TOWARDS AN INDEPENDENT EUROPEAN AGENCY TO FIGHT FRAUD AND CORRUPTION IN THE EU?

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1. Fraud And Corruption in the Case of the Direct Provision of Subsidies by the European Commission

At the beginning of 1999, the political barometer in the European institutions was pointing distinctly towards stormy weather. Because of the discontent concerning the European Commission’s anti-fraud policy the European Parliament had not been able to discharge its 1996 budget. Moreover, the Board of Commissioners had received a stern warning in the form of a motion of no-confidence being tabled in Parliament. Commissioners Cresson and Marin, in particular, were on the receiving end in this respect. The Commission survived the vote of confidence, but emerged from the fray with its wings severely clipped as a result of the struggle and the many votes cast against it. Parliament had brandished its teeth, but it still did not have sufficient courage to be also able to bite. It had to satisfy itself with a ‘Committee of Independent Experts’ which, during the first phase, had to report on the way in which the Commission’s leadership was dealing with internal fraud, maladministration and nepotism. The Committee was charged with the task of holding the EC Commissioners’ individual and collective responsibility up against the light. In a second report the administrative culture, the procedures and the practices within the European Commission would be

1 For the point-by-point criticism by the European Parliament’s Commission or Budgetary Control, see Resolution A40097/98.
2 Article 24 EC Treaty.
3 This Committee of independent experts consists of the Chairman, A. Middelhoek (former Chairman of the European Court of Auditors), I.-B. Ahlenius (Auditor-General of the Swedish Court of Auditors), J.A. Carillo Salcedo (former member of the European Court of Human Rights), P. Lelong (Chairman of the French Court of Auditors) and W. van Gerven (Professor of Law and former Advocate General at the European Court of Justice).
placed firmly under the microscope. In this report, which is expected to be published in September of this year, the responsibility of the leadership (top officials and members of the Commissioners’ cabinets) will be considered. The first report, published 15 March 1999, contains a detailed analysis of a number of long-running fraud dossiers and it investigates the accusations of nepotism with regard to six Commissioners. Only Commissioner Cresson was held to be responsible for unacceptable favouritism. From an analysis of the fraud dossiers and the internal fight against fraud, the Committee of Independent Experts has nevertheless concluded that there is indeed a question of maladministration, obstruction in combating fraud and a lack of political responsibility on the part of the whole Board of Commissioners. As a result of this scathing judgement the European Commission took the honourable way out and resigned en masse.

This deep political crisis as a result of accusations of fraud, corruption, mismanagement and nepotism gives rise to many questions. Is it the problem that fraud is much more serious now than in the past? Have the internal control mechanisms, such as the internal financial control exercised by the Directorate-General of Financial Control and the fraud inquiries carried out by the Commission’s anti-fraud unit (UCLAF), been found to be wanting or have they been sabotaged in their work? Has the external control exercised over the European Commission by the European Court of Auditors and by the European Parliament’s Committee on Budgetary Control not worked? In any case, from the report by the Committee of Independent Experts it would seem that cases of fraud, corruption and nepotism within the European institutions is not a new phenomenon. A number of the dossiers investigated have their origin in the previous Commission, under the leadership of Delors. The substantial increase in direct subsidies which are directly paid out by the Commission also dates back to the Delors period. The fraud dossiers investigated by the Committee of Independent Experts were not discovered by the Committee itself – the Committee also did not have any investigative authority. In all the fraud cases investigation was carried out by the Directorate-General of Financial Control and by UCLAF, and in a number of cases also by the European Court of Auditors. From the report it would also seem that the European Parliament’s Committee on Budgetary Control experienced the greatest difficulty in obtaining information and that the investigation by UCLAF was not always linked to the

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4 This report is available in its entirety on the European Parliament’s website.
5 The Committee has concerned itself with the following dossiers: the tourism service, the MED programmes (aid programmes for the Mediterranean region), ECHO (programme for emergency humanitarian aid), the Leonardo da Vinci programme (permanent training), and the Safety Bureau (programme for nuclear safety).
6 An acronym based on the French title: ‘Unité de Coördination de la Lutte Anti-Fraude’.
7 These are also the competent bodies for receiving complaints from officials.