OFFICE EUROPÉEN DE LUTTE ANTI-FRAUDE
EUROPEAN COMMISSION **EUROPEAN ANTI-FRAUD OFFICE**

REPORT OF THE EUROPEAN ANTI-FRAUD OFFICE

Fifth Activity Report for the year ending June 2004

Rue Joseph II 30
1000 Brussels
Internet Website: europa.eu.int/olaf

Foreword by the Director of OLAF, Franz-Herman Brüner

This is my fifth Annual Report on the operational activities of the European Anti-Fraud Office (OLAF). It covers the 12 months to the end of June 2004. It also marks the first five years since the Office's creation on 1 June 1999.

The working culture which OLAF inherited from UCLAF was based on the traditional disciplines – shared between the Commission and the Member States - of customs operations and of verification in the largest sectors of Community expenditure, namely agriculture and the structural funds. These remain important activities for OLAF. Notably, OLAF's actions played a key role in the reaching by the Community and certain Member States of a landmark Anti-Contraband and Anti-Counterfeit Agreement with the cigarette manufacturer Philip Morris in July 2004. $1.25 billion will be paid over the next 12 years to the Community and to those Member States which participated in this Agreement. This sum would cover the costs of running OLAF for many years.

However, the overall balance of the Office's activities has shifted to those areas of the Community budget where the Commission administers expenditure directly. Much of these are at high risk of fraud. OLAF intervention can have an immediate impact, for example to deter fraudulent aid requests to several donors in respect of the same project. As additional investigative resources have become available, these have been allocated to protecting direct expenditure, in line with OLAF's strategic risk assessment and with the political priority attributed to the fight against corruption within the Institutions.

The complex set of investigations into the "Eurostat" affair has made steady progress. A number of dossiers are under investigation by national judicial authorities. OLAF is providing assistance where requested. I would expect visible results within months.

Evidence of the wider interest now being taken in OLAF's activities is the Report by the British House of Lords which was published in July.

OLAF's task is to fight fraud and corruption in complete independence. An anti-fraud organisation does not require or seek popularity. Rather, it needs to earn respect through the quality of its work, through its results, and by demonstrating integrity and an ability to take the right decisions under pressure.

Judgements of the Court of Justice of the European Communities and orders of the Court of First Instance during the year have demonstrated that OLAF's investigative activities are subject to effective judicial oversight. This case-law has clarified the respective roles of OLAF, of national judicial authorities, and – in relation to EU staff – of the disciplinary authorities of EU Institutions. This case-law does not substantiate the assertions sometimes made that OLAF does not respect the rights of individuals. Without seeking to anticipate any future findings in proceedings which may currently be underway, it is fair to point out that no Court decision has yet found that OLAF fails to respect such rights.

I am pleased to say that OLAF's independent operational activities have always received firm support from the Commission, and to emphasise that the Commission has never sought to interfere with my operational independence in any way. I would pay particular tribute to the outgoing Commissioner responsible for anti-fraud policy, Dr Michaele Schreyer, whose personal support has been a great comfort. During the year, routine

communications between OLAF and the Commission have been improved through coordination meetings at Director General level. These regular contacts have respected OLAF's independence and reinforced its effectiveness because they have built up mutual trust and confidence.

OLAF has faced a steep learning curve in its core business of investigating and deterring fraud. If anything, OLAF has faced a greater challenge in learning to operate within the context of the EU Institutions.

Less obvious, perhaps, the European Institutions have also faced something of a challenge in adapting to the existence of OLAF. This is partly because of OLAF's special status as a Commission service with independent investigative powers which also extend to other Institutions. It is also because some of the matters with which OLAF deals operationally have previously been handled almost exclusively at national level.

Operational services must take difficult decisions, often with consequences for individuals, always in strict respect of the law: in OLAF's case, of both European law and of relevant national law. On occasion, OLAF's decisions to open investigations – or to refrain from opening investigations – have exposed OLAF's stakeholders in the EU Institutions to issues which those Institutions have seldom had to address. Breaking new ground requires a clear strategy and can be a painful process.

The climate within which OLAF operates among the European Institutions has not therefore always been easy. Some concepts which are long established at national level are not yet fully transposed at European level. In particular, there is sometimes reluctance to accept the consequences of the principle of the secrecy of the investigative process and of the primacy of judicial proceedings over other considerations.

While the presumption of innocence is fundamental, it need not lead to the assumption that the investigating authority must be abusing its powers simply because the person under investigation so alleges. Equally, it is not OLAF's role, after reasonable scrutiny of the facts, to pursue further the unfounded complaints of nationals of one Member State against the authorities of another Member State simply because the complainants prefer lobbying in Brussels to taking legal proceedings in the competent national courts and because some of OLAF's Brussels interlocutors misunderstand this lobbying as potentially relevant for their own purposes.

The historic enlargement of the European Union to include another ten Member States took place near the end of the period covered by this Report. OLAF already has close links to the new Member States. My staff and I will now have the privilege and the pleasure of working closely with a European Commissioner and with a Chairman of the Budgetary Control Committee of the European Parliament who are both from new Member States.

Finally, I would like to thank all OLAF staff, past and present. Without their professionalism, determination and hard work, often under stress and occasionally in conditions of hardship, the achievements recorded here would not have been possible.

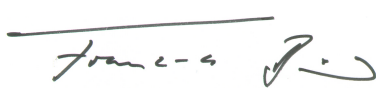


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Executive Summary

- OLAF's Investigations and Operations Executive Board took almost 1200 decisions during the current reporting period (1 July 2003-31 June 2004) covering all OLAF sectors.

- The total number of new case records registered in OLAF's Case Management System increased by 9% (from 585[1] to 637). This change could be interpreted as an increasing confidence in the work and professionalism of the Office.

- OLAF concluded 578 initial assessments. 275 of these resulted in the opening of cases. A further 272 did not fall within the competence of OLAF or did not warrant investigative action. Where possible, relevant information was forwarded to the appropriate authorities. 31 cases were retained for further monitoring.

- 443 cases were closed during the reporting period, of which 209 required further follow-up.

- Cases in follow-up increased from 477 to 623 cases by the end of the reporting period. In relative terms, the most significant increases are in agriculture, direct expenditure and external aid.

- At the end of the current reporting period 182 case records registered in the CMS were in the assessment stage, 511 cases were active (i.e. internal/external investigations, assistance or coordination cases) and 623 were in follow-up. Follow-up was concluded for 87 cases, 40 of which are UCLAF cases.

- At the end of the current reporting period the CMS stored a total of 3992 case records; this number includes 1423 cases inherited from OLAF's predecessor UCLAF. The remaining 2569 records relate to cases created following information received by OLAF between 1 June 1999 and 30 June 2004.

- Operational work was completed for all but 7 UCLAF cases. However, follow-up activities related to UCLAF cases continue to take up considerable resources, both for financial and judicial follow-up. At the end of the current reporting period, 282 UCLAF cases were still in follow-up.

- The total estimated financial impact for all cases in financial follow-up at the end of the reporting period amounted to more than € 1.5 billion.

- OLAF maintained the policy of "zero tolerance", assessing and where appropriate, investigating all allegations of corruption within the European Institutions.

- During the reporting period OLAF conducted internal investigations in the majority of the European Community organs[2], with 81 new case records registered in the CMS and 24 new investigations opened.

- The revised, comprehensive OLAF Manual took effect on 1 August 2003.

- Further improvements were made to OLAF's Case Management System (CMS): to enhance the management reporting of follow-up activities: encompassing

[1] Numbers referring to earlier years may deviate slightly from those reported last year due to data revision.
[2] Institutions, bodies, offices and agencies.

administrative, financial, legislative follow-up as well as judicial and disciplinary follow up; new reporting tools have been developed.

- Intelligence support to operational staff is managed through a new request module within the CMS.

- The Investigations and Operations Directorate was re-organised: a new unit for Multi-Agency investigations was created, and the former Direct Expenditure and External Aid Unit was divided into 2 units aimed at reinforcing investigation activity in the area of direct expenditure, both within the EU and in external aid. These cases can involve both internal investigations within the Institutions and external investigations in the recipient countries.
- The new Eurostat Task Force created in July 2003 dealt with 14 cases: 4 external and 10 internal, 9 of which are still ongoing. It completed 5 final reports, currently at the follow-up stage, 2 of which were forwarded to the judicial authorities in Luxembourg and 3 to the judicial authorities in France. Additionally, 4 of these completed cases were recommended for financial recovery procedures; three of these were also recommended for possible disciplinary action.

- OLAF continued its participation with DG AGRI in the Task Force Recovery established by the Commission to eliminate the backlog of accumulated agricultural (EAGGF Guarantee) debts. The Task Force finalised the on-the-spot audits in the Member States of cases with an individual financial impact higher than € 500 000, as notified by the Member States before 1999. These cases represented initially a global financial impact of more than € 1 billion.
- A Memorandum of Understanding was signed between OLAF and Europol setting out arrangements for operational cooperation.

- The Office experienced a significant increase in requests for access to documents (55 requests including 11 confirmatory requests), complaints made to the Ombudsman involving the Office (9 in total) and Parliamentary questions concerning OLAF (127 written and 7 oral questions).

- Public interest in the work of OLAF, as measured by the number of website hits, increased by 140% to more than 3.6 million during this year.

Mission Statement

OLAF's Objectives

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, to fight fraud, corruption and any other illegal activity, including misconduct within the European Institutions that has financial consequences. In pursuing this mission in an accountable, transparent and cost-effective manner, OLAF aims to provide a quality service to the citizens of Europe.

OLAF's Methods and Means

The European Anti-Fraud Office achieves its mission by conducting, in full independence, internal and external investigations. It also organises close and regular cooperation between the competent authorities of the Member States, in order to coordinate their activities. OLAF supplies Member States, Candidate Countries and third countries with the necessary support and multidisciplinary technical know-how to help them in their anti-fraud activities, and cooperates closely with international organisations with parallel interests. It contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to strengthen the relevant legislation.

OLAF's Principles

The Office's activities will be carried out with integrity, impartiality and professionalism, and will, at all times, respect the rights and freedoms of individuals and be fully consistent with the law.

1. INTRODUCTION

To mark the first five years since the Office's creation on 1 June 1999, this year's Activity Report exceptionally includes, in Chapter 2, a statistical overview of OLAF's operational activities together with its UCLAF legacy, covering the period from July 1999 until the end of this reporting period 30 June 2004. Paragraph 2.2 and beyond charts progress within the established annual reporting period 1 July 2003 until 30 June 2004. The data in this report is primarily compiled from OLAF's Case Management System (CMS).

Reference to "case" in this report includes each unique case record registered in the CMS which undergoes three major stages of processing: assessment, active stage (opening cases and proceeding with internal and or external investigation, co-ordination, assistance) and follow-up (including monitoring). More detailed definitions as described in the OLAF manual are annexed to this report.

Care is needed when drawing conclusions from statistics as quantity does not reflect time and resources expended, nor indications of quality of outcomes achieved. Likewise the statistics cannot quantify the preventive and deterrent value of OLAF's work in combating fraud.

1.1. The Main Competencies of OLAF

OLAF's Mission statement summarises the objectives of OLAF: to protect the financial interests of the European Union, to fight fraud, corruption and any other illegal activity, including misconduct within the European Institutions that has financial consequences. OLAF responsibility also involves, over and above the protection of financial interests, certain activities linked with the protection of Community interests from irregular acts likely to lead to administrative or penal proceedings (such as the protection of the euro against counterfeiting). It aims to pursue this mission in an accountable, transparent and cost-effective manner and achieves its mission by conducting, in full independence, internal and external investigations. It contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to prepare and strengthen the relevant legislation, in the areas of activity of OLAF, including instruments which fall under Title VI of the Treaty on European Union.

OLAF is formally part of the Commission, enabling it to exercise Commission powers, but it is endowed with budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes two structures to reinforce OLAF's operational independence: guarantees associated with the post of OLAF's Director General, and the existence and powers of the Supervisory Committee

Legal Basis

The Community legal framework for the fight against fraud consists of provisions of the EC Treaty and several instruments of secondary law. OLAF was created and operates on the basis of these instruments: Primary law consists of Article 280 of the EC Treaty which establishes the legal basis for Community action against fraud. In addition, Article 274

establishes that the Commission is responsible for the implementation of the Community budget.

Secondary law includes Commission Decision 1999/352/EC/ECSC/Euratom which creates OLAF, and delegates to OLAF the Commission's powers to execute all operational activities relating to safeguarding Community interests against irregular conduct liable to result in administrative or criminal proceedings. Specifically, this Decision empowers OLAF to conduct internal (Community institutions, bodies, offices and agencies) and external (economic operators in the Member States) administrative investigations to detect fraud, corruption, and other illegal activities against the Community's financial interests, and to carry out investigative assignments in other areas at the request of Community institutions. In addition, it empowers OLAF to cooperate with the Member States in the field of fraud prevention; to prepare legislative initiatives in this field; to give technical support, in particular in the area of training, to the other Community institutions or bodies as well as to the competent Member State authorities; to maintain direct contact with national police and judicial authorities; to represent the Commission in the forums concerned.

EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999, confer on OLAF powers to conduct internal investigations and all of the Commission's powers to conduct external investigations. It provides that OLAF must conduct investigations with full respect for human rights and fundamental freedoms, including the principle of fairness, the rights of persons involved to express their views on the facts concerning them, and the principle that conclusions of an investigation may be based solely on elements that have evidential value. These Regulations provide that OLAF shall exercise the powers of the Commission in order to step up the fight against fraud, corruption and any other illegal activities detrimental to the Communities' financial interests.

OLAF conducts administrative investigations within the Community institutions, bodies, offices and agencies in conformity with EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999, concerning investigations conducted by OLAF. These Regulations specify that OLAF is also charged with investigating serious matters relating to the discharge of professional duties.

Other legislation applies such as Council Regulation (Euratom, EC) 2185/96 which empowers the Commission to conduct on-the-spot external investigations on the premises of economic operators who may have been involved in, or concerned by, an irregularity, when "there are reasons to think that irregularities have been committed," and when (1) they involve economic operators acting in several Member States, (2) the situation in a Member State requires such a check to be strengthened in a case, or (3) at the request of a Member State.

OLAF's powers and tasks are in three main areas: investigations and coordination, intelligence, and development of anti-fraud policy. While OLAF is empowered to conduct internal and external administrative investigations, it may also perform the coordination function by conducting assistance cases, coordination cases, and monitoring cases.

OLAF places priority on the development of effective cooperation with the Member States, in order to coordinate their activities. It offers assistance in conducting

investigations by providing them with information gathered at Community level, and coordinates operational actions of the national authorities in transnational cases. It maintains direct contact with national judicial, police, and administrative authorities. OLAF has established the Anti-Fraud Information Systems (AFIS), a secure network for corresponding with the Member States and providing mutual assistance.

It supplies Member States, Candidate Countries and third countries with the necessary support and multidisciplinary technical know-how to help them in their anti-fraud activities, and provides assistance with respect to specific operations, strategic analysis and risk assessment in order to target resources at the areas of greatest risk. In order to further arrangements for cooperation with new Member States and Candidate Countries an operationally independent Anti-Fraud Coordination Service ("AFCOS") has been established with responsibilities for both legislative and operational matters. OLAF cooperates closely with international organisations with parallel interests.

In addition to the three main functions, OLAF is responsible for a number of other activities, including implementation of Community legislation designed to ensure a coordinated approach within the EU and to assist the Member States in their investigations with regard to trade in sensitive products, mutual administrative assistance on customs and agriculture matters among the Member States, between the latter and OLAF and between the EU and third countries, management of the Customs Information System (CIS), and follow-up of the results of OLAF investigations and recovery in the field of direct expenditure following an OLAF investigation, including civil actions in national courts.

1.2. The OLAF Manual

The internal rules of OLAF are set out in the OLAF Manual, which was adopted by a Decision of the Director General in 2001. Experience and feedback from within the Office in using the criteria set out in the original version of the manual have helped fine-tune it to a professional standard for the conduct of administrative investigations at an international level. The second revised and comprehensive version of the OLAF Manual came into effect on 1 August 2003. As a living document, it is available to staff in an electronic version. Printed copies are circulated at regular intervals. For easier reference, the third version to be produced by the end of 2004 will include a summary of the main procedural requirements of the Manual and of the rights of persons concerned.

The Manual provides OLAF staff with the following guidance:

- Title I. Presentation of OLAF: this provides an overview of OLAF's legal and administrative framework, with emphasis on specific administrative issues.

- Title II. Operational working instructions: this sets out the operational priorities of the Office and outlines the casework procedures to be followed from assessment through to final case closure. A specific section regulates OLAF's approach on respect for the rights of concerned parties, with particular emphasis on the conduct of interviews.

- Title III. Information management: this sets out the procedures relating to internal and external communications, with emphasis on document access issues and information security policy.

- Five Annexes contain standardised forms, notes and letters in use on a daily basis; these are available to investigators electronically through the Case Management System (CMS).

Although this is an internal document, an important issue in the fight against fraud is the establishment of uniform standards for administrative investigations, and for this reason the Manual has been circulated amongst OLAF's international partners, such as the UN, OECD and the World Bank, and has received a positive response.

1.3. The Case Management System (CMS)

The CMS is OLAF's database containing all information on new, on-going and closed operational activities. It enables authorised personnel to track the progress of cases at all times during their lifecycle.

Initial information received by OLAF is registered as a unique case record in the CMS and undergoes three major stages of processing: assessment, investigation and follow-up. The initial assessment period runs from receipt of the initial information to the decision whether or not to open the case. This latter decision making process is explained in paragraph 1.4. The assessment procedure allows for OLAF's competent operational units to evaluate the veracity of the information and to produce reliable and transparent assessments using OLAF's information, intelligence, legal and judicial support capabilities where appropriate. The duration of the assessment varies, but overall OLAF has gradually succeeded in reducing the assessment period while producing more thorough assessments.

As the CMS is the primary source of OLAF operational statistics this reporting period has seen a considerable advance in developing and introducing new reporting tools to give managers greater flexibility in extracting relevant data. A new follow-up module was implemented in autumn 2003 to centralise data collection and maintenance of information relating to all types of follow-up. At the beginning of 2004 a new intelligence request module was introduced to facilitate the flow of information between the operational and intelligence domains, and to manage requests for intelligence support.

The success of these integrated technical improvements has led to further demand from other operational support areas. As a result CMS modules are currently being developed to support the work of the weekly Investigations and Operations Executive Board; to allow closer links between Mutual Assistance requests and OLAF investigations; and to record internal requests for legal advice. Ultimately, a full text search module on all operational documents will be developed to enhance intelligence support.

1.4. The Investigations and Operations Executive Board

The Investigations and Operations Executive Board meets on a weekly basis to provide opinions to assist the Director General in taking decisions relating to the treatment of cases. These decisions concentrate on each new major stage of the lifecycle of cases: opening cases; non-cases; changing case types; closing cases; opening new follow-up paths; closing follow-up. The Board consists of representatives from each Directorate and their respective units thereby ensuring a cohesive formal approach to each decision. The Board continues to be consulted for each new major stage of the lifecycle of the case and

where relevant keeps abreast of the external investigative, judicial and associated case partners.

Once a case has been opened and the operational activity has been completed in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage[3]. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up case is formally closed and any associated organs[4] or other parties are informed of the outcome.

If it is decided that there is no need to open a case, for whatever reason, then the case will be classed either as a monitoring case or a non-case. Where a national authority is better suited to investigate a particular matter, but where the information is deemed sufficiently interesting, for example for fraud proofing, OLAF may wish to follow-up on the matter and will designate this as a monitoring case.

As an exception to the formal Board procedure described, it was decided towards the end of the current reporting period to introduce a new category entitled "Non-Case Prima Facie". This relates to initial information that clearly does not relate to factors within OLAF's competence and can be closed as a Non-Case Prima Facie without the Board's formal procedure. For reasons of accountability and transparency, however, these cases are stored in the CMS.

[3] In some circumstances follow-up activities may take place before the formal closure of the investigation stage.
[4] Institutions, bodies, offices and agencies

2. OPERATIONAL ACTIVITIES

2.1. Overview of OLAF's first five years

The major trends of the first 5 years of OLAF can be summarized as follows:

- OLAF has drastically reduced the duration of the assessment phase of initial information since the 2000-2001 reporting period, from an average of 18 months for a total of 484 assessments to an average of 5 months for a total of 661 assessments.

- Applying stricter assessment procedures to incoming information has helped the Office to focus on the most relevant cases. While in 1999 initial information led in all cases to opening a case, this number has been steadily reduced over the years to less than 50% for the current reporting period.

- OLAF has also reduced the duration of the active stage of cases. In many instances, this is partly dependent on the prompt cooperation of national authorities, but nevertheless, since the peak in the 2001-2002 reporting period, the investigation phase has been reduced from an average of 33 months to an average of 22 months.

- At the same time the percentage of cases that were closed with a follow-up recommendation increased from 18% in 1999-2000 to just above 50% in the current reporting period.

- The total financial impact for all cases, UCLAF included, is estimated at € 5.3 billion[5].

- By the end of the 5-year period, OLAF had opened 341 judicial follow-up cases. 318 cases had been sent to national authorities. Twenty-one cases are currently subject to trial, a court has ruled in 19 cases, and 9 cases are under appeal.

- 20 OLAF cases have been sent to the disciplinary authority of EU institutions. The appointing authorities have taken a decision in 4 cases.

- The "Complementary Evaluation Report of the Activities of OLAF[6]" was established on 26 October 2004 and sent to the Council, the European Parliament and the Supervisory Committee.

2.1.1. The Legacy of UCLAF

OLAF inherited from its predecessor, UCLAF, a total of 1423 cases. During the first three years of its existence, OLAF examined all of the outstanding UCLAF cases, reclassified and handled them according to the new procedures established in the OLAF Manual (first version completed in 2001). A special Task Force "Old Cases" (TFOC) was created in December 2002 to re-examine cases which had been registered before March 2000 (the date on which the Director General of OLAF took office). Further cases were added to the original list of 212 cases. By the end of the reporting period 277 dossiers had been

[5] Financial impact data as estimated by the investigators at the end of an investigation.
[6] SEC (2004) 1370

analysed. While most of the cases were old UCLAF cases, the Director decided to add a number of pre-CMS OLAF cases in order to evaluate them under the new procedures. The TFOC's work was concluded in December 2003. Only 7 of the 277 cases analysed by the TFOC are still in the active stage.

Figure 1 shows how over the last five years OLAF eliminated the backlog of old UCLAF cases previously recorded in the IRENE system[7] which had not been assigned to a specific category and how concurrently the number of OLAF cases following the new nomenclature increased. Figures show the number of cases active in each group at the end of each OLAF year[8]. At the end of the current reporting period, all active cases belong to one of the 4 classes: internal investigations, external investigations, assistance cases or coordination cases.

Figure 1: Evolution of active OLAF/UCLAF Cases

Case Type	30/06/1999	30/6/2000	30/6/2001	30/6/2002	30/6/2003	30/6/2004
OLAF cases	30	38	367	594	641	511
IRENE cases	872	774	640	205	41	0
Total	**902**	**812**	**1007**	**799**	**682**	**511**

Figure 2 shows that OLAF closed 1202 UCLAF cases during the 5-year period, 319 (26%) of which were closed with follow-up. By the end of the current reporting period, operational work was complete for all but 7 UCLAF cases that had been reclassified in the meantime. However, follow-up activities continue to take up considerable resources, both for financial and judicial follow-up. At the end of the reporting period, 282 UCLAF cases were still in follow-up.

Figure 2: Closure of UCLAF Cases

Type of Closure	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
Follow-up	40	21	134	96	28	**319**
No Follow-up	154	265	372	69	23	**883**
Total	**194**	**286**	**506**	**165**	**51**	**1202**

[7] IRENE (IRrégularités, ENquêtes, Exploitation): Name given to UCLAF's database.
[8] From 1 July of each year to 30 June of the following year.

2.1.2. Evolution of OLAF's Operational Activities (July 1999 - June 2004)

Figure 3 gives a snapshot of all cases stored in the CMS and their stages at the end of the current reporting period (30 June 2004). The total number of case records stored in the Case Management System (CMS) is 3992 cases, including the 1423 UCLAF cases. The remaining 2569 records relate to cases created upon information received by OLAF between 1 June 1999 and 30 June 2004.

Figure 3: Distribution of cases according to the various stages

Assessment	Non Cases	Monitoring	Open	Closed without Follow-up	Follow-up	Follow-up completed	Total cases
182	714	71	511	1803	623	88	3992

Figure 4 shows the development of incoming information over the 5-year period. During the first year 322 new cases were created; a substantial increase to 589 cases occurred in the second year and this number remained stable for three years; last year saw a new peak with 637 new cases. This is an encouraging increase of 9%, and could be interpreted as an increasing confidence in the work and professionalism of the Office.

Figure 4: Information Received - New Cases Created

1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
322	589	588	585	637	2721

The decision to open a case or not is prepared by the Investigations and Operations Executive Board. The assessment period runs from receipt of the initial information to the decision whether or not to open the case. This procedure allows for a reliable and transparent assessment of incoming information. The duration varies, but overall OLAF has gradually succeeded in cutting the duration of the assessment period.

Figure 5 shows the development of the average duration of the assessment phase. Due to the change from UCLAF to OLAF and to the development and implementation of new procedures that took effect only in late 2000, the first reporting period (1999-2000) cannot be considered representative. In fact, only 36 assessments were completed during the first year; UCLAF did not have a formal assessment procedure. For the remaining 4 reporting periods there is a continuous decrease in the time needed to assess the initial information from 18 months in 2000-2001 to 5 months in the current reporting period. With respect to the number of assessments, a peak of 826 assessments was completed in 2001-2002 (including the reclassification of old cases), which reflects the major clean-up operation of the UCLAF legacy. Since then the number of assessments completed per year has stabilised at around 650 cases, but this number is expected to rise next year reflecting the greater amount of information received.

