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Questions and Answers: The protection of EU financial interests and the fight against fraud

What is the purpose of the Annual Report on the Protection of the EU's Financial Interests?

Member States have to adopt all necessary measures to protect the EU budget, and to counter fraud and any other illegal activities affecting the financial interests of the EU. They are obliged to report all irregularities – both fraudulent and non-fraudulent – to the Commission which then compiles the information in this annual report, which is foreseen in the Treaty (Article 325 TFEU).

The report is presented to the European Parliament and the Council to inform them of measures adopted, as well as the results achieved, at EU and national level to combat activities negatively impacting the financial interests of the EU.

In this respect, the report is part of the Commission's policy of transparency for financial management. Importantly, it also helps to identify areas where the protection of EU funds can be reinforced.

How does the European Commission compile this annual report?

This report is compiled mainly using data and information submitted by the Member States, given that they are on the frontline of managing and controlling 80% of EU expenditure. The remainder of the information is data collected by the Commission itself. There are two ways in which the information is communicated to the Commission. Firstly, Member States report irregularities and suspected fraud which they have detected in areas of shared management. Statistics in the report are compiled on the basis of this data. Secondly, Member States contribute to the report via an annual questionnaire addressed to them by the Commission. The topics of these questionnaires are chosen with a view to gathering more information on areas that could help improve the protection of the EU financial interests.

What are the EU financial interests?

EU financial interests include revenue, expenditure and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them.

The revenue side of the budget is made up of customs duties, value added tax and a share of the gross national income of EU countries. For 2015, the EU budget (payment appropriations) amounted to EUR 142 280.42 million[1], *i.e.* about 1% of the EU-28 Gross National Income (GNI)[2].

How is the EU budget implemented?

The Commission is responsible for implementing the EU budget. However, almost 80% of the total expenditure (e.g. agriculture, fisheries, regional and social policies) is managed by Member State authorities under "shared management". This means that it is a decentralised system, with the first

[1] http://ec.europa.eu/budget/annual/index_en.cfm?year=2015
[2] http://ec.europa.eu/budget/explained/myths/myths_en.cfm

level controls and checks carried out by the national authorities. Member States are also responsible for recovering any amount which has been subject to an irregularity or fraud from the beneficiaries. Checks at various levels (project level, national and EU) aim to ensure that taxpayers' money is protected.

What is the difference between "irregularity" and "fraud"?

An irregularity is when a beneficiary does not comply with the EU and national rules and requirements linked to the spending of EU funds, with a potentially negative impact on EU financial interests. Irregularities are often the result of genuine errors e.g. not filling out a form correctly, or not respecting the proper tendering procedure. Fraud is a deliberately committed irregularity constituting a criminal offence. When reporting an irregularity to the Commission, Member States must indicate whether any fraud is suspected or established in each case. In the PIF report, suspected or established fraud is referred to as "irregularities reported as fraudulent".

How did fraud affecting the EU budget in 2015 change in comparison with the previous year?

Fraud cases detected by national authorities affecting the EU budget decreased by 11% in 2015 compared to 2014. On the expenditure side, in total, 849 cases of possible fraud were detected and on the revenue side 612. However, the financial impact of those fraudulent cases has increased, showing that national and European anti-fraud bodies have targeted their controls better. On the expenditure side the 849 cases were worth €559.6 million in EU funds, representing 0.4% of the expenditure budget. This compares to €362 million in the previous year, signaling an increase of about 55%. On the revenue side of the budget, suspected or confirmed fraud amounted to €78 million, representing 0.31% of the total traditional own resources collected for 2015. This compares to €176 million the previous year (which was an exceptional year in terms of anti-fraud results), marking a drop of 56%. On the revenue side, however, the results show an increase of 28% in comparison to 2013 (when detections concerned €61 million).

The PIF report shows that Member States have taken a more strategic approach to protecting the EU's financial interests, with more targeted control actions focusing on high-impact cases, especially on the expenditure side. On the revenue side, international cooperation, in particular through Joint Customs Operations (JCOs) coordinated by OLAF, continued to show positive results.

What was the impact of non-fraudulent irregularities to the EU budget in 2015?

In 2015, the Commission was notified of 20 888 irregularities not reported as fraudulent (about 41 % more than in 2014). Out of these, irregularities increased for the two shared management sectors; remained stable for the revenue sector; decreased for pre-accession and direct expenditure.

This largely reflects the progressive implementation of the various spending programmes, but also depends to a large extent on the specific situation in two Member States, Spain and Ireland, which have reported in 2015 a large number of irregularities detected in previous years, but not reported at the time.

Does the number of reported fraud cases correspond to the level of fraud in a particular Member State?

No. The rate of fraud indicated per Member State corresponds to the amount of detected cases of suspected and established fraud reported by the national authorities. Therefore, a higher level of reported fraud is an indication that the anti-fraud systems in a particular Member State are working, and that reporting obligations are being met. Conversely, the Commission has asked for more information from Member States that report a low number of fraud cases, and urges them to ensure that their reporting and control systems are of a high enough standard.

