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NOTE

from : General Secretariat of the Council
to : Delegations

Subject: Summary of the meeting of the European Parliament **Committee on Budgetary Control (CONT)**, held in Brussels on 26 January 2012

The meeting was chaired by Mr Theurer (ALDE, DE).

- 1. Discharge for 2010: 8th 9th and 10th European Development Funds**
CONT/7/07173, 2011/2212(DEC) COM(2011)0471 – C7-0273/2011
Responsible: CONT –
Opinions: DEVE, BUDG

Mr Ehrenhauser (NI, AT), rapporteur, considered that money flew from the EDF to a number of intermediaries - including the EIB itself, joint ventures, and financing bodies - before reaching the final beneficiary and asked what reasons could justify this. He asked whether the final beneficiaries were known to the EIB. He also raised some questions about the findings of Counterpower, an NGO active in controlling EU money-spending, in particular concerning fraud.

Ms Barton, EIB Director-General for Operations outside the European Union, explained that the EIB brought together participants from the MS, which made it possible both to plan interventions and to make the money flow more visibly, although she agreed with Mr Liberadski (S&D, PL) that the EIB was not very visible, as - she had noticed - the staff were more involved with banking core business than with communication. He explained that intermediaries were chosen on the basis of published standards that were intended to add financial value to the money spent. As she further explained to Ms Weiler, who raised the issue of microfinance, a debate was going on between the supporters of immediate action through NGOs and the supporters of developing the local financial sector through microfinancing. As for fraud, she believed that most of the Counterpower's allegations did not stand up to serious scrutiny. Nevertheless, she acknowledged that the increased number of fraud allegations could also be seen as a positive return in awareness-raising through EIB information. She said that the EIB held the list of beneficiaries, but could disclose it only with their agreement, as clarified by the European Data Protection Supervisor.

2. European Investment Bank (EIB) - Annual Report 2010

CONT/7/06847, 2011/2186(INI)

Responsible: CONT –

Opinions: DEVE – Mr Staes (Verts, BE)
ECON – Mr Kamall (ECR, UK)
ENVI – Mr Rivellini (PPE, IT)

Ms Ivanova (EPP, BG), rapporteur, after acknowledging the EIB's achievements in financing SMEs, put several questions to Mr de Crayencour, Director of Institutional Affairs of the EIB. After giving an assurance that support to SMEs would be continued, and even increased in volume, in 2012, Mr de Crayencour explained that the intermediaries were chosen on the basis of the added value they could provide, meaning they had to be able to transfer the financial advantage they received to the final beneficiary, and not retain it. As for the role of the Court of Auditors in the auditing of lending activities, he made clear that the EIB was monitored by it as regards the financing activities carried out with EU budget funds. He told Mr Geier that the EIB was not subject to any supervision, as Member States did not want to confer supervision on the ECB; nevertheless, the EIB acted as if it were under the supervision of the Luxembourg supervisory authority. As the rapporteur had asked about the response of the EIB to the negative outlook for its triple-A rating,

Mr de Crayencour explained that the negative outlook was the consequence of the change in the rating agencies' approach from capital adequacy to leverage (i.e. nominal ratio between capital and borrowings). Against this background, it was excluded that the EIB could trim the Greek debt it owned (to Mr Geier and Ms Cesková, ECR-CZ), without losing its triple-A rating, which remained a top priority for the EIB (to Mr Kalfin, S&D-BG). He agreed with the rapporteur that the loans programme should be extended to countries with good financial discipline and assured her that the case of hospital financing in Serbia was the subject of an investigation with the full knowledge of OLAF. Concerning financing activities that could harm the environment, he told Mr Schmidt (ALDE, SE) that only 3,5% of the total lending for power plants was granted to coal and lignite generators, on the grounds of guaranteeing security of energy supply for Europe. No detailed answer could be given to Mr Gerbrandy (ALDE, NL), who inquired about financing of projects for biodiversity. Concerning the use of the money by beneficiaries, he told Ms Cesková that this could not be directly checked by the EIB, which could only provide a description of eligible expenses, with which the intermediary bank had to comply.

3. Annual report of OLAF Supervisory Committee (SC) CONT/7/08443

Ms Theato, from the OLAF Supervisory Committee (SC) said that in its last report the SC had focused on its activity over the last six years, as its members had come to the end of their maximum term of office¹. The report had focused in particular on the independence of OLAF, taking into account three main areas, i.e. the implementation of investigations, their management and the legal guarantees of the investigations. Ms Theato referred to a number of opinions delivered by the SC in conducting its monitoring activity and criticized the limits to OLAF independent investigations, which were opposed by the EP itself when refusing access to offices, and by the Commission when refusing access to its databases, on grounds of personal data protection. She also referred to the lack of cooperation from MS in informing OLAF of national contact points.

¹ For the decision appointing the new members of the SC see 18367/11 (author's note).

Ms Wright, from SC, added that cooperation with other EU institutions, bodies and agencies was also essential for OLAF. She considered that the amendment of Regulation 1073/1999 should address the issue of access by OLAF to databases. She also referred to the prior consent that the administrative authorities had to give to authorise staff to make their views known to OLAF, as this could take up to 14 months, thus biasing the whole investigation procedure. She also raised other problematic aspects linked to the information that OLAF had to provide to administrations when a member of staff was under investigation. She stressed that the most essential measure was allocating sufficient resources to OLAF. Even if cuts were necessary because of the current crisis, she took the view that the Director-General of OLAF should be given the freedom to decide where any budget cuts should be made. She went on to say that the new regulation should give the OLAF Director-General more independence in hiring investigators and raised the issue of the appointment of a deputy Director-General. Lastly, she stressed the need for independence of the SC itself.

Ms Gräßle, rapporteur, highlighted the fact that the SC had had its staff reduced, although OLAF had handed back the money to the Commission, which, as she saw it, meant that staff cuts in the SC secretariat were not needed. She criticized investigations involving MEPs as this, in her view, affected the parliamentary immunity enshrined in the Treaties, and OLAF could not override it on the basis of a Regulation. She also stressed the need to protect whistleblowers, in particular by increasing source protection. Mr Balcytis (S&D, LT) and Mr Rübzig agreed with Ms Gräßle on immunity and elaborated further on this. In general, the idea of giving OLAF more resources was upheld by all the MEPs who took the floor.

Mr Kessler, OLAF Director-General, praised the SC for interpreting its role in a way that guaranteed OLAF 's independence. He emphasised the importance of cooperating with Member States and, in particular, identifying the national contact points. Concerning parliamentary immunity, he recalled that MEPs had accepted investigations, but access to offices was prevented by the EP administration. He also stressed the importance of access to Commission databases. He pointed out that the transmission of a final report was a legal requirement, although he gave an assurance that a source-protection approach would be observed (on the whistleblower issue).

In her closing remarks, Ms Theato gave Mr Kessler credit for assigning staff to core investigation duties. She admitted that the current Regulation was not unambiguous on the follow-up within Member States, and stressed the need for reform in this area and in the area of whistleblower protection. She ended by appealing for an increase in staff numbers and levels within the SC secretariat.

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4. Next meeting(s)

- 9 February 2012, 9.00 – 12.30 (Brussels)