Figure 5: Duration of Assessment Phase

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Assessments completed	36	484	826	651	661
Average duration	6 months	18 months	15 months	10 months	5 months

Applying stricter assessment procedures to incoming information has helped the Office to focus on the most relevant cases. The evolution of the number of non-case decisions is a good indicator for both stricter assessment procedures and prioritisation. Figure 6 demonstrates that in 1999 all initial information (with only one exception) led to opening a case; this statistic has steadily reduced over the years to 272 out of 578 cases (47%) for the current reporting period. It also shows how the Office gradually introduced the new classification of cases as described in section 1.2, for example in 2000, the introduction of coordination and assistance cases: these two new case types constitute in the current reporting period 55% of all active cases (151/275); and in 2002, the introduction of monitoring cases.

Figure 6: Decisions taken at the end of the evaluation stage

Type of Decision	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
Internal investigations	9	47	43	30	24	**153**
External investigations	9	206	159	145	100	**619**
Coordination cases	n/a	73	142	86	103	**404**
Assistance cases	n/a	22	44	62	48	**176**
IRENE cases	109	166	152	54	0	**481**
Non cases	1	55	195	191	272	**714**
Monitoring cases	n/a	n/a	10	38	31	**79**
Grand Total	**128**	**569**	**745**	**606**	**578**	**2626**

Figure 6 also shows that the application of stricter assessment and verification criteria has led to a drop in the number of internal investigations for the last two years. After a peak of 47 internal investigations in the 2000-2001 period numbers have decreased to 24 cases in the current reporting period (cases relating to the "Eurostat" affair are included.). Figure 7 shows a similar picture for direct expenditure and external aid cases.

Figure 7: Number of Direct Expenditure and External Aid cases initiated

Sector	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
Direct Expenditure	**5**	**65**	**38**	**30**	**24**	**162**
External Aid	**10**	**66**	**94**	**70**	**41**	**281**

Old UCLAF cases focused on three principal areas where management of Community funds is shared between the Commission and Member States (structural funds, agriculture, own resources). Active cases relating to direct expenditure and external aid at that time represented less than 14% of the 1408 cases opened[9]. Figure 7 shows that of the 275 cases opened after assessment 65 are in direct expenditure and external aid; this is a percentage increase to almost 24%. Activities are thus shifting towards areas where Member States exercise no specific responsibility and OLAF is the principal actor, or even the only administrative authority engaged in the fight against fraud.

Where Member States share responsibility, more joint action with the relevant services of the Member States should be encouraged. The number of assistance, coordination and monitoring cases stored in CMS is a good and positive indicator on how cooperation with the Member States has evolved over the years.

Figure 8 below shows that cooperation with the Member States in the traditional areas, such as customs, agriculture and structural actions – as measured by the number of coordination, assistance and monitoring cases - has improved substantially over the 5-year period. While in the 2000-2001 period, external investigations accounted for 53% of cases in these domains today they account for only slightly less than 27% of all cases. This is a very promising result for the future, as these cases involve not only regular meetings with the Member States but also the participation of the Member States' investigators in OLAF investigations and of OLAF investigators in national investigations.

Figure 8: Cooperation with Member States in the field of agriculture, customs (including alcohol, cigarettes, drug precursors and VAT) and structural funds

Case type	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Grand Total
Coordination cases	n/a	73	140	86	93	**392**
Assistance cases	n/a	15	26	38	22	**101**
Monitoring	n/a	n/a	7	12	18	**37**
Total	**0**	**88**	**173**	**136**	**133**	**530**
	0%	47%	69%	66%	73%	
External cases	**4**	**101**	**76**	**70**	**49**	**300**
	100%	53%	31%	34%	27%	
Grand Total	**4**	**189**	**249**	**206**	**182**	**830**

Figure 9 shows the development of the average duration of the active stage of cases. Here too, there has been continuous improvement since the peak of 747 cases closed in 2001-2002 with an average duration of 33 months. This peak was also caused by a major clean-up operation of the UCLAF legacy, with relatively longer average active stage periods. Within two years, OLAF has succeeded in reducing the average active stage phase from 33 months to 22 months.

[9] Complementary Evaluation Report of OLAF

Figure 9: Duration of Active Stage of Cases

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Cases completed	217	319	747	492	443
Average duration	29 months	26 months	33 months	26 months	22 months

The statistics on duration for both assessments and active stage must be interpreted with care, as they only refer to assessments/investigations closed – they do not include estimates for the assessments/active stage that were still ongoing at the end of the respective reporting period.

Figure 10 shows the number of cases closed with/without a follow-up recommendation. In percentage terms follow-up recommendations have increased steadily from 18% in 1999-2000 to slightly more than 50% in the current reporting period.

Figure 10: Cases closed with/without follow-up at end of active stage

Type of Closure	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
Follow-up	40	24	209	220	209	**702**
No Follow-up	181	372	546	271	234	**1604**
Total	**221**	**396**	**755**	**491**	**443**	**2306**

Figure 10 shows all cases, including the cases inherited from UCLAF. A comparison of this figure with Figure 2 demonstrates that during the first three years more than two-thirds of OLAF's operational results concerned UCLAF cases, and that only during the last two years has this percentage reduced to 33% and 11% respectively.

Figure 11 summarises the evolution of follow-up activities. It should be noted that a case in follow-up might require several different follow-up activities, for example administrative, financial and judicial follow-up, or disciplinary and judicial follow-up. There is therefore, a considerable difference between the number of cases in follow-up and the number of follow-up activities. OLAF has launched a total of 1045 follow-up activities, nearly half of which are financial follow-up, another 40% concern judicial follow-up, and close to 10% concern administrative follow-up. Internal investigations have led to 25 distinct disciplinary follow-up activities.

Figure 11: Cases closed with Follow-up by Type

Type of Closure		1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Cases closed with follow-up		**40**	**24**	**209**	**220**	**209**
Related Follow-up Activity	Administrative		4	19	27	44
	Disciplinary	1	2	8	7	7
	Financial	33	17	163	160	139
	Judicial	10	11	98	147	140
	Legislative			1	2	5
Total		**44**	**34**	**289**	**343**	**335**

A new category of cases, the monitoring case was introduced in 2002. A monitoring case is a case where OLAF has the legal power to open an external investigation, but for which a national authority is in a much better position to investigate. Such cases are transferred to the competent national authorities, but as interests of the European Union are at stake, OLAF requests regular information about progress. In OLAF's terminology, monitoring cases are a special type of follow-up. Figure 12 summarises the evolution of the number of monitoring cases and the related follow-up activities.

Figure 12: Monitoring cases created and Type of Follow-up

Type of Closure		1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Monitoring Cases		**n/a 0**	**n/a 0**	**10**	**38**	**31**
Related Follow-up Activity	Administrative	0	0	3	9	8
	Financial	0	0	6	18	14
	Judicial	0	0	4	19	16
Total		**0**	**0**	**13**	**46**	**38**

Follow-up is in most cases the responsibility of the national authorities to whom the dossier was sent. Figure 13 shows that number of cases for which follow-up is completed and the type of follow-up concerned. There is an increase from 4 cases in 2000-2001 to 73 cases in 2003-2004 with follow-up completed.

Figure 13: Completion of Follow-up by Type

Type of Closure		1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
Cases with follow-up completed		**0**	**0**	**4**	**10**	**73**	**87**
Type of Follow-up Activity Closed	Admin.	0	0	0	3	9	**12**
	Financial	0	0	3	8	50	**61**
	Judicial	0	0	2	4	27	**33**
	Legislative	0	0	0	0	2	**2**
Total Follow-up Activities		**0**	**0**	**5**	**15**	**88**	**108**

Finally, Figure 14 illustrates the accumulated estimated[10] financial impact in € million of all cases by stage[11] and by sector.

Figure 14: OLAF cases by stage with financial impact at 30/06/2004

Sector	Open	Closed	Total
Agriculture	61.8	188.8	250.6
Alcohol	0	179.8	179.8
Anti-corruption	5.3	47.0	52.3
Cigarettes	441.3	855.7	1.296
Customs	238.0	424.6	662.6
Direct expenditure	35.6	79.8	115.4
ESTAT	0	3.1	3.1
External aid	37.6	140.2	177.8
Multi-Agency	0	0.1	0.1
Structural Funds	332.7	924.2	1.256.9
Trade	0.3	934.7	935.0
VAT	185.2	224.3	409.5
Total	**1372.8**	**4001.3**	**5339.1**

[10] Financial impact data as estimated by the investigators at the end of an investigation.
[11] **"Open"** corresponds to the number of cases at the investigation phase (admitted by the Investigations and Operations Executive Board after the assessment phase). **"Closed"** corresponds to the number of cases closed with or without follow-up and monitoring cases.

2.2. Operational Activities in the Reporting Period (July 2003-June 2004)

During the current reporting period OLAF received 669 reports of alleged fraudulent activity. Assessment and identification of duplicate information led to the registration in CMS of 637 new case records. This reflects a 9% increase over last year.

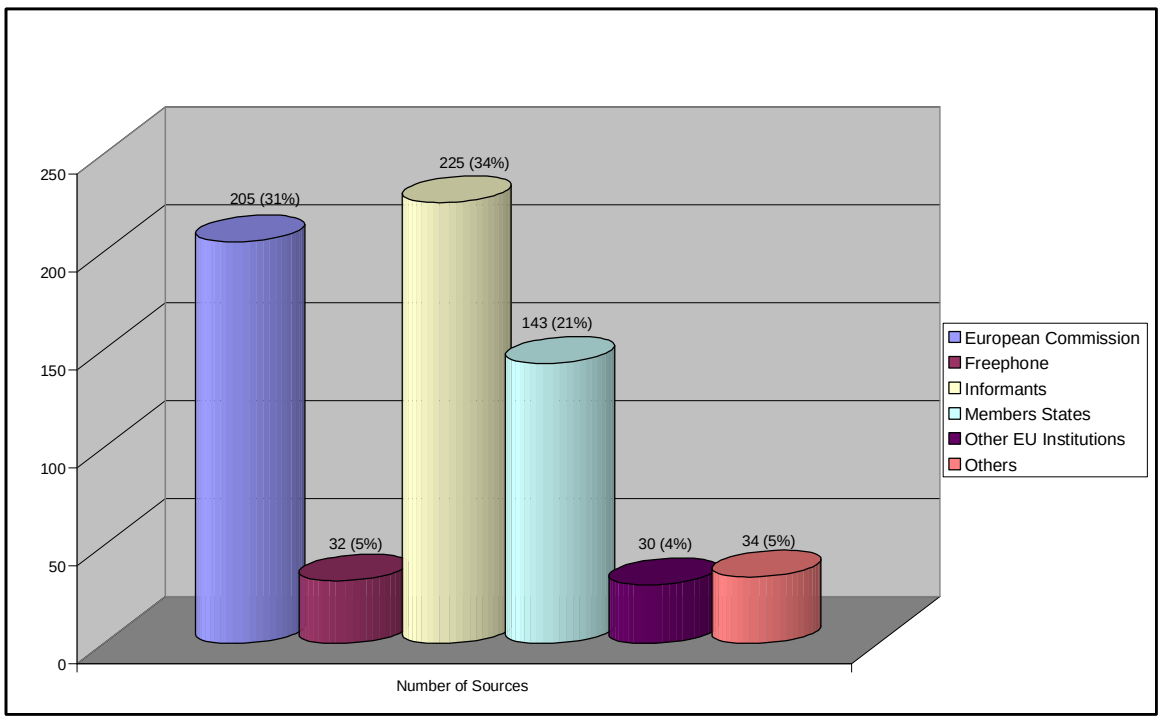
As promised in last year's report, OLAF has improved its system of recording of incoming information so as to produce data on the sources of information. The single most important source of information are informants (34% of the total) closely followed by Commission services (31%). Information received from the Commission services and from the Member States increased by 18% and 22% compared to last year.

Informants are generally defined as being individuals who provide information concerning a matter within the legal competence of OLAF. This category can be broken down into four further sub-sectors; witnesses; informants; anonymous, media and trade sources; whistleblowers.

At the end of the reporting period, OLAF had five active cases where the primary source of information was a whistleblower. A whistleblower is defined as an official of a Community organ who, in the course of or in connection with the performance of his duties, becomes aware of facts which indicate either possible illegal activity falling under the competence of OLAF, or serious failure by an official to comply with his professional obligations, and who then reports these facts to OLAF.

The sources of registered incoming information are displayed in Figure 15 below.

Figure 15: Distribution of incoming information by source



The geographical spread of fraudulent activities as determined by new case records is shown in the following figures. Towards the end of the reporting period the Union was enlarged to 25 countries. For better comparability the following 2 figures have been kept in line with last year's report. Figure 16 shows the distribution of new case records by the original 15 Member States.