Do irregularities mean that money is lost or wasted?

No. When an irregularity is detected, the undue payments are taken back from the project or country at fault. In the area of shared management (cohesion, agriculture, pre-accession, etc…), the competent authorities in Member States are responsible for recovering the funds from the beneficiary and initiating any administrative or judicial follow-up. In direct expenditure (centralised management), e.g. research, the Commission services take the administrative and financial follow-up action. The money recovered can therefore be returned to the EU budget or re-used, subject to certain conditions, to finance other regular projects.

What measures are in place to protect EU funds from fraud?

Under EU law, Member States have primary responsibility for preventing, detecting and following up on irregularities and fraud. They are responsible for collecting EU budget revenue (e.g. Traditional Own Resources) and for managing almost 80% of EU expenditure. To further protect against irregularities and fraudulent activities, the Commission checks whether the national administrative practices are in line with EU rules, and whether the Member States' control systems are working properly. The Commission also controls whether all substantiating documents are provided and if they comply with EU requirements. In addition, the Commission may carry out on-the-spot checks and inspections to verify Member States' adherence to the rules.

The joint efforts of the European institutions and the Member States have also resulted in the strengthening the legal framework to protect the EU budget against fraud, foreseeing that Member States put in place adequate anti-fraud measures aimed at both prevention and detection. In this respect, the Commission is promoting the adoption of a more targeted and strategic approach to counter fraud, recommending that Member States adopt national anti-fraud strategies, and putting at their disposal specific guidance, support and IT tools to improve detection and prevention.

Efforts are still needed in every budgetary sector in order to continue to progress and address the potential adverse effects that the current financial crisis might have in terms of increasing the risk of fraudulent activities.

Moreover negotiations are ongoing in the Council to further strengthen the legal framework to protect the EU's financial interests by establishing minimum sanctions and common definitions in the Member States for crimes against the EU budget (see IP/12/767) and the establishment of a European Public Prosecutor Office. The PIF Report 2015 provides information on the progress of such initiatives and of all other measures adopted at national level.

What role does Europe's anti-fraud office, OLAF, play in protecting EU funds against fraud?

OLAF's mission is to protect the EU budget, and thereby taxpayers' money, against fraud. It has three main tasks: firstly, OLAF protects the financial interests of the EU by investigating and combating fraud, corruption and any other illegal activities. OLAF works closely with its counterparts in Member States in this regard. Secondly, OLAF investigates serious matters relating to the discharge of professional duties by staff members of the EU institutions that could result in disciplinary or criminal proceedings. In terms of its investigative scope, OLAF is independent from the Commission. Thirdly, OLAF supports the Commission in the development and implementation of fraud prevention and detection policies.

The OLAF Regulation which entered into force on 1 October 2013, sets the basis for a better exchange of information between OLAF and its partners and allows OLAF to operate more efficiently in steping up the fight against fraud, corruption or any illegal activity affecting the financial interests of the EU.

Is the Annual Report on the Protection of the EU's financial interests related to the Court of Auditor's Annual Report?

No. The report on the Protection of the EU's financial interests is based on reported irregularities and suspected fraud detected by the Member States. On average, fraud and irregularities reported for the year 2015 occurred about three years earlier. This shows that Member States and the Commission track irregularities and fraud throughout the entire lifecycle of the multi-annual EU spending programmes and do not limit their checks and verifications to the year in which the money is disbursed. This allows for adequate controls, corrections or recoveries to occur at the relevant stages of EU spending, so as to ensure the highest possible protection of taxpayers' money.

The Court of Auditors conducts its own specific audits on the basis of its mandate, and the annual report highlights its activities, findings and opinions for a given year.

However, both reports are useful to identify the main areas at risk and where further improvements can be made.

Irregularities reported as fraudulent per sector in 2015

Total expenditure: The estimated financial impact of irregularities reported as fraudulent increased, from EUR 362 million in 2014, to EUR 560 million.

Natural resources (Agriculture and Fisheries): The estimated financial impact of irregularities reported as fraudulent increased, from EUR 69 million in 2014, to EUR 74 million.

Cohesion policy: The estimated financial impact of irregularities reported as fraudulent increased, from EUR 274 million in 2014, to EUR 477 million.

Pre-accession funds: The estimated financial impact of irregularities reported as fraudulent decreased, from EUR 14 million in 2014, to EUR 8 million.

Direct expenditure: The estimated financial impact of irregularities reported as fraudulent decreased, from EUR 5 million in 2014, to EUR 0.2 million.

Traditional own resources: The estimated financial impact of irregularities reported as fraudulent decreased, from EUR 176 million in 2012, to EUR 78 million.

Other irregularities (not fraudulent)

Total expenditure: The estimated financial impact of irregularities not reported as fraudulent increased, from EUR 1 904 million in 2014, to EUR 2 228 million.

Traditional own resources: The estimated financial impact of irregularities not reported as fraudulent decreased, from EUR 802 million in 2014, to EUR 349 million.