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## **REPORT**

on protection of the financial interests of the Communities and the fight against  
fraud - 2004 annual report  
(2005/2184(INI))

Committee on Budgetary Control

Rapporteur: Herbert Bösch

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on protection of the financial interests of the Communities and the fight against fraud - 2004 annual report (2005/2184(INI))

*The European Parliament,*

- having regard to its resolutions on previous annual reports of the Commission and of the European Anti-Fraud Office (OLAF),
- having regard to the Commission's report of 19 July 2005 to the Council and the European Parliament entitled 'Protection of the financial interests of the Communities - fight against fraud - Commission's annual report 2004' (COM(2005)0323), including the annexes (SEC(2005)0973, SEC(2005)0974),
- having regard to the Supplementary Activity Report of OLAF for the period from July to December 2004<sup>1</sup>,
- having regard to the European Court of Auditors' Annual Report on the Implementation of the Budget in the financial year 2004<sup>2</sup>,
- having regard to Articles 276(3) and 280(5) of the Treaty,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A6-0185/2006),

#### *Scale of the irregularities and cases of fraud reported*

1. Welcomes the fact that the reporting periods for the Commission's annual report on the protection of financial interests and for the OLAF activity report have finally been harmonised, thus improving their comparability;
2. Notes that in 2004, in the areas of own resources, agriculture and structural policy, irregularities and cases of fraud totalling some EUR 982.3 m were reported by the Member States (2003: EUR 922 m; 2002: EUR 1.15 bn); the figures forwarded to Brussels by the Member States can be broken down as follows:
  - own resources: EUR 205.7 m (2003: EUR 269.9 m; 2002: EUR 341.9 m),
  - guarantees under the European Agricultural Guidance and Guarantee Fund (EAGGF): EUR 82.1 m (2003: EUR 169.7 m; 2002: EUR 198.1 m),
  - structural actions: EUR 694.5 m (2003: EUR 482.2 m; 2002: EUR 614.1 m);
3. Stresses that the importance of year-on-year fluctuations in losses reported should not be overestimated and that they may be affected by a wide variety of factors;

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<sup>1</sup> [http://europa.eu.int/comm/anti\\_fraud/reports/olaf/2004/en.pdf](http://europa.eu.int/comm/anti_fraud/reports/olaf/2004/en.pdf)

<sup>2</sup> OJ C 301, 30.11.2005, p.1.

4. Regards it as completely unacceptable that there are still 'old' Member States (Germany, Greece and Spain) failing to forward notifications on irregularities to the Commission electronically, that those notifications are incomplete and that they are forwarded with several years' delay;
5. Notes that, in the area of *own resources*, the value of reported losses has fallen from EUR 269.9 m (2003) to EUR 205.7 m (2004); cigarettes, television sets and sugar were particularly susceptible to fraud; the number of cases in Belgium (+58%), Sweden (+36%) and France (+30%) has increased markedly; EUR 54.8 m (27%) has already been recovered;
6. Notes that, in the area of *agricultural expenditure*, reported losses have fallen by over 50% from EUR 169.7 m (2003) to EUR 82.1 m (2004); regrets the fact that the higher the amount of support concerned, the less willingness there is to report cases; yet again criticises the fact that Germany, Greece and Spain have still not introduced an electronic reporting system; furthermore, Germany and the Netherlands in particular are failing to meet their obligation to communicate the identity of natural and legal persons involved in irregularities which have been established;
7. Highlights the fact, however, that taken over a longer period the trend in losses in the EAGGF area is clearly downwards, whereas in the area of the Structural Funds a substantial increase has been seen; in 2000, for example, the loss reported in the EAGGF area still totalled EUR 474.6 m, whereas the loss in the area of the Structural Funds in the same year totalled no more than EUR 114.2 m; since then, the proportions of the frauds statistics accounted for by the two areas have almost been reversed;
8. Stresses that falling figures in the area of agriculture are also the result of the effective operation of the integrated administration and control system (IACS); therefore insists that that system be used in all Member States; regrets the fact that, according to paragraph 4.8 in the European Court of Auditors' 2004 annual report, more than seven years after the time limit for full implementation of the system, the IACS is still not fully implemented in Greece; notes that the government of Greece has refuted these claims and in November 2005 opened negotiations with the Commission in order to settle the issue;
9. Points out that Spain (EUR 35 m) and Germany (EUR 19 m) account for more than 65% of losses; direct aids (EUR 29 m: in particular as a result of the reporting of fictitious areas), export refunds (EUR 21 m: with frequent use of forged customs documents) and market support measures (EUR 20 m: particularly citrus fruits and fresh vegetables) are proving particularly susceptible to irregularities;
10. Points out that, in 2004, losses in connection with *structural actions* again greatly increased from EUR 482.2 m (2003) to EUR 694.5 m (2004, including EUR 163 m relating to the Cohesion Fund); as a rule, 86% of irregularities are not reported until two years after they are detected; of the EUR 532 m in losses relating to the Structural Funds, the European Regional Development Fund accounts for EUR 485 m; losses reported from Italy (EUR 194.9 m), Germany (EUR 127.5 m) and Greece (EUR 112 m) represent 81.6% of the aggregate loss reported; incorrectly carried out measures and infringements of Treaty provisions were the most common causes of irregularities;