Figure 16: Distribution of new case records from the reporting period by Member State

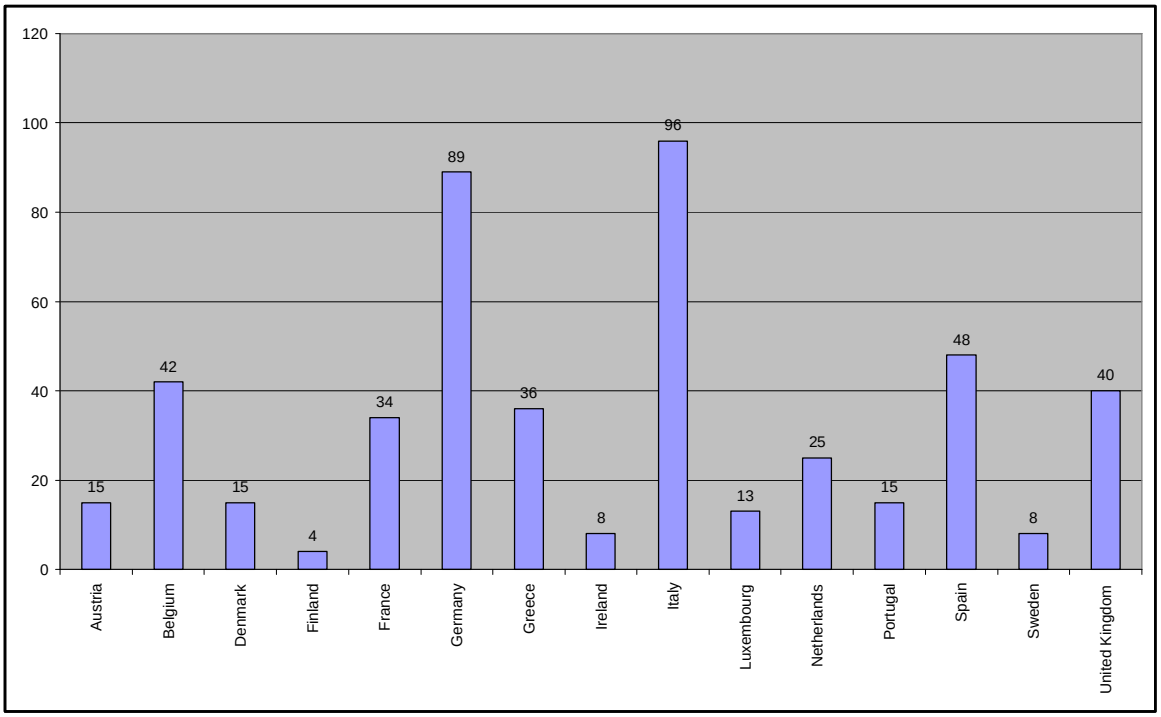


Figure 17 shows the new case records that have been created during the reporting period by new Member States and Candidate Countries. The number of cases for the new Member States has increased from 65 last year to 74 this year (an increase of 14%). The number of new case records relating to the three Candidate Countries fell from 60 last year to 45 this year. This decrease was caused almost exclusively by a reduction in new case records from Romania from last year's high point of 49 to this year's 33 cases.

Figure 17: Distribution of new case records from the reporting period for new Member States and Candidate Countries

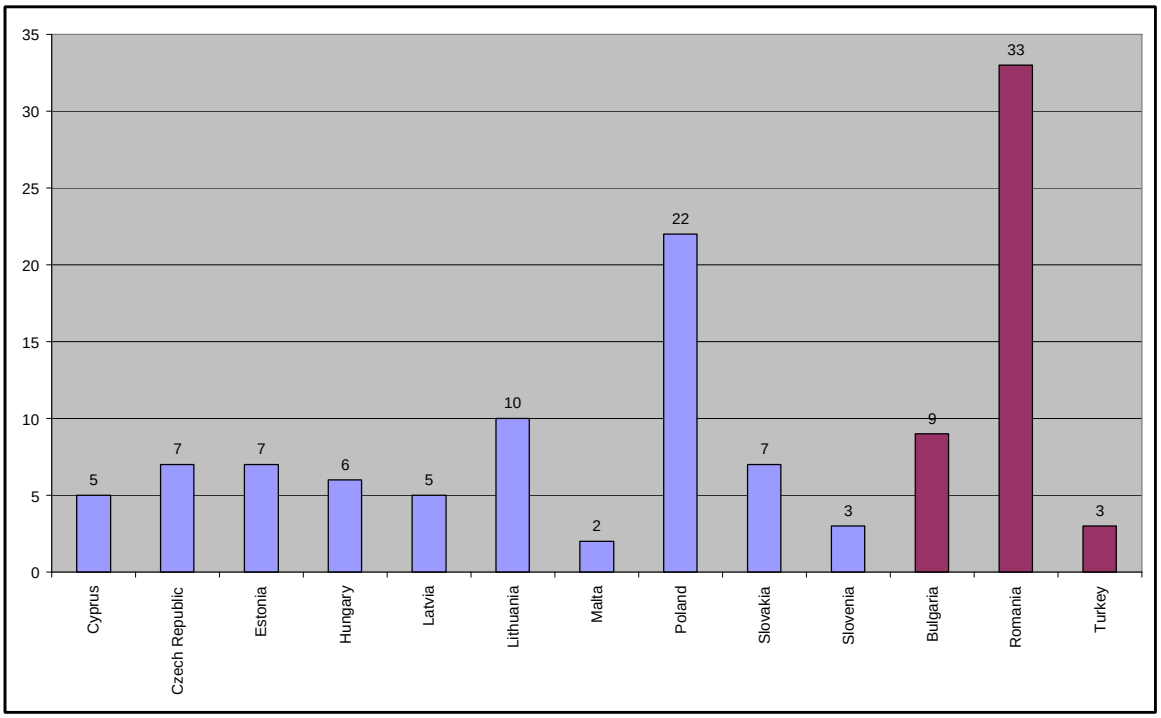


Figure 18 shows new case records by third countries. The total number of cases has risen from 210 last year to 225 this year (an increase of 7%). The most notable change compared to last year is the increase of "Other European Countries" from 18% to 25%.

Figure 18: New case records from the reporting period by geographical region

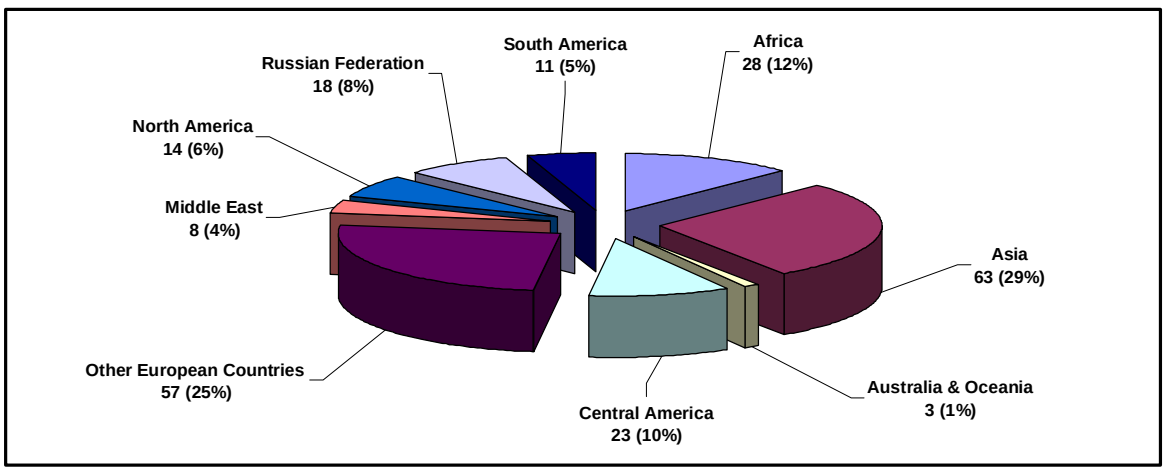


Figure 19 shows the 637 new case records by sector. The spread of cases is broadly similar to last year. The biggest percentage change relates to the Agriculture sector, where the number of new case records rose from 95 (17%) last year to 142 (23%) this year.

Figure 19: New case records from the reporting period by OLAF sector

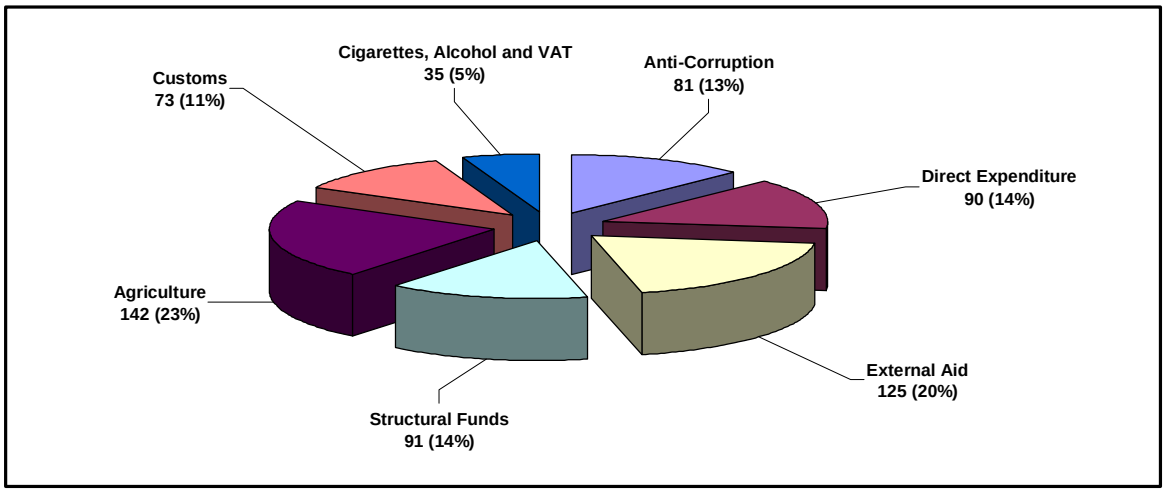
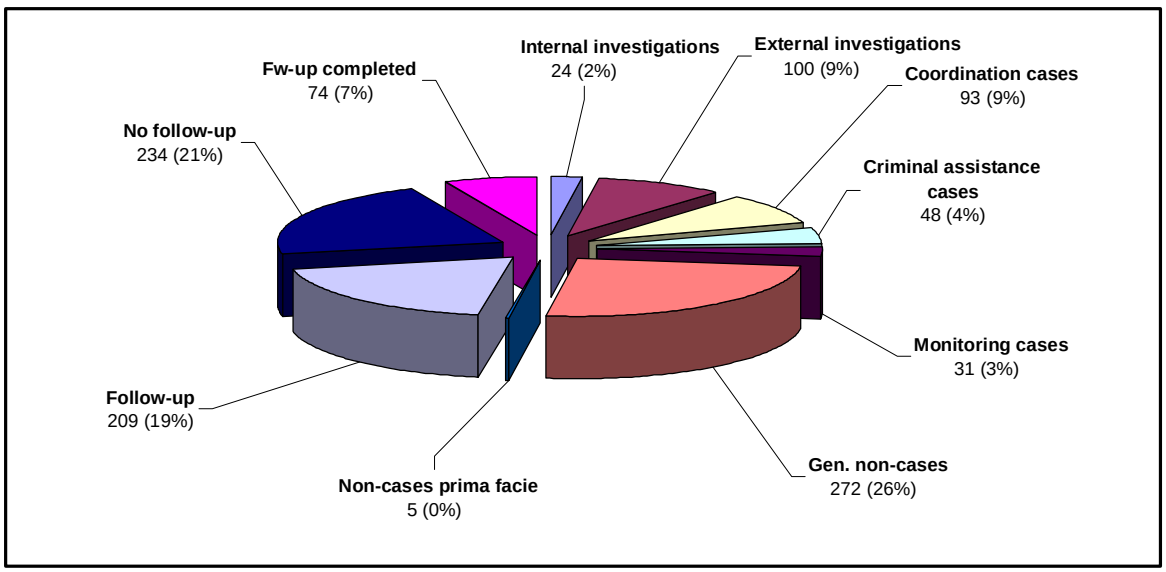


Figure 20 below shows the opening and closing decisions taken during the course of the reporting year. The impact of improved prioritisation has continued this year with the total number of non-cases climbing to 277 (26.5%) compared to 190 (17%) last year. The number of completed follow up cases rose from 10 (1%) last year to 74 (7%) this year. Figure 20 also shows a new category of cases, the "Non-Case Prima Facie" that was introduced in chapter 1.

Figure 20: Decisions taken during the reporting period



The following two figures give the details of all opening and closing decisions by sector and type of cases. Figure 21 confirms the high percentage of coordination and assistance cases for the traditional sectors, agriculture and customs, cigarettes, alcohol and VAT. In fact, all new precursor cases, 66% of all new customs cases and 65% of all new agriculture cases are coordination cases, and all VAT cases are either coordination or assistance cases.

Figure 21: Opening Decisions taken during the reporting period

Major Sector	Internal Inv.Cases	External Inv.Cases	Coord. Cases	Assistance Case	Grand Total	Monitor. Cases	Non Cases
Agriculture		17	38	4	**59**	**14**	**44**
Alcohol			1		**1**		**0**
Anti-Corruption	17			4	**21**		**22**
Cigarettes		1	10	4	**15**		**0**
Customs		13	28	2	**43**	**1**	**29**
Direct Expenditure		17		8	**25**	**2**	**58**
ESTAT	7	1			**8**		**1**
External Aid		27		13	**40**	**11**	**72**
Multi Agency		6		1	**7**		**0**
Precursors			16		**16**		**0**
Structural Funds		18	5	8	**31**	**3**	**41**
VAT			5	4	**9**		**5**
Grand Total	**24**	**100**	**103**	**48**	**275**	**31**	**272**

Figure 22 shows the final result of OLAF cases by sector. More than half[12] of the investigations in agriculture, customs and VAT end with a follow-up recommendation. This figure shows also that two-thirds of internal investigations end without follow-up.

