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2. Respecting the individual wishes of anyone living in Camp Ashraf as regards his or her future, considers that those living in Camp Ashraf and other Iranian nationals who currently reside in Iraq having left Iran for political reasons could be at risk of serious human rights violations if they were to be returned involuntarily to Iran, and insists that no person should be returned, either directly or via a third country, to a situation where he or she would be at risk of torture or other serious human rights abuses;
3. Calls on the Iraqi Government to end its blockade of the camp, to respect the legal status of the Camp Ashraf residents as protected persons under the Geneva Conventions, and to refrain from any action that would endanger their life or security, i.e. to afford them full access to food, water, medical care and supplies, fuel, family members and international humanitarian organisations;
4. Calls on the Council, the Commission and the Member States, together with the Iraqi and US Governments, the UN High Commissioner for Refugees and the International Committee of the Red Cross, to work towards finding a satisfactory long-term legal status for Camp Ashraf residents;
5. Instructs its President to forward this resolution to the Council, the Commission, the Governments and Parliaments of the Member States, the UN High Commissioner for Refugees, the International Committee of the Red Cross, the Government of the United States of America and the Government and Parliament of Iraq.

Protection of the Communities' financial interests – Fight against fraud – Annual report 2007

P6_TA(2009)0315

European Parliament resolution of 24 April 2009 on the protection of the Communities' financial interests and the fight against fraud – Annual report 2007 (2008/2242(INI))

(2010/C 184 E/14)

The European Parliament,

- having regard to its resolutions on previous annual reports of the Commission and the European Anti-Fraud Office (OLAF),
- having regard to the report of 22 July 2008 from the Commission to the European Parliament and the Council entitled 'Protection of the Communities' financial interests – Fight against fraud – Annual report 2007' (COM(2008)0475), including annexes (SEC(2008)2300 and SEC(2008)2301) thereto,
- having regard to the OLAF Activity Report for 2007 ⁽¹⁾, and to its second report of 19 June 2008 on the application of Council Regulation (Euratom, EC) No 2185/96 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, as well as to the guidelines replacing the OLAF Vademecum,
- having regard to the Activity Report of the OLAF Supervisory Committee for the period from June 2007 to May 2008 ⁽²⁾,
- having regard to the European Court of Auditors' Annual Report on the Implementation of the Budget in the Financial Year 2007 ⁽³⁾,
- having regard to Articles 276(3) and 280(5) of the EC Treaty,

⁽¹⁾ http://ec.europa.eu/atwork/synthesis/aar/doc/olaf_aar.pdf.

⁽²⁾ http://ec.europa.eu/anti_fraud/reports/sup-com_en.html.

⁽³⁾ OJ C 286, 10.11.2008, p. 1.

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- having regard to Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinions of the Committee on Regional Development and the Committee on Agriculture (A6-0180/2009),

Amount of irregularities notified

1. Welcomes the inclusion of a chapter on direct expenditure, but stresses that it expects it to be further improved with more comprehensive data in the following reports;

2. Reiterates its call for the annual reports for the protection of the Communities' financial interests (annual PIF reports) and the corresponding resolutions by Parliament to be included on the Council's agenda, and for the Council subsequently to forward its observations to Parliament and the Commission; is deeply disappointed that the Council has not done yet done so, despite the call by Parliament and the insistence of the Commission;

3. Notes that in the areas of own resources, agricultural expenditure, structural actions and direct expenditure, irregularities notified in 2007 totalled EUR 1 425 million (compared to EUR 1 143 million in 2006); the amounts notified by the Member States to the Commission in 2007 can be broken down as follows:

- Own resources: EUR 377 million (EUR 353 million in 2006),
- Agricultural expenditure: EUR 155 million (EUR 87 million in 2006),
- Structural actions: EUR 828 million (EUR 703 million in 2006),
- Pre-accession funds: EUR 32 million (EUR 14 million in 2006),
- Direct expenditure: EUR 33 million;

4. Welcomes the fact that after last year's parliamentary report, the Commission has defined the differences between an irregularity and fraud in its report; however, the definition of 'suspected fraud' still causes difficulties for the Member States;

General considerations

5. Welcomes the efforts already made by the Member States but stresses once again that they should ensure the adequacy of their financial control mechanisms and emphasises the importance of preventive action by the Member States in order to increase the detection of irregularities before any payment is effectively made to the beneficiaries; underlines the fact that fighting fraud and corruption is an ongoing responsibility of all Member States and also that a concerted effort is needed in order to achieve real improvements;

6. Emphasises the need for greater harmonisation of methods for collecting and using information, with the aim of providing a standardised framework for evaluating more efficiently the risk of fraud as part of an intensified prevention strategy;

⁽¹⁾ OJ L 390, 30.12.2006, p. 1.

