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on the protection of the financial interests of the Communities and fight against fraud
(2004/2198(INI))

Committee on Budgetary Control

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the protection of the financial interests of the Communities and fight against fraud (2004/2198(INI))

The European Parliament,

- having regard to its resolutions on previous annual reports of the Commission and of the European Anti-Fraud Office,
- having regard to the Commission's annual report on the protection of the financial interests of the Communities and fight against fraud (COM(2004)0573), including the annexes (SEC(2004)1058, SEC(2004)1059),
- having regard to the communication from the Commission entitled 'Protecting the Communities' financial interests, Fight against Fraud, Action Plan for 2004-2005' (COM(2004)0544),
- having regard to the activity report of the European Anti-Fraud Office (OLAF) for the year ending June 2004¹,
- having regard to the activity report of the OLAF Supervisory Committee for the period between June 2003 and July 2004²,
- having regard to the annual report of the European Court of Auditors concerning the financial year 2003³,
- having regard to Article 276(3) and Article 280(5) of the EC Treaty,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinions of the Committee on Agriculture and Rural Development and the Committee on Regional Development (A6-0151/2005),

Scale of the irregularities and cases of fraud reported

1. Notes that in 2003, in the areas of own resources, agricultural expenditure and structural actions, irregularities and cases of fraud totalling some € 922 m were reported by the Member States; the figures forwarded to Brussels by the Member States can be broken down as follows:
 - own resources: € 269.9 m (2002: € 341.9 m),
 - EAGGF Guarantee Section: € 169.7 m (2002: € 198.1 m),
 - structural actions: € 482.2 m (2002: € 614.1 m);

¹ http://europa.eu.int/comm/anti_fraud/reports/olaf/2003-2004/en2.pdf.

² The document was forwarded to the committee secretariat in electronic form in January and can be downloaded in French from the OLAF website.

³ OJ C 293, 30.11.2004.

2. Notes that the total loss reported in 2002 was € 1.15 bn and was thus higher than in 2003; points out that the importance of such year-on-year fluctuations should not be overestimated and that they may be affected by a wide variety of factors;
3. Notes, however, that taken over a longer period the trend in the area of the EAGGF Guarantee Section is clearly downward, whereas in the area of the Structural Funds a substantial increase has been seen; in the year 2000, for example, the loss reported in the area of the EAGGF Guarantee Section still totalled € 474.6 m, whereas the loss in the area of the Structural Funds in the same year totalled no more than € 114.3 m; since then, the proportions of the fraud statistics accounted for by the two areas have almost been reversed;
4. Invites the Member States to take appropriate measures to improve systems for the control and management of the structural funds and to ensure both that the risk of fraud is reduced significantly and that the provisions of Regulation (EC) No 1681/94 are applied fully, particularly with regard to the procedure for timely, clear and full notification;
5. Notes that during the period covered by the report OLAF registered 637 new cases and that the financial impact of all cases still under investigation on 30 June 2004 was put at € 1.37 bn;
6. Notes, further, that the loss to the budget resulting from all cases in respect of which OLAF had initiated follow-up measures at the end of the period covered by its report (July 2003-June 2004) totalled € 1.76 bn¹;
7. Notes that at the end of the period covered by the OLAF report 55 investigations were under way in the new Member States and accession countries; most of those investigations were concentrated in the external aid, cigarette and agriculture sectors; emphasises, in that connection, the value of the Anti-Fraud Coordination Service (AFCOS);
8. Regrets the fact that the reports submitted by the Commission and OLAF have hitherto not been sufficiently comparable and welcomes the intention to harmonise the reporting periods;

Recovery of amounts paid in excess or in error

9. Points out that in the areas of own resources, agricultural expenditure and structural actions a total of € 3 bn from 2003 and earlier financial years needs to be recovered²;
10. Argues in favour of simplifying definitions of types of fraud and methods of detection; calls on the Commission and OLAF to agree on a division of labour in the agricultural sector, following which OLAF will, in future, be responsible for investigations, whereas DG AGRI will be responsible for recoveries;

¹ The financial loss resulting from all the cases investigated by OLAF and its forerunner organisation is estimated at € 5.34 bn (see SEC(2004)1370, Annex II).

² OLAF's Case Management System reveals that between 1999 and 2004 € 100 m was recovered, a sum equivalent to 1.87% of the total loss to the budget over the same period, which is put at € 5.34 bn.

11. Draws attention, further, to European Court of Auditors' Special Report No 3/2004 on recovery of irregular payments under the Common Agricultural Policy¹: according to that report, between 1971 and September 2004 irregularities involving a total of € 3.1 bn were reported in the sector; of that sum, € 626 m (20.2%) has been recovered from recipients and € 156 m (5%) and € 144 m (4.6%) has had to be paid by the EAGGF and the Member States respectively; accordingly, there should still be € 2.2 bn (70%) to be recovered;
12. Emphasises that the Member States bear primary responsibility for the prompt and efficient recovery of lost budget appropriations; regrets the fact that hitherto the Member States have failed to discharge this responsibility adequately and, in particular, have been sloppy in carrying out their reporting duties vis-à-vis the Commission;
13. Welcomes the work of the 'Recovery' Task Force set up to deal with sums outstanding in the agricultural sector, which is due to settle some 4000 cases by March 2005; in that connection, welcomes the European Court of Auditors' Special Report No 3/2004 on recovery of irregular payments under the Common Agricultural Policy;
14. Welcomes the progress made in the meantime by the 'Recovery' Task Force; for example, it has established that, of the total of € 2.18 bn, € 812 m is blocked as a result of ongoing legal proceedings and € 247 m is regarded by the Member States as irrecoverable (e.g. as a result of bankruptcies); these figures imply that, as things stand, a sum of € 1.12 bn needs to be recovered;
15. Welcomes the fact that detailed consideration of individual cases has further reduced the sum to be recovered from € 1.12 bn to € 765 m (e.g. by avoiding the duplication of reports);
16. Notes that, on the basis of the analysis drawn up by the Task Force, of the stated figure of € 765 m, € 115 m should be recovered from the EAGGF, as against € 650 m from the Member States; the Member States have already been informed of this state of affairs by letter;
17. Criticises the fact that it is often those countries whose reported irregularities represent the greatest loss to the budget (2003: Spain € 112 367 457, Italy € 16 896 556, and France € 12 221 826) which also have the lowest recovery rates (2003: Spain 4.9%, Italy 13.9%, and France 15.6%); in the case of export refunds, Spain accounted for almost 50% of the total loss (2003: € 8 694 350 out of a total of € 17 514 557), but recovered only 9.3%;
18. Hopes that the task force set up in 2003 to examine pre-1999 cases will make it possible to recover a proportion of the arrears;
19. Draws attention, once again, to the case law of the Court of Justice of the European Communities², which, in a judgment issued as long ago as 11 October 1990 (Case C-34/89, Italian Republic v Commission)³, warned the Member States to observe their general duty of care;

