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## **REPORT**

on Protection of the Communities' financial interests – Fight against fraud –  
Annual reports 2005 and 2006  
(2006/2268(INI))

Committee on Budgetary Control

Rapporteur: Francesco Musotto

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the protection of the Communities' financial interests – fight against fraud – annual reports 2005 and 2006 (2006/2268(INI))

*The European Parliament,*

- having regard to its resolutions on previous annual reports of the Commission and the European Anti-Fraud Office (OLAF),
- having regard to the report of 12 July 2006 from the Commission to the European Parliament and the Council entitled 'Protection of the Communities' financial interests – Fight against fraud – Annual report 2005' (COM(2006)0378), including the annexes (SEC(2006)0911 and SEC(2006)0912) thereto,
- having regard to the report of 6 July 2007 from the Commission to the European Parliament and the Council entitled 'Protection of the financial interests of the Communities – Fight against fraud – Annual report 2006' (COM(2007)0390), including the annexes (SEC(2007)0930 and SEC(2007)0938) thereto,
- having regard to the OLAF Annual Activity Report for 2005<sup>1</sup>,
- having regard to the OLAF Annual Activity Report for 2006<sup>2</sup>,
- having regard to the Activity Report of the OLAF Supervisory Committee for the period December 2005 to May 2007<sup>3</sup>,
- having regard to the annual report of the Court of Auditors on the implementation of the budget for the financial year 2005<sup>4</sup>,
- having regard to the annual report of the Court of Auditors on the implementation of the budget for the financial year 2006<sup>5</sup>,
- having regard to Articles 276(3) and 280(5) of the EC Treaty,
- having regard to Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>6</sup>,
- having regard to Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to

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<sup>1</sup> [http://ec.europa.eu/atwork/synthesis/aar/aar2005/index\\_en.htm](http://ec.europa.eu/atwork/synthesis/aar/aar2005/index_en.htm).

<sup>2</sup> [http://ec.europa.eu/atwork/synthesis/aar/index\\_en.htm](http://ec.europa.eu/atwork/synthesis/aar/index_en.htm).

<sup>3</sup> [http://ec.europa.eu/anti\\_fraud/reports/sup-com\\_en.html](http://ec.europa.eu/anti_fraud/reports/sup-com_en.html).

<sup>4</sup> OJ C 263, 31.10.2006, p. 1.

<sup>5</sup> <http://eca.europa.eu/portal/pls/portal/docs/1/483522.PDF>.

<sup>6</sup> OJ C 390, 30.12.2006, p. 1.

protect the European Communities' financial interests against fraud and other irregularities<sup>1</sup>,

- 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 Regional Development, and the Committee on Agriculture and Rural Development (A6-0009/2008),
- A. having regard to the substance of Article 280(1) and (2) of the EC Treaty,
- B. whereas Article 53(b)(2) of the Financial Regulation provides as follows:

"2. Without prejudice to complementary provisions included in relevant sector-specific regulations, and in order to ensure in shared management that the funds are used in accordance with the applicable rules and principles, the Member States shall take all the legislative, regulatory and administrative or other measures necessary for protecting the Communities' financial interests. To this effect they shall in particular:

(a) satisfy themselves that actions financed from the budget are actually carried out and ensure that they are implemented correctly;

(b) prevent and deal with irregularities and fraud;

(c) recover funds wrongly paid or incorrectly used or funds lost as a result of irregularities or errors;

(d) ensure, by means of relevant sector-specific regulations and in conformity with Article 30(3), adequate annual ex post publication of beneficiaries of funds deriving from the budget.

To that effect, the Member States shall conduct checks and shall put in place an effective and efficient internal control system, (...)."

### ***Amount of irregularities notified***

1. Welcomes the fact that the reports on the protection of the Communities' financial interests, and in particular the report concerning the financial year 2006, have become more analytical; notes, however, that the statistics rely on very diverse national structures with different administrative, judicial, supervisory and inspection systems;
2. Calls for the annual reports on the protection of the Communities' financial interests and the reports drawn up by Parliament on the basis of those reports to be included on the Council's agenda, and for the Council subsequently to forward its observations to Parliament and the Commission;
3. Notes that in the areas of own resources, agricultural expenditure and the Member States' structural actions, irregularities notified in 2006 totalled EUR 1 143 million (compared to EUR 1 024 million in 2005, EUR 982,3 million in 2004, EUR 922 million in 2003 and

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<sup>1</sup> OJ L 292, 15.11.1996, p. 2.

