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Report

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drawn up on behalf of the Committee on Budgets

on the proposal from the Commission of the European Communities to the Council (Doc. 266/76) for a directive on the inspection by the Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund

Rapporteur: Mr M. COINTAT

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PE 47.579/fin.

By letter of 17 August 1976 the President of the Council of the European Communities optionally requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on the inspection by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund.

On 27 August the President of the European Parliament referred this proposal to the Committee on Budgets as the committee responsible and to the Committee on Agriculture for its opinion.

On 22 September 1976 the Committee on Budgets appointed Mr Cointat rapporteur.

At its meeting of 27 April 1977 the committee considered the motion for a resolution and adopted it unanimously.

Present: Mr Lange, chairman; Mr Cointat, rapporteur; Lord Bessborough, Lord Bruce of Donington, Mr Caro, Mr Clerfaÿt, Mr Früh, Mr Hamilton, Mr Maigaard, Mr Mascagni, Mr Radoux, Mr Ripamonti, Mr Schreiber and Mr Spinelli.

The opinion of the Committee on Agriculture is attached.

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The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the inspection by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council (Doc. 266/76),
 - having regard to the report of the Committee on Budgets and the opinion of the Committee on Agriculture (Doc.85/77),
1. Welcomes the proposal by the Commission inviting the Governments of the Member States to strengthen their machinery for scrutinizing the utilization of EAGGF appropriations;
 2. Considers that the inspection of the commercial documents of the undertakings concerned constitutes, in general, an effective check and should therefore be organized on an identical basis by the competent authorities of the Member States;
 3. Feels that, in order to be really effective, this inspection system should be applied with a certain amount of flexibility and that the competent authorities must be allowed considerable latitude;
 4. Considers it advisable for this directive to be implemented as soon as possible and feels that the resulting system of inspection must eventually be extended to all undertakings benefiting from the system of financing by the Guarantee Section of the EAGGF;
 5. Requests the Commission to adopt the following amendments, pursuant to the second paragraph of Article 149 of the EEC Treaty.

¹ OJ No. C 200, 26.8.1976, p.6

Article 1 unchanged

Article 2

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| <p>1. Without prejudice to the right to make random checks or special inspections, particularly in the case of a suspected irregularity, Member States shall carry out the inspection of the commercial documents of the undertakings. The scope and frequency of such inspection shall be determined by the competent authorities in the Member States, account being taken of the type of transactions to be inspected.</p> <p>2. Nevertheless, where the receipts of a single undertaking or its payments to the Guarantee Section of the EAGGF, or the total thereof, exceed 100,000 units of account per year, the commercial documents shall be inspected at least once every two years. The inspection shall extend over an appropriate period to be determined by the competent authorities of the Member States.</p> | <p>1. unchanged</p> <p>2. Nevertheless, where the receipts of a single undertaking or its payments to the Guarantee Section of the EAGGF, or the total thereof, exceed 100,000 units of account per year, the commercial documents shall be inspected <u>on average</u> once every two years. The inspection shall extend over an appropriate period to be determined by the competent authorities of the Member States.</p> |
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Articles 3 to 6 unchanged

Article 7

<p>Member States shall assist each other in carrying out the inspection provided for in Articles 2 and 3 when an undertaking is established in a Member State other than that in which the payment of the amount concerned has been or should have been made or received.</p>	<p>Member States shall assist each other <u>to the full</u> in carrying out the inspection provided for in Articles 2 and 3, <u>particularly</u>, when an undertaking is established in a Member State other than that in which the payment of the amount concerned has been or should have been received.</p>
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¹ For complete text see OJ No. C 200, 26.8.1976, p.6

Articles 8 and 9 unchanged

Article 10

During the first three years following the year when this directive is put into effect as provided in Article 11, the inspection referred to in Article 2 (2) may, at the choice of the Member State, be confined to;

- undertakings where the amount referred to therein is not less than 250,000 units of account; or
- a representative number of the undertakings referred to therein, such number being at least one third of such undertakings.