¹ OJ C 269, 4.11.2004.

² See paragraph 22 of its resolution of 30 March 2004 on the protection of the financial interests of the Communities and fight against fraud - Annual report 2002 (OJ C 103 E, 29.4.2004, p. 435).

³ ECR 1990, I-3603.

20. Takes the view that the non-recovery of irregular payments within four years (by means of administrative measures) or eight years (through the courts) represents a serious breach of the duty of care; the country concerned should then be required to settle the debt itself; in this way, Member States could be encouraged to take responsibility at an early stage and adopt a proactive approach to remedying errors; a procedure of this kind would also facilitate the work of the Commission, which is accountable to Parliament; welcomes, therefore, the Commission proposals along these lines¹;
21. Welcomes, further, the Commission's intention to improve the 'black list' system; calls on the Commission to examine all possible ways of developing this instrument into an effective means of combating fraud and, if appropriate, extending its scope beyond the agricultural sphere; Germany, France, Austria, the Netherlands, Spain and the United Kingdom are already making use of this possibility;
22. Reiterates its call on the Commission to report on the inadequacies of the 'blacklist' system (Council Regulation (EC) No 1469/95 of 22 June 1995 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF²);
23. Calls for discussions to be embarked on, on the basis of that report, either to make significant changes to that system or to replace it by a more effective instrument;
24. Expresses concern at the fact that a number of Member States, in particular Germany, France and Spain, are failing in their duty to report irregularities within the time-limits set; 90% of cases are reported to the Commission only within two years, which reduces the prospects for recovering sums paid in error;
25. Points out that the most recent OLAF activity report reveals that investigators have put the total loss to the budget resulting from all the cases dealt with by OLAF over the last five years at € 5.34 bn; notes that, of that sum, roughly € 100 m has been recovered; this represents only 1.87% of the estimated total loss; looks to OLAF to draw up an analysis of the causes of this paltry recovery rate in respect of cases it handles;

Fraud involving adulterated butter

26. Points out that the financial loss to the Community resulting from the Italburro case (adulterated butter) brought to light in 1999 is put at over € 100 m and is concerned that, to date, less than 10% of the estimated 100 m loss has been recovered by the Member States concerned (Belgium, Germany and France); this could represent a serious breach of the Member States' duty of care;
27. Criticises the fact that the true nature of the possible health risks resulting from the butter adulteration scandal has still not been established; points out, further, that the adulteration was essentially discovered coincidentally, in the course of investigations into Mafia murders, and that clearly no routine checks are carried out with a view to preventing products from being manipulated in this way; looks to the Commission to put forward

¹ COM(2004) 0489.

² OJ L 145, 29.6.1995, p. 1.

proposals as to how the health risks resulting from the adulteration of foodstuffs can be curbed effectively;

28. Calls on the Commission, therefore, to submit, by 31 October 2005 at the latest, a report on the stage reached in the criminal law proceedings and recovery procedures and the possible health risks stemming from the butter adulteration, a report which should also contain proposals for effective ways of curbing the health risks resulting from the adulteration of foodstuffs; points out that, when the case came to light in the year 2000, the Member States refused to disclose those findings to the Commission
29. Notes with amazement that the German authorities have issued a recovery order for only € 141 737 against the firms concerned, which have now challenged that order, and that five years after the case came to light the Belgian and French public prosecutor's offices have not yet opened criminal proceedings;

Measures to combat cigarette smuggling

30. Points out that in 2003, according to estimates drawn up by the Member States, cigarette smuggling cost the EU some € 200 m in own resources and that the total loss is in all probability very much greater;
31. Warmly welcomes, in this context, the agreement on combating cigarette smuggling concluded between the Commission (together with Belgium, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain) and Philip Morris International (PMI); in that connection, applauds the successful way in which the Commission has cooperated with OLAF and welcomes the decisive operational support provided by OLAF's Task Force on combating cigarette smuggling; the agreement provides for measures to prevent cigarette smuggling in the long term and seeks to settle the disputes between the Community and the undertaking; in addition, over a 12-year period PMI will pay a sum of roughly US \$1 250 000 000 to the Community and the Member States; calls on the Member States and the Commission to use these payments to fund measures to prevent and combat cigarette smuggling, including anti-counterfeiting activities; calls on the Commission to make proposals on the use of a substantial part of these revenues, and if necessary to present a preliminary draft amending budget and proposals for a legal basis;
32. Calls on all the Member States to join the agreement; calls on the Commission to seek to conclude similar agreements with other cigarette manufacturers; Member States themselves should refrain from negotiating their own agreements with manufacturers, given that the Commission has greater freedom to negotiate;
33. Warns that rising duties on cigarettes may prompt consumers to change their behaviour (e.g. by switching to cheap products) and that high tobacco tax rates offer an additional incentive for criminal actions (e.g. smuggling or counterfeiting);
34. Notes that illegal small-scale trading (above all in counterfeit cigarettes) is on the increase and is very difficult to combat;
35. Points out that the routes used by cigarette smugglers may equally well be used by people

