



Brussels, 16.12.2021
COM(2021) 809 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

Final evaluation of the Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC

{SWD(2021) 386 final}

1. INTRODUCTION

Fraud and related illegal activities such as corruption, money laundering and illicit trade can pose a serious problem to the European Union (EU) and to the Member States, and they can undermine both EU and national finances. This is all the more pressing at a moment when, partially in response to the pandemic, the EU's total spending reaches an unprecedented volume of around EUR 1.8 trillion for the EU's multiannual budget for 2021-2027. Efficient and proper spending of the EU budget, including in the Member States, is key to maintain public (and taxpayers') trust and to boost the strength and added-value of European integration. Conversely, a high prevalence of fraud can stifle economic growth and undermine the broader economic recovery. Reinforcing our joint defences against fraud, both internal and external, is thus an integral component of strengthening the EU's resilience.

Article 325 of the Treaty of the Functioning of the European Union (TFEU) makes it a joint obligation of the Member States and the EU to protect the EU's financial interests. At EU level, the anti-fraud landscape has recently undergone major changes with the new European Public Prosecutor's Office (EPPO) becoming operational in June 2021, and the recent revision of the OLAF Regulation¹ strengthening the effectiveness of administrative investigations carried out by the European Anti-Fraud Office (OLAF). The EU's substantive criminal law framework was also reinforced with the Directive on the fight against fraud to the Union's financial interests by means of criminal law.²

There is a general recognition that in parallel, the EU should also support Member States in their work to protect its financial interests. After all, the majority of cases of fraud and irregularities are detected, investigated and prosecuted at national level.

During the last EU budget period spanning 2014-2020, the Hercule III programme was the EU's dedicated facility to provide such support. The programme, which was administered by OLAF within the Commission, was established by Regulation (EU) No 250/2014³ ('the Regulation'). The programme's general objective was to protect the EU's financial interests, thus enhancing the competitiveness of the economy and protecting taxpayers' money. The specific objective was to prevent and combat fraud, corruption and any other illegal activity affecting the EU's financial interests. Action to

¹ Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations, OJ L 437 of 28 December 2020.

² Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198 of 28 July 2017.

³ Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC, OJ L 84 of 20 March 2014.

protect the financial interests covered the whole expenditure side of the EU budget. On the revenue side, action focused on traditional own resources.

Article 13(2)(b) of the Regulation mandates the Commission to carry out an evaluation of the programme. The accompanying staff working document contains the detailed findings of the evaluation of the Hercule III programme, and makes a number of recommendations based on that analysis.

2. THE HERCULE III PROGRAMME

The Hercule III programme is a targeted programme, the EU's main programme to protect the EU's financial interests.

During preparations for the last multiannual budget, the irregularities and suspected fraud cases detected during implementation of the budget and reported by Member States⁴ under Article 325 TFEU showed that the detrimental financial impact throughout the years remained at levels requiring the EU to continue enforcing its obligation to protect the EU budget through a programme such as Hercule. To reach that objective, the budget for Hercule III amounted to **EUR 104.9 million over the period 2014-2020**. The eligible beneficiaries of the programme were national or regional administrations of Member States and research bodies, as well as educational institutes and non-profit entities set up and operational in a Member State for at least one year.

The programme was implemented on the basis of annual cycles that carried out the work programmes adopted by the Commission. Hercule III provided financial support for:

- i. **technical assistance** (at least 70% of the programme's budget) for measures such as the purchase of technical equipment and information technology tools, the support for cross-border cooperation and joint operations, staff exchanges, and the development and provision of access to databases for Member States and OLAF,
- ii. **training** (maximum 25% of the programme's budget) for measures such as conferences and seminars to enable cross-border exchange of experience and best practice, digital forensics training, and the development of high-profile research activities and studies, and
- iii. **any other action that falls within the programmes' remit** (maximum 5% of the budget).

The programme provided financial support in the form of grants, public procurement contracts and reimbursement of the costs incurred by the participants to the activities. A major change from Hercule II to Hercule III was the increase in the co-financing rate under technical assistance from 50% (Hercule II) to 80% (Hercule III) of the eligible cost of technical assistance.

⁴ Annual reports under Article 325 of the Treaty on the Functioning of the EU on the protection of the Union's financial interests (PIF Reports) are available at: https://ec.europa.eu/anti-fraud/reports_en.

In November 2021, OLAF had registered 280 finalised projects out of 336 applications (83.3%). For a project to be considered finalised, the technical and financial reports have to be submitted and the final payment made.