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7. Welcomes the national management declarations issued by some Member States regarding European funds managed at national level; calls on the other Member States to carry out similar initiatives, and on the Commission to do all in its power to ensure that such national management declarations are introduced throughout the European Union;

Own resources

8. Notes that the estimated amount affected by irregularities rose by 6 %; the products most affected by irregularities were, as in previous years, televisions and cigarettes;

9. Deplores the delay in adopting the proposal for a regulation on mutual administrative assistance for the protection of the financial interests of the European Community against fraud and any other illegal activities (COM(2006)0473) and therefore invites the Council promptly to adopt the regulation;

10. Welcomes the fact that, following its Communication concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud (COM(2006)0254), the Commission adopted a Communication on a coordinated strategy to improve the fight against VAT fraud (COM(2007)0758), and follows with special attention both the Commission proposal for a Council directive concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (COM(2009)0028) and the Commission proposal for a Council directive on administrative cooperation in the field of taxation (COM(2009)0029);

11. Insists that new political impetus is needed in order to achieve substantial improvements in cooperation in the fight against VAT fraud;

12. Deplores the fact that since OLAF has no access to the content of the data exchange between the Member States under Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax ⁽¹⁾, it cannot provide added value in the field of anti-VAT fraud intelligence, prevention and support of Member States' anti-fraud operations; regrets in this context the fact that OLAF had no case on VAT fraud in 2007;

13. Reminds Member States to be aware of the considerable number of transnational VAT fraud cases;

14. Regrets the increase in cases of fraud involving the origin of products, relating not only to the preferential tariff arrangements, but also to the GATT tariff quotas;

15. Invites the Commission to undertake a specific assessment of the potential for fraud, by product and by country, taking into consideration the possibility of carrying out systematic, targeted and, where appropriate, permanent, checks both in the country of origin and the country of destination, paying particular attention to the phenomenon of carousel fraud;

Agricultural expenditure

16. Recalls that as from 1 January 2007, Member States are obliged to inform the Commission of irregularities involving more than EUR 10 000, the threshold introduced by Commission Regulation (EC) No 1848/2006 of 14 December 2006 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field ⁽²⁾; observes that the number of cases of irregularities reported was down 53 % (1 548 cases, compared to 3 294 in 2006); points out that this relatively low number of irregularities can be explained by the higher threshold for reporting;

⁽¹⁾ OJ L 264, 15.10.2003, p. 1.

⁽²⁾ OJ L 355, 15.12.2006, p. 56.

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17. Notes that the estimated amount affected rose by 44 %, an increase relating in part to cases with a significant financial impact which arose or were discovered in previous years, but were reported only in 2007; notes that the sectors most affected were milk and milk products, fruit and vegetables, sugar, rural development, beef and veal;

18. Points out that the milk, fruit and vegetable, sugar and rural development sectors taken together account for about 77 % of the total amount of irregularities and that rural development represents alone about 38 % of all irregularities reported; further notes that the highest amount in irregularities within rural development is reported for the support measure 'forestry' and the highest number of irregularities is reported for the support measure 'agri-environment'; therefore asks OLAF to pay special attention in its next annual report to the irregularities affecting rural development;

19. Points out that the reporting compliance rates, in particular timely reporting, vary greatly between Member States; deplores that for Austria and Sweden the time gap between the detection and the reporting of the irregularities is far beyond the average time gap (1,2 years): 3,4 and 2,3 years respectively;

20. Agrees with the statement of the European Court of Auditors (ECA) at paragraph 5.20 of its above-mentioned annual report that the Integrated Administration and Control System (IACS) continues to be an effective control system which limits the risk of irregular expenditure where properly implemented and if accurate and reliable data are entered into it; advocates extending the application of the system into new areas presently not covered by it; notes however that the quantity and quality of the checks made under it should be stepped up in order to reinforce fraud deterrence;

21. Calls on the Commission to take a firm political decision should the Greek authorities fail to comply with the deadlines set by the action plan for setting up a new operational Land Parcel Identification System-Geographical Information System;