- smuggling drugs and other items or substances;
36. Warns that the difference in cigarette prices between the old and new Member States makes smuggling attractive, particularly as, although transitional arrangements in the form of quantitative restrictions have been laid down to govern imports of tobacco products by private individuals travelling from the new to the old Member States, persons and vehicles are now subject only to spot checks;
 37. Regards it as essential, therefore, that administrative assistance procedures and exchanges of information among the competent authorities in the Member States and worldwide should be further improved; in addition, staff shortages in customs investigating services should be remedied and customs offices should be provided with more mobile units, arrangements which the Member States could finance using monies obtained under the agreement with PMI;
 38. Notes with regret that Member State agencies do not pass on to OLAF the information they obtain concerning counterfeit cigarettes and smuggling activities via key smuggling centres (e.g. south-east Asia); calls on the Member States to examine, on the basis of Article 280 of the Treaty, how such information can be made accessible to OLAF on the basis of administrative cooperation; asks the Court of Auditors for a prompt opinion on the proposal for improvements to administrative cooperation between OLAF and the Member States; asks it to examine, in that connection, whether it might be helpful to set up OLAF branch offices to monitor key smuggling centres;
 39. Points out that the experience gained thus far with JCOs (Joint Customs Operations) has clearly illustrated the advantages of more effective cooperation between the services of the Member States; urges that this cooperation should be placed on a more permanent footing, in the form of standing task force groups, and that Europol should be more closely involved in the fight against this form of international organised crime;
 40. Calls furthermore on the Commission to consider extending the terms of reference of the EU agency for the management of operational cooperation at external borders to include the sphere of customs investigations;

Cooperation with Switzerland

41. Welcomes the conclusion of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to counter fraud; congratulates all those, including OLAF, who were involved in drawing up the Agreement; the provisions of that Agreement cover many of the aspects dealt with in the Second Protocol to the Agreement on the protection of the Communities' financial interests, in particular those governing administrative assistance, searches, seizures, and recovery; expresses its incomprehension at the fact that this protocol, which dates from 1997, has still not been ratified by three of the old Member States, Austria, Italy and Luxembourg;
42. Calls on Latvia, Malta, Poland, the Czech Republic, Slovenia, Hungary and Cyprus to follow the lead given by Estonia (3 February 2005), Lithuania (28 May 2004) and Slovakia (30 September 2004) and ratify the above-mentioned protocol promptly;

43. Urges, in that connection, the prompt adoption of the Commission proposal for a European Parliament and Council regulation on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities¹;

Delegation to private firms of missions of the European public service

44. Points out that, in response to various affairs in which private Commission contractors, in some cases with the knowledge and approval of the officials responsible, had misappropriated funds and manipulated contract award procedures (ECHO affair, MED affair), as long ago as late 1998 the following provision was incorporated into the Financial Regulation: 'the Commission and other institutions may not, under any form or upon any basis whatsoever, delegate to outside entities or organisations tasks of implementing the budget which may give rise to missions on the part of the European Public Service, especially where powers to enter into public contracts are involved'²;
45. Regards it as unacceptable that in November 1999 the Commission should nevertheless have adopted rules governing service, supply and works contracts in the context of cooperation to assist third countries which authorised the use of so-called procurement agencies, which then organised tender procedures, signed contracts and made payments to final recipients;
46. Looks to the Commission to submit, by 1 June 2005, a list of all the contracts concluded since 2000 with such procurement agencies; that list should also contain details of the duration of the contracts, the award procedures and the level of the payments involved;

Priorities and prospects for OLAF's work

47. Points out that the subsidiarity principle also applies to OLAF, i.e. the requirement to concentrate on those areas in which the services of the Member States have no competence or are failing to make adequate efforts;
48. Emphasises once again, against this background, and setting aside action by OLAF, in keeping with the subsidiarity principle, in other operational sectors, the priority which must be given to investigations within the institutions and in connection with expenditure directly administered by the Commission;
49. Points out that Article III-274 of the Treaty establishing a Constitution for Europe stipulates that a European Public Prosecutor's Office from Eurojust may be established in order to combat crimes affecting the financial interests of the Union;
50. Emphasises that this prospect must be taken into account in the debate on the further development of OLAF; expects the Commission and the Council to submit, before 31 December 2005, concrete proposals concerning OLAF's future role with respect to the European Public Prosecutor and Eurojust;

¹ COM(2004) 0509.

² OJ L 320, 28.11.1998, p. 1; see also OJ L 248, 16.9.2002, p. 1, Articles 54(12) and 57(1).

OLAF investigations and the protection of fundamental freedoms

51. Draws attention to Recital 10 of the OLAF Regulation, Regulation (EC) No 1073/1999¹, which states that OLAF investigations must be conducted with full respect for human rights and fundamental freedoms;
52. Notes with concern the view expressed by the OLAF Supervisory Committee that OLAF's current, self-imposed procedural rules governing investigations (OLAF Manual) may not be sufficient to safeguard the rights of persons under investigation by OLAF and that the admissibility as evidence of the findings of investigations may be called into question; calls on the Commission, therefore, as part of the forthcoming OLAF reform to put forward corresponding legislative proposals which dispel these doubts and guarantee both legal certainty and legal protection;

OLAF and the Ombudsman

53. Emphasises the importance of the work of the Court of Justice in enforcing and interpreting Community law and by virtue of its judicial functions under Article 255 of the Treaty and of the work of the Ombudsman in identifying and dealing with cases of maladministration in the work of the Community institutions or bodies;
54. Notes the statement made by the OLAF Director on 8 March 2005 to the effect that in procedure 2485/2004/GG OLAF is unable to comply with the draft recommendation issued by the Ombudsman and concede that in its submissions to the Ombudsman in connection with his investigations of complaint 1840/2002/GG it made inaccurate and misleading statements to him;
55. Looks to the Commission, in the light of the Ombudsman's forthcoming final decision, to take whatever steps are required, if appropriate, to call those responsible to account and restore OLAF's credibility;

Procedure for appointing the Director-General of OLAF

56. Welcomes the Commission's decision to fill the post of Director-General of OLAF following a public call for applications in the Official Journal, so that a genuine and credible selection process can take place with a view to endowing the Director-General with a valid mandate and sufficient credibility;
57. Notes the Commission's decision, taken at its 1691st meeting of 22 February 2005, to give the current Director-General responsibility for conducting routine business until the new appointment is made;
58. Takes the view that the Commission would have been better advised to appoint, by agreement with Parliament and the Council, an interim Director whose freedom of action would not have been restricted; is of the opinion that provisions for appointing an interim Director must be added to the OLAF regulation;

¹ OJ L 136, 31.5.1999, p. 1.