EUR 1 150 million in 2002); the amounts notified by the Member States to the Commission in 2006 can be broken down as follows:

- own resources: EUR 353 million (EUR 328,4 million in 2005, EUR 212,4 million in 2004, EUR 269,9 million in 2003 and EUR 367 million in 2002),
- guarantees under the European Agricultural Guidance and Guarantee Fund (EAGGF): EUR 87 million (EUR 102 million in 2005, EUR 82,1 million in 2004, EUR 169,7 million in 2003 and EUR 198,1 million in 2002),
- structural actions: EUR € 703 million (EUR 601 million in 2005, EUR 694,5 million in 2004, EUR 482,2 million in 2003 and EUR 614,1 million in 2002);

notes, too, that in the area of pre-accession funds irregularities notified in 2006 totalled EUR 12,32 million (EUR 17,6 million in 2005);

4. Considers that many factors can influence the annual variations in the financial impact of irregularities;
5. Stresses that a large number of irregularities being notified to the Commission does not necessarily imply a high level of fraud; it may also demonstrate that the supervisory arrangements in place are effective and that there is close cooperation between the Member State and the Commission; welcomes the fact that, in its annual report for 2006, the Commission emphasised the importance of such cooperation;

### ***General analysis***

6. Notes that, as far as own resources are concerned, the amount affected by irregularities rose by 7% from EUR 328 million in 2005 to EUR 353 million in 2006; the products most affected by irregularities were televisions (EUR 69 million in 2005; EUR 62,3 million in 2006) and cigarettes (EUR 30,9 million in 2005; EUR 27,6 million in 2006); the number of cases in Italy (+122%) and the Netherlands (+81%) rose sharply; EUR 113,4 million (32%) was recovered in 2006;
7. Notes that, as far as agricultural expenditure is concerned, the amount affected by irregularities fell from EUR 105 million in 2005 to EUR 87 million in 2006; Spain, France and Italy were responsible for 57,2% of the irregularities, or a total of EUR 64,9 million, while the sectors most affected were rural development, beef and veal, and fruit and vegetables;
8. Welcomes the adoption of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (CAP)<sup>1</sup>, which aims to provide a simplified and more effective legal framework for Member States to recover irregular payments; calls on the Commission to evaluate the application of that new act and to submit a report to Parliament;

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<sup>1</sup> OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 1437/2007 OJ L 322, 7.12.2007, p. 1.)

9. Is encouraged that the Integrated Administration and Control System (IACS), through which 68% of operations are processed, is functioning well and has made it possible to detect a large proportion of irregularities;
10. Notes with concern that the level of recovery of sums unduly paid remains low and varies between Member States and, since the chances of recovery decrease with time, calls on the Commission to step up its efforts to improve the recovery rate of sums unduly paid;
11. Is of the opinion that, when in a specific Member State recovery remains systematically low, the Commission should apply corrective measures;
12. Assures the Commission of its full support in the rigorous application of the legislation on suspension of payments and urges that CAP funding should also be subject to the same procedure as the measures already initiated<sup>1</sup> for the non-transfer of funds where the Commission does not have an absolute guarantee of the reliability of the management and control systems of the Member State which is the beneficiary of those funds;
13. Calls on the Commission to evaluate the efficiency and transparency of monitoring systems relating to payment of farmers in the context of its annual report on the protection of the Communities financial interests;
14. Welcomes the work of the Recovery Task Force, which has been able to settle a large number of the irregularities from previous years (1971 to 2006: € 3 061 million); consequently, the Member States have recovered € 898 million, and € 1 200 million has been settled using the 'clearance of accounts' procedure; stresses, however, that the Member States should be much more vigilant in order to avoid irregularities and to recover money;
15. Notes the adoption by the Commission of its second report on the shortcomings in the implementation of the 'blacklist' system (Council Regulation (EC) No 1469/95<sup>2</sup>) and calls for a wider debate, within the institutions, on the way forward, with a substantial increase in penalties for Member States that fail to fulfil their obligations with regard to the repayment of sums unduly paid being the most obvious approach;
16. Points out that the amount affected by irregularities relating to structural actions increased by 17%, from EUR 601 million in 2005 to EUR 703 million in 2006 (Structural Funds EUR 517 million, Cohesion Fund EUR 186 million); these irregularities related mainly (75%) to the European Regional Development Fund (ERDF) and the European Social Fund (ESF); Germany, Spain, Italy, Portugal and the United Kingdom accounted for approximately 85% of the amount affected (EUR 438,1 million) relating to the Structural Funds in 2006; in many cases the beneficiaries had invoiced for non-eligible expenditure; the details were uncovered following the checking of documents;

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<sup>1</sup> Commissioner Hübner stated in a written answer to the Committee on Budgetary Control that "in 2006 ERDF payment claims have been held back by Spain pending the results of audits of remedial measures. Other examples are interruptions of ESF payments in 2005 for all programmes in England, for Objective 3 programmes and some regional programmes in France, and for programmes in the Calabria and Sicily regions of Italy, and in 2006 for EQUAL in Spain and Italy".