11. Takes the view in this connection that, in the 2005 reporting period, particular attention should be paid to irregularities concerning structural actions;
12. Notes, and finds incomprehensible<sup>1</sup>, the fact that Germany is not fully meeting its reporting obligations concerning irregularities established in the area of agricultural and structural expenditure and has provided details on individuals or firms involved in only three out of a total of 1 798 cases reported; notes further that the Netherlands is not meeting its reporting obligations concerning agricultural expenditure and has provided details on individuals or firms involved in only one out of a total of 307 reported cases;
13. Therefore expects a report from the Commission, before 1 November 2006, setting out the steps it has taken to prevail upon the Member States concerned to fulfil their Treaty obligations;
14. Points out that in the period from 2002 to 2004, in connection with the use of pre-accession aid, the amount corresponding to the total eligible cost of projects concerned by irregularities (all sources of financing from national funds, EU funds and other donors included) amounted to EUR 2 380 million, and that these amounts concern the PHARE, ISPA and SAPARD programmes for EUR 1 118 million, EUR 1 105 million and EUR 158 million respectively; that measures involving eligible costs of between EUR 100 000 and EUR 1 million were particularly affected; and that irregularities were mostly detected as a result of administrative and financial checks;
15. Notes with concern that, in 90% of all reported cases concerning pre-accession aid, the Commission was unable to establish the nature of the irregularities detected, the amounts which could be recovered and the amounts which still have to be collected; the Commission ascribes this to a lack of experience on the part of the countries concerned; shares the view expressed in paragraph 8.9 of the European Court of Auditors' 2004 annual report that commitments should only be authorised if a country has effective management capacity;

***OLAF's supplementary activity report for the period from July to December 2004***

16. Notes that OLAF registered 720 new cases in the reporting period and that the financial impact of all cases still under investigation on 31 December 2004 is put at EUR 1 225 m; a total of 195 cases were still being assessed at the end of the reporting period, investigations had been initiated in 469 cases, and follow-up measures were necessary in 655 cases;
17. Notes further that the loss resulting from all cases in respect of which OLAF had initiated follow-up measures by the end of its reporting period (31 December 2004) totalled EUR 1 780 m<sup>2</sup>; follow-up measures concerned the area of value-added tax, structural actions, external aid and direct expenditure in particular;

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<sup>1</sup> See Commission staff working document SEC(2005)0974, Charts 1.2. and 1.8.

<sup>2</sup> The financial loss resulting from all the cases investigated by OLAF and its predecessor organisation is put at just under EUR 5 800 m.

18. Calls on OLAF to notify Parliament in its next activity report what the outcome has been of the administrative, financial and judicial follow-up measures initiated by the Commission and the Member States on the basis of OLAF investigations;
19. Welcomes the fact that OLAF was able to reduce the period for assessing information received to three and a half months; the length of investigations was also reduced from 30 months (in 2000) to 23 months (in 2004); informants are the source of information in 32.6% of cases, the Commission passes on information in 30.6% of cases, and in 15.7% of cases information originates with Member States;
20. Notes that most cases originate in Italy, Germany and Belgium (as far as the 'old' Member States are concerned), Romania and Poland (as far as the 'new' Member States and candidate and accession countries are concerned) and in Asia and other European countries (as far as non-member countries are concerned);
21. Stresses that customs, agriculture and external aid have proved to be particularly susceptible to fraud;
22. Welcomes the fact that use is now systematically being made of the possibility of automatically not pursuing prima facie non-cases; calls on the OLAF Supervisory Committee to analyse this new practice in its next annual report;
23. Notes that the 'Old Cases' Task Force submitted an interim report on 215 cases (for the period from 1992 to 1999) in October 2004; 206 of those cases resulted in court proceedings; calls on the Director-General of OLAF to report to the Committee on Budgetary Control on this matter;

#### ***Groundwork for amending the OLAF Regulation***

24. Notes that on 7 February 2006 the three institutions concerned (Parliament, the Council and the Commission) reached agreement on filling the post of OLAF Director-General and that he was appointed by the Commission on 14 February 2006;
25. Criticises the fact that the appointment of the OLAF Director-General has been unduly time-consuming and that the procedure had flaws which must be avoided the next time;
26. Points out that there have been inconclusive discussions since 2003 on improving anti-fraud legislation and reiterates Parliament's willingness to participate actively in this task;
27. Stresses that Parliament will endorse no proposal which would restrict the prerogatives it has had to date;
28. Expects a fresh proposal amending Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by

the European Anti Fraud Office (OLAF)<sup>1</sup> to be forwarded to Parliament before 1 July 2006;

29. Welcomes and backs in this connection the recommendation by the European Court of Auditors in paragraph 36 of its Opinion No 8/2005<sup>2</sup> to simplify and consolidate the present anti-fraud legislation and rectify existing weaknesses in this context;
30. Advocates in particular that all OLAF's investigatory powers be grouped together in a single regulation;
31. Recommends that, to that end, the provisions of Council Regulation (EC Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities<sup>3</sup> be brought up to date and incorporated into Regulation (EC) No 1073/1999; looks to the Commission for appropriate proposals;
32. Calls further on the Commission to propose, in the light of the relevant case law of the European Court of Justice, the necessary changes to the overarching Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests<sup>4</sup>; points out that those changes now must be adopted under the codecision procedure;
33. Calls on the Commission to check whether and, to what extent, the Commission's and OLAF's anti-VAT fraud responsibilities provided for in 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<sup>5</sup> could be included in the revision of Regulation (EC, Euratom) No 2988/95;
34. Welcomes the finding by the European Court of Auditors in paragraph II of its Special Report No 1/2005 that the hybrid status of OLAF, which has investigative autonomy but reports to the Commission for its other duties, has not adversely affected the independence of its investigations<sup>6</sup>; stresses that it is the OLAF Supervisory Committee's responsibility to ensure the independence of investigations<sup>7</sup>;
35. Points, however, to a conclusion reached by the European Court of Auditors in paragraph 93 of its Special Report No 1/2005 that the role of the Supervisory

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<sup>1</sup> OJ L 136, 31.5.1999, p.1.

<sup>2</sup> Opinion No 8/2005 of the European Court of Auditors on a proposal for a Regulation of the European Parliament and of the Council on mutual administrative assistance for the protection the financial interests of the Community against fraud and other illegal activities, OJ C 313, 9.12.2005, p. 1.