59. Points out that in paragraph 55 of its resolution of 4 December 2003 on the Commission report on the evaluation of the activities of the European Anti-Fraud Office (OLAF)¹ it called for the post of OLAF Director-General to be advertised promptly and that responsibility for the delay which has now occurred lies solely with the Commission, which waited far too long before initiating the requisite procedures;
60. Regards it now as particularly important that no further unnecessary delays should occur and that a decision on the new appointment should be taken as soon as possible;
61. Emphasises that pursuant to Article 12 of the OLAF Regulation, Regulation (EC) No 1073/99, the Commission can draw up the list of suitably qualified candidates only after the OLAF Supervisory Committee has given a favourable opinion, i.e. that the Supervisory Committee must be given the opportunity to consider and assess all the applications before, on that basis, the Commission draws up the list of suitable candidates;
62. Emphasises that the Commission appoints the OLAF Director-General by agreement with Parliament and the Council, i.e. that a consensus must be secured; points out that this arrangement was laid down on the grounds that the far-reaching powers enjoyed by the OLAF Director-General (initiation and conclusion of investigations, forwarding of information to national judicial authorities) cover not only Members and employees of the Commission, but also Parliament, the Council and the Community's other institutions and bodies;
63. Looks to the institutions involved to attach equal importance to neutrality, transparency and fairness when taking the decision on the appointment of the new OLAF Director-General in order to prevent any recurrence of the problems which affected the first appointment procedure²;

Report and opinions of the Court of Auditors

64. Expects the long-awaited special report of the Court of Auditors to be available in good time for its findings to be taken into account at the hearings of the candidates for the post of Director-General;
65. Calls on the Court of Auditors, in its opinions on the legislative proposals which have now been submitted pursuant to Article 280 of the EC Treaty, to pay particular attention to the following questions:
 - (a) how can OLAF's independent investigatory role be strengthened?
 - (b) can the relevant provisions laying down OLAF's investigatory powers be consolidated in a single legal text?

¹ OJ C 89 E, 14.4.2004, p. 153.

² Emphasises that steps must be taken to avoid any repeat of the situation which arose in 1999 when doubts were expressed regarding the fairness of the procedure and a candidate withdrew his application after the Secretary-General of the Commission had praised certain other candidates ahead of the appointment procedure.

Follow-up to remarks and calls from previous years

66. Calls on OLAF to resume the dialogue, which began in November 2004, on what information Parliament can have access to in connection with its work, with a view to finding a way of respecting Parliament's supervisory powers and, at the same time, guaranteeing the confidentiality of OLAF investigations;
67. Notes that during the period covered by the OLAF report the Eurostat Task Force dealt with 14 cases, four external and 10 internal investigations, of which nine had not yet been completed in June 2004; five sets of findings have been forwarded to the Luxembourg and French criminal justice authorities, as appropriate; looks to the Commission and OLAF to submit a progress report by 1 October 2005 at the latest;
68. Notes that, according to a court ruling, employment arrangements at the Commission Representation in Vienna breached current Austrian labour and social welfare law; asks what findings the OLAF investigation has brought to light and what measures the Commission has taken; asks, further, what costs the Commission has already incurred as a result of losing these labour tribunal cases and being required to pay outstanding social security contributions; asks, finally, what further costs might still be generated;
69. Expresses its satisfaction with developments in some Member States, such as the adoption of new regulatory provisions imposing penalties in the event of irregularities;
70. Notes that the likely misuse of funds from the Leonardo da Vinci Programme has been investigated¹ and that the relevant documents have been handed over to the Romanian criminal justice authorities;
71. Notes that the export of live cattle to Lebanon² has in the past given rise to the misuse of export refunds and that Germany, France and Austria have issued recovery orders;
72. Regrets the fact that the Commission has thus far failed to draw up a survey giving the names of the international consultancies which have worked for the Commission in the areas of direct and indirect expenditure³; looks to the Commission to provide it with such a survey by 1 July 2005;
73. Reminds the Commission that it has been asked to submit to Parliament a communication in which it considers how the various legal instruments governing OLAF investigations could be combined to form a joint legal framework⁴;
74. Notes with concern press reports claiming that OLAF has established that in-house mismanagement at the Commission in connection with the renovation of the Berlaymont

¹ See paragraphs 13 and 14 of its above-mentioned resolution of 30 March 2004.

² See paragraphs 23 et seq. of its above-mentioned resolution of 30 March 2004.

³ See paragraph 52 of its above-mentioned resolution of 30 March 2004.

⁴ See paragraph 41 of its above-mentioned resolution of 30 March 2004.

Building has resulted in an alleged loss to the budget of up to €180 m; calls on OLAF to clarify the exact position; looks to the Commission to give details by 1 September 2005 of the action it has taken on the basis of the relevant OLAF report;

75. Is disappointed at the Commission's negative reaction to paragraph 123 in the 2002 Commission discharge resolution, which states (...) that the Commission allows goods which have been incorrectly or falsely declared to be regarded as not being involved in the transit procedure, with the result that the guarantee cannot be reclaimed, that the papers have to be sent back to the country of entry into the EU, and that the campaign to combat fraud is impeded; (...); calls again on the Commission to put an immediate end to this practice and to propose an appropriate amendment to the Customs Code;

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76. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the Court of Auditors, the OLAF Supervisory Committee and OLAF.