During the year following that in which this directive is put into effect as provided in Article 11, the inspection referred to in Article 2 (2) may, at the choice of the Member State, be confined to;

- undertakings where the amount referred to therein is not less than 250,000 units of account; or
- a representative number of the undertakings referred to therein, such number being at least one third of such undertakings.

Articles 11 and 12 unchanged

EXPLANATORY STATEMENT

This proposal for a directive represents one of the measures to be taken to intensify the financial supervision of the use of EAGGF appropriations in the Member States.

On several occasions there have been various errors or irregularities in the utilization of these appropriations which, although negligible in their financial implications, have damaged the image of the EAGGF and that of the Community in the eyes of the public. Any proposal from the Commission aimed at strengthening the system of inspection of EAGGF expenditure and increasing its effectiveness is therefore welcome.

THE PROPOSAL

Since it feels that the Member States have prime responsibility for the scrutiny of the distribution and utilization of EAGGF appropriations and that the commercial documents held by the operators constitute a vital element of this scrutiny, the Commission has decided to ask Member States to introduce systematic inspection of these documents.

The crux of this directive is the inspection - at least once every two years - of the commercial documents of undertakings whose receipts from or payments to the EAGGF exceed 100,000 u.a. per year (Article 2 (2)).

The directive also provides for the national officials responsible for the inspection to be given certain facilities (Articles 5 and 6); that the Member States should assist each other in carrying out the inspection (Art. 7); and for the Commission to have access to the inspection reports drawn up by the national inspection bodies (Article 8), while the commercial and industrial secrecy of undertakings is respected (Article 9).

Finally, provision is made for this directive to be put into effect very slowly (Articles 10 and 11): its implementation may take up to four years from the time of its adoption.

COMMENTS

The Committee on Budgets cannot but welcome this proposed directive; scrutiny of the commercial documents of undertakings constitutes the cornerstone of systems of inspection of the utilization of public funds.

It is clear that most Member States already employ this form of inspection and that this directive is mainly intended, on the one hand, to induce one or other Member State to modernize its inspection procedures and, on the other hand, as a means of harmonizing the procedures of all the Member States on essential points.

While the Committee on Budgets agrees in principle, it does have the following reservations:

- Article 2: the threshold figure of 100,000 u.a. seems acceptable since it covers a fairly limited number of undertakings in each Member State¹. Similarly, the frequency of inspection (once every two years) seems high but desirable. However, instead of laying down a systematic inspection every two years, it would perhaps be better to make it rather less predictable by simply stipulating that the documents must be inspected on average once every two years.
- Article 7: the principle of mutual assistance, which is essential in all inspections of the utilization of Community funds accruing to Member States, should be laid down in general terms and not restricted to specific cases.
- Article 10: Articles 10 and 11 taken together will delay full implementation of the directive until 1982/83. This schedule does not seem entirely justified since most Member States probably already carry out regular inspections of the type advocated by the Commission; implementation should therefore be speeded up, so that the directive can be fully applicable by 1980.

The apparent harshness of this proposed directive is tempered by the vagueness of the notion 'inspection': it does not imply systematic scrutiny of all operations recorded in the commercial documents; considerable latitude is granted to the national officials, who, on the basis of their experience, should be able to carry out a selective and limited inspection.

CONCLUSION

The Committee on Budgets therefore proposes that the draft amendments given in the annex be adopted. They are mainly intended to strengthen the content and expedite the implementation of this directive.

¹ For example 1,230 in Germany, 1040 in Italy, 548 in France and 464 in the United Kingdom.

It also proposes that Parliament should adopt the suggestion by the Committee on Agriculture that the resulting system of inspection should eventually be extended to all undertakings benefiting from the system of financing by the Guarantee Section of the EAGGF.

The Committee on Budgets is convinced that the Council will welcome this strengthening of the proposed directive since it is in line with the strictness that institution itself advocates in matters of inspection.

OPINION OF THE COMMITTEE ON AGRICULTURE

Draftsman : Mr Cornelis LABAN

On 2 September 1976, the Committee on Agriculture appointed Mr Laban draftsman of an opinion.

At its meeting of 20 and 21 September 1976, it considered the draft opinion and adopted it unanimously.