3. THE FINAL EVALUATION

Under Article 13 of the Regulation and the Commission's Better Regulation Guidelines, the evaluation assessed the programme against five criteria:

- relevance of all programme objectives;
- internal and external coherence of the programme with other areas of EU action;
- effectiveness in attaining its objectives and expected results including sustainability;
- efficient use of resources, and
- the programme's EU added value.

The time period covered by the evaluation is the seven-year programming period for Hercule III, from 1 January 2014 to 31 December 2020.

The evaluation methodology

In carrying out the final evaluation, the Commission primarily drew on a **study prepared by an external contractor**⁵. It also drew on the impact assessment carried out in preparation for the legislative proposal for the programme, the Commission's mid-term evaluation⁶, the annual work programmes of Hercule III, and the annual overviews on the implementation of the programme prepared by the Commission and annexed to the Commission annual report on the protection of the EU's financial interests ('PIF Reports'). An inter-service steering group (ISSG) of relevant Commission departments was set up to support the evaluation process. It reviewed the roadmap, the terms of reference for the external contract, and the inception and final reports.

The scope of the final evaluation covers all measures funded under the Hercule III programme as well as preparatory and implementing work carried out by the stakeholders for these measures. It also covers applications for grants submitted by potential beneficiaries that were rejected.

The external study was based mostly on primary data sources provided in response to the evaluation questions collected via (i) interviews of EU and national civil servants, and beneficiaries of measures funded under the programme, and (ii) online surveys with

⁵ The study by RAMBOLL Management Consulting is available at <https://data.europa.eu/doi/10.2784/62582>.

⁶ Report from the Commission to the European Parliament and the Council COM(2018) 3 final - Mid-Term evaluation of the Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC, 10.1.2018.

beneficiaries, unsuccessful applicants, participants in events funded under the programme, as well as users of services procured under the programme. This research included 16 case studies in eight Member States. It also used secondary data, such as publicly available sources (e.g. the Hercule III annual work programmes), applications submitted for grants and contracts and final reports submitted by beneficiaries.

4. MAIN FINDINGS OF THE FINAL EVALUATION

Overall, based on the evidence collected, the evaluation found that the Hercule III programme had successfully met its general, specific and operational objectives. Echoing the views of many beneficiaries, the evaluation also concluded that it was necessary to maintain a funding programme supporting them in their work to protect the EU's financial interests, which contributes also to the protection of national financial interests. The beneficiaries considered that the results obtained and the programme's overall output largely outweighed the required investment in time, effort and cost to participate. The participants also considered the recognition and reputation linked to their participation in the programme as a valuable asset.

4.1. Relevance

The programme was seen as **highly relevant** in addressing the main problems faced by stakeholders in protecting the EU's financial interests, confirmed by a large majority (80%) of applicants who responded to the survey. They considered the programme relevant because it complemented the work carried out at Member State level. The evaluation confirmed that the drivers underpinning the Commission's proposal for a regulation (2011) establishing the Hercule III programme and the findings of the mid-term evaluation (2018) remain valid today, in particular the occurrence of fraud to the European Union's financial interests.

Evidence from interviews with stakeholders and 16 case studies demonstrated that, while most Member States have their own national anti-fraud strategies, the programme provided additional support that could be acquired fast, enabling national authorities to reach their national objectives more rapidly. Interviews with representatives of EU institutions confirmed this finding, adding that the support was even more relevant where the Member States had recently cut the available funding for national agencies.

During the evaluation, stakeholders provided suggestions to further improve the programme. They felt it could focus more on expenditure fraud and be more reactive to emerging threats areas such as food fraud, misuse of drones and cybercrime. Some stakeholders highlighted that for the support to remain relevant in future years, it was important to continuously adapt the focus of the programme to the ever-changing fraud landscape, in particular to new threats and new technologies.

4.2. Effectiveness

The evaluation concluded that the programme was **effective** in its technical assistance and training by contributing to its stated objectives. Stakeholders highlighted for example that the funded activities minimised risk in key areas of cigarette smuggling and counterfeiting, improved the prevention and investigation of fraud cases, facilitated the coordination of anti-fraud activities, exchange of information, knowledge, experience and best practice, as well as developing high-profile research activities, improved cooperation between practitioners and academics, and raised awareness of magistrates and legal practitioners in the field of criminal law through conferences.

