Basic information

2010/2247(INI) INI - Own-initiative procedure	Procedure completed
Protection of the Communities' financial interests – Fight against fraud – Annual report 2009 **Subject** 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	IVAN Cătălin Sorin (S&D)	28/09/2010
	Shadow rapporteur MACOVEI Monica (PPE)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	
REGI Regional Development	The committee decided not to give an opinion.	
AGRI Agriculture and Rural Development	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Budget	ŠEMETA Algirdas

Key events

Date	Event	Reference	Summary
14/07/2010	Non-legislative basic document published	COM(2010)0382	Summary
25/11/2010	Committee referral announced in Parliament		
28/02/2011	Vote in committee		Summary

08/03/2011	Committee report tabled for plenary	A7-0050/2011	
05/04/2011	Debate in Parliament		
06/04/2011	Decision by Parliament	T7-0142/2011	Summary
06/04/2011	Results of vote in Parliament		
06/04/2011	End of procedure in Parliament		

Technical information	
Procedure reference	2010/2247(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/04352

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE454.722	14/01/2011	
Amendments tabled in committee		PE458.521	18/02/2011	
Committee report tabled for plenary, single reading		A7-0050/2011	08/03/2011	
Text adopted by Parliament, single reading		T7-0142/2011	06/04/2011	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2010)0382	14/07/2010	Summary
Commission response to text adopted in plenary	SP(2011)5857	19/09/2011	

Protection of the Communities' financial interests – Fight against fraud – Annual report 2009

2010/2247(INI) - 14/07/2010 - Non-legislative basic document

PURPOSE: Protection of the EU's financial interests-fight against fraud- Annual Report 2009.

CONTENT: the Commission’s annual report presents statistics and the new measures taken by Commission and Member States to meet their obligations in the protection of the EU’s financial interests. This year’s report also analyses two special topics: ‘Cooperation between the Commission

and the Member States concerning on-the-spot checks' and 'Measures taken by the Member States for the recovery of irregular amounts'. Both topics are of particular relevance for the EU institutions as well as for the national competent authorities.

The contents of the report may be summarised as follows:

Part I gives asummary of the statistics on irregularities reported by Member States in those areas where Member States implement the budget (agricultural policy, cohesion policy and pre-accession funds, i.e. around 80% of the budget) and for the collection of the EU's traditional own resources. It also gives an estimate of irregularities in the field of expenditure managed directly by the Commission and an overview of the operational activities of the European Anti-Fraud Office (OLAF). All the irregularities presented are being dealt with and are subject to different forms of follow-up, as described in the report.

Revenues: with regard to traditional own resources, the number of cases of irregularities reported in 2009 was 23 % lower than in 2008 while the estimated amount is also 8.5 % lower. The number of communications from the ten new Member States showed continued growth since their accession in 2004 until 2007.

In 2008 the growth stopped and 2009 shows 2 % less communicated cases compared with 2008 although the amount of TOR increased by 20 % from 2008 to 2009. Suspected fraud accounted for approximately 19 % of cases of irregularities reported, with an estimated financial impact of approximately EUR 99 million.

Expenditure: the report analyses four main headings on the expenditure side of the EU budget: agriculture, cohesion policy, pre-accession assistance and direct expenditure, covering different policies ranging from research and development to humanitarian aid. In general, regarding the reporting of irregularities for the expenditure part of the EU budget, 2009 should be regarded as a transition year due to the introduction of the internet based reporting system (IMS- Irregularity Management System) which may have caused problems in relation to the reporting, registration and migration of irregularities into the new system. However, the new reporting system has improved the overall conditions for irregularity reporting. It is therefore welcomed by the majority of the Member States which have already used it for the 2009 reporting year. All Member States should fully implement the IMS and be ready to use the system for the 2010 reporting exercise.