22. Reiterates its call on the Commission to evaluate the efficiency and transparency of monitoring systems relating to payment of farmers in the context of its next annual report;

Structural actions

23. Welcomes the simplified and clarified rules of Council Regulation (EC) No 1083/2006 ⁽¹⁾ and the implementing Commission Regulation (EC) No 1828/2006 ⁽²⁾; however, is concerned by the statement of the ECA at paragraph 6.31 of its above-mentioned annual report that the management and supervisory systems of the Member States as well as the supervision of their operation by the Commission are only partially effective;

24. Acknowledges that irregularities in the use of EU funds relating to mismanagement and sometimes even fraud occur in a large number of Member States; notes that the Member States reported 3 832 irregularities in 2007 (which is an increase of 19.2 % in relation to 2006), that the total financial amount affected in 2007 was about EUR 828 million (equivalent to slightly less than 1.83 % of commitment appropriations), that suspected frauds as a percentage of the total number of reported irregularities represent around 12-15 % in 2007 and that the total irregular amount for the European Regional Development Fund has risen by 48 % in comparison to 2006;

25. Stresses the importance of the Action Plan adopted by the Commission on 19 February 2008 to strengthen supervision under shared management for structural actions, which aims to reduce errors in payment claims from Member States; is confident that this new Action Plan will significantly improve the situation, not least by assisting Member States in developing their ability to check the eligibility of project expenditure; notes that the first progress report relating to this Action Plan presents some positive initial results;

⁽¹⁾ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (OJ L 210, 31.7.2006, p. 25).

⁽²⁾ OJ L 371, 27.12.2006, p. 1.

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26. Endorses the Commission's position in taking corrective action in the event of the detection of irregularities of a serious nature, including the suspension of payments and the recovery of undue or erroneous payments; recalls that the Commission should report four times a year on the progress achieved in the implementation of its Action Plan; nevertheless, calls on the Commission to intensify its efforts to support the Member States in preventing irregularities and transferring the necessary expertise to the competent national and regional authorities;

27. Welcomes the quality of the results achieved in virtually all projects and, in order not to adversely affect the monitoring and proper implementation of the Structural Funds, emphasises the need to draw a distinction between:

— administrative irregularities that must be corrected,

— fraud (that is, 0.16 % of payments made by the Commission between 2000 and 2007) that must be punished;

28. Acknowledges that effective absorption of the Structural Funds has posed significant challenges, especially for the new Member States, as they are called upon to comply with strict and often complex requirements for their utilisation; welcomes, therefore, the efforts made by these Member States to improve their implementation capacity and invites them to step up that work so as to be able to show tangible results within an acceptable timeframe;

29. Calls on the Commission to take account of the administrative cost borne by Member States' national, regional and local administrations in applying the often complex and expensive requirements involved in monitoring and checking co-financed projects;

30. To this end, calls on both the Commission and the Member States to work methodically to provide advice on ways of avoiding irregularities and administrative errors and failings;

31. Urges the Commission to simplify further the management and monitoring procedures of the Structural Funds programmes, which are to some extent responsible for irregularities on the part of the Member States in the implementation of these programmes;

32. Is shocked by the lack of reporting discipline of the Member States after a number of years; finds it unacceptable that six Member States ⁽¹⁾ still do not use electronic reporting, 14 ⁽²⁾ failed to comply with the reporting deadlines and some ⁽³⁾ did not classify any of their reported cases of irregularities; urges the Commission to find effective solutions, besides infringement proceedings, to address the situation, and invites the Commission to seriously consider establishing an effective financial sanctions system to be integrated in the future regulations, and to implement it systematically;

33. Stresses that the classification of the irregularity (indicating whether or not it is a case of suspected fraud) is an element of the reporting by the Member States that needs to be strengthened, given that various Member States have yet to provide any classification at all and other Member States have only been able to provide the classification for a limited part of their reported irregularities;

34. Urges the Member States who do not yet use the electronic modules AFIS/ECR for electronic reporting to do so quickly in order to improve their data quality and timeliness of reporting before the end of 2009; notes that the Commission is working on a new web based reporting system, the Irregularity Management System (IMS), to be applied from summer 2009, which will presumably improve reporting discipline;

⁽¹⁾ France, Ireland, Sweden, Spain, Latvia and Luxembourg; since November 2008 the situation has improved, with Germany and Estonia using an electronic file and no paper notification.