<sup>3</sup> OJ L 292, 15.11.1996, p. 2.

<sup>4</sup> OJ L 312, 23.12.1995, p. 1.

<sup>5</sup> Commission proposal of 20 July 2004 for a regulation of the European Parliament and of the Council on mutual assistance for the protection of the financial interests of the Community against fraud and any other illegal activities (COM(2004)0509).

<sup>6</sup> Court of Auditors' Special Report No 1/2005 concerning the management of the European Anti-Fraud Office (OLAF), together with the Commission's replies, OJ C 202, 18.8.2005, p. 1.

<sup>7</sup> See Article 11(1), first subparagraph, of Regulation (EC) No 1073/1999.

Committee should be re-examined in order to avoid all risks of interference in ongoing investigations;

*OLAF investigations and protection of fundamental rights*

36. Notes with serious concern the Court of First Instance's judgment of 6 April 2006<sup>1</sup> in connection with the IRELA affair, ordering the Commission to pay compensation to an official;
37. Notes the Court's conclusion that OLAF clearly behaved unlawfully in its conduct of the investigation and the drawing up of the investigation report as OLAF acted in serious and manifest breach of the requirement of impartiality;
38. Sees this judgement as confirming the view taken by the OLAF Supervisory Committee, which has persistently and repeatedly drawn attention to the need to observe fundamental rights and the fact that this is a precondition for effective OLAF investigations, the results of which must stand up in court if necessary;
39. Draws attention to the finding of the European Court of Auditors in paragraph IX of its Special Report No 1/2005 that there is no independent guarantee, at present, that investigative procedures in progress are legal or that the fundamental rights of persons under investigation are safeguarded;
40. Takes the view that OLAF must cooperate with the European Ombudsman and the European Data Protection Supervisor on the basis of trust;
41. Highlights the fact that the establishment of a European Union Civil Service Tribunal markedly improves the scope for judicial oversight over OLAF's work on investigations concerning Community officials and servants;
42. Expects the OLAF Director-General to ensure vigorous monitoring of the quality of investigations conducted by OLAF staff;

*Priorities and prospects for OLAF's work*

43. 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 (investigations within institutions and bodies and in connection with expenditure directly managed by the Commission) or are failing to make adequate efforts;
44. Backs the recommendation by the European Court of Auditors in paragraph 37 of its Special Report No 8/2005 that the activities of OLAF should be geared to its investigative function;
45. Draws attention to the finding by the European Court of Auditors in paragraph 76 of its

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<sup>1</sup> Case T-309/03, Camós Grau v. Commission (not yet published in the ECR).



Special Report No 1/2005 that OLAF's current practice of treating coordination and assistance operations as equivalent to investigations makes control of resources difficult; looks to OLAF's top management to ensure a clear segregation of duties in future which, in organisational terms too, must be immediately evident;

46. Welcomes the fact that the Court of Auditors' recommendations referred to are congruent with the stance taken by Parliament in its resolution of 4 December 2003 on the Commission report on the evaluation of the activities of the European Anti-Fraud Office (OLAF)<sup>1</sup>; also agrees with the Court of Auditors that the coordination function of OLAF vis-à-vis Member State services must not be extended at the expense of its investigative activities;

### ***Combating cigarette smuggling and the marketing of counterfeit products***

47. Points out that in 2004, according to estimates drawn up by the Member States, some EUR 418.5 m less in own resources was collected as a result of cigarette smuggling and that the total loss is in all probability very much greater; notes with alarm that this represents a doubling of losses over 2003 (2003: approx. EUR 200 m)<sup>2</sup>;
48. Notes that over 3.5 billion cigarettes were confiscated in 2004 by the competent authorities and that the problem of smuggling and of marketing counterfeit products has become markedly more urgent since 2001;
49. Underscores the fact that OLAF puts the financial loss resulting since 2000 from cigarette smuggling and the marketing of counterfeit products at EUR 1 317 m;
50. Realises that the new Member States at the Union's eastern external border are being particularly badly harmed as a result of increasing cigarette smuggling;
51. Again points out in this connection the importance of the agreement on combating cigarette smuggling concluded between the Commission (together with Belgium, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and Finland) and Philip Morris International (PMI); 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 at the same time seeks to settle the disputes between the Community and PMI; in addition, over a 12-year period PMI will pay a sum of roughly US\$ 1.25 bn to the Community and the Member States;
52. Is pleased to note that the following countries have signed this agreement since it was concluded: Denmark, Ireland, Latvia, Lithuania, Malta, Austria, Slovakia, Slovenia, the Czech Republic, Hungary and Cyprus;

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<sup>1</sup> OJ C 89 E, 14.4.2004, p. 153.

<sup>2</sup> These figures are estimates calculated on the basis of reports from 24 Member States on confiscated cigarettes. OLAF furthermore assumes that only 10% of smuggled goods are seized.

53. Calls on the other Member States (Estonia, Sweden and the United Kingdom) to sign the agreement as quickly as possible,
54. Regrets that, to date, the Commission has not been in a position to make practical use of the payments made by PMI under the agreement; regards it as unacceptable that large no-strings-attached transfers have been made to Member States; such action runs counter to the agreement's intention that the amounts should be used for anti-fraud measures, which represent a priority for preventing cigarette smuggling and counterfeiting;
55. Calls on the Member States and the Commission to use the payments made by PMI to finance measures to prevent and combat cigarette smuggling, including counterfeiting;
56. Calls on the Commission to submit proposals for using a considerable proportion of this revenue and, if necessary, a preliminary draft amending budget plus proposals for an appropriate legal basis; calls on the Commission to submit a report to Parliament by 1 December 2006 on amounts received under the agreement and on the distribution and the use thereof;
57. Takes the view that the agreement with PMI is of such far-reaching importance that OLAF and the Commission should do everything within their power to conclude similar agreements with other international cigarette manufacturers; calls on OLAF to report by 1 December 2006 on progress in this area;
58. Calls further on the Commission to inform Parliament by 1 December 2006 on progress in negotiations on the WHO Framework Convention on tobacco control plus any protocols;
59. Highlights the fact that it attaches such importance to the issue of cigarette smuggling and the marketing of counterfeit products that it will submit a dedicated report on it; in addition, a study will be commissioned to examine the significance of cigarette smuggling and the marketing of counterfeit products in terms of Community own resources;