Figure 22: Cases closed during the reporting period

Major Sector	Follow-up	No follow-up	Grand Total
Agriculture	32	25	**57**
Alcohol	1	1	**2**
Anti-Corruption	16	34	**50**
Cigarettes	9	15	**24**
Customs	41	46	**87**
Direct Expenditure	31	15	**46**
EUROSTAT	4		**4**
External Aid	30	38	**68**
Multi Agency		1	**1**
Precursors		8	**8**
Structural Funds	28	33	**61**
Trade	8	12	**20**
VAT	9	6	**15**
Grand Total	**209**	**234**	**443**

[12] Excluding monitoring cases.

Figure 23 shows for each sector how many cases were active at the end of the current reporting period. Internal and external investigations account for slightly more than 50% of the active caseload.

Figure 23: Active cases by type and cases in evaluation as at 30/06/2004

Major Sector	Internal Inv.	External Inv.	Coord. Cases	Assist. Cases	Total		Evaluations
Agriculture	0	24	53	12	89		27
Alcohol	0	0	1	0	1		1
Anti-Corruption	44	0	0	4	48		34
Cigarettes	0	3	37	8	48		3
Customs	0	43	41	0	84		12
Direct Expenditure	1	36	0	10	47		27
EUROSTAT	8	2	0	0	10		4
External Aid	0	62	1	14	77		37
Multi Agency Inv.	0	5	0	1	6		0
Precursors	0	0	11	0	11		0
Structural Funds	0	39	7	13	59		37
Trade	0	2	2	1	5		0
VAT	0	0	18	8	26		0
Grand Total	**53**	**216**	**171**	**71**	**511**		**182**

Finally, Figure 24 gives a snapshot of all active cases (in assessment or investigation) at the end of the reporting period for all Member States, new Member States and Candidate Countries by sector concerned.

Figure 24: Active Cases by Member State, New Member State and Candidate Country concerned and by Sector

Status of Country	Country Involved	Agriculture	Alcohol	Anti-Cor.	Cigrttes	Customs	Dir. Exp.	ESTAT	Ext. Aid	Multi Agency	Precursors	Str. Funds	Trade	VAT	Total
Member State	**Austria**	2	0	2	3	3	3	0	2	0	0	1	0	5	**21**
	Belgium	5	0	33	20	3	10	2	3	0	0	3	2	8	**89**
	Denmark	1	1	1	2	5	0	0	0	0	2	0	0	6	**18**
	Finland	3	0	0	1	1	0	0	0	0	0	1	0	0	**6**
	France	19	0	2	7	6	6	0	3	0	1	6	2	4	**56**
	Germany	18	0	1	14	23	14	0	3	0	2	17	1	12	**105**
	Greece	9	0	0	6	4	3	0	1	0	0	10	0	1	**34**
	Ireland	6	0	1	2	2	2	0	0	0	1	1	0	1	**16**
	Italy	25	1	8	8	11	12	0	8	0	0	22	2	18	**115**
	Luxembourg	0	0	4	0	3	1	11	2	0	1	0	0	1	**23**
	Netherlands	14	0	1	12	13	1	0	0	0	0	5	2	9	**57**
	Portugal	6	1	0	1	5	2	0	1	0	0	8	0	2	**26**
	Spain	18	0	1	11	12	8	0	2	0	1	15	0	7	**75**
	Sweden	0	1	0	3	2	0	0	0	0	0	0	0	4	**10**
	United Kingdom	10	0	2	13	8	6	0	5	0	4	8	0	8	**64**
	Net Total	***100***	***2***	***53***	***44***	***58***	***61***	***13***	***26***	***0***	***11***	***95***	***4***	***25***	***492***
New Member State	**Cyprus**	2	0	0	7	0	0	0	0	0	1	0	0	0	**10**
	Czech Republic	1	0	1	1	0	1	0	5	0	0	0	0	0	**9**
	Estonia	3	0	0	2	1	0	0	2	0	0	0	0	0	**8**
	Hungary	2	0	0	0	1	1	0	2	0	0	0	0	0	**6**
	Latvia	1	0	0	3	1	0	0	0	0	0	0	0	0	**5**
	Lithuania	3	0	0	3	1	2	0	3	0	1	0	0	0	**13**
	Malta	1	0	0	0	0	0	0	0	0	0	0	0	0	**1**
	Poland	2	0	1	4	3	1	0	6	0	0	0	0	0	**17**
	Slovakia	0	0	1	1	1	0	0	7	0	0	0	0	1	**11**
	Slovenia	3	0	0	5	1	0	0	0	0	0	0	0	0	**9**
Candidate Countries	**Bulgaria**	2	0	0	2	4	1	0	2	0	1	0	0	0	**12**
	Romania	2	0	0	1	1	1	0	15	0	0	0	0	0	**20**
	Turkey	1	0	0	0	3	0	0	0	0	0	0	0	0	**4**
	Net Total	***21***	***0***	***3***	***21***	***13***	***7***	***0***	***40***	***0***	***3***	***0***	***0***	***1***	***109***

2.2.1. Eurostat Task Force

In July 2003, OLAF created a new investigation unit: the Eurostat Task Force charged with conducting all internal and external casework and connected cases related to Eurostat and other Commission Directorates General directly involved, from the assessment of the initial information to the investigation to judicial and disciplinary follow-up. This new unit cooperates closely with the present Eurostat management. During the reporting period, the Task Force dealt with 14 cases: 4 external and 10 internal, 9 of which are still ongoing. It completed 5 final reports, currently at the follow-up stage, two of which were forwarded to the judicial authorities in Luxembourg and three to the judicial authorities in France. Four cases were recommended for financial recovery procedures; three of these were also recommended for possible disciplinary action. An analysis of the Eurostat cases by type of allegation shows that the majority concern "Tender/Grant Procedures" (70%), followed by "Management of Community Funds" (20%) and "Professional Conduct" (10%).

2.2.2. Internal Investigations

At the end of the reporting period, 48 internal investigations (in addition to those linked to Eurostat) were open, compared to 75 at the end of the previous reporting period. This reduction can be explained by the stricter criteria used to assess incoming information during this period. However, there was an increase in the number of cases pending assessment at the end of the reporting period: 34 in June 2004, most of which dated from less than 4 months, as opposed to 24 cases under assessment in June 2003.

During the reporting period OLAF conducted internal investigations[13] in the majority of the European Community organs, with 81 new case records registered in the CMS and 24 new investigations opened. Figure 25 confirms that as the Commission carries out the vast majority of financial transactions within the EU Institutions, it inevitably accounts for the large majority of initial allegations and also of internal investigations[14].

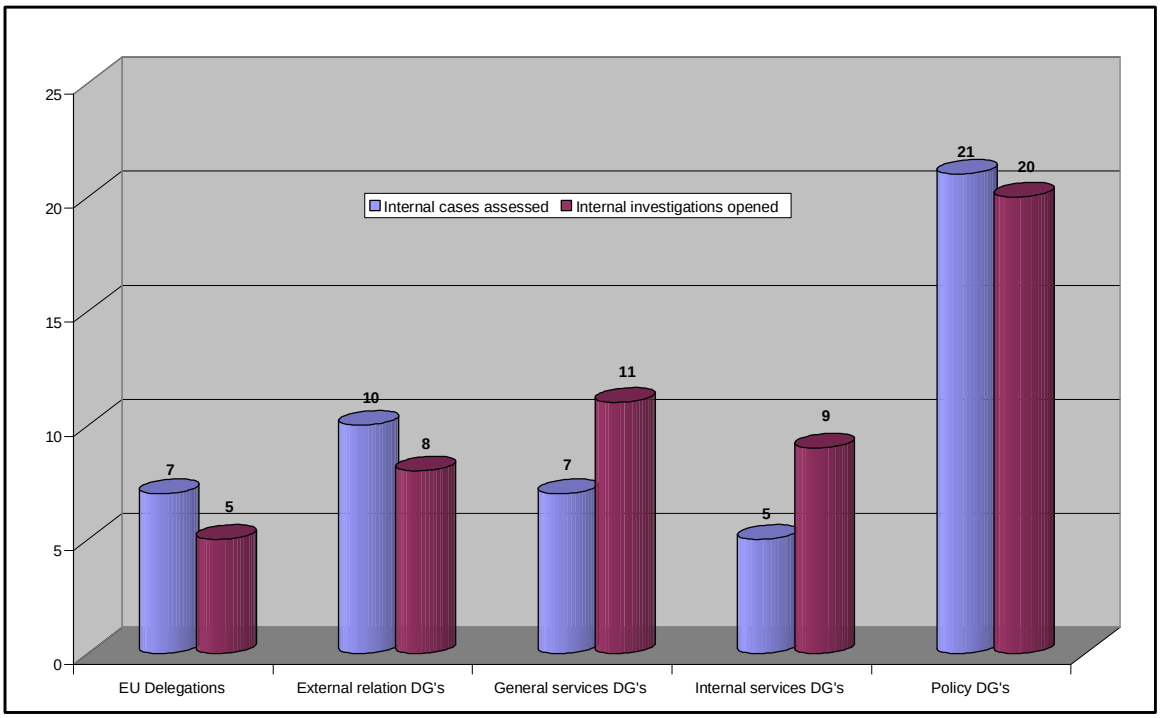
[13] The following figures do not include Eurostat cases, which have been dealt with in chapter 2.2.1 above.
[14] More than one Institution may be concerned by an assessment/investigation.

Figure 25: Anti-Corruption cases in evaluation and in active stage at the end of the reporting period

EU Institution	Evaluations	Active Investigations	Grand Total
Committee of the Regions	2	0	2
Council	1	2	3
Court of Auditors	0	1	1
EU Agencies	2	0	2
Economic and Social Committee	0	1	1
European Commission	18	38	56
European Commission – Multiple DG	2	4	6
European Commission/Agency	1	0	1
European Investment Bank	1	0	1
European Parliament	1	2	3
Unspecified	6	0	6
Others	0	1	1
Grand Total	**34**	**49**	**83**

Figure 26 illustrates for the reporting period the number of internal cases assessed and internal investigations opened by Commission Service: Policy DGs, External Relation DGs, General Services DGs, Internal Services DGs, Agencies and EU delegations[15]. Several allegations and investigations relate to more than one Commission Service.

Figure 26: Distribution of internal cases assessed and investigations opened by Commisson services concerned



[15] The first four groups follow the description of the Commission Services on the EUROPA Website. Further subdivision into agencies and EU delegations follows a request by the European Court of Auditors.

Figure 27 shows the internal investigations cases by domain. The main category is "Tender/Grant Procedures" at 54%. The remainder relate to "Management of Community Funds" (15%), "Remuneration and Allowances" (13%), "Professional Conduct" (8%), "Recruitment and Promotion" (6%) and "Administration of Internal Market" (4%). An increasing number of cases have been referred to the judicial authorities of Member States, mainly reflecting the elimination of a backlog relating to one specific area of business.