⁽²⁾ Timely reporting is especially a problem in Spain, France and the Netherlands.

⁽³⁾ Spain, France, Ireland and Luxembourg.

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35. Advocates that more efforts need to be undertaken in view of an improved harmonisation of reporting of irregularities, especially as regards the Cohesion Fund;

36. Regrets that notwithstanding the fact that the details of all beneficiaries of EU cohesion policy have to be published by the Managing Authorities under the rules governing the implementation of the Structural Funds 2007-2013 (Commission Regulation (EC) No 1828/2006), the database on the Commission website is incomplete; calls, therefore, on the Commission to work together with the Member States to speed up the flow of information with a view to the operation of a more effective and transparent database; urges, moreover, the Member States and the Commission to comply fully and timeously with this transparency obligation and in particular before June 2009 - the deadline set by Parliament's resolution of 19 February 2008 on transparency in financial matters ⁽¹⁾;

37. Supports in the framework of the proposed revision of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽²⁾ the request to Member States that they systematically inform OLAF of the follow-up of those cases which were transmitted by OLAF; points out that this could improve the reporting discipline of national courts' judgments on the fraudulent use of Structural Funds;

Pre-accession funds

38. Calls attention to the fact that although the number of irregularities decreased, their financial impact increased by 2,2 times, and the financial impact of suspected fraud increased by three times, largely due to 'non-eligible' expenditures;

39. Notes that the Commission has published a series of detailed, in-depth reports critically assessing the progress in Bulgaria and Romania of judicial reform and the fight against corruption under the Co-operation and Verification mechanisms and a separate report on the management of Community funds in Bulgaria, which highlight the need for sustained political commitment and implementation on the ground if the benchmarks set at the time of accession are to be met in full; notes also that in the case of Bulgaria the Commission has definitively suspended part of the EU funds under the Phare programme because of irregularities discovered through its control and auditing system; therefore calls upon these Member States to take urgent action to implement the specific follow up measures proposed in these reports; finally, supports the efforts so far made by these Member States and calls on them to take all the necessary measures to that end;

40. Has reservations about the fact that according to OLAF there were no suspected fraud cases for ISPA in 2007; notes that Cyprus and Lithuania did not report any cases in 2007;

41. Stresses that the insufficient quality of reported information remains an outstanding problem; observes that reliability of reported information is the worst in Bulgaria and Romania; however, in relative terms Hungarian notifications are the least reliable; notes that timely reporting also causes problems, in particular, in four Member States and in one candidate country ⁽³⁾;

42. As there are serious problems with the reliability of reported information and the general compliance rate of the requirements in some EU-12 Member States (that is, the Member States having acceded to the European Union in 2004 and in 2007), which indicates whether the administrative set-up of the reporting mechanism in the beneficiary country is strong or very weak, believes that there will be similar problems concerning the implementation of the Structural and Cohesion Funds; therefore urges the Member States concerned to cooperate with the Commission to find ways to remedy this situation;

Direct expenditure

43. Points out that external aid is a sector which is increasingly affected by irregularities and fraud;

⁽¹⁾ Texts adopted, P6_TA(2008)0051.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

⁽³⁾ Croatia, Hungary, Slovakia, Bulgaria and Poland missed the reporting deadlines.

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44. Is concerned about the findings of the OLAF Annual Activity Report, according to which in the external aid area OLAF investigators often encounter a modus operandi typical of organised fraud due to shortcomings in coordination between the different international donor organisations;

45. Requests the Commission to pay attention to the problem of double financing of projects; in particular, requests the Commission, when concluding or amending agreements on the management and implementation of projects by international organisations, to send systematically all their internal and external audits on the use of Community funds to the ECA and to the Internal Auditor of the Commission;

Recoveries

46. Regrets that recovery rates are still low, especially in sectors where Member States manage recoveries; points out that, according to the OLAF report, currently about EUR 3,75 billion in recoveries are still pending;

47. Supports the fact that the recovered amounts stay in the same budget line from where they were unduly paid out;

48. Welcomes the publication of the new central exclusion database for recipients of Community funds who have committed fraud⁽¹⁾; points out that it has been operational since 1 January 2009, and asks the Commission for an evaluation report by the beginning of 2010;

49. Points out that a faster and more appropriate recovery procedure is needed; therefore reiterates its call on the Commission to include binding and precautionary elements in future legislation concerning shared management so that irregular payments can be recovered at the end of the recovery procedure;

