

Why an investigation service should have both the possibility and the duty to engage in communication activities relating to its activity: the experience of the French Customs

There are a number of reasons why the investigation services that undertake checks and inspections to identify fraud against the European Union's financial interests are entitled to engage in communication activities.

Communication can help to make citizens of the Member States more aware of the risks from fraud for the Union budget to which they contribute. This in turn will help to lend legitimacy to the activities undertaken by the investigation services (and their operating costs).

Communication can therefore be handled either by the investigation services themselves or by a communication service operating in cooperation with the operational service that was behind the investigation.

There is no objective *a priori* reason why an investigation service should refrain from communication activities, especially where the operational service itself decides what kind of information can be made available to the general public. And if the investigation services have nothing to say for themselves, that in itself will arouse curiosity and adverse interpretations in the media that can be avoided by communication, however minimal.

But the constraints inherent in the confidentiality of judicial investigations, in the professional secrecy incumbent on French civil servants and in respect for the individual rights of investigators and suspects alike must be fully reflected in communication activity. It is sometimes necessary to postpone media comment on a case for the sake of its further development. Public information is necessary but it does not justify jeopardising the potential offered by an in-depth investigation or violating the judicial limits on communication.

In general terms, investigation or press services need to modulate their communication activities on the basis of the type of media addressed. An investigation involving a number of visually interesting aspects and relatively little in the way of explanation as to how the fraud operates is more suitable for television than for radio or the press.

Journalists working for the popular press are mainly interested in the sensational aspects of a case. They can be informed about the facts of the investigation (anecdotes about the things that fraudsters do and the clever ways they find to conceal their fraud), while scrupulously preserving individuals' anonymity as required by French law.

In addition, the general refusal to divulge any information to the press would be contrary to the equal treatment of the media that a public service must respect and would increase the risk of misinformation.

It must be stressed that communication on fraud cases can also have a preventive effect, as European taxpayers will be made aware of the consequences of fraud for the Union budget that directly concern them but that they do not always realise.

Communication can, for instance, have a dissuasive effect on individuals who buy low-price goods that have often been smuggled, as they will now realise that in the long run the tax loss to the Union budget that their anti-social conduct partly causes will have to be made up from their other taxes.

Communication must also highlight the fact that fraud against the European Union budget generates ill-gotten gains that feed the underground economy. And apart from the financial impact, it can involve breaches of health regulations and thus be a health hazard for the consumer.

More generally, publicising cases concerning Community assistance wrongly received that has distorted competition to a greater or lesser extent, including competition on the domestic market, can help to improve compliance with the trade rules, in particular where the fines imposed on offenders can be revealed.

And the main difficulty in supplying the media with information, sometimes sensitive information, in their relations with public institutions lies in the risk that the information supplied will be distorted or that information not intended for the general public will be disseminated.

One way of reducing these risks is to work with a network of journalists with whom relationships of mutual respect have been built up. This has the dual advantage of communicating with journalists who have enough knowledge of the rules and regulations to appreciate the interest of a given subject (for instance, trade frauds require some knowledge of customs procedures) and who respect the need for discretion when the communication service asks them for it.

But this trust takes time to establish, and the investigation or communication service may have to share high-value information as a reward for the quality of the partnership relationship.

The existence of a network of anti-fraud communicators under OLAF's leadership provides undeniable support for communication on the different frauds against the European Union's financial interests. It makes it possible to harmonise practice and to share and thereby enrich the available information.