the annual budget undergoes two readings in Parliament and Council before adoption by Parliament. The draft Constitution for Europe **simplified** the annual budgetary procedure, suppressing Council formal second reading with the introduction of one reading in each house followed by conciliation and a second reading procedure to endorse or reject the results (Article III-404). Parliament retained the possibility of adopting, but with a stronger majority, the amendments voted in its first reading without the agreement of Council. This ensured that Parliament maintained its powers in the face of a telescoped negotiation procedure.

According to article 272 of the EC Treaty, Council has last say over **compulsory expenditure** necessarily resulting from the Treaty or acts adopted in accordance therewith and Parliament has last say over **non-compulsory expenditure**. Parliament argued that if the codecision principle were to apply to the budget, the distinction between compulsory and non-compulsory expenditure must be abolished². In any case, the distinction no longer makes sense in the light of the historical development of the budget, with non-compulsory expenditure now accounting for well over half the budget compared to 8% in the 1970s.

Linking the **introduction of co-decision** to the abolition of the distinction between compulsory and non-compulsory expenditure was essential to maintain the traditional competences of Parliament in the budgetary decision-making process. Incorporating these two elements into the draft Constitution for Europe gave Parliament last say over the whole budget, rather than just non-compulsory expenditure as presently, significantly strengthening Parliament's powers.

The introduction of **multi-annual financial frameworks** in the 1980s constitutes a form of simplification in the sense that they give more certainty over spending and revenue, within the revenue limits set in the Treaty for the period concerned. On the one hand, incorporation of the MFF into the draft Treaty reduces room for manoeuvre (Articles I-55 and III-402): once in, the possibility of rejecting an MFF no longer exists, and a provision in the draft Treaty would roll the MFF forward even in the event of disagreement between Parliament and Council on a new MFF. This could be seen as a weakening of Parliament's powers. However, writing the MFF into the Treaty also delivered substantial benefits. An orderly development of the Union's finances is essential to underpin Parliament's legislative prerogatives. Moreover, the draft Constitution for Europe provides for a time-frame period of at least five years. This provision has been welcomed by the Parliament as an important democratic element which would allow for coordination with the terms of office of the Commission and the European Parliament, and is a substantial improvement on the current seven year frameworks.

With regard to **the own resources**, the Constitution hardly modifies the current provisions of the EC Treaty. Even if resources are governed (article I-54) by a Law of the Union, adopted unanimously by Council after consultation with Parliament, its entry into force is subject to the approval of the Member States. Nevertheless, one can note some progress. Indeed, the "implementing measures" of the basic Law (a substantial part of the present Decision on Own resources) are to be adopted by a Law of the Council, by a qualified majority with the consent of Parliament.

It should also be pointed out that the **principle of necessary means** ("the Union shall provide itself with the means necessary to attain its objectives and to carry through its policies") has

² European Parliament resolution on reform of the budgetary procedure: possible options in view of the revision of the treaties (2002/2271(INI)) - Wynn Report P5_TA-PROV(2003)0081 of 11.03.2003.

been covered in the same article. Consequently, this principle must be applied to the system of own resources.

The right of initiative in budgetary matters **has been recognised to the Commission.** Therefore, the ordinary qualified majority vote (55% of the members of the Council comprising at least 15 of them and representing member States comprising at least 65% of the population of the Union) is applied to the budget procedure (under the current Treaties, because the budget is not adopted under a Commission proposal, the Council decides by a super-qualified majority that requires 2/3 of Member States).

However, both the Financial Framework and the annual procedure constitute exceptions in relation to the voting rule in Council that requires unanimity³ when an act constitutes an amendment to the Commission proposal, as laid down in Article III-395.

Interinstitutional cooperation practises are being formalised in the Constitution. In particular, article III-414 refers to regular meetings between the Presidents of the Parliament, the Council and the Commission as an instrument to facilitate the implementation of the financial provisions of the Constitution.

Concerning the **European Public Prosecutor:**

- it is clear that if the Constitution were in force and if agreement were to be reached on the setting up of the European Public Prosecutor (EPP, Article III-274 of the draft Constitution), there would be significant changes in the way in which the Committee on Budgetary Control deals with OLAF and fraud cases in general (item 5, point V of Annex VI of the Rules, concerning CONT).
- indeed, this article lays down that *"In order to combat crimes affecting the financial interest of the Union, a European law of the Council may establish a European public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament."*
- however, this change would concern more the overall environment in which the committee - as a political entity - operates, rather than its practical working methods. It could be said that the introduction of the EPP might remove certain obstacles to the prosecution of fraudsters, which would be a positive step, but - of course - these are not matters which CONT itself has to manage directly.