Part II focuses on theinternational dimension of the protection of the EU's financial interests and presents the state of ratification of the protection of financial interests (PFI) instruments. The report notes that negotiations continue for a cooperation agreement between the EC and its Member States and Liechtenstein, to combat fraud and any other illegal activity to the detriment of their financial interests. This agreement would bring considerable added value in so far as its scope covers not only tax evasion, tax fraud and any other illegal activities affecting the financial interests of the parties, but also the exchange of information on tax matters, in line with the OECD standard, thereby preventing banking secrecy being relied on as an exception that would prevent information exchange. The agreement is of the utmost importance as it should also serve as a model for anti-fraud agreements with other third countries (Andorra, Monaco, San Marino and the Swiss Confederation). In addition, the Commission, through OLAF, is currently leading several Partnership and Cooperation Agreements and Association Agreement negotiation processes with respect to financial cooperation and protection of the EU's and its partner countries' financial interests. The financial cooperation chapter within the EU-Ukraine Association Agreement could be used as a solid basis for future negotiations, since the provisions in the financial cooperation chapter negotiated with Ukraine represent the most comprehensive and broadest set of anti-fraud and control provisions in relation to the Commission's competences in this area.

In **Part III the** report deals with administrative measures taken by the Commission to fight fraud and irregularities in the customs area. Further progress was achieved in 2009 in the customs area, with the deployment, in accordance with the new Regulation 766/2008/EC, of a new customs database and the joint customs operation Diabolo II. The operation's success is due to cooperation and effective work involving customs officials from 13 Asian countries and 27 EU Member States and constitutes an encouragement for the conduct of further common operations.

The report goes on to invite Member States that are not yet using the FIDE database to do so in order better to coordinate their investigations.

Part IV gives an overview of the results of the questionnaire regarding **cooperation between the Commission (OLAF) and the Member States concerning on-the-spot checks**. Cooperation is vital, starting with the pre-operational phase of the inspection, when the competent national authority has to be notified by OLAF of the object, purpose and legal basis of the check that OLAF intends to conduct. For that, OLAF needs to correctly identify the competent national authority and this has at times proved challenging, particularly in the field of direct expenditure. To solve this problem Member States have communicated to OLAF the complete contact details of national authorities for all expenditure fields, including direct expenditure, thus enabling the OLAF investigators to contact the competent authority in good time before the check. The designation of a national administrative and judicial authority with competences extended to the field of direct expenditure in all Member States is strongly recommended.

The report considers that Member States have taken a number of measures to consolidate the implementation of Regulation 2185/1996. However, in practice, some improvements can still be made in that area, including in cooperation between OLAF and the national authorities. These include the need for the national inspector participating in an OLAF on-the-spot check to sign the OLAF report, thus avoiding the risk of it being nonadmissible or having lower evidentiary value in administrative or judicial proceedings.

Part Vof the report deals with **recoveries** made in 2009 in all budget areas and presents the measures that Member States take for securing the recovery of irregular amounts. As regards the recovery of illegal amounts the legal instruments against financial loss or damage and the registration of irregularities and recovery of debts are incorporated within the national legislative systems. The report states that Member States' legislation should give priority to the enforceability of recovery orders, which has an important role in speeding up recovery procedures. To secure the recovery of irregular payments included in contracts involving EU funds, all Member States should provide for legal instruments, such as different types of guarantees, promissory notes, security deposits, personal or joint sureties, offsetting, bank bonds, mortgages or insurances, in the contracts. To support speedy recovery procedures additional binding and precautionary elements should be considered for future EU legislation concerning shared management.

Lastly, with regard to pre-accession funds, the report notes that, as recovery rates are low, safeguard measures should be implemented for suspected fraud cases (in the form of seizure of assets, suspension of payments, bank guarantees, etc) to ensure that recovery can still take place after the final court ruling. The Member States concerned should pay special attention to the recovery of pre-accession funds.

Protection of the Communities' financial interests – Fight against fraud – Annual report 2009

2010/2247(INI) - 06/04/2011 - Text adopted by Parliament, single reading

The European Parliament adopted by 655 votes to 3, with 18 abstentions, a resolution on the protection of the Communities' financial interests – Fight against fraud – Annual Report 2009.

Parliament regrets that, in general, the Commission's 2009 Annual Report does not provide information on the estimated level of irregularities and fraud in individual Member States, as it concentrates on the level of reporting, and it is therefore not possible to have an overview of the actual level of irregularities and fraud in the Member States and to identify and discipline those with the highest level of irregularities and fraud.