<sup>2</sup> 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 EAGGF (OJ L 145, 29.6.1995, p. 1).

17. Regrets that, of the 95 projects funded using Structural Funds audited over the current funding period, 60 were affected by material errors in declared project expenditure, representing an increase in the number of irregularities over the previous year; considers that a greater number of projects should be audited so that the conclusions obtained permit the formulation of clear recommendations for improving financial management;
18. Notes that EUR 266,5 million out of a total of EUR 703 million has still to be recovered for 2006, while for previous years EUR 762 million still needs to be recovered; calls on the Commission to inform Parliament's competent committees twice a year on the progress made and the specific measures taken in order to speed up the recovery of the outstanding amounts;
19. Notes that, as far as pre-accession funds are concerned, the financial impact decreased from EUR 26,5 million in 2005 to EUR 12,3 million in 2006; the most frequent errors were invoicing for non-eligible expenditure and failure to comply with contractual or regulatory conditions; EUR 11 million has been recovered since the funds were introduced, but EUR 14 million still remains to be recovered;
20. Remains convinced that Member States and EU institutions, including the Court of Auditors, must come to a political understanding on a 'tolerable error rate' if a positive declaration of assurance is ever to be achieved;

### ***Weaknesses***

21. Calls on the Commission to include in the 2008 annual report on the protection of the Communities' financial interests an analysis of the Member States' structures involved in combating irregularities; that analysis should answer, among others, the following questions in order to give Parliament a clearer picture of the implementation of the legislative framework of the anti-fraud network:
  - which national authorities in the Member States are involved in this exercise?
  - how do they organise their cooperation?
  - what powers of inspection do the national authorities have?
  - do those national authorities operate on a basis of annual programming?
  - are they obliged to draw up a report on the objectives to be pursued in their monitoring activity?
  - are the national authorities obliged to draw up a report on the use of EU funds?
  - how do they cooperate with OLAF and in which way are their findings communicated to the Commission?
  - to what European databases do they have direct access?
  - which national databases can the Commission access?
  - what are the estimated costs of controls?
  - what are the mechanisms for reporting irregularities?

- what is the state of play regarding implementation of Council Regulation (EC, Euratom) No 2185/96?
22. Calls on the Commission to indicate, as regards the own resources sector, which further actions it will undertake to put a stop to the fraudulent importing of televisions, cigarettes and counterfeit goods in general; in this context, welcomes the fact that OLAF has been able to open an office in China; urges the Commission to step up the fight against counterfeiting; calls on the Commission to report back in the context of the annual report on the protection of the Communities financial interests for 2007, which will be published in July 2008, on the initiatives and action taken on the basis of Parliament's resolution of 11 October 2007<sup>1</sup> on the implications of the agreement between the Community, Member States and Philip Morris on intensifying the fight against fraud and cigarette smuggling;
  23. Considers it wholly unacceptable that for many years Germany and Spain have not been forwarding information to the Commission, in electronic form, on irregularities concerning agricultural expenditure; notes, furthermore, that these two countries are responsible for 38 % (EUR 33,2 million) of the irregularities and that Germany is no longer providing details of the individuals and companies involved, despite an obligation to do so; consequently, urges the Commission to start infringement procedures against these two Member States and to withhold 10 % of agricultural payments pending the procedure; calls on the chairman of the Committee on Budgetary Control to send a letter to the Permanent Representations concerned requesting an explanation;
  24. Considers that a period of 39 months between the time when an irregularity is committed and the time when it is notified to the Commission is unacceptable, as such a delay makes recovery more difficult; asks the Commission what measures it has taken to call the Member States to order; notes that the Member States' actions indicate a degree of complacency;
  25. Asks what measures the Commission has taken to reduce the number of irregularities in the rural development, beef and veal, and fruit and vegetables sectors;
  26. Calls on the Commission to take a firm stance should Greece fail to comply with the action plan for introducing the Integrated Administration and Control System<sup>2</sup>; would like to be informed about the total amount of the grants/aid from the Community budget paid to Greece to set up the IACS until now and whether this amount can be recovered if the system is not fully operational by September 2008;
  27. Notes that, concerning structural actions, 84% of all irregularities were recorded in Italy (2006: EUR 228,2 million), Spain (2006: EUR 85,7 million), the United Kingdom (2006: EUR 59,8 million), Portugal (2006: EUR 37,2 million) and Germany (2006: EUR 27,2 million); notes, furthermore, that neither Germany nor Spain uses the electronic module of

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<sup>1</sup> Texts adopted, P6\_TA(2007)0432.

