



EUROPEAN COMMISSION

Brussels, 11.7.2013  
C(2013) 4303 final

Dear President,

*The Commission would like to thank the Hellenic Vouli ton Ellinon for its Opinion on the Commission's proposal on the fight against fraud to the Union's financial interests by means of criminal law {COM(2012) 363 final}.*

*The Commission is pleased that the Vouli ton Ellinon fully shares the Commission's objective to better protect the Union's financial interests. Fraud and related illegal activities affecting the Union's financial interests pose a serious problem to the Union budget and thereby to the EU-taxpayers. The Commission hopes for a quick adoption of this important proposal in the European Parliament and the Council.*

*The Commission has taken note of the Vouli ton Ellinon's concrete suggestions in particular on Articles 4 and 12, which are currently part of thorough discussions in Parliament and Council. As regards the liability of legal entities (Article 6), the Commission would like to point out that in line with identical provisions in earlier EU legislation, Member States are free to apply penalties to legal entities of either an administrative or criminal nature, provided these are effective, dissuasive and proportionate.*

*The EU Charter of Fundamental Rights stipulates that a person cannot be punished for the same conduct twice. The Court of Justice has consistently held that if an administrative sanction can be equated with a criminal penalty, a subsequent criminal penalty may not be imposed on the same person for the same conduct. In contrast, criminal penalties may still be imposed for the same conduct if previous sanctions imposed on that person cannot be equated with a criminal penalty.*

*Article 7(4) of the Commission proposal foresees that in such cases, the national judge deciding on the appropriate criminal penalty should be able to take into account any other sanction already imposed. The Commission considers it important to ensure that the public response to offences against the Union's financial interest, viewed as a whole, is proportionate to the offence committed by the perpetrator. The provision is without prejudice*

Mr Evangelos MEIMARAKIS  
President of the  
Vouli ton Ellinon  
11, Av. Vassilissis Sofias  
GR – 10021 ATHENS

*to the judicial discretion to decide the criminal penalty in individual cases. The judge is not required to mitigate a criminal penalty because of a previous sanction. The Commission proposes that the judge should have the legal possibility to do so, if the judge sees fit.*

*The Commission hopes that these clarifications address the issues raised by the Vouli ton Ellinon and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*