

## » **Role of the EC as guardian of the Treaties**

### **- Stronger role, much more staff**

The European Commission is actually the guardian of the Treaties. But it does not carry out its task. To be more precise, it cannot carry out its task because it does not have the necessary resources. Above all, it does not have enough staff.

The truth is that the Commission is forced to take a passive role due to insufficient resources. One of the most striking examples was the case of Cyprus. We all remember very clearly the years 2012 and 2013. Cyprus asked for financial aid. In a study carried out in November 2012, the German Federal Intelligence Agency estimated that EUR 26 billion from Russia was in Cypriot accounts. 80 Russian oligarchs had assumed Cypriot citizenship. The money laundering regulations were being applied poorly. As I recall, one example at the time was a very poor business register. This case, incidentally, was one of the political motors of the transparency register.

The European Commission was unable to respond seriously to the public reporting because it had no knowledge of whether Cyprus was correctly applying the Money Laundering Directive. So the Commission first had to send an auditing firm to Cyprus to get a picture of the anti-money laundering measures there.

At present, Hungary, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain - and Cyprus have not implemented the current fifth anti-money laundering directive by the deadline of 10 January 2020. Germany would also have to appear on this list because we have not had a truly functioning FIU for over two and a half years.

Infringement proceedings are currently underway against 17 member states regarding the fourth anti-money laundering directive, which should have been implemented by June 2017.

My conclusion is as simple as it is tough: The European Union has been letting its Member States play games in the fight against money laundering for many years. It accepts the fact that several hundred billion euros of criminal proceeds are laundered in the EU every year.

The European Commission must therefore be massively strengthened in the performance of its tasks. It must assume the tasks of advising and supervising the member states.

**Should OLAF take over this additional task with additional staff?**

But there are other issues that need to be discussed. Some of these have been raised by the Commission itself. The Finance Ministers of some Member States have made their own proposals. Still other demands come from the experts. One after the other:

Should the **Directive be replaced by a Regulation?** I would answer that with a clear yes. The reason is that it would save us time in implementation.

Do we need a new EU financial supervision agency? I am very uncertain. So far, the effects have not been fully understood. I am sceptical for several reasons. Do we really need another authority? We are (again) only focusing on the financial sector. Who supervises the European non-financial

sector? It is also highly relevant. How do we interlink the activities of existing agencies? Europol collects information from suspicious transaction reports (SUSTRANS)? We should use and expand this expertise. In this respect, would Europol not be the born EU FIU?

## **FIU**

In most Member States, the number of suspicious transaction reports is increasing. The largest part comes from the financial industry. In Germany, this proportion is traditionally around 98% of reports. The assessment and analysis of these reports is carried out by very different FIUs in the Member States. There are administrative, police, judicial or hybrid FIUs. I would like to ask here in the round: which model is the most successful? What is the straight knife for success? Both questions are not discussed openly enough. For me, a FIU is successful if you succeed in identifying as many crimes as possible. Crimes must result in as many convictions as possible. Furthermore, the amount of confiscated funds must be as high as possible. Under these conditions, there is a lot to be said for administrative FIUs not being among the most successful.

We urgently need a scientific study of these interrelationships. Perhaps there is one, and I am just not aware of it. If so, I would be very happy to receive information.

In a next step, it would be wise to agree on comparable criteria for which a suspicious transaction report must be made. If this were to succeed, it would be logical to agree on a uniform organic model.

In any case, we need annual money laundering reports to the European Parliament. We need a continuous, regular debate on how to improve the fight against money laundering. Without money laundering there would be no organised crime, no corruption, no drug trafficking, no human trafficking, no arms trafficking and much more.

You see what I am getting at. Of course, we would be in a slightly more favourable situation if we had a regulation and not a directive.

## **Cash**

But we must also talk openly and honestly about cash. From the point of view of my association, it is urgently necessary to talk about uniform cash ceilings in the European Union. There are numerous analyses which clearly show us how important cash still is for money laundering. The best known report comes from EUROPOL: cash is still the King.

In Germany in particular, there are allergic reactions when cash is discussed. These discussions are comparable to those about a speed limit on our motorways. When we propose to introduce a cash limit for certain shops, we are immediately accused of wanting to abolish all cash. That is of course nonsense! As in other areas of crime, our aim is to make things as difficult as possible for the perpetrators. That would work best if we had a uniform upper limit within the European Union.