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

60. Is extremely concerned at the financial loss caused by what are termed 'carousel' transactions; for instance, the German Economic Research Institute has put lost national VAT receipts for 2003 to 2005 at EUR 17 to 18 bn a year; extrapolating across the board, Member States assume that they lose about 10% of their VAT receipts each year; one third of such losses is ascribed to cross-border 'carousel' transactions;
61. Points out that only actual receipts can be used for levying VAT own resources;

62. Welcomes the fact that the Court of Auditors<sup>1</sup> will be conducting a review of cooperation between administrations in applying VAT in intra-Community trade, including combating VAT fraud in connection with 'carousel' transactions<sup>2</sup>;
63. Also welcomes the fact that the Commission has contracted for a study on combating VAT fraud, and calls on the Commission to forward a copy, upon completion, to the Committee on Budgetary Control;

### ***Internal policy areas***

64. Notes with concern that in paragraph 6.4 of the 2004 annual report the European Court of Auditors again points - as it now has done for years - to weaknesses in supervisory and control systems in internal policy areas as a result of which errors at grant recipient level are not detected in time; at the same time, the number of audits fell in 2004 by comparison with 2003; calls on the Commission to submit a proposal as to how these weaknesses are to be rectified;

### ***Commission follow-up to Parliament's resolution of 7 June 2005 on the protection of the financial interests of the Communities and the fight against fraud<sup>3</sup>***

65. Notes that, in the near future, the Commission will be submitting a report on the use of '*black lists*' in the agriculture sector; calls on the Commission to forward a copy to Parliament's Committee on Budgetary Control;
66. Notes the Commission's response to paragraph 25 of the resolution on the *recovery of amounts paid in excess or in error*; regards it as unsatisfactory, however; therefore points out the following:
- essentially, progress has been achieved in this area owing to Parliament pressure;
  - Parliament attaches considerable importance to this question and will therefore be producing a dedicated report on it;
  - welcomes the fact that, in 2004, the Commission carried out sample checks on Member States' recovery procedures; welcomes also in this connection the fact that the Commission rejected 50% of applications to waive debts to be recovered; that represents EUR 35.46 m which the Member States must recover;
  - in agriculture, EUR 63.76 m from 2004 still has to be recovered; in addition, there are EUR 2 078 m in arrears from previous years; an amount of EUR 811 m is pending before the courts;
  - in the area of the Structural Funds, EUR 357.4 m (+ EUR 40.5 m relating to the Cohesion Fund) from 2004 still has to be collected; in addition, there are EUR 689.2 m in arrears from previous years;

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<sup>1</sup> See the European Court of Auditors' work programme for 2006 of 10 January 2006, p. 3.

<sup>2</sup> The review relates to implementation of Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92, OJ L 264, 15.10.2003, p. 1. Amended by Council Regulation (EC) No 885/2004 of 26 April 2004 (OJ L 168, 1.5.2004, p. 1).

<sup>3</sup> P6\_TA(2005)0218.

- underscores Member States' primary responsibility for prompt and efficient recovery of lost budget funds; regrets the fact that, to date, the Member States have been inadequately meeting that responsibility and, in particular, are only sketchily meeting their reporting obligations towards the Commission;
  - asks what has been the reaction of the Member States to the Commission's letters requiring them to recover EUR 650 m within agriculture<sup>1</sup>;
  - asks furthermore whether OLAF and the Directorate-General for Agriculture and Rural Development (DG AGRI) have agreed on a division of labour under which, in future, OLAF will be responsible for investigations while DG AGRI will be responsible for recoveries<sup>2</sup>;
67. Criticises the fact that the Commission failed to submit a list of all contracts by 1 September 2005 which have been concluded since 2000 with *procurement agencies*; that list should also contain details of the duration of contracts, award procedures and level of payments involved;
68. Reminds OLAF of the need to continue the dialogue begun in November 2004 on what information Parliament can have access to in connection with its work, as it signalled its willingness to do in its letter of 30 June 2005; the aim must be to find a way of respecting Parliament's supervisory powers and, at the same time, guaranteeing the confidentiality of OLAF investigations, in accordance with the relevant legislative provisions and in particular Article 12(3) of the OLAF Regulation; expects OLAF to submit written proposals to the Committee on Budgetary Control by 1 September 2006;
69. Criticises the fact that, to date, the Commission has submitted no interim report on the activities of the '*Eurostat Task Force*' despite its having been announced on several occasions; expects it to be submitted before 1 July 2006;
70. Regrets the fact that the Commission has thus far failed to draw up an overview identifying the *international consultancies* which have worked for the Commission in the areas of direct and indirect expenditure<sup>3</sup>; now expects to receive an overview by 1 November 2006; calls on the Commission at the same time to press the Member States to forward the information with regard to indirect expenditure;
71. Is not satisfied with the Commission's unclear information on renovation of the *Berlaymont Building*; asks whether there have been third-party irregularities and what administrative measures have been taken within the Commission;
72. Expresses its deep concern at the reports of alleged overcharging in the rent payments that Parliament has made to the City of Strasbourg in connection with the SDM and WIC parliamentary buildings and in the purchase price of the same buildings; is determined to pursue these allegations by actively investigating the matter in a prompt, rigorous and transparent manner in order to ensure that the financial interests of the European Union as well as of European taxpayers are adequately safeguarded;

<sup>1</sup> See paragraph 16 of its above-mentioned resolution of 7 June 2005.

