

Annual report 2011 on the protection of EU's financial interests - Fight against fraud

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The Committee on Budgetary Control adopted the report by Derek Vaughn (S&D, UK) on the Annual Report 2011 on the protection of the EU's Financial Interests - Fight against fraud.

General comments: while stressing that countering fraud and any other illegal activities affecting the financial interests of the Union is the obligation of the Commission and the Member States, enshrined in the Treaty on the Functioning of the European Union, the report recalls that it is equally important to ensure the protection of those financial interests both at the level of collection of the EU's resources and at the level of expenditure.

- **Definitions and standard evaluation criteria:** the committee regrets that the report is limited to the data reported by the Member States and points out that **Member States use different definitions for similar types of offence** and do not all collect similar and detailed statistical data following common criteria. This makes it difficult to collect reliable and comparable statistics at EU level and it is thus impossible to evaluate the actual overall scale of irregularities and fraud in individual Member States or to identify and discipline those Member States with the highest level of irregularities and fraud. The report urges, therefore, that **standard evaluation criteria for irregularities and fraud** be laid down in all Member States and combined with appropriate penalties for those guilty of infringement. It also calls for a distinction to be made between fraud and errors or irregularities.

- **Irregularities:** the committee notes that, according to the Commission's annual report, in 2011, 1 230 irregularities were reported as fraudulent and that their financial impact **decreased by 37%** in comparison with 2010 and amounted to EUR 404 million. It acknowledges that **cohesion policy and agriculture remain the two main areas suffering from the highest level of fraud** with a respective estimated financial impact of EUR 204 million and EUR 77 million. It calls on the Commission to closely monitor the effectiveness of supervisory and control systems in the Member States and to ensure that the information provided on the level of irregularities in the Member States reflects the true situation.

- **e-Government:** Members stress that the European Union needs to step up efforts to **strengthen the principles of eGovernment** which would set the conditions for greater transparency in public finances and draw attention to the fact that electronic transactions, unlike cash transactions, are referenced and it therefore becomes more difficult to commit fraud and easier to identify suspected cases of fraud.

- **Investigative journalism:** the committee emphasises that 233 investigative reports have been published on cases of fraud related to the misuse of EU funds over a period of 5 years within the 27 Member States and considers that **investigative journalism** has played a major role in exposing such fraud and represents a valuable source of information to be considered by OLAF and law enforcement or other relevant authorities in Member States.

Mandatory national declarations: Members recall that in its [resolution of 6 April 2011](#) on the protection of the Communities' financial interests – Fight against fraud – Annual report 2009, Parliament called for the introduction of **mandatory national management declarations** duly audited by the national audit office and consolidated by the Court of Auditors; they regret that no further steps have been taken in that direction.

Recovery of funds: Members acknowledge that the amount to be recovered following irregularities detected in 2011 reached EUR 321 million, of which EUR 166 million has already been recovered by the Member States: this represents a **recovery rate for traditional own resources of 52%** in 2011 compared to 46% in 2010. The committee notes OLAF's overview of progress on judicial actions in actions created between 2006-2011, according to which more than half of actions are pending a judicial decision. It is of the opinion that special attention should be paid to cases related to **fraud in customs**, which is among the areas with the **highest rates of systemic corruption** in Europe.

Revenue – own resources: Members emphasise that tax evasion and avoidance represent a major risk for the EU public finances. They stress that **an estimated EUR 1 trillion in public money is lost due to tax fraud and tax avoidance every year in the EU**, i.e. a rough yearly cost of EUR 2 000 for every European citizen.

Owing to the mechanism of balancing the EU budget with GNI-based revenue, every euro lost to customs and VAT fraud has to be paid for by EU citizens. Members emphasise that **fighting tax evasion** should be given the highest priority by both the Commission and the Member States.

The report calls on the Commission to **strengthen its coordination** with the Member States in order to collect reliable data on the **customs and VAT gap** in the respective countries and to report on a regular basis to Parliament in that regard.

Customs: Members are deeply concerned at the Court of Auditors' conclusion that there are **serious deficiencies in national customs supervision**. They stress that the Customs Union is an area of exclusive competence of the EU and that it is therefore the Commission's obligation to put in place all measures necessary to ensure that the customs authorities in the Member States act as if they were one, and to monitor their implementation. They emphasise that modern IT solutions and direct access to data are crucial for the effective functioning of the Customs Union and are concerned that in most Member States **tax administrations have no direct access to customs data and that automated cross-checking with tax data is therefore not possible**.

Modernised Customs Code (MCC): the committee deplores the fact that the Commission and the Member States have been unable to ensure the timely implementation of the Modernised Customs Code (MCC). It calls on the Commission to make an evaluation of the cost of postponing full application of the MCC, quantifying the budgetary consequences of such postponement.