There was a broad consensus among different stakeholders that technical assistance measures (such as financing the purchase of scanners to detect smuggled goods, or funding training in digital forensics) provided support to the law enforcement authorities in the Member States in their work to combat illegal cross-border activities.

The purchase of modern equipment also produced a number of positive effects that are not among the primary programme objectives, but nevertheless benefit national law enforcement agencies. For example, the equipment purchased to carry out border checks had proven useful in detecting illegal drugs or weapons. This proved also useful in seizing illegal substances or artefacts that do not primarily undermine the EU's financial interests but pose a more general security threat to the Member States. The acquisition of modern technical equipment also increased the health and safety of customs and police officers as it lowered the risk of exposure to radiation. Lastly, modern communication and surveillance equipment helped monitor criminal activities while staying undetected.

The evaluation demonstrated that the measures funded by the programme are sustainable, i.e. they produced effects that lasted beyond the programme completion. The sustainability of technical assistance depends on the nature and costs of the purchased equipment. As long as the equipment is used to combat fraud, it can have long-lasting effects. Training and conferences also produced some sustainable effects, in particular when participants shared knowledge and experience at their workplaces after the event.

The evaluation also indicated aspects that may hamper the effectiveness of the programme. The lack of resources in Member State administrations and subsequent inability to cope with the administrative requirements of the programme can lead to fewer applications. Making more guidance available to applicants could be a key to remedy this issue.

4.3. Efficiency

Overall, the evaluation showed that the programme is **efficient**, both in terms of training and technical assistance. Weighing up the costs and benefits of the programme, most stakeholders were of the view that the benefits outweighed the costs (92% of replies to the applicants' survey).

Some applicants suggested lightening the work involved in the application and reporting processes, for instance by reducing redundancies in the application form or reducing the volume of information requested. They also suggested that it would be useful to provide further guidance and support to better understand the award criteria and best practices. This would help avoid common mistakes and reduce the time it takes to prepare applications.

4.4. Coherence

The evaluation demonstrated that the **internal and external coherence** of the programme was satisfactory. Specifically on internal coherence, the consultant's study did not identify any overlaps between activities funded by Hercule III. Some activities funded under technical assistance and training may appear similar but they target different audiences and have different objectives. For instance, training under the technical assistance pillar focused on providing information on the use of the technical equipment purchased whereas training under the training pillar focused on raising awareness and exchanging best practice. Therefore, the activities eligible for funding under the programme were strongly complementary.

The Commission used its internal consultation processes to ensure external coherence between the programme and other Commission spending programmes, in particular at the stages of preparing the annual work programmes and selecting grant applications. The Commission prevented overlaps between Hercule III and the Fiscalis 2020, the Customs 2020 and the Justice programme by ensuring that the programmes pursued separate objectives, as laid down in the legislation. Any residual potential overlaps were avoided by providing detail in each annual work programmes, including on the annual objectives, type of activities, participants and beneficiaries to prevent duplication.

The evaluation also identified a high degree of complementarity between the programme and the Anti-fraud Information System (AFIS). Anticipating this finding, the Commission decided to integrate AFIS into the EU's anti-fraud programme, the successor of Hercule III for the next budget period 2021-2027. Lastly, the programme leaves scope for Member States to target their requests in areas highlighted in the multiple action plans adopted by the EU on anti-fraud, home affairs and customs. This creates additional synergies and promotes coherence with other areas of EU action.

4.5. EU added value

The evaluation demonstrated the programme's **EU added value**. Stakeholders almost unanimously considered that action taken under the programme had significant added value compared to what could have been achieved at national and regional levels without the programme. In particular, respondents found the programme to provide additional value in two areas. Firstly, it acted as a driver and enabler to counter and reduce the risk of fraud for the EU's finances. This was particularly the case for technical assistance measures where, according to beneficiaries, the limits set under national budgets would

not have enabled them to make large investments in technical equipment. In this context, several beneficiaries and unsuccessful applicants mentioned that being associated with the programme provides a higher degree of legitimacy to their work at national level.

Secondly, respondents perceived the programme to be a factor facilitating cooperation between the Member States through conferences, training and database tools. Such cross-border cooperation would have been much more difficult to achieve at national level.

5. CONCLUSIONS AND RECOMMENDATIONS

The evaluation concluded that the programme remains relevant. It is coherent, effective, efficient and provides EU added value. However, it also identified a number of current and foreseeable challenges which the successor programme of Hercule III, the EU's new anti-fraud programme (UAFP) must address.