Present: Mr Liogier, vice-chairman; Mr Laban, draftsman of the opinion; Mr Bourdellès, Mr De Koning, Mrs Dunwoody, Mr Fabbrini (deputizing for Mr Marras), Mr Haase, Mr Hughes, Mr Hunault, Mr Martens, Mr McDonald, Lord St. Oswald, Mr Suck and Lord Walston.

1. In order to improve the inspection system designed to prevent fraudulent practices or irregularities in connection with funds from the EAGGF Guarantee Section, the Commission proposes the extension of these inspections to include the commercial documents and accounts of undertakings. Most irregularities have, indeed, been discovered as a result of on-the-spot inspection of the accounts of undertakings. The chances of discovering irregularities in respect of EAGGF funds would be considerably increased if the inspection of commercial documents and accounts, which is already carried out in a few Member States, were extended to the entire Community. Thus the purpose of the directive is to make this type of inspection compulsory throughout the whole Community, and it is proposed that the Member States should take steps to set up teams of specialized inspectors.

2. It should be pointed out that under Article 8 of Council Regulation No. 729/70 on the financing of the common agricultural policy¹, the responsibility for preventing and dealing with irregularities lies mainly with the Member States.

It is therefore most important that Member States should be given the means to fulfil this responsibility, all the more so since Community legislation on agricultural matter is becoming increasingly complex and is subject to frequent modification, which encourages the temptation to exploit any loopholes in the regulations.

3. With the expansion of Community legislation in this field, fraudulent practices have unfortunately become a speciality.

In practice it is very difficult to notify the customs authorities of Member States of fraudulent practices in time. It is therefore important, in addition to customs control, for specialized inspectors equipped with the necessary powers to be able to inspect accounts and commercial documents on the spot and perform their duties with the assistance of all modern technical aids available. At the same time, however, the commercial and industrial secrecy of undertakings should be respected, as the Commission proposal also stipulates.

4. The European Parliament has always urged that control procedure be constantly improved. Particularly large sums are involved in the case of the EAGGF Guarantee Section, and strict and effective control of the Fund's financial transactions is essential if European tax-payers are to be protected against misappropriation of Community funds.

¹OJ No. L 94 of 28.4.1970, p. 13.

The present proposal forms part of the Commission's and Parliament's unceasing efforts not only to clarify and improve the system of Community regulations but also to improve the control machinery needed to ensure proper observance of the regulations in order to prevent fraud. The Committee on Agriculture therefore recommends that the proposal for a directive be approved. However, the matter merits a few more observations.

a. Why is stricter control proposed only for the Guarantee and not for the Guidance Section? In view of the amounts involved in the financial transactions of the Guarantee Section, it is obviously particularly important to step up the fight against fraud; nevertheless, control should also be improved with a view to reducing as far as possible the opportunities for fraud in respect of the Guidance Section. Although the situation in the Guidance Section is different from that in the Guarantee Section and it should therefore be possible to use other methods, control should be improved as expenditure under the common structural policy increases.

b. Article 2 of the proposal stipulates that if an undertaking's financial transactions in respect of the EAGGF financing system exceed 100,000 u.a. per year, the commercial documents must be inspected at least once every two years. This Community minimum amount is derived from the numerical data on cases of irregularities recorded by the Member States, which are appended to the proposal.

In other cases the frequency of inspection is left entirely to the discretion of the Member States because of the difference in the regularity of controls and the varying structure of expenditure in the Member States.

The Committee on Agriculture considers, however, that as the number of inspectors trained in this system increases, compulsory inspection of commercial documents should be extended to a greater number of undertakings and the frequency of these inspections increased.

Member States responsible for effective implementation of the new inspection system must communicate to the Commission all details concerning the investigation of irregularities, as stipulated in Article 3 of Council Regulation No. 283/72¹. Active cooperation and exchange of information between Member States is also important, since differences in the national regulations and administrative procedures applied to prevent fraudulent practices make effective control more difficult.

c. Finally, the Committee on Agriculture considers that, notwithstanding the reinforcement of existing internal inspection procedures, Community revenue and expenditure should be subject to general financial control by an independent body such as the Court of Auditors.

¹OJ No. L 36 of 10.2.1972, page 1 - 13 -