ANNEX 1 - Traditional own resources (1999 – 2003)

Number of cases of fraud and irregularity reported by the Member States¹ to the Commission

Member States	1999	1999	2000	2000	2001	2001	2002	2002	2003	2003
	<i>Cases</i>	<i>Amounts €</i>	<i>Cases</i>	<i>Amounts €</i>	<i>Cases</i>	<i>Amounts €</i>	<i>Cases</i>	<i>Amounts €</i>	<i>Cases</i>	<i>Amounts €</i>
Austria	116	11 213 033	93	6 559 101	101	17 322 898	119	19 597 993	90	8 841 758
Belgium	294	9 956 308	306	7 438 093	296	7 421 364	484	28 372 440	470	20 847 020
Denmark	103	9 106 823	106	9 288 803	67	5 066 932	94	5 761 628	68	8 157 103
Finland	36	5 104 165	36	1 598 820	20	3 140 752	18	782 783	24	1 160 029
France	268	23 425 262	253	29 312 376	217	16 971 636	202	25 215 366	183	16 635 556
Germany	497	41 460 664	491	59 585 284	365	25 766 935	377	106 648 659	300	53 711 413
Greece	13	319 602	1	210 051	10	7 088 417	27	7 675 639	32	1 361 194
Ireland	40	7 833 465	38	1 882 401	34	1 376 401	44	4 136 553	32	2 340 846
Italy	295	14 700 766	228	39 717 946	207	98 688 810	309	40 177 849	226	76 292 783
Luxembourg	5	417 184	2	35 620			1	23 666	1	1 013 477
Netherlands	220	13 051 534	325	20 852 948	478	33 151 348	285	81 841 236	411	46 472 778
Portugal	14	526 374	19	1 306 757	11	1 489 355	15	2 004 205	22	2 197 568
Spain	119	8 157 274	116	8 534 724	134	29 705 373	121	11 447 554	213	26 448 366
Sweden	65	4 793 667	18	1 081 083	21	2 589 884	36	2 675 681	45	1 212 991
United Kingdom	538	107 537 273	507	337 165 303	238	10 830 541	203	5 545 308	336	3 269 886
Total	2 623	257 603 394	2 539	524 569 310	2 199	260 610 646	2 335	341 906 560	2 453	269 962 768

¹ Member States must notify cases of fraud and irregularity where the amounts exceed €10 000, in accordance with a Community obligation laid down in Article 6(5) of Regulation (EC, Euratom) No 1150/2000 of 22 May 2000.

ANNEX 2 - Traditional own resources

Cases of fraud and irregularity reported by Member States for 2003

(Amounts in euros)

Member States	Number of cases notified for 2003	Amounts established	Amounts as a % of EUR-15 total	Average amount per case	Amounts recovered in cases notified for 2003	Amounts to be recovered ¹
(1)	(2)	(3)	(4)	(5) = (3) / (2)	(6)	(7)
Austria	90	8.841.758	3,28 %	98.2412	710.826	8.130.932
Belgium	470	20.847.020	7,72 %	44.355	1.590.590	19.256.430
Denmark	68	8.157.103	3,02 %	119.957	7.816.181	340.922
Finland	24	1.160.029	0,43 %	48.335	463.308	696.721
France	183	16.635.556	6,16 %	90.905	7.445.972	9.189.584
Germany	300	53.711.413	19,90 %	179.038	6.629.695	47.081.718
Greece	32	1.361.194	0,50 %	42.537	784.783	576.411
Ireland	32	2.340.846	0,87 %	73.151	1.343.922	996.924
Italy	226	76.292.783	28,26 %	337.579	2.599.864	73.692.919
Luxembourg	1	1.013.477	0,38 %	1.013.477	0	1.013.477
Netherlands	411	46.472.778	17,21 %	113.072	28.625.688	17.847.090
Portugal	22	2.197.568	0,81 %	99.889	589.811	1.607.757
Spain	213	26.448.366	9,80 %	124.171	12.689.179	13.759.187
Sweden	45	1.212.991	0,45 %	26.955	1.021.447	191.544
United Kingdom	336	3.269.886	1,21 %	9.732	545.055	2.724.831
EUR-15 TOTAL	2 453	269.962.768	100 %	110.054	72.856.461	197.106.307

¹ Of the overall established amount of € 269.962.768 (see column (3)), only the amount of € 72.856.461 has so far been recovered. However, as recovery actions are ongoing, it would be wrong to conclude that the amount of € 197.106.307 still outstanding represents a loss to the Community budget.

ANNEX 3 - EAGGF GUARANTEE YEARS (1998 - 2003)

IRREGULARITIES COMMUNICATED BY THE MEMBER STATES

(amounts in € 1.000)

<i>YEAR</i>	<i>CASES</i>	<i>AMOUNT</i>	<i>% OF BUDGET</i>	<i>EAGGF-BUDGET</i>
2003	3,237	169,724	0.39	43,606,858
2002	3,285	198,079	0.46	42,781,898
2001	2,415	140,685	0.34	41,866,940
2000	2,967	474,562	1.17	40,437,400
1999	2,697	232,154	0.59	39,540,800
1998	2,412	284,841	0.73	39,132,500

ANNEX 4 - EAGGF GUARANTEE (2003)

IRREGULARITIES COMMUNICATED BY THE MEMBER STATES UNDER

REGULATION N° 595/91

(amounts in € 1.000)

<i>Member States</i>	<i>Number of cases</i>	<i>Amounts</i>	<i>% of EAGGF expenditure</i>
B	38	1.843	0,18
DK	82	1.605	0,13
D	663	7.614	0,14
EL	35	1.836	0,07
E	777	113.687	1,74
F	729	11.849	0,11
IRL	103	864	0,04
I	124	16.902	0,31
L	3	78	0,18
NL	106	2.226	0,17
A	57	665	0,06
P	136	3.289	0,38
FIN	10	399	0,05
S	104	1.531	0,17
UK	270	5.336	0,14
TOTAL	3.237	169.724	0,39