<sup>2</sup> See paragraph 10 of its above-mentioned resolution of 7 June 2005.

<sup>3</sup> See paragraph 73 of its above-mentioned resolution of 7 June 2005.

73. Welcomes the fact that, at the end of 2005, the Commission discontinued *export refunds* for live cattle intended for slaughter; notes at the same time that EUR 218 560 in 2004 export refunds paid in error still have to be recovered (2003: EUR 58 680);

*Miscellaneous ad hoc issues*

74. Welcomes the debate, resumed on the basis of the judgment of 13 September 2005<sup>1</sup>, on the powers of the European legislative authority in the area of criminal law; underscores the fact that, contrary to the approach championed by the Commission<sup>2</sup>, it regards a case-by-case review of ongoing legislative proposals as necessary; remains of the opinion that the draft directive on the criminal law protection of the Community's financial interests should be based on Article 280 of the Treaty<sup>3</sup>; calls on the Council to abandon its rejectionist stance on strengthened protection for the Community's financial interests through criminal law measures and to move to the first-reading stage;
75. Is concerned, against the backdrop of the current risk of bird flu, that a new trend is emerging involving the illegal import of poultry meat from countries banned by the European Union (particularly China); calls on the Commission to provide Parliament by 31 October 2006 with detailed information on cases of fraud in the import of poultry meat reported via the Rapid Alert System for Food and Feed (RASFF) since the start of 2004; calls on the Commission and OLAF to take the necessary measures as soon as possible;

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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.

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<sup>1</sup> Case C-176/03, Commission v. Council (not yet published in the ECR).

<sup>2</sup> See the Commission communication to the European Parliament and Council on the implications of the Court's judgment of 13 September 2005 (Case C-176/03, Commission v. Council) (COM(2005)0583).

<sup>3</sup> See the European Parliament legislative resolution of 29 November 2001 on the proposal for a directive of the European Parliament and of the Council on the criminal-law protection of the Community's financial interests, OJ C 153 E, 27.6.2005, p. 253, and its above-mentioned resolution of 4 December 2003.

## ANNEX

**ANNEX 1 - Traditional own resources: Number of cases of fraud and irregularity reported by the Member States<sup>1</sup> to the Commission 2000 – 2004  
(updated 13.4.2005, amounts in euros)**

<b>Member States</b>	<b>2000 Cases</b>	<b>2000 Amounts established</b>	<b>2001 Cases</b>	<b>2001 Amounts established</b>	<b>2002 Cases</b>	<b>2002 Amounts established</b>	<b>2003 Cases</b>	<b>2003 Amounts established</b>	<b>2004 Cases</b>	<b>2004 Amounts established</b>	<b>Δ % Cases 2003-2004</b>	<b>Δ % Amounts 2003-2004</b>
<b>Austria</b>	93	6 610 227	101	25 574 466	120	21 948 330	99	12 175 839	73	8 256 076	-26,26%	-32,19%
<b>Belgium</b>	306	7 341 737	296	7 329 390	485	27 035 181	480	10 330 871	756	24 205 346	57,50%	134,30%
<b>Cyprus</b>									2	53 117	n/a	n/a
<b>Czech rep.</b>									4	475 488	n/a	n/a
<b>Denmark</b>	106	9 112 839	67	5 063 802	94	5 493 185	68	8 091 172	79	7 642 455	16,18%	-5,55%
<b>Estonia</b>									3	198 940	n/a	n/a
<b>Finland</b>	36	1 598 820	20	3 140 752	18	782 783	24	1 160 029	28	1 604 081	16,67%	38,28%
<b>France</b>	257	27 602 120	219	16 499 406	209	24 696 682	194	16 918 123	252	24 470 309	29,90%	44,64%
<b>Germany</b>	515	53 696 658	396	28 452 413	426	109 606 584	366	58 939 951	262	17 108 099	-28,42%	-70,97%
<b>Greece</b>	6	748 707	17	11 697 803	30	8 265 776	35	1 460 704	38	1 771 977	8,57%	21,31%
<b>Hungary</b>									4	1 338 786	n/a	n/a
<b>Ireland</b>	38	1 882 401	34	1 303 005	44	4 089 892	33	2 340 846	10	401 444	-69,70%	-82,85%
<b>Italy</b>	230	38 160 483	208	96 895 210	310	39 442 639	226	75 697 603	193	35 464 698	-14,60%	-53,15%
<b>Latvia</b>									7	323 783	n/a	n/a
<b>Lithuania</b>									5	133 074	n/a	n/a
<b>Luxembourg</b>	2	35 620	0	0	1	23 666	1	1 013 477	0	0	100,00%	100,00%
<b>Malta</b>									0	0	0,00%	0,00%
<b>Netherlands</b>	329	21 558 565	489	32 672 980	291	80 384 224	507	60 663 773	514	44 170 117	1,38%	-27,19%
<b>Poland</b>									17	627 643	n/a	n/a
<b>Portugal</b>	19	1 306 757	11	1 489 355	15	2 004 205	22	2 197 568	14	981 844	-36,36%	-55,32%
<b>Slovakia</b>									2	300 110	n/a	n/a
<b>Slovenia</b>									7	463 642	n/a	n/a
<b>Spain</b>	116	8 510 205	134	29 824 254	121	11 647 708	213	18 595 747	111	7 908 902	-47,89%	-57,47%
<b>Sweden</b>	18	1 096 540	22	2 642 716	40	2 847 635	47	1 293 398	64	6 043 025	36,17%	367,22%
<b>United Kingdom</b>	508	330 706 777	252	23 643 106	214	6 126 353	344	5 573 794	290	21 749 230	-15,70%	290,21%
<b>Total</b>	<b>2 579</b>	<b>509 968 456</b>	<b>2 266</b>	<b>286 228 658</b>	<b>2 418</b>	<b>344 394 843</b>	<b>2 659</b>	<b>276 452 895</b>	<b>2 735</b>	<b>205 692 186</b>	<b>2,86%</b>	<b>-25,60%</b>

<sup>1</sup> 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 n° 1150/2000 of 22 May 2000.