3. Further developments

Following the adoption of the draft Constitution for Europe, Parliament has called for further reform of the Union's finances, particularly on the revenue side. The Böge report⁴ on policy challenges and budgetary means on the enlarged union 2007-2013, called for an independent EU funding system prepared in a conference of national parliaments and the European Parliament before the end of the next financial perspective.

³ At the moment, unanimity is in any case the rule for the adoption of the Financial Framework. This exception will apply if QMV becomes the voting rule in this matter.

⁴ Final Report of the FINP Temporary Committee, A6-0153/2005.

And as part on the overall reflection on the future of the European Constitution, the Duff-Voggenhuber report⁵ stressed the need for reflection concerning the basis for funding the EU budget in the long term, and for reinforcement of the democratic control of the budget through the European Parliament

On 8-9 May 2006 the European Parliament together with the Austrian Presidency-in-Office organised a two-day debate on the future of Europe organised around four themes: The European Union in the world and the EU's borders; Globalisation and the European economic and social model; Freedom, security, justice: prospects? and the Union's future financial resources.

In his opening speech to the forum, president Borrell called for a move from a period of reflection to a period of proposals. In this spirit, members of the working group on the future on the Union's finances suggested that proposals should be developed and sold to both governments, at national and regional level, and the citizens of Europe, in time to feed into the 2008-9 review of the Union's finances called for in the recently agreed Inter-institutional agreement on the budget⁶. Overwhelming agreement was reached on the need for reform to deliver a European budget that is more easily understood and accepted by European citizens. It was also suggested that a permanent working group on the Union's finances, comprised of Members of National and European Parliament, could be set up.

4. Conclusions

The annual budgetary procedure is complex. Simplification is to be welcomed. The trick, however, is to ensure that Parliament's powers as part of the budgetary authority are not weakened in the process, in order to assure democratic control of the Union's finances.

The draft Constitutional Treaty succeeded in simplifying the budgetary procedure whilst maintaining and even increasing Parliament's powers. The Budget was made subject to co-decision and, with the abolition of the distinction between compulsory and non-compulsory expenditure, Parliament's right to last say was extended to the whole of expenditure.

The loss of flexibility implied by the inclusion of the multi-annual financial frameworks into the Treaty is outweighed by the benefits in terms of improved financial stability, helping underpin Parliament's legislative prerogatives. The introduction of a five year time period for the financial frameworks is an additional benefit, allowing more coordinated democratic control.

The financial interests of the Union were further served by the possibility of creating a European Public Prosecutor introduced by the Constitutional Treaty.

Little progress was made in the draft Treaty on improving the system of own resources and the revenue side of the budget. This issue was, however, taken forward at the interparliamentary forum on the Future of Europe at which the idea of a permanent working group comprised of members of the national and European Parliaments was suggested.

⁵ Report on the period of reflection: the structure, subjects and context for an assessment of the debate on the European Union, A6-0414/2005.

⁶ Adopted on 17 May 2006, OJ in press.

ANNEX: Treaty establishing a Constitution for Europe: Financial Provisions.

PART I

TITLE VII

THE UNION'S FINANCES

Article I-53

Budgetary and financial principles

1. All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the Union's budget, in accordance with Part III.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in Article III-412.
4. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the European law referred to in Article III-412, except in cases for which that law provides.
5. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article I-55.
6. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.
7. The Union and the Member States, in accordance with Article III-415, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

Article I-54

The Union's own resources

1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.
2. Without prejudice to other revenue, the Union's budget shall be financed wholly from its own resources.
3. A European law of the Council shall lay down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. The Council shall act unanimously after consulting the European Parliament. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.
4. A European law of the Council shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the European law adopted on the basis of paragraph 3. The Council shall act after obtaining the consent of the European Parliament.

Article I-55

The multiannual financial framework

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure in accordance with Article III-402.
2. A European law of the Council shall lay down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.
3. The annual budget of the Union shall comply with the multiannual financial framework.
4. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority when adopting the European law of the Council referred to in paragraph 2.

Article I-56

The Union's budget

A European law shall establish the Union's annual budget in accordance with Article III-404.