Members also regret that the Commission's report fails to consider fraud in detail and deals with irregularities very broadly. They call for a distinction to be made between fraud and errors or irregularities. They call on the Commission to exercise its responsibility in ensuring compliance by Member States in their reporting obligations with a view to providing reliable and comparable data on irregularities and fraud.

Moreover, Parliament deplores the fact that large amounts of EU funds are still wrongly spent. It is also concerned about the level of outstanding irregularities not recovered or declared unrecoverable in Italy at the end of the fiscal year of 2009. The Commission is called to take appropriate action with a view to ensuring prompt recovery of those funds. It calls on the Commission to hold Member States more accountable for the amount of irregularities that have yet to be recovered.

Revenue - own resources: Parliament is concerned about the amount of fraud as compared to irregularities in the Own Resources sector in the Member States Austria, Spain, Italy, Romania, and Slovakia (as fraud constitutes more than half the total amount of irregularities in each Member State). It calls on the Member States to take all necessary measures, including close cooperation with European institutions, to address all causes of fraud relating to EU funds.

Deploring the deficiencies in national customs supervision revealed by the Court of Auditors, Members call on the Member States to strengthen their customs supervision systems and on the Commission to provide the relevant support in that respect.

The resolution underlines that it is in the EU's financial interest to continue working to combat cigarette smuggling, from which the annual loss of revenue for the EU budget is estimated at around one billion euros. It urges OLAF to continue playing a leading role in the international negotiations for a Protocol on the Elimination of the Illicit Trade in Tobacco Products.

Expenditure - agriculture: Parliament welcomes the Commission's conclusion that the overall reporting discipline in this policy group has improved and that compliance now stands at 95%. It calls on those Member States which still do not report in good time (Austria, Finland, the Netherlands, Slovakia and the United Kingdom) to remedy the situation promptly.

Members are deeply concerned at the Court of Auditors' finding that payments for the year 2009 in this policy group were affected by material error and that the supervisory and control systems were generally, at most, partially effective in ensuring the regularity of payments. They call on the Commission to closely monitor the effectiveness of the supervisory and control systems in place in Member States to ensure that information on the irregularity rate per Member State represents a true and fair view of the actual situation. The resolution also deplores the catastrophic situation regarding the overall recovery rate in this policy group (in 2009, it was 42% of the EUR 1 266 million outstanding at the end of the 2006 financial year). The Commission is urged to take all necessary steps in order to put in place an effective system of recovery.

Expenditure - Cohesion Policy: Parliament deplores the fact that the data contained in the Commission's 2009 annual report 2009 do not provide a reliable picture of the number of irregularities and fraud in this policy group. It is deeply concerned at the fact that payments for the year 2009 were found by the Court of Auditors to be affected by high material error (above 5%) and that at least 30% of the errors found by the Court in the 2009 sample could have been detected and corrected by the Member States prior to certifying the expenditure to the Commission. It calls on the Commission to provide information on the measures that have been taken with regard to the irregularities reported by the Member States and detected by its services in regard to this policy group.

Expenditure - Pre-accession funds: Parliament is also deeply concerned about the suspected high fraud rate in Bulgaria for the Special Accession Programme for Agriculture and Rural Development (SAPARD) in 2009. It notes that the Czech Republic, Estonia, Latvia and Slovenia reported a zero fraud rate for SAPARD, and question the reliability of the reported information. It finds unacceptable the very low recovery rate for suspected fraud in the pre-accession funds (only 4.6% for the whole programming period) and therefore calls on the Commission to put in place an efficient system in order to address this situation.

Public procurement, increased transparency and the fight against corruption: Members call on the Commission, the relevant Union agencies and the Member States to take measures and provide resources to ensure that EU funds are not subject to corruption, to adopt dissuasive sanctions where corruption and fraud are found, and to step up the confiscation of criminal assets involved in fraud, tax evasion and money-laundering-related crimes.

They call on the Commission and the Member States to design, implement and periodically evaluate uniform systems of procurement to prevent fraud and corruption, They urge the Council to complete the conclusion of the Cooperation Agreements with Liechtenstein in the shortest possible time and to give the Commission a mandate to negotiate antifraud agreements with Andorra, Monaco, San Marino and Switzerland.

Lastly, Parliament urges the Commission to take action to ensure one-stop transparency of the beneficiaries of EU funds.