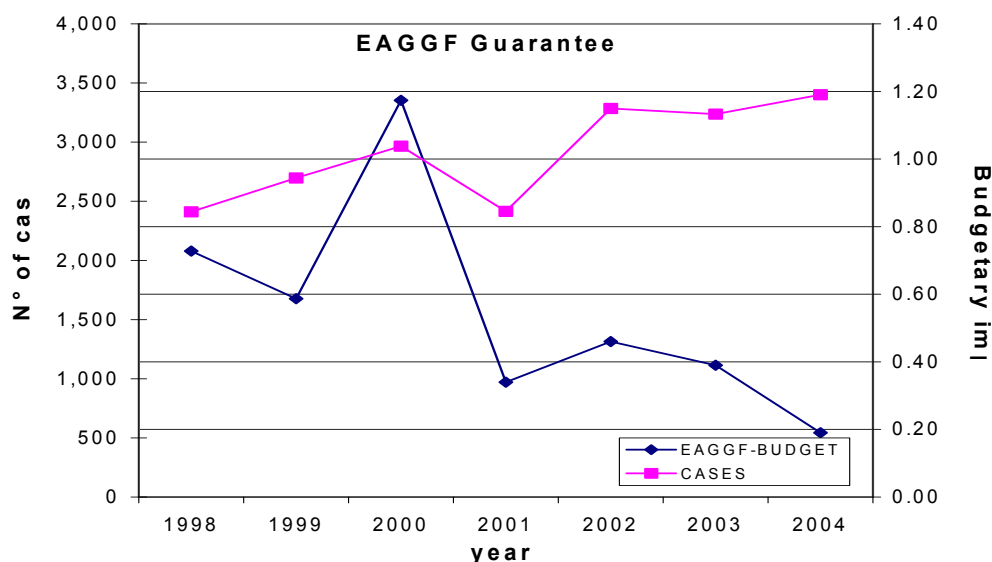
**ANNEX 2 - Traditional own resources: Cases of fraud and irregularity reported by Member States for 2004 (updated 13.4.2005, amounts in euros)**

<b>Member States</b>	<b>Number of cases notified for 2004</b>	<b>Amounts established</b>	<b>Cases as a % of EUR-25 total</b>	<b>Average amount per case</b>	<b>Amounts recovered in cases notified for 2004</b>	<b>% recovery of EUR-25 total</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5) = (3) / (2)</b>	<b>(6)</b>	<b>(7)</b>
Austria	73	8 256 076	4.01 %	113 097	815 692	1.56 %
Belgium	756	24 205 346	11.77 %	32 018	1 516 508	2.89 %
Cyprus	2	53 117	0.03 %	26 559	53 117	0.10 %
Czech rep.	4	475 488	0.23 %	118 872	241 965	0.46 %
Denmark	79	7 642 455	3.72 %	96 740	5 585 026	10.65 %
Estonia	3	198 940	0.10 %	66 313	0	0.00 %
Finland	28	1 604 081	0.78 %	57 289	332 993	0.64 %
France	252	24 470 309	11.90 %	97 104	7 671 757	14.63 %
Germany	262	17 108 099	8.32 %	65 298	4 802 759	9.16 %
Greece	38	1 771 977	0.86 %	46 631	162 242	0.31 %
Hungary	4	1 338 786	0.65 %	334 697	829 008	1.58 %
Ireland	10	401 444	0.20 %	40 144	277 520	0.53 %
Italy	193	35 464 698	17.24 %	183 755	1 936 387	3.69 %
Latvia	7	323 783	0.16 %	46 255	62 593	0.12 %
Lithuania	5	133 074	0.06 %	26 615	33 913	0.06 %
Luxembourg	0	0	0 %	0	0	0 %
Malta	0	0	0 %	0	0	0 %
Netherlands	514	44 170 117	21.47 %	85 934	13 762 365	26.25 %
Poland	17	627 643	0.31 %	36 920	236 959	0.45 %
Portugal	14	981 844	0.48 %	70 132	480 718	0.92 %
Slovakia	2	300 110	0.15 %	150 055	0	0.00 %
Slovenia	7	463 642	0.23 %	66 235	0	0.00 %
Spain	111	7 908 902	3.85 %	71 251	607 320	1.16 %
Sweden	64	6 043 025	2.94 %	94 422	2 681 928	5.12 %
United Kingdom	290	21 749 230	10.57 %	74 997	10 338 060	19.72 %
<b>EUR-25 TOTAL</b>	<b>2 735</b>	<b>205 692 186</b>	<b>100.00 %</b>	<b>75 207</b>	<b>52 428 830</b>	<b>100.00 %</b>

**EAGGF GUARANTEE****IRREGULARITIES COMMUNICATED BY THE MEMBER STATES  
YEARS 1998 - 2004**

(amounts in € 1,000)

YEAR	CASES	AMOUNT	% OF BUDGET	EAGGF-BUDGET
2004	3,401	82,064	0.19	42,934,711
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



\* The concept "irregularity" includes fraud. The qualification as fraud, meaning criminal behaviour, can only be made following a penal procedure.