<sup>2</sup> The annual report of the Court of Auditors concerning the financial year 2006: '5.11. For the fifth consecutive year the Director General's declaration contains a reservation concerning insufficient implementation of the IACS in Greece. For 2006 the Court has confirmed continuing failure to implement key controls, namely: claims handling, inspection procedures, animal database integrity and the Land Parcel Identification System.'



the Anti-Fraud Information System and that Germany does not send data on the individuals and companies involved; calls on the chairman of the Committee on Budgetary Control to send a letter to the Permanent Representations concerned requesting an explanation;

28. Considers that, in this context, the 2000-2006 programming period proved that overly complicated rules and ineffective supervisory and control systems contributed to the irregularities ascertained; points out, furthermore, that beneficiaries often received payments late; consequently, welcomes the improvements which Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund<sup>1</sup> has brought; calls, in general, for regional and local authorities to be more involved in the programming and implementation of the funds;
29. Points out that in its resolution of 15 June 2006 on protection of the financial interests of the Communities and the fight against fraud - 2004 annual report<sup>2</sup>, Parliament stated: "(...) in the 2005 reporting period, particular attention should be paid to irregularities concerning structural actions"; notes, however, that the situation seems to have worsened;
30. Considers that the Commission should attach particular importance to criminal networks specialising in the misappropriation of EU funds;
31. Calls on the Commission to provide Parliament's Committee on Budgetary Control with a detailed analysis of the system or systems used by organised crime, whether run on mafia lines or not, to undermine the Communities' financial interests;
32. Expresses its deepest concern over the following finding of the President of the Court of Auditors: 'The supervisory and control systems in the Member States were generally ineffective or moderately ineffective, and the supervision of their operation by the Commission was only moderately effective';<sup>3</sup>
33. Calls, therefore, on the Member States to guarantee the quality of their supervisory and control systems by adopting, at an appropriate political level, a national declaration on management concerning all Community spending in shared management; calls on the Commission to give active support to this idea and to report on the progress achieved in its annual report on the protection of the Communities' financial interests;
34. Calls on the Commission to take the appropriate measures, possibly including infringement procedures, against those Member States which do not assist the Commission services in carrying out on-the-spot checks as provided for by Council Regulation (EC, Euratom) No 2185/96;
35. Calls on the Commission, in this context, to assess the inclusion of binding and precautionary elements in future EC legislation concerning shared management so that irregularities can be recovered at the end of the recovery procedure, for example by a

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<sup>1</sup> OJ L 210, 31.7.2006, p. 25. Regulation, as amended by Regulation (EC) No 1989/2006 (OJ L 411, 30.12.2006, p. 6).

<sup>2</sup> Texts adopted, P6\_TA(2006)0277, paragraph 11.

<sup>3</sup> Presentation to the Committee on Budgetary Control on 12 November 2007.

Member State placing a surety with the Communities in order for recipients to use European funds;

36. Points out that, concerning structural actions, more than EUR 1 000 million remains to be recovered for 2006 and previous years;
37. Emphasises the direct responsibility of Member States in recuperating funds the payment of which is affected by irregularities; reiterates its encouragement to the Commission to suspend interim payments to Member States in cases of serious irregularity; recognises the need to react appropriately to the insufficiency of management control systems in Member States and recalls that fraud and irregularities are prejudicial to the work of the European Union, particularly to structural projects;
38. Welcomes the fact that, as part of the European Transparency Initiative, information will be published about recipients of Structural Funds, and urges that a binding obligation be introduced in Member States to publish information about projects and recipients of funding from all Community funds under shared management;
39. Calls on the Member States to notify the Commission annually of the financial loss resulting from amounts definitively lost, which the Commission should include in its annual report;
40. Calls also on the Member States' competent authorities to inform the Commission, including OLAF, once a year, of court judgments on the fraudulent use of Structural Funds;
41. Calls on the Commission to take a position on the negative assessment of its work by the Court of Auditors and to explain what steps it has taken to improve, in the Member States, a situation which jeopardises the protection of the Communities' financial interests;
42. At the same time calls on the Commission to report back more often to the Member States, giving details of how it used the reported information as well as how it followed up the reported irregularities;
43. Notes that, concerning the use of pre-accession funds, Bulgaria (2006: EUR 1,7 million), Poland (2006: EUR 2,4 million), Romania (2006: EUR 5,5 million) and Slovakia (2006: EUR 1,9 million) accounted for 94% of irregularities; notes that, in this context, the Commission has stressed the need for a common interpretation and uniform application of guidelines and working documents; asks the Commission, therefore, to indicate what measures it has taken in this regard;
44. Calls on the Commission to make it possible for the Member States to identify more clearly, from the outset, those irregularities that are suspected of involving fraudulent misappropriation, since the Member States still have difficulties knowing precisely what constitutes an irregularity or a fraud and what needs to be reported to the Commission/OLAF, although they do comply with the quarterly reporting requirements;
45. Calls on the Commission to assist Member States in using OLAF's Anti-Fraud Information System (AFIS)/Ciginfo; believes this single administrative homepage could improve the exchange of data (especially on irregularities) between OLAF and the