VAT: the report recalls that the correct operation of customs procedures has direct consequences for the calculation of VAT. It stresses that the model of VAT collection is outdated, given the many changes to the technological and economic environment that have taken place and points to the need for **real-time connection of business transactions with the tax authorities** in order to combat tax evasion.

Cigarette smuggling: the report emphasises that cigarette smuggling serves as an important source of financing for internationally structured criminal organisations, and highlights, therefore, the importance of strengthening the external dimension of the Commission's action plan to fight against the smuggling of cigarettes and alcohol along the EU Eastern border.

Expenditure: Members recall that 94% of the EU budget is invested in the Member States, and that it is vitally important that all money is spent well. They deplore that most irregularities in EU spending are committed at national level. They emphasise that greater transparency allowing for proper scrutiny is key in order to detect fraud and recall that, in previous years, Parliament has urged the Commission to take

action to ensure **one-stop transparency** as regards the beneficiaries of EU funds. They, once more, reiterate their call on the Commission to design measures to increase the transparency of legal arrangements and a system which lists all beneficiaries of EU funds on the same website.

Agriculture: Members point out that the number of irregularities reported as fraudulent in agriculture in 2011 does not reflect the actual situation and that the Commission, addressing the Member States, expressed its concern that the fraud figures reported might not be entirely reliable. They call for further cooperation and best-practice-sharing in the Member States in order to respond to and report cases of fraud to the Commission.

They remain concerned by the **suspiciously low fraud rates** reported by **France, Germany, Spain and the United Kingdom**, especially given their size and the amount of financial support received. They regret that, in its annual report, the Commission did not offer a definitive answer to the question of whether the low suspected fraud rates reported by these countries are the result of non-compliance with reporting principles or of the ability of the control systems put in place in these Member States to detect fraud. They therefore call on the aforementioned Member States to provide detailed and thorough explanations of their low rates of reported suspected fraud as soon as possible.

Cohesion policy: the Committee welcomes the fact that in 2011 the Commission completed financial corrections for EUR 624 million out of EUR 673 million and that the recovery rate for Cohesion Policy improved to 93 % in comparison with 69 % in 2010. It calls on the Commission and the Member States to simplify the relevant rules on public procurement and the procedural rules for management of the Structural Funds.

External relations, aid and enlargement: Members note with concern that the Court of Auditors pointed to errors in final payments that had not been detected by Commission controls, and concluded that the controls applied by the Commission are not fully effective. They therefore call on the Commission to follow the recommendations of the Court of Auditors and the discharge opinion with a view to improving its monitoring mechanisms in order to ensure the efficient and appropriate expenditure of funds.

They take note of the **decrease in the number and the financial impact of irregularities detected with regard to the pre-accession funds** examined in the 2011 report and welcome the fact that the rate of recovery of EU resources unduly paid as part of pre-accession assistance has improved significantly, but notes that it still reaches only 60 %.

OLAF: Members reiterate that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF, including the independence and functioning of the OLAF Supervisory Committee. They consider that this is all the more reason to strengthen the independence of the Supervisory Committee, and that the Committee should be empowered with the necessary means to fulfil its role effectively. They welcome the [anti-fraud strategy](#), *inter alia* as regards the inclusion of improved anti-fraud provisions in spending programmes under the new multiannual financial framework for 2014-2020. The committee notes with concern, however, the Commission's conclusion that there are **insufficient deterrents against criminal misuse of the EU budget in Member States**. It welcomes the Commission proposals to address this problem and recommends that beneficiary third countries should also be involved as fully as possible.

Furthermore, Members are concerned about the **reporting** of the OLAF Supervisory Committee. They note that breaches of essential procedural requirements during preparatory investigations could affect the legality of the final decision taken on the basis of investigations by OLAF. **Breaches** may incur the legal liability of the Commission. These shortcomings should be tackled immediately.

The report calls for potential fraud or irregularities which have less financial impact – in areas such as customs (where the threshold below which OLAF does not take action is EUR 1 million) and the structural funds (where the threshold is EUR 500 000) – to be reported to the Member States.

The Commission's initiatives in the area of anti-fraud activity: the committee welcomes the fact that, in response to Parliament's request, the Commission is currently developing a methodology to measure the costs of corruption in public procurement concerning EU funds. In particular, it calls in this respect on the Commission to report on and evaluate the anti-fraud strategies established within each Directorate-General.

Lastly, Members look forward to the submission by the Commission of the **legislative proposal on the establishment of the European Public Prosecutor's Office**, which will be responsible for investigating, prosecuting and bringing to justice those who damage assets managed by or on behalf of the EU, as announced by the Commission for June 2013.