**ANNEX 4**

update 12/05/2005

**EAGGF GUARANTEE**IRREGULARITIES COMMUNICATED BY THE MEMBER STATES UNDER  
REGULATION N° 595/91

2004

(amounts in € 1,000)

<i>Member States</i>	<i>Number of cases</i>	<i>Amounts</i>	<i>% of EAGGF expenditure</i>
BE	34	572	0.05
DK	62	711	0.06
DE	813	18,659	0.31
EL	29	980	0.04
ES	651	34,926	0.55
FR	524	7,816	0.08
IE	105	912	0.05
IT	96	3,120	0.06
LU	3	17	0.04
NL	308	3,725	0.30
AT	133	1,270	0.11
PL	5	79	0.73
PT	232	3,751	0.46
FI	24	153	0.02
SE	75	827	0.10
UK	307	4,547	0.11
<b>TOTAL</b>	<b>3,401</b>	<b>82,064</b>	<b>0.19</b>

## ANNEX 5

update 12/05/2005

## EAGGF GUARANTEE

SITUATION OF RECOVERY IN CASES COMMUNICATED UNDER  
REGULATION N° 595/91

(amounts in € 1,000)

<i>Member States</i>	<i>To be recovered cases communicated before 2004</i>	<i>To be recovered cases communicated in 2004</i>	<i>In Justice before 2004</i>	<i>Amounts "irrecoverable" before 2004</i>
BE	61,192	278	56,209	1,923
DK	1,126	230	0	877
DE	133,183	14,350	12,956	10,989
EL	71,951	801	42,109	7,936
ES	269,431	32,754	117,776	65,349
FR	70,896	6,086	39,685	3,990
IE	2,513	461	623	617
IT	1,392,635	2,142	504,901	154,714
LU	72	9	0	0
NL	16,663	1,574	3,798	2,296
AT	2,969	185	312	629
PL		0		
PT	29,879	3,430	27,816	885
FI	177	19	16	0
SE	385	210	11	184
UK	24,566	1,235	4,671	8,778
<b>TOTAL</b>	<b>2,077,639</b>	<b>63,764</b>	<b>810,884</b>	<b>259,167</b>

\* *In justice: awaiting outcome of judicial proceedings in national courts*\*\* *Amounts irrecoverable: awaiting formal decision in Clearance of Accounts procedure*

## ANNEX 6

### STRUCTURAL MEASURES IRREGULARITIES\* COMMUNICATED BY MEMBER STATES 1998-2004

<b>Year</b>	<b>N° of cases</b>	<b>Financial amounts (x € 1,000)</b>	<b>Total budget (x € 1,000,000)</b>	<b>Part of budget</b>
2004	3,339	695,611	35,665	1.95%
2003	2,487	482,215	30,764	1.57%
2002	4,656	614,094	30,556	2.01%
2001	1,194	201,549	29,823	0.68%
2000	1,217	114,227	25,556	0.45%
1999	698	120,633	30,654	0.39%
1998	407	42,838	28,366	0.15%

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

**ANNEX 7**

**STRUCTURAL FUNDS  
IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER  
REGULATION N. 1681/94  
2004 – NUMBER OF CASES**

MEMBER STATE	FUNDS				TOTAL
	ERDF	ESF	EAGGF - SG	FIFG	
Belgique / België	38	4		3	45
Danmark	31	15	1		47
Deutschland	736	185	56	8	985
Eesti		6	1		7
Ellas	79	26	42	3	150
España	59	164	28	12	263
France	37	66	4	3	110
Ireland	43				43
Italia	423	125	77	13	638
Latvija			2		2
Luxembourg	1	2			3
Magyar		1			1
Nederland	6	46	4	2	58
Österreich	25	8	5		38
Polska		2	1		3
Portugal	52	34	165	5	256
Suomi Finland	14	21	2		37
Sverige	67	47	4	1	119
United Kingdom	160	66	11	7	244
<b>TOTAL</b>	<b>1,771</b>	<b>818</b>	<b>403</b>	<b>57</b>	<b>3,049</b>

Amounts in € 1,000	FUNDS				TOTAL	
	MEMBER STATE	ERDF	ESF	EAGGF - SG		FIFG
Belgique / België	14,375	63			504	14,942
Danmark	1,456	1,009		10		2,475
Deutschland	107,783	12,052		6,013	1,624	127,472
Eesti		31		74		105
Ellas	104,027	4,834		2,992	486	112,339
España	19,904	4,728		866	377	25,875
France	1,774	1,227		52	51	3,104
Ireland	3,451					3,451
Italia	175,478	12,003		5,225	2,212	194,918
Latvija				361		361
Luxembourg	3	107				110
Magyar		6				6
Nederland	2,083	3,472		1,281	17	6,853
Österreich	2,813	302		309		3,424
Polska		12				12
Portugal	4,172	1,888		4,318	710	11,088
Suomi Finland	974	457		60		1,491
Sverige	1,969	641		90	40	2,740
United Kingdom	18,282	3,203		102	466	22,053
<b>TOTAL</b>	<b>458,544</b>	<b>46,035</b>		<b>21,753</b>	<b>6,487</b>	<b>532,819</b>

**2004 -AMOUNTS**

**ANNEX 8**  
**STRUCTURAL FUNDS**  
**IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER**  
**REGULATION N. 1681/94**  
**SITUATION OF RECOVERY**  
**(amounts in € 1,000)**

<b>Member States</b>	<b>To be recovered - cases communicated before 2004</b>	<b>Amounts "irrecoverable"* before 2004</b>	<b>To be recovered - cases communicated in 2004</b>	<b>Amounts "irrecoverable"* in 2004</b>	<b>In justice** before 2004</b>	<b>In justice** 2004</b>
BE	2,128	434	11,600	11,292	954	155
DK	7,446	6,207	1,598	950	35	111
DE	389,623	68,098	111,025	1,571	88,907	6,601
GR	8,469	844	38,101	0	1,091	460
ES	31,968	543	12,558	0	9,443	310
FR	15,297	2,273	2,340	43	2,573	62
IE	1,205	0	1,191	0	553	0
IT	146,038	70	148,025	60	129,356	142,853
LU	9	0	110	0	0	0
NL	6,121	1,049	1,152	0	544	0
AT	2,790	899	2,933	0	190	343
PT	18,182	160	7,973	39	7,980	1,892
FI	1,284	930	752	0	200	249
SE	556	187	397	380	0	0
UK	58,121	4,132	17,716	1,193	1,889	0
<b>TOTAL</b>	<b>689,236</b>	<b>85,826</b>	<b>357,471</b>	<b>16,009</b>	<b>243,715</b>	<b>153,036</b>