Figure 27: Internal investigations cases open at the end of the reporting period by domain

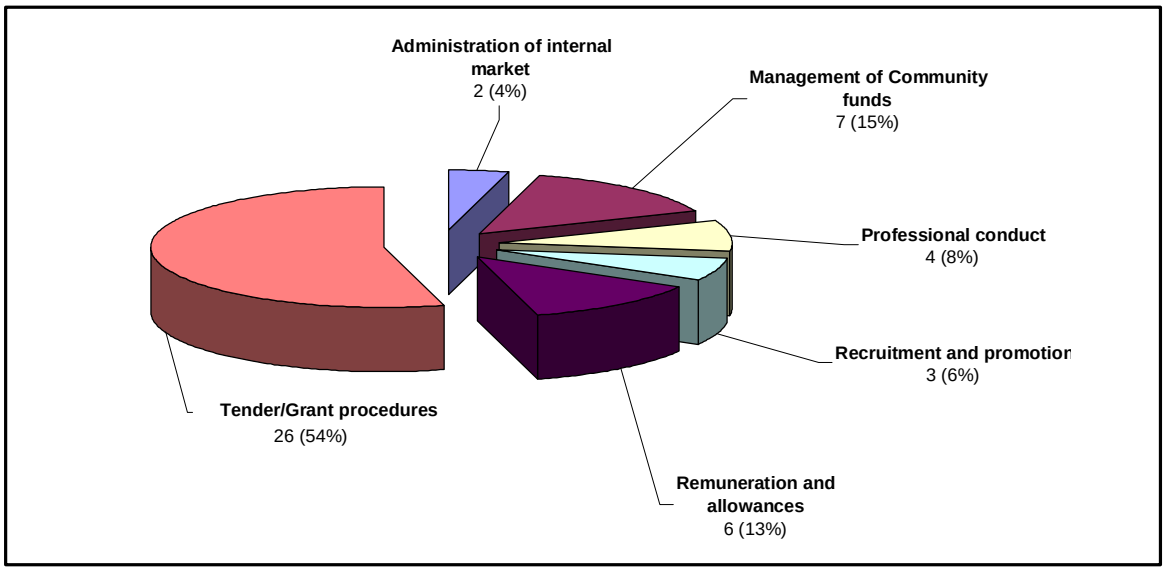
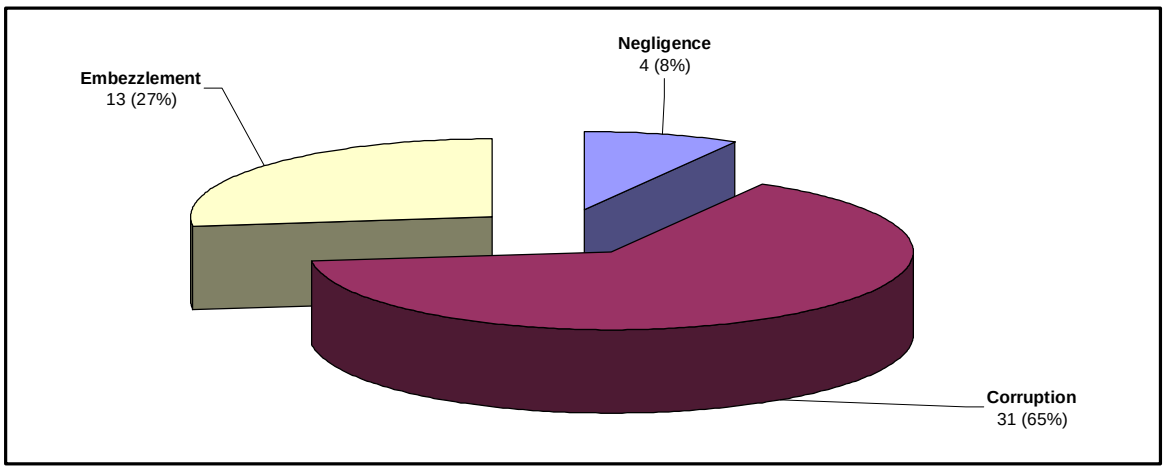


Figure 28 shows internal investigations cases by type of allegation. OLAF has identified three major allegations giving rise to internal investigations; the most prevalent is corruption, which accounts for 31 (65%) of 48 cases.

Figure 28: Internal investigations cases open at the end of the reporting period by allegation



Case Study: Mismanagement of a Contract

The European Commission invited tenders for the design and supervision of construction of nine school buildings as part of an aid programme for African, Caribbean and Pacific (ACP) countries, funded by the European Development Fund. A European firm ("the consultant") was awarded the contract. The performance of the contract was to be supervised by the EC Delegation in the ACP territory concerned.

Initial information received by OLAF indicated the possibility of corruption of a member of the Delegation by the contractor, as well as of mismanagement of the contract. OLAF opened both an external investigation case into the conduct of the contractor and an internal investigation case into that of the relevant officials. OLAF obtained relevant documentation and conducted interviews of the relevant officials. The suggestion of corruption was not substantiated by the investigation. However, evidence obtained by OLAF suggested that Delegation staff were negligent in supervising the contract, in that they took no effective action to require the contractor to perform the contract in accordance with the representations it had made, in spite of clear indications that it was failing to do so.

In addition OLAF obtained evidence of a possible conflict of interest on the part of an official of the Commission, who was appointed during the running of the contract to take over aspects of the dossier, in that the official had a long-standing friendship with a director of the consultant. OLAF also found evidence suggesting that this official offered advice to the consultant, that the official provided replies to the consultant which conflicted with the Delegation's policy and on at least one occasion the official passed a draft letter to the consultant.

On completion of its investigation OLAF passed its final case report to the Investigative and Disciplinary Office of the Commission (IDOC) to enable consideration to be given to appropriate disciplinary measures in relation to the officials of the Delegation and to the Commission official mentioned above.

Case Study: Favouritism

In November 2002 OLAF received documentation indicating possible misuse of Community funds in the EC Representation in a Member State. The indications contained in the documentation were principally of improper benefits obtained by officials and of favouritism shown by them towards particular outside parties.

On the basis of an evaluation, OLAF opened an internal investigation case. OLAF investigators conducted missions to the Representation concerned, firstly, in order to secure documents and electronic information and, subsequently, to carry out interviews with relevant parties. In the course of the investigation 18 interviews were held.

OLAF's investigation uncovered misleading declarations of expenses on the part of one official, as well as irregularities in the treatment of the Representation's confidential information. In addition, OLAF found that certain officials appeared to have had a conflict of interest in that they participated in juries for the selection of candidates with whom they were connected.

OLAF's final case report was passed to the Commission with a recommendation to undertake measures to recover the loss resulting from the misstatement of expenses. In addition it was recommended that the responsible Directorate General improve the financial administration of the Representation. The competent judicial authorities have also been informed of certain facts discovered.

Case Study: Unjustified allowances

OLAF received information from a Directorate General of the Commission which raised two separate allegations against an agent employed by an agency.

The first allegation was that the agent had favoured a particular consortium in the award of a contract for a major infrastructure project, by giving advice to the contractor on preparation of the tender document. OLAF's investigation found strong indications that this was the case, although no direct evidence of benefit received by the agent was discovered. As a result, OLAF passed the relevant documentation to the judicial authorities of the member-state within which the consortium was based, to enable consideration to be given to opening a criminal investigation.

The second allegation was that the agent had submitted false documents to the Commission in support of claims for child and education allowance and to confirm the agent's work experience, so as to enable the agent to receive a higher grading. It was found that the agent had wrongly claimed an amount in excess of € 20 000 in allowances. This was reported to the Agency, which recovered the amount by deducting it from the agent's severance grant.

The allegation concerning the falsification of experience was reported to IDOC and to the Commission's Office for Individual Entitlements (PMO). The matter was also reported to the judicial authorities in the Member State in which the agent had been based.

Case Study: Alleged Collusion

In July 2001 OLAF received information from an informant of possible misconduct in a Directorate General. The allegation was that a contractor had failed to observe safety rules in relation to a maintenance contract for construction works. The official responsible for managing this contract was named in the allegation. OLAF opened an internal investigation into the matter. In July 2003 the responsible Directorate General informed OLAF of a suspicion of favouritism by the same official, in relation to a contract for road works. OLAF incorporated the new information into the existing investigation.

It was found in the course of the OLAF investigation that the official concerned had for a substantial period played a dominant role in awarding and managing framework contracts in this area. Numerous irregularities in relation to these contracts were discovered, indicating collusion between the official in allowing contractors to alter contract terms after signature, to submit excessive invoices and to carry out private work for the benefit of the official. On completion of the OLAF investigation, the matter was passed to the national judicial authorities.

2.2.3. Enlargement Investigation/Operational Activities

The enlargement of the European Union to include another ten Member States took place near the end of the period covered by this Report. All of OLAF's activities took account of this expansion across all sectors as a priority horizontal area. Chapter 5 makes reference to the variety and depth of training, support and assistance provided by OLAF to the Anti-Fraud Coordination Services (AFCOS) and to their partner institutions in parallel to the execution of operational activities in consultation with the AFCOS.

By the last day of the reporting period as indicated in Figure 24, 18% of all active cases concerned new Member States and Candidate Countries, primarily in the area of external aid followed equally by cigarettes and agriculture. This mirrors the overall balance of the Office's activities towards the emphasis on direct expenditure as a high risk area of the Community budget.

Figure 29 shows for new Member States and Candidate Countries how many cases moved into investigation during the reporting period by sector. It highlights the importance of external aid cases in relation to Romania.

Figure 29: New active cases by new Member States/Candidate Country and by sector

Country involved	Agricu-ture	Anti-Cor.	Cigarettes	Customs	Direct Exp.	External Aid	Precursors	VAT	Grand Total
Bulgaria	1		1	1		2	1		**6**
Cyprus	1		1				1		**3**
Czech Rep.	1		1			3			**5**
Estonia	1		1	1		2			**5**
Hungary	2			1	1				**4**
Latvia			2						**2**
Lithuania	1					2	1		**4**
Poland	1	1	2		1	3			**8**
Romania				1	3	7			**11**
Slovakia		1	1			2		1	**5**
Slovenia	1								**1**
Turkey				1					**1**

Recognising this and thanks to the appointment of a Romanian speaking investigator in OLAF and to regular operational meetings in Brussels and in Bucharest, a good level of mutual cooperation has been reached with the Romanian AFCOS and also with the judicial authorities in charge of prosecution for corruption at national level. The exchange of information tends to enrich the investigations carried out by both Romanian AFCOS and OLAF.

Case study: Leonardo da Vinci Project

As a result of information received from the Romanian AFCOS that a project carried out in the framework of Leonardo da Vinci programme did not comply with the agreed guidelines, OLAF opened an assistance case to co-operate with the Romanian Government's Control Department and with the judicial authorities who had issued an

international arrest warrant. The suspect was prosecuted for offences of fraud, forgery and forgery usage. OLAF's primary role was to offer coordination assistance to DG EAC and BUDG and to the Romanian authorities in particular.

Case study: Call for Tenders

On the basis of information received from the EC delegation in Romania, a case was opened to investigate problems in relation to two contracts for which the design and treatment process varied from the offer and accepted tender. OLAF began to investigate this matter and is continuing in full cooperation with the Romanian administrative and judicial authorities.

In the Customs area OLAF has long established contacts, particularly in the cigarettes area; the competent services of the Member States were trained in the use of and connected to AFIS terminals by June 2004 to facilitate exchange of customs information; all new Member States' competent services are partners in Marinfo, a multi-national cooperation arrangement; representatives from intelligence and investigation services of new Member States have carried out internships in OLAF.

Case Studies: Cigarette Smuggling into the EU

Lithuanian Customs informed OLAF about a suspect container coming from the Russian Federation destined for an unknown Northern European port. This led OLAF to alert all possible ports' customs offices. Belgian Customs subsequently reported that they had detected the container in which about 1 million cigarettes had been concealed in a double wall.

A Lithuanian national was arrested in Latvia on a Belgian international arrest warrant. The Belgian Judge was able to base this warrant on specific information received from OLAF which OLAF requested from partner contacts in Lithuania. The person in question has been extradited to Belgium and is allegedly involved in a case involving the smuggling of alcohol contaminated by methanol. This alcohol caused the deaths of 13 people in Norway, and OLAF organised several meetings with the authorities from Sweden, Norway, Belgium and Eurojust in order to ensure a successful outcome to the case.

2.2.4. Direct Expenditure and External Aid

OLAF plays the leading role in the investigation of direct expenditure and external aid cases, since these concern expenditure managed wholly by the Commission and other EU Institutions and bodies, such as the European Investment Bank (EIB), rather than by Member States. OLAF's internal organisation was improved in November 2003 in order to handle respectively those cases which are related to direct expenditure within the EU and the PHARE and TACIS programmes, and all other external aid programmes.

This change in internal organisation has enabled a new proactive strategy to identify high risk areas in relation to the TACIS programmes. In line with OLAF's strategic risk assessment and ongoing intelligence support, small groups of investigators are increasing their specialist knowledge on the specific regions and economic operators benefiting from

the TACIS programmes, particularly in public procurement, allocation and execution of contracts.

Active progress is continuing towards a close working cooperation with the competent Commission services, such as DGs EAC, RTD, ECFIN, AIDCO and RELEX and with the operational investigative and judicial partners through the auspices of the Anti-Fraud Coordination Services (AFCOS) in the new Member States and in the Candidate Countries.

The caseload in this sector continues to be high: OLAF assessed information from 195 initial case records compared to 215 in the previous reporting period.

Figure 30 shows the total number of external aid investigations, opened since the creation of OLAF, concerning the new Member States and Candidate Countries; the relevant programmes[16]are also detailed. By the end of the reporting period a total of 123 such cases had been opened.

Figure 30: External aid investigations by relevant programme and by new Member State and Candidate Country

Program	BG	CY	CZ	EE	HU	LV	LT	MT	PL	RO	SK
ECHO	0	0	0	0	0	0	0	0	0	1	0
ISPA	2	0	1	0	0	0	0	0	2	4	3
JOP	5	0	0	2	0	0	1	0	6	6	0
DA VINCI	0	0	0	0	0	0	0	0	0	4	0
LIFE	0	1	0	0	0	0	0	0	0	0	0
MED	0	1	0	0	0	0	0	1	0	0	0
OBNOVA	0	0	1	0	0	0	0	0	0	0	1
PHARE	6	0	5	0	11	3	6	0	10	26	9
SAPARD	0	0	0	1	0	0	1	0	0	1	0
TACIS	0	0	0	0	0	0	0	0	1	0	0
TEMPUS	0	0	0	0	0	0	0	0	0	1	0
Total	**13**	**2**	**7**	**3**	**11**	**3**	**8**	**1**	**19**	**43**	**13**

Figure 31 shows new external aid cases for third countries by geographical area. Compared to last year, there is a slight increase from 48 to 52 cases[17]. In the three areas

[16] ECHO: European Humanitarian Aid Office
ISPA: Instrument for Structural Policies for Pre-Accession;
JOP: Joint Venture Programme;
DA VINCI: Vocational Training Action Programme;
LIFE: Financial Instrument for the Environment;
MED: European Mediterranean Aid Programme;
OBNOVA: European Programme for the rehabilitation and reconstruction of Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the FYR of Macedonia
PHARE: Technical assistance for 10 Central and Eastern European countries;
SAPART: Special Accession Programme for Agriculture and Rural Development;
TACIS: Technical Assistance for the Commonwealth of Independent States;
TEMPUS: Higher Education Cooperation between EU Member States and Partner Countries

[17] Please note that more than one geographical area may be concerned by an external aid case.

mentioned in last year's report as potentially critical, Latin America, Africa and Asia, the number of external aid cases has remained almost identical.