**ANNEX 5 - Extract from the OLAF Anti-Fraud Information System (AFIS)
2003**

country	1) Total EAGGF expenditure	2) cases	3) amount affected by irregularities	4) amount affected before payment	5) amount affected after payment	6) amount recovered	7) % 6) of 5)	8) balance to recover
BE	1.033.488.065	38	1.843.474	124.327	1.719.147	603.698	35,1	1.115.449
DK	1.224.872.041	82	1.607.015	149.988	1.457.027	598.194	41,1	858.833
DE	5.502.678.812	664	6.883.065	2.023.419	4.859.646	2.261.897	46,5	2.597.748
EL	2.751.401.744	35	4.749.973	0	4.749.973	329.582	6,9	4.420.391
ES	6.523.716.844	777	112.367.457	28.953	112.338.504	5.558.876	4,9	106.779.628
FR	10.324.409.839	729	12.221.826	942.317	11.279.509	1.755.723	15,6	9.523.786
IE	1.981.241.312	103	791.432	216.517	574.915	338.666	58,9	236.249
IT	5.383.306.327	124	16.896.556	91.645	16.804.911	2.337.767	13,9	14.467.144
LU	44.207.886	3	77.858	0	77.858	4.684	6,0	73.174
NL	1.343.773.695	106	2.098.136	241.493	1.856.642	1.199.741	64,6	656.901
AT	1.117.937.695	57	664.251	239.483	424.768	43.705	10,3	381.063
PT	866.829.229	136	3.203.582	8.954	3.194.628	542.901	17,0	2.651.727
FI	874.629.650	10	398.591	0	398.591	354.474	88,9	44.117
SE	898.692.735	103	1.056.715	843.904	212.811	168.048	79,0	44.763
UK	3.735.672.390	271	4.744.662	231.262	4.513.399	3.653.683	81,0	859.716
Total	43.606.858.264	3238	169.604.593	5.142.263	164.462.329	19.751.640	12,0	144.710.688

**ANNEX 6 - EXPORT REFUNDS
2003**

country	2) cases	3) amount affected by irregularities	4) amount affected before payment	5) amount affected after payment	6) amount recovered	7) % 6) of 5)	8) balance to recover
BE	10	1.177.846	19.371	1.158.475	65.641	5,7	1.092.834
DK	7	797.936	0	797.936	53.304	6,7	744.631
DE	301	1.926.035	726.705	1.199.330	824.764	68,8	374.566
EL	1	32.790	0	32.790	32.790	100,0	0
ES	46	8.694.350	0	8.694.350	808.817	9,3	7.885.533
FR	40	1.711.617	57.934	1.653.683	173.642	10,5	1.480.041
IE	7	103.084	23.000	80.084	46.704	58,3	33.380
IT	6	659.181	13.258	645.923	0	0,0	645.923
LU	0	0	0	0	0	-	0
NL	38	1.299.148	0	1.299.148	787.347	60,6	511.801
AT	54	645.512	239.483	406.029	43.705	10,8	362.324
PT	5	60.864	8.954	51.910	28.910	55,7	23.000
FI	0	0	0	0	0	-	0
SE	3	25.014	6.160	18.855	8.817	46,8	10.038
UK	11	381.180	0	381.180	351.274	92,2	29.906
Total	529	17.514.557	1.094.865	16.419.693	3.225.715	19,6	13.193.977

ANNEX 7 - EAGGF GUARANTEE
SITUATION OF RECOVERY IN CASES COMMUNICATED UNDER
REGULATION (EEC) No 595/91

(amounts in € 1.000)

<i>Member States</i>	<i>To be recovered cases communicated before 2003</i>	<i>To be recovered cases communicated in 2003</i>	<i>The subject of legal proceedings before 2003¹</i>	<i>Amounts "irrecoverable" before 2003</i>
B	71.350	1.115	21.431	722
DK	3.183	977	0	207
D	160.929	3.911	30.374	10.906
EL	72.377	1.587	33.326	5.744
E	183.855	109.169	70.824	58.009
F	64.133	9.633	39.724	2.688
IRL	3.312	326	888	609
I	1.439.883	14.497	532.743	145.337
L	25	73	0	0
NL	19.468	764	3.830	2.398
A	3.935	381	0	569
P	28.371	2.877	26.197	730
FIN	140	44	16	0
S	361	671	11	184
UK	35.019	2.199	12.366	6.240
TOTAL	2.086.341²	148.224³	771.730	234.343⁴

¹ Awaiting the outcome of judicial proceedings in national courts.

² As recovery actions are ongoing, it would be wrong to conclude that the amount of € 2.086.341 still outstanding represents a loss to the Community budget.

³ The difference between the total amount indicated in Annex 4 and the total to be recovered in 2003 represents the part of money already recovered in 2003. As recovery actions may be ongoing, it would be wrong to conclude that the amount of € 148.224 still outstanding represents a loss to the Community budget.

⁴ The sum of € 234.343 concerns cases awaiting formal decision in Clearance of Accounts procedure and is a part of the outstanding € 2.086.341 indicated in the column "To be recovered cases communicated before 2003".

ANNEX 8 - STRUCTURAL ACTIONS (1997-2003)

TREND OF THE IRREGULARITIES* COMMUNICATED BY THE MEMBER STATES UNDER REGULATIONS (EC) Nos 1681/94 AND 1831/94 AND THEIR IMPACT ON THE BUDGET

<i>Year</i>	<i>Number of cases</i>	<i>Amounts (x1000)</i>	<i>Part of budget</i>	<i>Total budget (x1000)</i>
2003	2,487	482,215	1,57%	30,763,696
2002	4,656	614,094	2,01%	30,556,348
2001	1,194	201,549	0,68%	29,829,680
2000	1,217	114,227	0,45%	25,556,000
1999	698	120,633	0,39%	30,654,450
1998	407	42,838	0,15%	28,365,990
1997	309	57,070	0,22%	26,304,900

* The concept of “irregularity includes “fraud”. The classification of fraud, meaning criminal behaviour, can only be made following a criminal procedure.

ANNEX 9 - STRUCTURAL ACTIONS (2003)
IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER
REGULATIONS (EC) Nos 1681/94 AND 1831/94

<i>Member States</i>	<i>Number of cases</i>	<i>Amounts involved (in 1.000 €)</i>
B	8	1.742
DK	18	1.343
D	766	89.208
EL*	172	163.703
E	443	42.935
F	178	16.606
IRL	74	7.275
I	173	56.639
L	39	3.248
NL	52	9.527
A	38	3.232
P**	104	37.335
FIN	33	1.512
S	73	1.269
UK	316	46.640
Total	2487	482.215

* Includes 36 cases concerning the Cohesion Fund.