50. Requests the Commission to explore the possibility of introducing a system of surety, such as by putting a certain amount into a reserve or earmarking it, to speed up the recovery of outstanding amounts;

OLAF's relationship with Europol and Eurojust

51. Notes with satisfaction the signature by Eurojust and OLAF on 24 September 2008 of a Practical Agreement on arrangements of cooperation⁽²⁾ governing modalities for close and increased cooperation and provisions for the exchange of general and personal data; supports the conclusion of a similar agreement with Europol;

52. Feels that it is crucial to create a solid basis for operational and intelligence synergies with Eurojust and Europol, for example by means of a common operational and intelligence team, as this would certainly bring added value to the fight against fraud;

53. Points out also that the currently overlapping competencies of these bodies should be clarified;

OLAF's cooperation with Member States

54. Supports the major aim of the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti Fraud Office (OLAF) (COM(2006)0244) of strengthening OLAF's independence; recalls, however, the importance of interlinking the work and results of OLAF, the Commission's services and the Member States' authorities by effective communication channels avoiding duplication of work and lack of information;

⁽¹⁾ OJ L 344, 20.12.2008, p. 12.

⁽²⁾ OJ C 314, 9.12.2008, p. 3.

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55. Points out that OLAF is the only authority to exercise all the powers of investigation to fight against and to prevent fraud, corruption and any other illegal activity detrimental to the general budget of the EU; therefore stresses that especially in relation to Structural Funds and External Aid with the highest irregularities reported, OLAF's investigative function should be further strengthened;

56. Points out that 'follow-up' cases have steadily increased since 2003, and that in 2007 OLAF cases were mainly closed with financial recovery or judicial follow-up recommendations; concludes that this means that OLAF's investigation results are positive for the Member States and the EU institutions;

57. Notes that OLAF's recommendations are not binding, so that national authorities take the relevant decisions and impose sanctions independently; believes that the establishment of a European Public Prosecutor's office would help to overcome difficulties arising from the cross-border nature of cases;

58. Stresses the need for streamlining legal instruments, since the definitions of fraud, suspicions of fraud and other irregularities are scattered across a number of different legal instruments, in spite of repeated calls by Parliament for a recast of the anti-fraud rules;

59. Notes the qualification problem of Member States in applying Articles 4 and 5 of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽¹⁾; considers that in case of ambivalence, national courts should ask the Court of Justice for a preliminary ruling;

60. Welcomes the publication of the above-mentioned second report of OLAF on on-the-spot checks and inspections outlining good practices for each stage of checks, as well as the new version of the OLAF Vademecum (guidelines); requests the Commission to send Parliament's competent committee the updated and comprehensive version of OLAF's manual by September 2009;

61. Advocates the need for clearer provisions on procedures and binding time limits for competent authorities in providing the assistance required and generally more binding provisions for cooperation identifying the national authority competent to provide assistance; insists, with a view to solving this problem, on the usefulness of its position of 20 November 2008 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽²⁾;

62. Requests the Commission to take appropriate measures, including infringement proceedings, against those Member States which do not assist its services in carrying out on-the-spot checks as provided for by Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽³⁾;

63. Notes that since extensive judicial follow-up of cases has been observed but admissibility of evidence - by the national courts - collected by OLAF is very limited, the aim is to improve the judicial support for the investigative function of OLAF; considers moreover that Eurojust should be informed when information or final case reports are transmitted to the judicial authorities if they concern serious forms of transnational crime and two or more Member States are involved;

64. Reminds the Commission of Parliament's request to include in the 2008 PIF Report an analysis of the Member States' structures involved in combating irregularities;

65. Deplores the inadequate notification by Member States of action taken on information or final case reports transmitted by OLAF; requests the Member States to ensure that their competent authorities forward a report to OLAF on progress made in acting on the information or recommendations forwarded to them by OLAF;

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ Texts adopted, P6_TA(2008)0553.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

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66. Notes that the national audit authorities have considerable competencies in audits regarding EU-funds and they provide the first source of information for both national prosecution authorities and EU institutions; believes therefore that maximising the cooperation and information flow between audit authorities, national prosecution authorities and OLAF would further strengthen the protection of the Communities' financial interests;

67. Notes that according to its above-mentioned position of 20 November 2008 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), Member States shall systematically inform OLAF on the follow up of those cases which were transmitted by OLAF to them, therefore asks OLAF to report on this issue in its next annual report;