Figure 31: New External Aid cases from the reporting period for third countries by geographical area

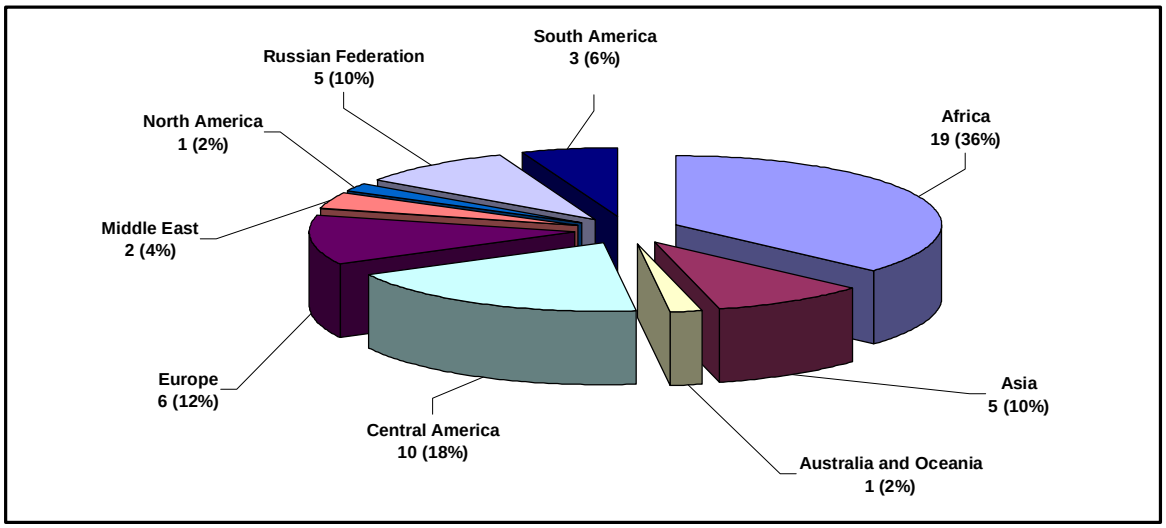
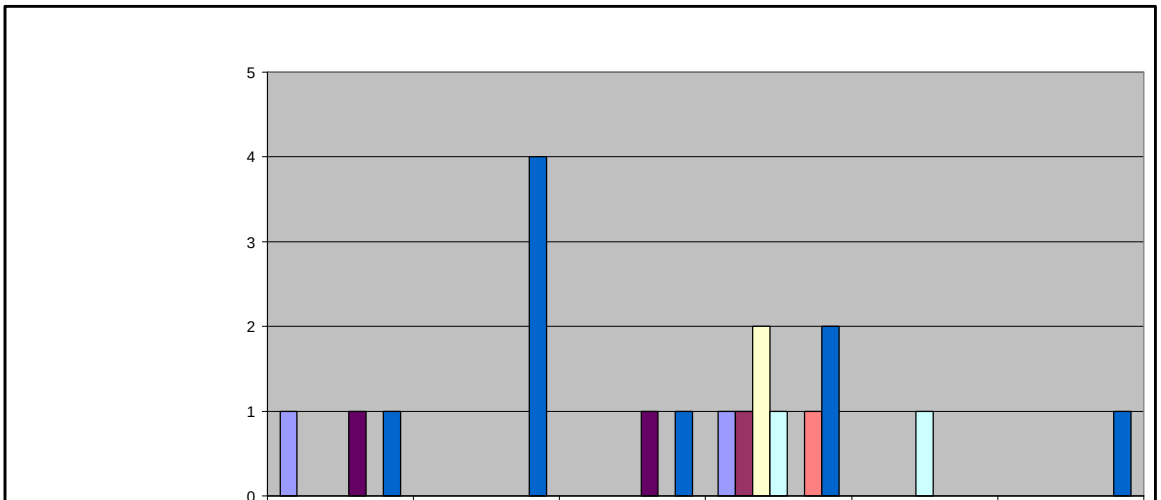


Figure 32 illustrates the number of external aid cases opened during the reporting period and shows the Commission Directorate-General with which OLAF cooperated on these cases. Compared to last year, the number of cases has decreased considerably. Cases related to EuropeAid have fallen from 30 cases to 9.

Figure 32: External Aid cases opened within the reporting period by cooperating Commission DG concerned and geographical area



	Africa	Asia	Central America	Europe	Middle East	Rusian Federation
DG Budget	1			1		
DG Education and Culture				1		
DG Enlargement				2		
DG Environment				1	1	
DG External Relations	1		1			
DG Regional Policy				1		
EuropeAid - Co-operation Office	1	4	1	2		1

The success of OLAF's operations in the external aid sector depends heavily on the quality and enhancement of the information received. An advanced level of cooperation with EU and other international bodies is essential. The same is true of cooperation with the relevant administrative and judicial authorities of EU Member States and third countries.

Typical modus operandi revealed in recent cases highlights the complex and well-organised nature of financial fraud in humanitarian and development EU aid to third countries. Such fraud takes advantage of the lack of coordination in monitoring and auditing activities between the various international donors and also of the lack of coordination between the multiplicity of intermediary and beneficiary organisations, both within the EU and in third countries. The combination of multiple sources of financing and other factors has increased the complexity of accounting and reporting requirements and so made it easier to divert funds for personal or criminal benefit. The methods employed include declaring bogus costs and financial transfers, declaring projects as completed when that is not the case, and seeking and receiving double or multiple funding of projects from different donors.

OLAF will endeavour to improve the efficiency of this type of investigation by developing arrangements for the exchange of information with relevant bodies in Member States and in third countries and with international institutions. OLAF is also developing specific computerised tools to support these investigative operations.

Case Study: Lesotho Highlands Water Project

The Lesotho Highlands Water Project (LHWP) is a multi purpose project comprising dams, water transfer tunnels and an underground hydroelectric power plant. The project was developed in several phases to supply water to South Africa and indirectly to produce electricity for Lesotho. The EU has been involved in this project since the 1980s. The European Development Fund (EDF) provided financing of € 61 million and the European Investment Bank (EIB) € 122 million. Other donors included the World Bank and the Government of Lesotho.

It appears that one Lesotho official was in a position to influence the awarding of contracts. Following legal proceedings in Lesotho, several bank accounts were identified in Switzerland containing more than € 3 million considered to be from bribes. The official was found guilty and sentenced to 15 years' imprisonment. In 2003, following a meeting and exchange of information with the Prosecutor in charge of the case in Lesotho, OLAF opened its own external investigation into the allegations and at the same time provided assistance to the Prosecuting Authorities of Lesotho. These and other ongoing enquiries have assisted the Lesotho authorities to continue to examine further suspect transactions and contributed towards a guilty plea by a multi-national company to corruption charges in Lesotho. Two other companies have been convicted in Lesotho and OLAF is continuing its enquiries into the activities of other companies.

Case Study: Non-Governmental Organisation

In April 2003 an Italian Public Prosecutor launched an investigation into a non profit-making organisation whose aims are to assist developing countries in cooperation with local NGOs of third countries and national or regional institutions. In this context, the organisation in question has received finance of almost € 17 million from the national

budget for 23 projects, and of € 11 million from the European Commission for 28 projects. The judicial authorities seized a large number of documents during the investigation. They requested OLAF's assistance to examine details of the projects funded from both the Italian and EC budgets, since dual financing can only be demonstrated by an investigative process which involves both donors.

Due to the nature of the documentation proving expenditure within certain third countries, OLAF concentrated its initial efforts on verifying direct bank transfers from Italy to those countries. Investigations indicated that bank statements showing proof of payment for projects had been at times duplicated and falsified, especially where projects were being financed by different bodies in the same third country. Sometimes only half the sum was actually transferred. Other anomalies were identified such as references in the accounts presented to the donor agencies to fictitious supporting documents, duplication of supporting documentation for more than one project, unsigned invoices and procurement of goods through a commercial firm owned by the legal representatives of the non-profit making body.

Investigations in Italy are ongoing in close collaboration with OLAF and the Italian Ministry of Foreign Affairs.

Case Study: Water Supply Project in Paraguay

In early 2004, the European Commission Delegation to Paraguay informed OLAF of the alleged misappropriation of Community funds that were intended to improve the water supply system in 50 local authorities of that country. An external audit at the end of 2003 had indicated that about 90 % of the EC funds transferred to the project had been diverted to a bank account belonging to a foundation that was not involved in the project. The relevant Paraguayan authorities had reported the matter formally to the Public Prosecutor's Office which began a judicial enquiry in January 2004.

OLAF opened an external investigation and carried out an on-the-spot control of the use of these EC funds in Paraguay. An in-depth analysis of the relevant documentation, in close cooperation with the Prosecutor, identified an additional fraudulent practice; the declared sub-contractors for one part of the project turned out not to exist, and the work was carried out by a company controlled by one of the directors of the project. It is also possible that the expenditure was significantly inflated. A Paraguayan lawyer has been appointed to defend the EC's interests in the ongoing criminal proceedings.

Case Study: Alleged Financing of Terrorism

In February 2003, following allegations that European funds were used to finance terrorism or other illegal activity, OLAF decided to open an external investigation into alleged irregularities relating to financial assistance provided by the European Commission to the Palestinian Authority since the end of 2000.

OLAF investigators visited the region in October 2003, January and October 2004 and held information-gathering meetings with representatives of various national and international bodies from the IMF, the World Bank, Middle Eastern countries, the private sector and Member States. Despite improvements to the financial control systems within

the Palestinian Authority, these systems are not yet sufficiently consolidated to exclude all risk of misuse. OLAF will report its final conclusions by the end of 2004.

2.2.5. Structural Actions

During the reporting period, OLAF evaluated 72 items of information relating to the Structural Funds. This led to the opening of 31 cases (18 external investigations, 5 coordination cases and 8 assistance cases), of which 48% related to the European Social Fund (ESF), 29% to the European Regional Development Fund (ERDF), 10% to the European Agricultural Guidance and Guarantee Fund – Guidance section (EAGGF) and 10% to the Financial Instrument for Fisheries Guidance (FIFG) and 3% to the Cohesion Fund.

During the same period 105 cases were closed. 41 of these were classified as non-cases. The remaining 64 consisted of ESF (51%), ERDF (28%), FIFG (10%), EAGGF (9%) and Cohesion fund (2%), many of which were forwarded for judicial follow-up and/or financial recovery. During this period the last remaining cases initiated by UCLAF were closed. Some were sent for financial or judicial follow-up. Others required no further action. Figure 33 provides the details on structural funds cases.

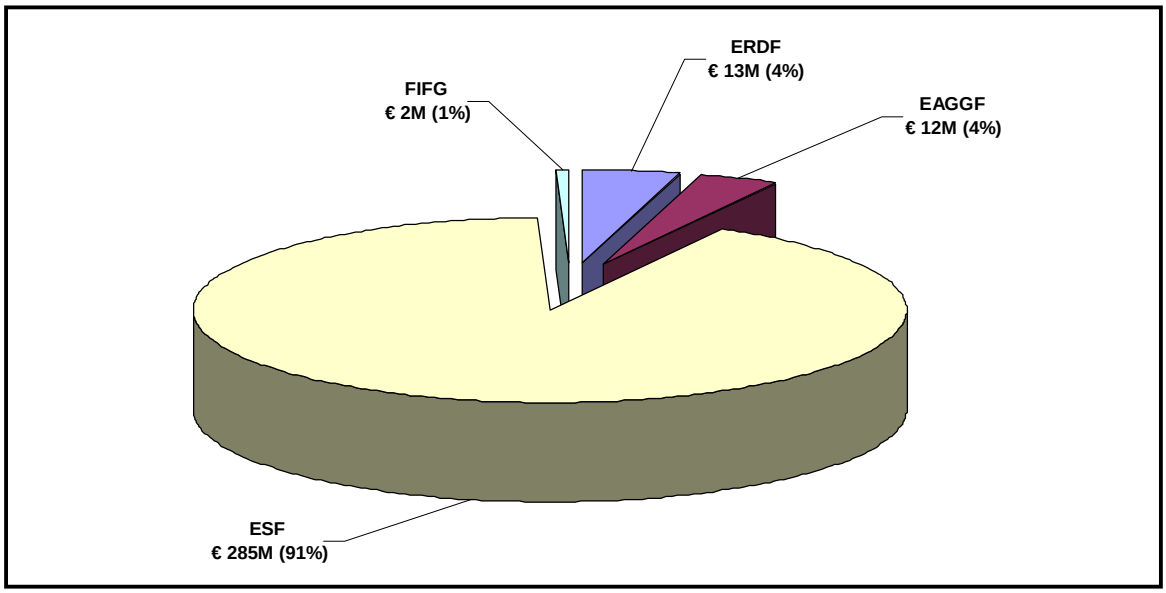
Figure 33: Cases closed during the reporting period by Member State and by Fund[18]:

Member States	ERDF	EAGGF	ESF	FIFG	Grand Total
Austria	1		1		2
Belgium	1		4	1	6
Denmark			1		1
France	3		2	1	6
Germany	1		3		4
Greece			3		3
Ireland	1	1	1		3
Italy	5	4	7	1	17
Luxembourg			1		1
Netherlands			2		2
Portugal		1	3		4
Spain	1		9	4	14
United Kingdom	8		1		9
Grand Total	**21**	**6**	**38**	**7**	**72**

Figure 34 shows the financial impact of the cases closed. Last year 147 cases were closed with an estimated impact of € 330 million. This year 64 cases were closed with a financial impact of € 312 million. This financial impact is primarily due to the high value of one specific case.