** Includes 12 cases concerning the Cohesion Fund.

ANNEX 10 - STRUCTURAL ACTIONS
RECOVERY SITUATION FOR CASES COMMUNICATED UNDER
REGULATIONS (EC) Nos 1681/94 AND 1831/94

(amounts in 1.000€)

Member State	Total to be recovered before 2003	Total to be recovered 2003
BELGIQUE	1.477	1.637
DANMARK	4.558	1.339
DEUTSCHLAND	333.620	65.552
ESPAÑA	43.291	14.209
FRANCE	15.056	9.062
ELLAS	7.087	9.877
IRELAND	7.363	1.352
ITALIA	132.338	38.539
LUXEMBOURG	0	9
NEDERLAND	5.194	1.888
ÖSTERREICH	416	2.162
PORTUGAL	15.447	29.370
SUOMI FINLAND	525	424
SVERIGE	311	238
UNITED KINGDOM	55.308	28.255
TOTAL	621.993¹	203.915²

¹ As recovery actions are ongoing, it would be wrong to conclude that the amount of € 621.993 still outstanding represents a loss to the Community budget.

² The difference between the total amount indicated in Annex 7 and the total to be recovered in 2003 represents the part of money already recovered in 2003. As recovery actions are ongoing, it would be wrong to conclude that the amount of € 203.915 still outstanding represents a loss to the Community budget.

15.3.2005

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on Budgetary Control

on protection of the European Communities' financial interests and the fight against fraud
(2004/2198(INI))

Draftsman: Vladimír Železný

SUGGESTIONS

The Committee on Regional Development calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Reminds the Commission that in the current context of looming budgetary restrictions, the protection of the European Communities' financial interests and the fight against fraud are both absolutely necessary in order to ensure that the financial contributions of the Member States are used in a transparent, responsible, and efficient manner;
2. Regrets that the problems of interpretation of Commission Regulation (EC) No 1681/94¹ have not yet been resolved effectively and expresses its disappointment at the fact that half the Member States did not notify OLAF of cases of irregularities within the prescribed time-limits or provide the necessary information on the use of economic resources within the framework of the financing of structural policies, or did so inadequately with the result that the relevant European Commission database cannot be updated;
3. Invites the Member States to take appropriate measures to improve systems for the control and management of the structural funds and to ensure both that the risk of fraud is reduced significantly and that the provisions of Regulation (EC) No 1681/94 are applied fully, particularly with regard to the procedure for timely, clear and full notification;
4. Calls on the Commission to strengthen its efforts in making all EU Member States, especially the ten new Member States, and the applicant countries, fully aware of and dedicated to implementing the key objectives for the protection of the European Communities' interests and the fight against fraud, in particular an intensified inter-institutional approach to preventing and fighting corruption and fraud in the area of structural and cohesion policies through enhanced transparency and a better standard of

¹ Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field (OJ L 178, 12.7.1994, p 13).

on-the-spot checks of Member State control systems in force, and regularly performed ex ante evaluations and ex post verifications of project-related financial reports by the European Court of Auditors;

5. Calls on the Commission and all Member States to ensure that stringent legal penalties are applied in cases of fraud against the European Communities' financial interests as in cases of fraud against Member States' financial interests, especially in relation to co-financed projects in the area of structural and cohesion policies;
6. Call on Member States to work closely with the Commission and the ETSC¹ on the technical protection against counterfeiting of euro coins and to set up centres of training and assistance under the "Pericles"² programme at regional level to ensure the involvement of regional authorities (police and responsible regional or national authorities) in the fight against currency adulteration and counterfeiting.

¹ This abbreviation refers to The European Technical & Scientific European Centre.

² Council Decision 2001/923/EC of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles" programme) (OJ L 339, 21.12.2001, p.50).

PROCEDURE

Title	Protection of the European Communities' financial interests and the fight against fraud
Procedure number	2004/2198(INI)
Committee responsible	CONT
Committee asked for its opinion Date announced in plenary	REGI 18.11.2004
Enhanced cooperation	-
Drafts(wo)man Date appointed	Vladimír Železný 31.1.2005
Discussed in committee	31.1.2005
Date suggestions adopted	15.3.2005
Result of final vote	for: unanimity against: 0 abstentions: 4
Members present for the final vote	Alfonso Andria, Stavros Arnaoutakis, Jean Marie Beaupuy, Rolf Berend, Adam Jerzy Bielan, Jana Bobošíková, Graham Booth, Bernadette Bourzai, Bairbre de Brún, Giovanni Claudio Fava, Gerardo Galeote Quecedo, Iratxe García Pérez, Eugenijus Gentvilas, Lidia Joanna Geringer de Oedenberg, Ambroise Guellec, Zita Gurmai, Gábor Harangozó, Marian Harkin, Konstantinos Hatzidakis, Jim Higgins, Carlos José Iturgaiz Angulo, Mieczysław Edmund Janowski, Gisela Kallenbach, Tunne Kelam, Miloš Koterec, Constanze Angela Krehl, Sérgio Marques, Francesco Musotto, James Nicholson, Lambert van Nistelrooij, Jan Olbrycht, Markus Pieper, Francisca Pleguezuelos Aguilar, Elisabeth Schroedter, Alyn Smith, Grażyna Staniszewska, Margie Sudre, Oldřich Vlasák, Vladimír Železný
Substitutes present for the final vote	Jan Březina, Ole Christensen, Mojca Drčar Murko, Louis Grech, Eluned Morgan, Mirosław Mariusz Piotrowski, Richard Seeber, László Surján
Substitutes under Rule 178(2) present for the final vote	

16.3.2005

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on Budgetary Control

on protection of the European Communities' financial interests and the fight against fraud (2004/2198(INI))