Like the Hercule III programme, the UAFP should also continuously adjust to new developments in the fraud landscape, such as technological developments and the increasing complexity of criminal activities, notably cross-border crime. This applies in equal measure to fraud on both the expenditure and the revenue side of the budget, where attempts to avoid tax and customs duties pose serious challenges to the fight against fraud. The Commission should continue to consult Member States when preparing the new UAFP work programmes to ensure maximum relevance of the support offered.

The benefits of the programme clearly outweighed the costs incurred by the beneficiaries. However, differences in the administrative capacity of Member State administrations pose a challenge that could be overcome by providing more guidance for applicants and, where possible, by simplifying the procedures.

The programme proved to be internally and externally coherent but it is important to maintain the internal consultation and coordination procedures to avoid any overlap. For example, the Commission's first implementing decision⁷ under the UAFP already explicitly addresses any potential overlap between action under the UAFP and the newly established instrument for financial support for customs control equipment⁸.

The programme demonstrated clear EU added value. However, despite the good evidence base available to the external consultant, it remains a challenge to assess the impact of the programme, especially in quantitative terms, under the monitoring and evaluation framework applicable to Hercule III. Under the new multiannual budget, the Commission is developing a cross-cutting evaluation and monitoring framework applicable to all

⁷ Commission Implementing Decision COM(2021) 5338 final of 23.7.2021 on the financing of the Union Anti-Fraud Programme and the adoption of the work programme for 2021, 23.7.2021.

⁸ Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment, OJ L 234, 2 July 2021, p. 1.

spending programmes. In addition, the UAFP could improve the current framework by developing an appropriate number of indicators specific to eligible projects. It would also be useful to set up a centralised database of implemented projects. This would help collate and store data on implementation of the UAFP and would aid the subsequent evaluation stage.

6. THE WAY FORWARD

It is reassuring that the conclusions and recommendations presented in this report and, in more detail, in the accompanying staff working document are to a good extent already reflected in the UAFP. In that sense, this evaluation lends good support to the Commission's current practice.

The UAFP has two main objectives. First, to protect the EU's financial interests. Second, to support mutual assistance between Member States authorities and cooperation between them and the Commission to ensure the correct application of the law on customs and agricultural matters. In addition to these objectives, what this evaluation has shown is that protecting the EU's financial interests often has positive side effects – for the fight against drugs, in combating the shadow economy and money laundering, for public security and even for the environment and the health of officers carrying out checks.

The new programme combines the activities of the former Hercule III programme with the financing of the AFIS and the Irregularities Management System (IMS). This merger of operational activities is expected to generate synergies and to allow for a better strategic alignment of these previously separate strands of work.

More generally, the UAFP responds to today's challenges in several ways:

First of all, as more and more criminal activities are run in cyberspace, the programme supports Member States in strengthening their **digital capacity** to detect and investigate fraud. To this end, the UAFP supports the purchase of advanced analytical tools, databases and provides expert training on digital forensics. A stronger focus on data and analysis also is fully aligned with the new Commission anti-fraud strategy (CAFS), which promotes the deployment of advanced analytical tools.

Secondly, considering especially the increase in EU expenditure under the new budget and NextGenerationEU, the UAFP **shifts the bulk of funding from the revenue side to fighting fraud against expenditure**, including under the Recovery and Resilience Facility. This change of paradigm is amplified by the fact that the EU has now established the new programme for the purchase, upgrade and maintenance of customs control equipment (CCE). With a budget of around EUR 1 billion for the current seven-year period, this new instrument will free up some resources in the UAFP since CCE had absorbed a substantial share of the technical assistance provided under the Hercule III programme.

Looking at the findings of this evaluation, the Commission considers that the UAFP provides a solid base to support Member States and other eligible entities in tackling the ever-evolving fraud landscape. It also takes into account the new institutional setting at European level with the launch of the EPPO.

At a more operational level, when summarising the key findings of the evaluation in terms of recommendations for the future, two aspects stand out: first, the desire voiced by stakeholders to receive more detailed guidance from the Commission when they prepare an application. This is something the Commission, with OLAF as lead service, will look into when launching the next calls for proposals in 2022 and beyond, mindful of the need for the process to give fair and equal chances to all applicants. Second, the findings of the evaluation invite the Commission to reflect again on the delicate balance between the strong wish to minimise the administrative burden on applicants and the need for more information readily available for monitoring and ex-post assessments. This balance is not easy to strike, and the Commission will look into ways to further fine-tune its reporting tools to this end.