Protection of the financial interests of the Communities, fight against fraud. 2004 annual report

2005/2184(INI) - 15/06/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Herbert **BÖSCH** (PES, AT) in response to the Commission's 2004 annual report on protection of the financial interests of the Communities and the fight against fraud.

Scale of the irregularities and cases of fraud reported: Parliament notedthat in 2004, in the areas of own resources, agriculture and structural policy, irregularities and cases of fraud totalling some EUR 982.3 million were reported by the Member States. It stressed that the importance of year-on-year fluctuations in losses reported should not be overestimated and that they might be affected by a wide variety of factors. It was completely unacceptable that there were still 'old' Member States (Germany, Greece and Spain) failing to forward notifications on irregularities to the Commission electronically, and that those notifications were incomplete and that they were forwarded with several years'' delay. Parliament highlighted the fact, however, that taken over a longer period, the trend in losses in the EAGGF area was clearly downwards, whereas in the area of the Structural Funds a substantial increase had been seen. The IACS system, which was partly responsible for lower losses in agriculture, should be used in all Member States. Parliament also pointed out that Spain and Germany accounted for more than 65% of losses. With regard to the Structural funds, it appeared that, as a rule, 86% of irregularities were not reported until two years after they are detected. The ERDF accounted for most of the loss; and losses reported from Italy, Germany and Greece represented 81.6% of the aggregate loss reported. Parliament stated that it expected a report from the Commission, before 1 November 2006, setting out the steps it has taken to prevail upon the Member States concerned to fulfil their Treaty obligations, withy particular reference to reporting. With regard to pre-accession aid, Parliament noted that in the period from 2002 to 2004, the amount corresponding to the total eligible cost of projects concerned by irregularities, amounted to EUR 2.38 billion. It was concerned to note that, in 90% of all reported cases concerning pre-accession aid, the Commission was unable to establish the nature of the irregularities, the amounts which could be recovered and the amounts which still have to be collected. The Commission ascribed this to a lack of experience on the part of the countries concerned. Parliament felt that commitments should only be authorised if a country has effective management capacity.

Groundwork for amending the OLAF Regulation: Parliament stated that it would endorse no proposal which would restrict its existing prerogatives. It advocated in particular that all OLAF's investigatory powers be grouped together in a single regulation. It recommended, inter alia, that the provisions of Council Regulation 2185/96/EC concerning on-the-spot checks and inspections by the Commission in order to protect the European Communities' financial interests against fraud be brought up to date and incorporated into Regulation 1073/1999/EC.

OLAF investigations and protection of fundamental rights: Parliament referred to a recent case involving an officialwherethe Court of First Instance concluded that OLAF clearly behaved unlawfully in its conduct of the investigation and acted in serious and manifest breach of the requirement of impartiality. Parliament felt this judgement confirmed the view taken by the OLAF Supervisory Committee, which had persistently drawn attention to the need to observe fundamental rights and the fact that this was a precondition for effective OLAF investigations, the results of which must stand up in court if necessary. It took the view that OLAF must cooperate with the European Ombudsman and the European Data Protection Supervisor on the basis of trust, and expected the OLAF Director-General to ensure vigorous monitoring of the quality its investigations. With regard to priorities for OLAF's work, Parliamentbacked the recommendation by the European Court of Auditors in its Opinion No 8/2005 that the activities of OLAF should be geared to its investigative function.

Combating cigarette smuggling and the marketing of counterfeit products: Parliament pointed out that in 2004, it was estimated that some EUR 418.5 million less in own resources was collected as a result of cigarette smuggling and the total loss was in all probability very much greater. This represented a doubling of losses over 2003. Parliament went on to indicate the importance of the agreement on combating cigarette smuggling concluded between the Commission (together with Belgium, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and Finland) and Philip Morris International (PMI). The agreement provided for measures to prevent cigarette smuggling in the long term and at the same time sought to settle the disputes between the Community and PMI. Since July 2004 fourteen Member States had joined the Community and the initial ten Member States by signing the agreement. Parliament criticised the United Kingdom for not having signed the agreement, the only Member State not to have done so. It took the view that the agreement with PMI was of such far-reaching importance that OLAF and the Commission should do everything within their power to conclude similar agreements with other international cigarette manufacturers.

Combating VAT fraud: Parliament was extremely concerned at the financial loss caused by what are termed 'carousel' transactions. From recent research in Germany and extrapolating across the board, Member States assumed that they lose about 10% of their VAT receipts each year; one third of such losses was ascribed to cross-border 'carousel' transactions. Parliament pointed out that only actual receipts could be used for levying VAT own resources. It welcomed the fact that the Commission had contracted for a study on combating VAT fraud, and called on the Commission to forward a copy, upon completion, to the Committee on Budgetary Control.

Internal policy areas: Parliament regretted the fact that the Commission had failed to draw up an internal blacklist covering all directorates-general and all directorates of the same DG concerning firms and branches of companies and laboratories participating in research and development programmes which had been found guilty of fraud following an internal audit, an OLAF audit or by the ordinary courts. Such a list should prevent a company, laboratory or other body from being able to obtain Community funding from directorates other than those in which the fraud was discovered.

Commission follow-up to Parliament's resolution of 7 June 2005 on the protection of the financial interests of the Communities and the fight against fraud:Parliament pointed to the work the Commission had done in this area, and made several points on the matter of recovery of amounts paid in excess or in error. It underscored Member States' primary responsibility for prompt recovery of lost budget funds, and regretted the fact that Member States had been inadequately meeting that responsibility and, in particular, were only sketchily meeting their reporting obligations towards the Commission. It went on to criticise the fact that the information on the Eurostat case transmitted by the Commission was only of a very general nature. Parliament wanted detailed information especially with regard to the financial implications of the irregularities and with regard to the non-respect of public procurement rules, in particular with regard to non-subdelegated contracts (list of beneficiaries of such contracts, amounts involved, irregularities found).

Parliament also expressed its deep concern at the reports of alleged overcharging in the rent payments that Parliament had made to the City of Strasbourg in connection with the SDM and WIC parliamentary buildings and in the purchase price of the same buildings. It was determined to pursue these allegations by actively investigating the in order to ensure that the financial interests of the EU as well as of European taxpayers were adequately safeguarded.

Finally, Parliament was concerned, against the backdrop of the current risk of bird flu, that a new trend was emerging involving the illegal import of poultry meat from countries banned by the EU (particularly China), and called on the Commission and OLAF to take the necessary measures as soon as possible.