Member States once the national and the European systems are compatible;

46. Welcomes the fact that the Committee on Budgetary Control has already twice met its counterparts from the national parliaments; believes that annual meetings of the budgetary control committees of national parliaments and the European Parliament could be most useful for improving the Member States' control and monitoring systems and obtaining a national declaration on management;
47. Wishes to see the closest possible cooperation between the European Court of Auditors and the national and regional audit bodies with a view to increasing the use of their reports to monitor the utilisation of EU funds in the Member States;

#### ***OLAF activity reports***

48. Notes that OLAF was restructured in 2006, taking into account Special Report 1/2005 of the Court of Auditors; considers that OLAF's operations should be assessed by Parliament as part of the procedure to revise the OLAF Regulation;
49. Calls on the Commission to ensure that the data base referred to in Article 95 of the revised Financial Regulation be fully operational as of 1 January 2009;
50. Notes that OLAF received 802 new notifications in 2005, and 826 in 2006; welcomes the fact that the evaluation system has made it possible to reduce the number of investigations opened to 254 cases, and the fact, moreover, that, according to the statistics, the majority of completed investigations were followed-up by administrative, disciplinary, financial, judicial or legislative action; notes that the financial impact of all ongoing cases and closed cases was EUR 6 600 million at the end of 2005 and EUR 7 400 million at the end of 2006, and that the sectors most affected were Structural Funds (2006: EUR 1 606,7 million), cigarettes (2006: EUR 1 320,1 million), customs (2006: EUR 989,8 million) and VAT (2006: EUR 727,8 million);
51. Calls on the Commission to prepare the appropriate legal base for the publication of the names of companies and individuals who have defrauded the Community;
52. Welcomes the way in which OLAF informed Parliament of the follow-up to its closed investigations; notes, however, that the prosecution offices concerned refused to take follow-up action on 20 occasions (out of the 134 cases in which judicial follow-up had been requested) because of the statute of limitations or lack of evidence;
53. Is disappointed, however, that OLAF has not relaunched the dialogue on written information which Parliament's competent committee regularly receives, as requested in the above-mentioned resolution on the annual report concerning 2004;
54. Notes that, as in previous years, the majority of cases were registered in Belgium, Germany and Italy;

55. Notes that a resolution on intensifying the fight against fraud and cigarette smuggling and the progress made in implementing the recommendations of Parliament's Committee of Inquiry into the Community Transit System was adopted on 11 October 2007<sup>1</sup>;
56. Notes that in 2006 an amount exceeding EUR 450 million was identified for recovery in connection with OLAF investigations, and that this amount came from cases closed in 2006 (approximately EUR 114 million) and from ongoing follow-up measures (approximately EUR 336 million, mainly from the agricultural sector (EUR 134,6 million) and Structural Funds (EUR 146,3 million));
57. Welcomes the cooperation between OLAF, Europol, Eurojust and certain international organisations, one of the purposes of which is to combat organised crime; stresses, at the same time, that such cooperation must be transparent and must not affect the independence of OLAF;
58. Understands that the Commission wishes to limit the number of language versions for reasons of economy; insists, nonetheless, that both Annex 2 to the annual reports on the protection of the Communities' financial interests and the activity reports must be available at least in English, French and German;

### ***Revision of the OLAF Regulation***

59. Reminds the Commission that Parliament has advocated that "(...) OLAF's investigatory powers be grouped together in a single regulation;"<sup>2</sup>; at the same time emphasises that the Council's working party on fight against fraud also seems to be in favour of streamlining the current legal bases<sup>3</sup>; calls therefore on OLAF to submit, as a matter of urgency, an analysis of the interoperability of the different legal bases granting investigative powers to it in the context of the 2007 OLAF annual activity report, in view to possibly integrating the findings of this analysis into the future revision of the OLAF Regulation; in this context points to the fact that the Lisbon Treaty<sup>4</sup> also amends Article 280 of the EU Treaty dealing with combating fraud;
60. Notes that the European Court of Human Rights ruled on 27 November 2007 in petition 20477/05 Tillack against Belgium that the Belgian state had violated Article 10 (freedom of expression) of the European Convention on Human Rights when searching the journalist's premises; notes however that neither OLAF's nor the Commission's prior administrative investigations were the subject of the ruling; in this context, is of the opinion that, in general, every appropriate measure must be taken to protect the rights of persons under investigation;

### ***Combating VAT fraud***

61. Is extremely concerned at the financial losses caused by 'carousel' transactions; notes, for instance, that the German Economic Research Institute puts lost national VAT receipts for

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<sup>1</sup> Texts adopted, P6\_TA(2007)0432.

