

Protection of the Communities' financial interests. Fight against fraud - Annual report 2008

2009/2167(INI) - 23/03/2010

The Committee on Budgetary Control adopted the own-initiative report drawn up by Andrea COZZOLINO (S&D, IT) on the protection of the Communities' financial interests and the fight against fraud – Annual Report 2008 in response to the [Commission's report](#) on the subject. It notes that the financial impact of irregularities, as far as they have been identified, fell from EUR 1 024 million in 2007 to EUR 783.2 million in 2008, with reductions being recorded in all spending areas except direct expenditure and pre-accession funds.

The committee stresses that all Member States must provide all necessary resources to combat fraud effectively so as to protect the financial interests of the Union and its taxpayers and to fight organised crime, which, according to national indicators, is increasing its capacity for collusion within institutions, particularly by means of fraud against the Community budget. It also calls on the Commission to take appropriate action with a view to recovering funds that are wrongly paid.

Own resources: Members welcome the fact that the estimated amount affected by irregularities was 12.5% lower than in 2007. They consider it essential to enact effective legislation to improve administrative cooperation in tackling harmful tax practices and welcome [proposed legislation](#) to deal with this. The Commission is also asked to provide comprehensive information enabling a comparison to be made between the costs incurred by Member States in collecting traditional own resources and the amount withheld to cover those collection costs.

Agricultural expenditure: Members welcome the fact that the estimated amount affected by irregularities was 34% lower than in 2007, stressing that the relatively small number of irregularities would appear to stem mainly from the higher threshold for compulsory notification (EUR 10 000) introduced under Commission Regulation (EC) No 1848/2006. They call on the Commission to take further steps to ensure effective implementation of Regulation (EC) No 1975/2006 which lays down new control rules for rural development support measures with a view to ensuring that beneficiaries meet their obligations.

Structural actions: the report welcomes the fact that the financial impact of irregularities was 27% lower than in 2007. It expresses concern that Italy, Poland, the UK and Spain reported the largest amount of irregularities, but welcomes the good collaboration initiated by some of these Member States with the Commission to resolve these problems and trusts that other Member States will do likewise. It goes on to note the high incidence of errors linked to ineligible spending and breaches of the rules on public procurement and considers it advisable, therefore, for the Commission to introduce precautionary guidelines for Member States and local authorities to clarify how these rules are to be applied and to avoid the managing authority replacing expenditure refused by the Commission as ineligible with new expenditure that is also ineligible.

Pre-accession funds: the committee deplores the fact that the estimated amount affected by irregularities reported by the EU-10 grew by 8%, while that for the EU-2 increased by 152%, and the amounts recovered were 15.6% down on 2007. It calls in particular on Bulgaria and Romania to build up their administrative capacity to manage EU funding, remove conflicts of interest in fund management, improve the supervision of public procurement procedures and swiftly introduce the necessary precautionary,

corrective and/or disciplinary measures. Members call on the Commission to take appropriate steps to lessen the risks generated by the highly changeable environment in which DG ELARG operates, with a view to ensuring effective multiannual planning of internal audit operations. The Commission is also asked to adopt a specific policy for ex-post controls under the centralised management arrangements, and to continue with initiatives to improve project design and implementation.

Direct expenditure: the report points out that external aid is a sector which is increasingly affected by irregularities and fraud, and it requests the Commission to pay attention to the problem of double financing of projects.

An integrated internal control framework: Members welcome the fact that the [Commission's communication](#) on tolerable risk provided a basis for a debate on this issue, and share the view that different tolerable error thresholds may be set for each sector. It considers that the annual summaries submitted to the Commission by Member States should have a firmer legal basis than that currently in place under the Financial Regulation. In connection with the review of the Financial Regulation, the committee calls for those summaries to provide an exhaustive qualitative analysis of the findings of the audits carried out by each Member State. Furthermore, it is essential for the Commission to continue to promote Structural Funds' 'contracts of confidence' with Member States and, at the same time, secure additional guarantees in connection with national control systems by forging closer links with the independent Supreme Audit Institutions.

Increased transparency and the fight against fraud, corruption and financial crime: the report notes that the public procurement sector is the one most open to risks of mismanagement, and fraud. It calls on the Commission and Member States to improve current rules on public procurement. It asks the Commission to intervene to ensure that all Member States furnish reliable, uniform information on beneficiaries of EU funds which must be included in the Early Warning System and the Central Exclusion Database. The Commission is also asked to do the following:

- begin early discussions with interested stakeholders on all aspects related to the creation of the European Prosecutor's Office for combating crimes affecting the financial interests of the Union and to step up the adoption of all necessary measures for establishing this office;
- develop a proposal on the mutual recognition of disqualifications, in particular for professions in the financial area, such as the exclusion of fraudulent offenders from acting as chief executives;
- develop a proposal to extend the EU acquis on common definitions of offences in the area of financial and economic crime;
- consider banning companies which operate through offshore havens from making business agreements with companies residing in the EU if their offshore location will unilaterally delay the adoption of cooperation agreements with the Union;
- produce indicators that quantify efforts to fight corruption, paying particular attention to public procurement, in accordance with the provisions of the Stockholm Programme.

OLAF's work: the committee takes the view that OLAF should draw more extensively on the work carried out by the Commission's internal audit services when initiating investigations, rather than relying mainly on information provided by officials or Member States. It is also important to monitor whether and how the Commission's internal audit service takes account of OLAF's recommendations, and Members call on OLAF to provide relevant statistics in its future annual reports. They go on to state that OLAF's work can be made still more effective by ensuring detailed planning of investigations, through the adoption of an ad hoc procedural regulation as a binding guide, promoting the use of SMART objectives and RACER indicators for the investigations themselves, improving cooperation between OLAF and national judicial authorities from the start of the investigative process and rapidly applying a 'core tasks' policy, as well as follow-up procedures during the initial stage of investigations by OLAF, under which small-scale fraud would be handled by other bodies while recurring small-scale fraud which results in large sums from irregularities due to structural problems may be of interest for OLAF investigations.

On **OLAF's cooperation with Member States**, the committee deplores the shortcomings apparent in Annex I to the 2008 annual report (Implementation of Article 280 of the Treaty by the Member States in 2008) as regards both the way in which the Member States reply to the Commission's questionnaire and the types of question asked by the Commission, which fail to elicit quantifiable answers or which Member States easily avoid. It wants OLAF to present a detailed analysis of the strategies put in place by each Member State to fight fraud, including irregularities caused by corruption. Specific attention should be paid to the implementation of **agricultural and structural funds**. Members consider that the report, complete with 27 country profiles, should analyse the approach followed by national judicial and investigating authorities and the quality and number of controls performed, as well as statistics and reasons in cases where the national authorities have not followed up on OLAF's reports. The report should furnish a knowledge base to be used in better defining OLAF's strategy and the priorities to be followed in special investigations, launching bespoke initiatives, and improving cooperation with Member States and the efficiency of both OLAF and the local supervisory authorities.