Draftswoman: Katerina Batzeli

SUGGESTIONS

The Committee on Agriculture and Rural Development calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Expects the new regulation on the financing of the CAP to help simplify implementation of that policy, reduce bureaucracy, increase transparency and facilitate more effective management of Community appropriations;
2. Takes the view that reform of the CAP, with the move from a production aid system to a single-payment system, ought to limit risks of fraud and irregularities; however, because of the complexity of the system and the way in which it is applied, differing according to Member States, an effective and transparent control system needs to be put in place, with steps to be taken to prevent farmers who work on a cross-border basis receiving either too little aid or more than the rules prescribe as a result of differences in implementation between the Member States in question;
3. Takes the view that, as well as efficiency and transparency of monitoring systems, attention must be paid to the appropriateness of controls and monitoring systems; asks the Commission to draw up a report on the costs and benefits of the controls and monitoring systems in operation within the CAP, and to forward it to the European Parliament;
4. Is concerned at the continuing very low rate of recovery of irregular payments and the great differences between Member States as regards the percentages of amounts actually recovered; calls on the Commission to take appropriate steps leading to substantial improvements in all these areas;
5. Hopes that the task force set up in 2003 to examine pre-1999 cases, will make it possible to recover a proportion of the arrears;
6. Expresses its satisfaction with developments in some Member States, such as the adoption

of new regulatory provisions imposing penalties in the event of irregularities;

7. Calls on the Member States to give CAP debt recovery at least the same priority as the recovery of national aids; accordingly, the amount represented by irregular payments could be deducted from other Community payments owed to recipients;
8. Considers that the Member States ought to defray part of the cost of irregular payments still 'pending' after a reasonable period for which no write-off proposal has been made and where there is evidence that the Member State is responsible for failing to recover those payments;
9. Calls on the Commission to use objective criteria to charge unrecoverable undue payments to Member States or to the budget;
10. Argues in favour of simplifying definitions of types of fraud and methods of detection; calls on the Commission, in this context, to make the distribution of responsibilities between DG AGRI and OLAF absolutely clear;
11. Points out that the current lack of clarity regarding compensation of livestock farmers when a contagious animal disease has to be combated could harm the financial interests of the Union, given that in the event of an outbreak there are differences in levels of compensation depending on the place of slaughter; calls on the European Commission to make good these lacunae with a compensation system in which the costs of combating the disease are distributed in a comparable manner between the EU, the national authorities and the agricultural sector in all the Member States;
12. Reiterates its call on the Commission to report on the inadequacies of the 'blacklist' system (Council Regulation (EC) No 1469/95 of 22 June 1995 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF¹);
13. Calls for discussions to be embarked on, on the basis of that report, either to make significant changes to that system or to replace it by a more effective instrument.

¹ OJ L 145, 29.6.1995, p. 1.

PROCEDURE

Title	Protection of the European Communities' financial interests and the fight against fraud
Procedure number	2004/2198(INI)]
Committee responsible	CONT
Committee asked for its opinion Date announced in plenary	AGRI 18.11.2004
Enhanced cooperation	-
Drafts(wo)man Date appointed	Katerina Batzeli 20.1.2005
Discussed in committee	14.3.2005 16.3.2005
Date suggestions adopted	16.3.2005
Result of final vote	for: 35 against: - abstentions: -
Members present for the final vote	Filip Adwent, Marie-Hélène Aubert, Sergio Berlato, Thijs Berman, Niels Busk, Luis Manuel Capoulas Santos, Joseph Daul , Albert Deß, Gintaras Didžiokas, Michl Ebner, Jean-Claude Fruteau, Ioannis Gklavakis, Lutz Goepel, Bogdan Golik, Friedrich-Wilhelm Graefe zu Baringdorf, María Esther Herranz García, Elisabeth Jeggle, Heinz Kindermann, Stéphane Le Foll, Albert Jan Maat, Diamanto Manolakou, Mairead McGuinness, María Isabel Salinas García, Agnes Schierhuber, Czesław Adam Siekierski, Csaba Sándor Tabajdi, Marc Tarabella, Kyösti Tapio Virrankoski, Janusz Wojciechowski
Substitutes present for the final vote	Béla Glattfelder, Gábor Harangozó, Astrid Lulling, Markus Pieper, Karin Resetarits, Struan Stevenson
Substitutes under Rule 178(2) present for the final vote	-

PROCEDURE

Title	Protection of the financial interests of the Communities and fight against fraud				
Procedure number	2004/2198(INI)				
Basis in Rules of Procedure	Rule 45				
Committee responsible Date announced in plenary	CONT 18.11.2004				
Committee(s) asked for opinion(s) Date announced in plenary	REGI 18.11.2004	AGRI 18.11.2004	LIBE 18.11.2004	JURI 18.11.2004	PECH 18.11.2004
	IMCO 18.11.2004	ECON 18.11.2004			
Not delivering opinion(s) Date of decision	LIBE 21.2.2005	JURI 24.11.2004	PECH 24.11.2004	IMCO 30.11.2004	ECON 25.10.2004
Rapporteur(s) Date appointed	Herbert Bösch 22.9.2004				
Discussed in committee	15.3.2005				
Date adopted	9.5.2005				
Result of final vote	for: 24		against: 1		
	against: 1		abstentions: 1		
Members present for the final vote	Inés Ayala Sender, Herbert Bösch, Paul van Buitenen, Simon Busuttil, Mogens N.J. Camre, Paulo Casaca, Lorenzo Cesa, Petr Duchoň, Szabolcs Fazakas, Markus Ferber, Ingeborg Gräßle, Ona Juknevičienė, Rodi Kratsa-Tsagaropoulou, Nils Lundgren, Hans-Peter Martin, Jan Mulder, José Javier Pomés Ruiz, Bart Staes, Alexander Stubb, Kyösti Tapio Virrankoski				
Substitutes present for the final vote	Bill Newton Dunn, Carl Schlyter, Janusz Wojciechowski				
Substitutes under Rule 178(2) present for the final vote	Stavros Arnautakis, Armando Dionisi, Anna Ibrisagic, Antonio Tajani				
Date tabled – A6	17.5.2005		A6-0151/2005		