<sup>2</sup> P6\_TA(2006)0277, paragraph 30

<sup>3</sup> Letter to the OLAF Director of 2 April 2007.

<sup>4</sup> OJ C 306, 17.12.2007, p. 127.

2003 to 2005 at between EUR 17 000 million and EUR 18 000 million a year; that, extrapolating across the board, Member States estimate that they lose about 10% of their VAT receipts each year; and that one-third of these losses are attributed to cross-border 'carousel' transactions;

62. Notes, furthermore, that the House of Lords estimates lost national VAT receipts in the United Kingdom for 2005 to 2006 at between GBP 3 500 million and GBP 4 750 million, which is at least GBP 9,6 million per day; cites the report which states: "The current mechanism for intra-Community VAT transactions is not sustainable."<sup>1</sup>;
63. Points out that only actual receipts can be taken into account for collection of VAT own resources;
64. Is very concerned that many Member States are still reluctant to step up cooperation both between competent national services and between the Commission, including OLAF, and the national services;
65. Welcomes the Commission's communication to the Council concerning some key elements contributing to the establishment of the VAT anti-fraud strategy within the EU (COM(2007)0758); calls, accordingly, on its competent committee to take active steps to monitor its implementation;
66. Criticises the fact that the Council has still not adopted a position on the proposal for a Regulation on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities, which was the subject of first reading in Parliament on 23 June 2005<sup>2</sup>; calls on its President to contact the Council Presidency with a view to making progress on this issue;
67. Considers that improved cooperation between the services concerned and with the Commission (OLAF) is essential to tackling cross-border 'carousel' fraud; considers that, in this context, the VAT information exchange system and cooperation in the field of data analysis, with the assistance of the Commission (OLAF), should be strengthened;

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68. 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.

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<sup>1</sup> Point 52 of the report by the House of Lords - European Union Committee, Stopping the Carousel: Missing Trader Fraud in the EU, HL Paper 101, 25 May 2007.

<sup>2</sup> Texts adopted, P6\_TA(2005)0255.

8.5.2007

## **OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT**

for the Committee on Budgetary Control

on Protection of the Communities' financial interests – Fight against fraud – Annual report 2005  
(2006/2268(INI))

Draftsman: Jan Březina

### **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. Regrets that, of the 95 projects funded using Structural Funds audited over the current funding period, 60 were affected by material errors in declared project expenditure, representing an increase in the number of irregularities over the previous year; considers that a greater number of projects should be audited so that the conclusions obtained permit the formulation of clear recommendations for improving financial management;
2. Notes with satisfaction that, although irregularities in the field of structural and cohesion policy slightly increased in number in comparison with 2004, the financial impact of these irregularities was much smaller;
3. Notes that the complexity of the legislative framework contributes in part to irregularities on the part of Member States and should consequently encourage the Commission to continue to simplify it;
4. Calls for a clearer demarcation between the concepts of fraud and irregularity;
5. Asks that ample publicity be given to cases of fraud and irregularities, identifying those responsible;
6. Understands that project closure procedures including ex post audits can be very long; encourages the Commission to review and simplify its procedures so that project closure for the 2000-2006 period can be undertaken without undue delay, whilst the highest standards of financial management are ensured;

7. Stresses once again that Member States should ensure the adequacy of their financial control mechanisms and should draw up, at the appropriate administrative level, a national management declaration covering all Community funds under shared management;
8. Emphasises the direct responsibility of Member States to recuperate funds the payment of which is tainted by irregularity; reiterates its encouragement to the Commission to suspend interim payments to Member States in cases of serious irregularity; recognises the need to react appropriately to the insufficiency of management control systems in Member States and recalls that fraud and irregularities are prejudicial to the work of the European Union, particularly to structural projects;
9. Welcomes the fact that, as part of the European Transparency Initiative, information will have to be published about recipients of Structural Funds, and urges that a binding obligation be introduced in Member States to publish information about projects and recipients of funding from all Community funds under shared management;
10. Regrets the lack of a clear and transparent set of Community requirements as regards the management of control systems; considers that the key notion of “tolerable level of risk” should be defined more precisely in order to provide clear guidelines to meet the legitimate expectations of Member States, regional authorities and contractors;
11. Calls, with a view to a consistent approach to the evaluation of how Structural Funds are spent, for the conclusions of the Court of Auditors' Special Report No 10/2006 to be taken into account in future ex ante, interim and ex post evaluations for the programming periods 2000-2006, 2007-2013 and thereafter.