**\*Amounts irrecoverable: awaiting formal decision according to the procedure set out in art. 5§2 of Regulation No. 1681/94.**

**\*\* In justice: awaiting outcome of judicial procedures in national courts.**

**ANNEX 9**  
**COHESION FUND**  
**IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER**  
**REGULATION N. 1831/94**  
**2004**

Amounts in € 1,000	<b>COHESION FUND</b>		
<b>MEMBER STATE</b>	<b>N° OF CASES</b>	<b>IRREGULAR AMOUNTS</b>	<b>AMOUNTS TO BE RECOVERED</b>
<b>Ellas</b>	271	139.370	19.483
<b>España</b>	1	384	384
<b>Latvija</b>	1	1	0
<b>Polska</b>	5	802	23
<b>Portugal</b>	12	22.234	20.635
<b>TOTAL</b>	<b>290</b>	<b>162.792</b>	<b>40.525</b>

**ANNEX 10**  
**Irregularities communicated by Member States**  
**2004**  
**(Amounts in 1,000 €)**

MEMBER STATES		EAGGF		STRUCTURAL FUNDS		COHESION FUND		OWN RESOURCES		TOTAL	
		Cases	Financial Amounts	Cases	Financial Amounts	Cases	Financial Amounts	Cases	Financial Amounts	Cases	Financial Amounts
AT	Austria	133	1,270	38	3,424	0	0	73	8,256	244	12,950
BE	Belgium	34	572	45	14,942	0	0	756	24,205	835	39,719
CY	Cyprus	0	0	0	0	0	0	2	53	2	53
CZ	Czech Republic	0	0	0	0	0	0	4	475	4	475
DE	Germany	813	18,659	985	127,472	0	0	262	17,108	2,060	163,239
DK	Denmark	62	711	47	2,475	0	0	79	7,642	188	10,828
EE	Estonia	0	0	7	105	0	0	3	199	10	304
EL	Greece	29	980	150	112,340	271	139,370	38	1,772	488	254,462
ES	Spain	651	34,926	263	25,875	1	384	111	7,909	1,026	69,094
FI	Finland	24	153	37	1,491	0	0	28	1,604	89	3,248
FR	France	524	7,816	110	3,104	0	0	252	24,470	886	35,390
HU	Hungary	0	0	1	6	0	0	4	1,339	5	1,345
IE	Ireland	105	912	43	3,451	0	0	10	401	158	4,764
IT	Italy	96	3,120	638	194,917	0	0	193	35,465	927	233,502
LT	Lithuania	0	0	0	0	0	0	5	133	5	133
LU	Luxembourg	3	17	3	110	0	0	0	0	6	127
	Latvia	0	0	2	361	1	1	7	324	10	686
MT	Malta	0	0	0	0	0	0	0	0	0	0
NL	The Netherlands	308	3,725	58	6,853	0	0	514	44,170	880	54,748
PL	Poland	5	79	3	12	5	802	17	628	30	1,521
PT	Portugal	232	3,751	256	11,088	12	22,234	14	982	514	38,055
SE	Sweden	75	827	119	2,740	0	0	64	6,043	258	9,610
SK	Slovakia	0	0	0	0	0	0	2	300	2	300
SL	Slovenia	0	0	0	0	0	0	7	464	7	464
UK	United Kingdom	307	4,547	244	22,053	0	0	290	21,749	841	48,349
<b>TOTAL</b>		<b>3,401</b>	<b>82,064</b>	<b>3,049</b>	<b>532,819</b>	<b>290</b>	<b>162,791</b>	<b>2,735</b>	<b>205,692</b>	<b>9,475</b>	<b>983,366</b>



## PROCEDURE

<b>Title</b>	Protection of the financial interests of the Communities and the fight against fraud - 2004 annual report			
<b>Procedure number</b>	2005/2184(INI)			
<b>Committee responsible</b> Date authorisation announced in plenary	CONT 27.10.2005			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	REGI 27.10.2005	IMCO 27.10.2005	BUDG 27.10.2005	AGRI 27.10.2005
<b>Not delivering opinion(s)</b> Date of decision	REGI 21.11.2005	IMCO 21.11.2005	BUDG 22.11.2005	AGRI 14.11.2005
<b>Enhanced cooperation</b> Date announced in plenary				
<b>Rapporteur(s)</b> Date appointed	Herbert Bösch 12.9.2005			
<b>Previous rapporteur(s)</b>	Herbert Bösch			
<b>Discussed in committee</b>	21.2.2006		19.4.2006	
<b>Date adopted</b>	15.5.2006			
<b>Result of final vote</b>	+ 17 - 2 0 0			
<b>Members present for the final vote</b>	Inés Ayala Sender, Herbert Bösch, Simon Busuttil, Mogens N.J. Camre, Paulo Casaca, Petr Duchoň, Szabolcs Fazakas, Markus Ferber, Béla Glattfelder, Ingeborg Gräßle, Umberto Guidoni, Dan Jørgensen, Rodi Kratsa-Tsagaropoulou, Hans-Peter Martin, Véronique Mathieu, Jan Mulder, Bart Staes, Alexander Stubb, Jeffrey Titford, Terence Wynn			
<b>Substitute(s) present for the final vote</b>	Daniel Caspary, Ashley Mote			
<b>Substitute(s) under Rule 178(2) present for the final vote</b>				
<b>Date tabled</b>	16.5.2006			
<b>Comments</b> (available in one language only)				