68. Points out that the anti-Fraud coordination service (AFCOS) for OLAF in the Member States which acceded to the EU after 2004 are very important information/contact points for OLAF; however points out that so long as these offices are not independent from the national administration, their functional added value is minimal (especially concerning reporting of irregularities to the Commission); therefore invites the Commission to make a proposal to Parliament's competent committee about making the work of these offices more valuable and also considers it necessary to improve collaboration with the candidate countries;

Tobacco - Agreement with Philip Morris

69. Regrets that the Commission was unable to provide a comprehensive report on the follow-up to Parliament's resolution of 11 October 2007 on the implications of the agreement between the Community, Member States and Philip Morris on intensifying the fight against fraud and cigarette smuggling and progress made in implementing the recommendations of Parliament's Committee of Inquiry into the Community Transit System⁽¹⁾, and in particular paragraph 49 thereof, which explicitly asked the Commission to publish such a report by the end of 2008; expects that the Commission will come forward with this report before the end of the discharge procedure for the financial year 2007;

70. Cannot accept that, whereas under the Philip Morris and Japan Tobacco agreements the Community received USD 1,65 billion for the fight against fraud, instead of setting up a common approach, the Commission sent some 90 % of this money un-earmarked straight to the Ministers of Finance of the Member States; calls on the Council and the Commission to set up a tripartite working group with Parliament to find adequate solutions to make wise and better use of this and similar income of the Union; finds it unacceptable that in times of economic downturn billions of Euro of fines, paid by major companies who violated European competition rules to the detriment of European consumers, are not used by the Union to stimulate the economy to the benefit of the unemployed and /or to help developing countries who will suffer most under the crisis, but instead are simply sent to the national treasuries;

Organised crime

71. Welcomes the publication of the Commission Communication of 20 November 2008 on proceeds of organised crime (COM(2008)0766), which deals with the confiscation and recovery of crime, and agrees with the Commission that confiscation is one of the most effective ways to fight organised crime and that measures should be put in place in order to increase the limited number of confiscation cases and the modest amounts recovered;

72. Underlines that it is essential to have in place expedient and effective mechanisms to freeze and confiscate assets abroad and therefore a recasting of the existing EU legal framework should be considered; stresses that Council Decision 2007/845/JHA should be implemented, as a matter of urgency, in order to ensure that all Member States set up or designate Asset Recovery Offices (AROs);

73. Reiterates its call on the Commission to provide Parliament with a detailed analysis of the system or systems used by organised crime to undermine the Communities' financial interest; finds the yearly Europol Organized Crime Threat Assessment (OCTA) useful, but not sufficient in this respect;

⁽¹⁾ OJ C 227 E, 4.9.2008, p. 147.

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74. Deplores the fact that the Convention on the Protection of the European Communities' Financial Interests of 1995 and its protocols of 1996 and 2007 have still not been ratified by the Czech Republic, Hungary, Malta and Poland, that one of the two protocols has not been ratified by Estonia and Italy and that in seven Member States the transposition of the provisions has shortcomings;

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75. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the European Court of Auditors, the OLAF Supervisory Committee and OLAF.

Parliamentary immunity in Poland

P6_TA(2009)0316

European Parliament resolution of 24 April 2009 on parliamentary immunity in Poland (2008/2232(INI))

(2010/C 184 E/15)

The European Parliament,

- having regard to Articles 9 and 10 of the Protocol of 8 April 1965 on the Privileges and Immunities of the European Communities,
 - having regard to Article 12(3) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
 - having regard to Article 105 of the Constitution of the Republic of Poland of 2 April 1997,
 - having regard to Article 7b of the Polish Law of 9 May 1996 on the performance of the mandate of deputy or senator,
 - having regard to Articles 9 and 142 of the Polish Law of 23 January 2004 on elections to the European Parliament,
 - having regard to its resolution of 23 June 2005 on the amendment of the decision of 4 June 2003 on the adoption of the Statute for Members of the European Parliament ⁽¹⁾,
 - having regard to Rules 6, 7 and 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0205/2009),
- A. whereas, in the current parliamentary term, Parliament and its Committee on Legal Affairs, as the committee responsible, have considered requests for waiver of the immunity of Members elected in Poland and have come up against certain difficulties in the interpretation of provisions of law that might be applicable in the case of those Members,

⁽¹⁾ OJ C 133 E, 8.6.2006, p. 48.