## PROCEDURE

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| <b>Title</b>  | Protection of the Communities' financial interests – Fight against fraud – Annual report 2005  |
| <b>Procedure number</b>   | 2006/2268(INI)   |
| <b>Committee responsible</b>                                      | CONT   |
| <b>Opinion by</b><br>Date announced in plenary                    | REGI<br>29.11.2006   |
| <b>Enhanced cooperation – date announced in plenary</b>           |  |
| <b>Drafts(wo)man</b><br>Date appointed                            | Jan Březina<br>27.2.2007   |
| <b>Previous drafts(wo)man</b>                                     |  |
| <b>Discussed in committee</b>                                     | 20.3.2007  |
| <b>Date adopted</b>   | 2.5.2007   |
| <b>Result of final vote</b>                                       | +: 47<br>–: 0<br>0: 0  |
| <b>Members present for the final vote</b>                         | Alfonso Andria, Stavros Arnautakis, Jean Marie Beaupuy, Rolf Berend, Wolfgang Bulfon, Antonio De Blasio, Vasile Dîncu, Gerardo Galeote, Iratxe García Pérez, Eugenijus Gentvilas, Ambroise Guellec, Gábor Harangozó, Marian Harkin, Jim Higgins, Alain Hutchinson, Mieczysław Edmund Janowski, Gisela Kallenbach, Tunne Kelam, Evgeni Kirilov, Miloš Koterec, Constanze Angela Krehl, Mario Mantovani, Miguel Angel Martínez Martínez, Yiannakis Matsis, Miroslav Mikolášik, Lambert van Nistelrooij, Jan Olbrycht, Maria Petre, Markus Pieper, Elisabeth Schroedter, Stefan Sofianski, Grażyna Staniszevska, Oldřich Vlasák, Vladimír Železný |
| <b>Substitute(s) present for the final vote</b>                   | Bastiaan Belder, Brigitte Douay, Den Dover, Riitta Myller, Zita Pleštinská, Christa Prets, Miloslav Ransdorf, Richard Seeber, László Surján, Károly Ferenc Szabó   |
| <b>Substitute(s) under Rule 178(2) present for the final vote</b> | Véronique De Keyser, Henrik Lax, Samuli Pohjamo  |
| <b>Comments (available in one language only)</b>                  |  |



8.5.2007

## **OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT**

for the Committee on Budgetary Control

on Protection of the Communities' financial interests – Fight against fraud – Annual report 2005  
(2006/2268(INI))

Draftsman: Kyösti Virrankoski

### **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. Welcomes the adoption of a new regulation on the financing of the CAP (Council Regulation (EC) No1290/2005), which aims to provide a simplified and more effective legal framework for Member States to recover irregular payments; calls on the Commission to evaluate the application of that new legislation and to submit a report to it;
2. Welcomes the fulfilment of the Recovery Task Force's mandate which, following examination of pre-1999 cases, made it possible to recover substantial sums that had been irregularly paid to operators from the EAGGF, Guarantee Section;
3. Regrets that, although irregularities regarding agricultural expenditure in 2005 decreased in comparison with the previous year, their financial impact has increased; calls on Member States to make efforts to improve reporting discipline in order to reduce both the number and financial impact of irregularities;
4. Notes, with concern, that the level of recovery of sums unduly paid remains low and varies among Member States and, since the chances of recovery decrease with time, calls on the Commission to step up its efforts to improve the recovery rate of sums unduly paid;
5. Stresses the great importance of the Member States having appropriate systems for recovery of sums unduly paid, thus reducing the need for the Commission to apply corrective measures; is of the opinion that, when in a specific Member State recovery remains systematically low, the Commission should apply corrective measures;