PART III - THE POLICIES AND FUNCTIONING OF THE UNION

TITLE III

Section 4 - Capital and Payments

Article III-274

1. In order to combat crimes affecting the financial interests of the Union, a European law of the Council may establish a **European Public Prosecutor's Office** from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.
2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the European law provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.
3. The European law referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.
4. The European Council may, at the same time or subsequently, adopt a European decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.

PART III - THE POLICIES AND FUNCTIONING OF THE UNION

TITLE VI

CHAPTER II - FINANCIAL PROVISIONS

SECTION 1

THE MULTIANNUAL FINANCIAL FRAMEWORK

Article III-402

1. The multiannual financial framework shall be established for a period of at least five years in accordance with Article I-55.
2. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.
3. The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly. Treaty establishing a Constitution for Europe 179
4. Where no European law of the Council determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that law is adopted.
5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure.

SECTION 2

THE UNION'S ANNUAL BUDGET

Article III-403

The financial year shall run from 1 January to 31 December.

Article III-404

European laws shall establish the Union's annual budget in accordance with the following provisions:

1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates. The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the European law establishing the budget shall be adopted;

(b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted

(c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission.

The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the European law establishing the budget shall be deemed to be definitively adopted in accordance with the joint text, or

(b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or

(c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or

(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The European law establishing the budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the European law establishing the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Constitution and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.

Article III-405

1. If at the beginning of a financial year no European law establishing the budget has been definitively adopted, a sum equivalent to not more than one twelfth of the budget appropriations entered in the chapter in question of the budget for the preceding financial year may be spent each month in respect of any chapter in accordance with the European law referred to in Article III-412; that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.

2. The Council, on a proposal by the Commission and in compliance with the other conditions laid down in paragraph 1, may adopt a European decision authorising expenditure in excess of one twelfth, in accordance with the European law referred to in Article III-412. The Council shall forward the decision immediately to the European Parliament. The European decision shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the European laws referred to in Article I-54(3) and (4). It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that timelimit.

Article III-406

In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only. Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.

The expenditure of:

- the European Parliament,
- the European Council and the Council,
- the Commission, and
- the Court of Justice of the European Union

shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.

SECTION 3

IMPLEMENTATION OF THE BUDGET AND DISCHARGE

Article III-407

The Commission shall implement the budget in cooperation with the Member States, in accordance with the European law referred to in Article III-412, on its own responsibility and within the limits of the appropriations allocated, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with those principles. The European law referred to in Article III-412 shall establish the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. It shall establish the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure. Within the budget the Commission may, subject to the limits and conditions laid down by the European law referred to in Article III-412, transfer appropriations from one chapter to another or from one subdivision to another.

Article III-408

The Commission shall submit annually to the European Parliament and to the Council the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the Union's assets and liabilities. The Commission shall also submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament and the Council pursuant to Article III-409.

Article III-409

1. The European Parliament, on a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts, the financial statement and the evaluation report referred to in Article III-408, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in the second subparagraph of Article III-384(1) and any relevant special reports by the Court of Auditors.
2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.
3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.
4. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.

SECTION 4

COMMON PROVISIONS

Article III-410

The multiannual financial framework and the annual budget shall be drawn up in euro.

Article III-411

The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of the Constitution. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs. The Commission shall deal with each Member State concerned through the authority designated by that State. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

Article III-412

1. European laws shall establish:
 - (a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
 - (b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.Such European laws shall be adopted after consultation of the Court of Auditors.
2. The Council shall, on a proposal from the Commission, adopt a European regulation laying down the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union's own resources shall be made available to the Commission, and the

measures to be applied, if need be, to meet cash requirements. The Council shall act after consulting the European Parliament and the Court of Auditors.

3. The Council shall act unanimously until 31 December 2006 in all the cases referred to by this

Article III-413

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article III-414

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Chapter.

SECTION 5

COMBATING FRAUD

Article III-415

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the Union's financial interests through measures taken in accordance with this Article. These measures shall act as a deterrent and be such as to afford effective protection in the Member States and in all the Union's institutions, bodies, offices and agencies.

2. Member States shall take the same measures to counter fraud affecting the Union's financial interests as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of the Constitution, the Member States shall coordinate their action aimed at protecting the Union's financial interests against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

4. European laws or framework laws shall lay down the necessary measures in the fields of the prevention of and fight against fraud affecting the Union's financial interests with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies. They shall be adopted after consultation of the Court of Auditors.

5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article.