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OLAF investigation into EU assistance to the Palestinian Authority budget

The European Anti-Fraud Office (OLAF) has closed its investigation into the European Commission's Direct Assistance to the Palestinian Authority's budget. On the basis of the information currently available to OLAF, the investigation has found no conclusive evidence of support of armed attacks or unlawful activities financed by the European Commission's contributions to the budget. However, the possibility of misuse of the Palestinian Authority's budget and other resources, cannot be excluded, due to the fact that the internal and external audit capacity in the Palestinian Authority is still underdeveloped.

The OLAF investigation was originally triggered by allegations of misuse of European Commission (EC) funds for terrorist activities. On 6 February 2003, OLAF opened an external investigation in order to examine the alleged irregularities concerning European Commission budget assistance provided to the Palestinian Authority (PA) under different instruments since 1997. This investigation was closed on 12 March 2005, and its results were communicated to the European Commission together with a number of recommendations on how further to improve safeguards and controls.

Findings

On the basis of the information available to date, the investigation found no conclusive evidence of support of armed attacks or unlawful activities financed by EC contributions to the PA budget. However, there are consistent indications to support the hypothesis that it cannot be excluded that some of the assets of the PA may have been used by some individuals for other than the intended purposes.

OLAF considers that even though the PA has made significant progress since 2002 by introducing a single treasury account for the consolidation of revenues, risks of misuse of the PA budget and other resources cannot yet be excluded. This is primarily due to the fact that the internal and external audit capacity in the PA remains underdeveloped.

In the course of its investigation, OLAF established that the PA leadership had transferred an amount of US \$238 million to Swiss bank accounts between 1997 and early 2000, without informing its international donors. It is clear, however, that this cannot concern EU funds as the European Commission only made its first disbursement in the framework of the Special Cash Facility in November 2000. In the meantime, according to the information available to OLAF, the funds transferred to Switzerland have been fully accounted for and have been integrated into the Palestine Investment Fund under the control of the PA Ministry of Finance. In addition, the investigation also revealed the existence of at least one account in Tunis for which the PA was not yet able to clarify either the origin or the owner.

The investigation : scope and methods

OLAF opened its investigation on the basis of information received from two different sources. The investigation focussed on two aspects: on the one hand on allegations that EC funds were misused to finance armed attacks; on the other hand on the systems and control mechanisms operating within the EC programme of Direct Budget Assistance. The EC programme of Direct Budget Assistance, like similar programmes of other donors, took the form of direct payments to the PA's general budget which were not linked to any specific kind of expenditure. The first payments under this programme were made in November 2000 after the Israeli Government's decision to withhold the transfer of tax and customs revenues to the PA in response to the second Intifada. The EC made payments of € 246.3 million under this scheme up until April 2003 when the Commission replaced this by other forms of assistance and the OLAF investigation also covered the € 145 million subsequently made available from 2003 until February 2005.

In the course of their enquiries, the OLAF investigators, all of whom have a professional background in justice, police services or financial departments, collected and analysed information from a number of sources. These sources included: the European Commission and its Technical Assistance Office (ECTAO) in Jerusalem, the International Monetary Fund, the World Bank, representatives of third countries in the Middle East, the intelligence services of several EU Member States, audit firms and private sector sources. The OLAF investigators also worked in close co-operation with the Israeli administration and the PA. During several missions to the region, OLAF investigators met senior officials and witnesses from both Israel and Palestine and were able to obtain a number of original documents from both sides. OLAF assessed all the material gathered against the standards of evidence commonly accepted within the EU.

Legal and factual limitations

The subject of this investigation was the financial conduct of a foreign public authority outside EU territory. The former Financing Agreements between the European Commission and the Palestinian Authority did not provide for a legal basis for OLAF directly to monitor the expenditure of the Palestinian Authority. Nevertheless, the European Commission had put in place a surveillance system which, in scope and quality, went far beyond those of other donors. During its investigation, OLAF noticed a strong willingness in the present PA leadership to take the necessary measures to achieve more transparency, to clarify the past situation and to avoid misuse of donors' funds. However, OLAF was never in a position directly to monitor the expenditure of the PA. In this respect, OLAF had to rely on the answers given by the PA Ministry of Finance which were not always supported by documentation. In addition, OLAF does not have the legal powers necessary to investigate some further details, e.g. through gaining access to bank information. A number of factors continue therefore to remain unclear.

Recommendations

On the basis of its investigation, OLAF's main recommendations to the Commission are:

- The current European Commission's financing agreements with the PA contain safeguards to counter misuse of EC funds. Any further budgetary assistance granted by the EC to the Palestinian budget (either directly or via other International organisations) should continue to be subject to well-monitored provisions established in close co-operation and co-ordination with the other international donors.
- A single system of monitoring, shared by all donors, should improve the control of the revenues and the expenditure of the PA budget. This independent audit activity should continue until a fully independent financial control and auditing of accounts exists within the PA.
- The present EC support given to the PA to improve their controls and internal audit should continue and should be reinforced.

- The PA should do the same in respect of the funds still circulating outside the budget such as the funds available on bank accounts in Tunis.
- Some of the practices of the past, such as the payment of salaries to convicted persons or the financial aid given to families of “martyrs” as well as the Fatah contributions by PA staff, are liable to be misunderstood and so to lead to allegations that the PA is supporting terrorism. These issues should be raised with the PA.

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