6. Assures the Commission of its full support in the rigorous application of the legislation on suspension of payments and urges that CAP funding should also be subject to the same procedure as the measures already initiated <sup>1</sup> for the non-transfer of funds where the Commission does not have an absolute guarantee of the reliability of the management and control systems of the Member State which is the beneficiary of those funds;
7. Considers that the direct payments system introduced within the context of the CAP reform, which consists of sums being paid to farmers, should be improved, in order to prevent distortion of competition and ensure that procedures are inexpensive and simple and that there is maximum transparency regarding payments and the recipients thereof in all the Member States;
8. Is concerned with ensuring the efficiency and transparency of checks and monitoring systems relating to payments to farmers; calls on the Commission, therefore, to submit annual reports to it on the results of such checks and systems;
9. Welcomes developments in some Member States, such as the adoption of new measures to improve control and the recovery of sums unduly paid, and stresses the need for the adoption of additional provisions in the event of irregularity or fraud;
10. Notes the adoption by the Commission of its second report on the shortcomings in the implementation of the 'blacklist' system (Council Regulation (EC) No 1469/95) and calls for a wider debate, within the institutions, on the way forward, with a substantial increase in penalties for Member States that fail to fulfil their obligations with regard to the repayment of sums unduly paid out being the most obvious approach.

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<sup>1</sup> Commissioner Hübner stated in a written answer to the Committee on Budgetary Control: 'in 2006 ERDF payment claims have been held back by Spain pending the results of audits of remedial measures. Other examples are interruptions of ESF payments in 2005 for all programmes in England, for Objective 3 programmes and some regional programmes in France, and for programmes in the Calabria and Sicily regions of Italy, and in 2006 for EQUAL in Spain and Italy'.

## PROCEDURE

|   |  |           |
|---|--|-----------|
| <b>Title</b>  | Protection of the Communities' financial interests - Fight against fraud - Annual report 2005  |           |
| <b>Procedure number</b>   | 2006/2268(INI)]  |           |
| <b>Committee responsible</b>                                      | CONT   |           |
| <b>Opinion by</b><br>Date announced in plenary                    | AGRI<br>29.11.2006   |           |
| <b>Enhanced cooperation – date announced in plenary</b>           |  |           |
| <b>Drafts(wo)man</b><br>Date appointed                            | Kyösti Virrankoski<br>19.12.2006   |           |
| <b>Previous drafts(wo)man</b>                                     |  |           |
| <b>Discussed in committee</b>                                     | 21.3.2007  | 11.4.2007 |
| <b>Date adopted</b>   | 8.5.2007   |           |
| <b>Result of final vote</b>                                       | +: 30<br>-: 0<br>0: 0  |           |
| <b>Members present for the final vote</b>                         | Vincenzo Aita, Peter Baco, Katerina Batzeli, Thijs Berman, Niels Busk, Luis Manuel Capoulas Santos, Dumitru Gheorghe Mircea Coşea, Joseph Daul, Albert Deß, Gintaras Didžiokas, Carmen Fraga Estévez, Lutz Goepel, Friedrich-Wilhelm Graefe zu Baringdorf, Esther Herranz García, Elisabeth Jeggle, Atilla Béla Ladislau Kelemen, Heinz Kindermann, Véronique Mathieu, Rosa Miguélez Ramos, Neil Parish, Radu Podgorean, María Isabel Salinas García, Agnes Schierhuber, Willem Schuth, Czesław Adam Siekierski, Csaba Sándor Tabajdi, Marc Tarabella, Witold Tomczak, Donato Tommaso Veraldi, Andrzej Tomasz Zapalowski |           |
| <b>Substitute(s) present for the final vote</b>                   | Esther De Lange, Ilda Figueiredo, Jan Mulder, James Nicholson, Armando Veneto  |           |
| <b>Substitute(s) under Rule 178(2) present for the final vote</b> |  |           |
| <b>Comments (available in one language only)</b>                  |  |           |

## RESULT OF FINAL VOTE IN COMMITTEE

|   |   |
|---|---|
| <b>Date adopted</b>   | 22.01.2008  |
| <b>Result of final vote</b>                                       | +: 25<br>-: 1<br>0: 0   |
| <b>Members present for the final vote</b>                         | Jean-Pierre Audy, Herbert Bösch, Paul van Buitenen, Paulo Casaca, Jorgo Chatzimarkakis, Antonio De Blasio, Markus Ferber, Christofer Fjellner, Ingeborg Gräßle, Dan Jørgensen, Esther De Lange, Marusya Ivanova Lyubcheva, Hans-Peter Martin, Jan Mulder, Francesco Musotto, Bill Newton Dunn, Borut Pahor, José Javier Pomés Ruiz, Bart Staes, Alexander Stubb, Kyösti Virrankoski |
| <b>Substitute(s) present for the final vote</b>                   | Daniel Caspary, Valdis Dombrovskis, Edit Herczog, Monica Maria Iacob-Ridzi, Cătălin-Ioan Nechifor, Pierre Pribetich, Petya Stavreva   |
| <b>Substitute(s) under Rule 178(2) present for the final vote</b> |   |