[18] More than one fund and more than one Member State can be concerned by the same investigation.

Figure 34: Structural Funds cases closed during the reporting period with financial impact by programme (€ millions)



These results were obtained by targeted operational steps strengthened by risk analysis produced within OLAF and by the exploitation of effective legislation (namely on-the-spot controls under Regulation 2185/96). The results also reflect close cooperation with Member States authorities and positive coordination with the relevant Commission services.

Close cooperation with judicial authorities was particularly important for cases where the allegations related to corruption or collusion between beneficiaries and civil servants managing the funds.

Cross checks performed under Regulation 2185/96 on other economic operators related to the transactions proved to be an essential tool in detecting fraud. These uncovered information indicating organised fraud and agreements between operators to defraud both the European and national budgets. For example, beneficiaries and suppliers were the same, certain operations did not take place, funds were used incorrectly, and suppliers returned funds to the beneficiary.

Case Study: Construction of a Groundwater Recharge Facility

OLAF opened an assistance case further to a request for technical support by a State Prosecutor during an investigation concerning possible misuse of EU subsidies totalling approximately € 700 000. The funding concerned a project financed by the European Regional Development Fund (ERDF) and by the Guidance section of the European Agriculture Guarantee and Guidance Fund (EAGGF) for the construction of a groundwater recharge facility for irrigation purposes. The allegations were related to possible collusion between the beneficiary and the regional authority aimed at subsidising a project that did not comply with the eligibility criteria provided by the Single Programming Document and with the provisions of environmental directives.

OLAF coordinated the expertise necessary to analyse the technical specifications of the waste water treatment plant together with the Commission Directorates-General responsible for Environment and Agriculture policies. The analysis concluded that the project could have had a negative impact on the region's drinking water and could impair the water quality. It was also confirmed that the project description had been modified by the beneficiary and by the national authority in order to appear to comply with the eligibility criteria. The regional managing authority finally decided not to use any European subsidies for the implementation of this project.

Case Study: Manufacturing of Fishing Vessels

OLAF participated in the financial recovery process after it became clear that there had been serious irregularities in manufacturing projects for new fishing vessels co-financed by the Financial Instrument for Fisheries Guidance (FIFG). As a result, OLAF noticed that a particular beneficiary was continuing to obtain subsidies for the modernisation of fishing vessels. OLAF opened an external investigation and with the assistance of the national authority performed an on the spot control at the beneficiary's premises. Verification visits were also made to suppliers and sub-suppliers. The investigators established that an intermediary company issued one single consolidated invoice to the beneficiary, although the work had actually been carried out by several small businesses. The same invoice contained false descriptions of the work which had been carried out before the start of the project. The beneficiary used the consolidated invoice and the intermediary company as interface between itself and the subcontractors with the sole purpose of concealing the real scope of the projects and their actual timeframe.

A thorough analytical comparison of the documents provided by the beneficiary to the national authority, with all of the suppliers' manufacturing and accounting records, allowed OLAF to detect major discrepancies between the nature of the works actually performed, the timeframe and the true scope of the projects. In reality the beneficiary financed mainly routine maintenance for its boats, and did not modernise the fishing vessels as required by the specific project objectives. Nor did the beneficiary comply with the obligation to keep the vessels for at least five years; indeed it had sold them shortly after completion of the maintenance work. OLAF recommended that the national managing authority recover the full amount of the subsidies (€ 650 000) and referred the case to the national judicial authority.

Case Study: Co-financing of Training Programme

An external investigation case was opened following a complaint by a trainer that the part of the financing of a training activity (co-financed by the European Social Fund - ESF) intended to pay the trainers' wages had not been paid in full to the trainer. On-the-spot checks carried out at the premises of both the recipient (a federation of contractors) and the principal supplier (a training institution) showed that the costs declared to the management authorities, on the basis of which ESF co-financing had been granted, had been inflated. The training institution had restricted itself to invoicing the recipient with the goods and services placed at its disposal (in particular, computer equipment and the trainers' wages), without adding anything else, but had increased its profit margin by between 240% and 640%. In effect the trainers received only 25% of the declared "wage

expenses". The invoices for computer equipment were used by both the recipient and the supplier (who also directly benefited from ESF co-financing) to justify their expenditure (i.e. double financing). The amounts invoiced for the *rent* of computer equipment alone would have *purchased* twice the equipment at normal market prices.

OLAF discovered that the manager of the training institution had paid the recipient more than € 500 000 for no apparent commercial reason. It is believed that this amounted to his half share of the profits from a plot intended to defraud Community and national budgets. OLAF recommended that the aid paid to the recipient should be recovered in full (almost € 2 million) as well as recommending that the authorities of the Member State concerned carry out exhaustive checks of any other type of Community aid granted to the same recipient. The legal authorities of the Member State were also informed in order to consider criminal proceedings. Additionally, OLAF opened another external investigation into the training institution as a recipient of ESF aid.

On-the-spot checks exposed the same kind of problems already described in the previous example. Again, total recovery of the aid already granted was recommended (more than €250 000) and the information was transmitted to the national judicial authorities.

2.2.6. Agriculture and Trade

OLAF's operational activities relating to agriculture are focussed on two separate but linked areas of activity, both of which have huge implications for the EC Budget. These are the detection and prevention of fraud and irregularities:

- In the framework of the aid and subsidy schemes of the Common Agricultural Policy;

- In the trade of agricultural products, including both imports and exports as governed by agricultural and customs legislation.

The objective of cases opened in the domain of agriculture aid and subsidies is to gather information and evidence about funds irregularly/fraudulently obtained or paid out under the Common Agriculture Policy and Rural Development Funds, to assist the Member States in enabling them to carry out these actions, to assist in the prosecution of the perpetrators of such illegal activities and to help in the recovery of such funds.

Activities related to trade in agricultural products reflect obligations in the Treaty. Investigative work related to the suspicion of fraud in the import of agricultural products and/or export operations (notably export refunds) is often similar in nature to OLAF's Customs work. Such cases often require investigative activities in the Customs area both in Member States and third countries, and are usually dealt with by OLAF through the coordination and facilitation of enquiries which are carried out simultaneously by investigative services in several Member States. OLAF does however conduct a number of its own investigations, as opposed to coordinating the investigations of others, mainly where Member States have decided not to invest investigation resources in specific areas of concern to OLAF.

There is an increasing tendency for staff dealing with agriculture cases to become more closely involved in criminal cases initiated by judicial authorities in Member States, where OLAF is asked to provide technical expertise. Such activities can include participation in judicial actions within the Member State concerned, and assisting judicial authorities in

the course of the execution of International Rogatory Commissions outside that Member State. Such assistance is given both in the course of criminal investigation which have been initiated following the transmission of a report from OLAF to the national authorities, and in cases where the national authority had initiated an investigation without prior involvement of OLAF.

During the reporting period, OLAF evaluated 103 items of information relating to Agriculture. 44 of these were classified as non-cases. 59 cases (17 external investigations, 38 coordination cases and 4 assistance cases) were opened. Furthermore, 71 cases were closed at the operational stage. During this period the last remaining cases initiated by UCLAF were closed. Some were sent for financial or judicial follow-up. Others required no further action. Figure 35 shows the breakdown of decisions during the reporting period by product or agricultural measure.

Figure 35: Breakdown of Agriculture cases in assessment and active stage at the end of the reporting period by product

Product	Evaluation	Active investigations	Total
Alcohol Products	1	5	**6**
Animal Feed	0	1	**1**
Cereal Products	1	3	**4**
Egg Products	0	1	**1**
Fats and Oils	1	3	**4**
Fish Products	1	1	**2**
Food of non animal origin	0	1	**1**
Fruit and Vegetables	4	21	**25**
Farmland	0	2	**2**
Live Animals	0	2	**2**
Meat Products	4	21	**25**
Milk Products	2	5	**7**
Multi Products	1	0	**1**
Rice Products	0	1	**1**
Structural Actions	7	3	**10**
Sugar	1	18	**19**
Tobacco	0	1	**1**
Wine	1	0	**1**
Others	3	0	**3**
Total	**27**	**89**	**116**

Sugar, meat products and fruit and vegetable cases account for more than half of the active cases.

Case Study: Sugar Import from the Balkans

In April 2002 OLAF requested Member States to reinforce control measures on imports of sugar declared at Customs clearance in the EU as originating in the Western Balkans. The Greek customs authorities duly sampled such consignments imported into Greece in order

to establish whether these consisted of cane or of beet sugar. The analysis indicated that most imports declared as of Croatian origin in fact consisted of a mixture of cane and beet sugar (cane sugar is not produced in Croatia). The Greek judicial authorities opened a criminal investigation and designated OLAF investigators to render assistance.

The Greek judicial authorities performed an International Rogatory Commission in Croatia in June 2003 in which OLAF officials participated as experts. In the course of this Rogatory Commission it was established that some 24 000 tons of sugar had been mis-described as being of Croatian origin. These facts being confirmed by the Croatian authorities led to the cancellation of some 1000 EUR.1 certificates of origin. Recovery procedures have started in the Member States in relation to customs duties estimated at about € 10 million.

In addition, the Italian judicial authorities have started a criminal investigation against an Italian trading company involved into the operations following the transmission of information by OLAF.

Case study: Abuse of the Community funded flax regime

EU Regulations (619/71 and 1164/89) provide for aid for the production and processing of flax. Aid may be paid for flax produced but not processed only when the product is declared as unfit for processing due to bad weather conditions. Flax produced is processed into linen, paper and internal car padding. In 2001 OLAF opened a case about possible irregularities involved in the production of flax in the UK between 1997 and 2000. The allegations were that flax-processing companies had falsely declared straw to be unsuitable for processing in order to avoid high haulage and processing charges, but had still claimed the subsidy. Four flax processors accounted for over 80% of the flax processed in the UK.

Following the investigation carried out in the UK one processor was convicted in a UK Court in 2003. Two directors of the company received prison sentences. The other three processors have been the subjects of irregularity notifications under Community law. The total risk to the Community budget was at least € 10 million.

2.2.7. Customs, Alcohol, Cigarettes, Precursors and VAT

OLAF's activities in these sectors are undertaken in coordination with the Office's partners in the Member States and third countries. The frauds tackled include evasion of anti-dumping and conventional customs duties by misdescription of origin, undervaluation, etc, relating to industrial, textile and fisheries products; cigarettes fraud (smuggling and diversion of authentic and counterfeit cigarettes); and, to a lesser extent, alcohol frauds (smuggling and diversion). As well as combating these traditional customs frauds, OLAF is also active in the area of international VAT frauds, particularly carousel frauds.

This type of work generally attracts less public and political attention than OLAF's operations against corruption and fraud within the EU Institutions. However, in quantitative terms the impact of frauds in these areas is particularly harmful to Community and national interests: evasion of customs duties and national taxes means that taxpayers have to contribute more than they should otherwise do; evasion of anti-dumping duties has the added consequence that products which so enter the Community market can cause

serious damage to legitimate businesses; smuggling of cigarettes, whether genuine or counterfeit, leads to enormous losses of revenue (with knock-on effects in other policy areas) and is usually carried out by criminal organisations which conduct many other illegal operations and whose profits in extreme cases may contribute to the funding of terrorism; while VAT carousel fraud quickly undermines legitimate trade and produces huge amounts of illegal profits which can quickly be ploughed into other illegitimate activities.

OLAF's actions in these areas are designed to enable the national authorities to gather essential evidence needed to recover the evaded duties and taxes and to prosecute the fraudsters. The role of OLAF in these activities cannot be replicated elsewhere and forms a vital element in achieving the results obtained. OLAF's services are much in demand. In order to make best use of limited resources, OLAF participates only in cases which meet exacting priorities, including the amount of revenue at stake and the chances of successfully recovering this revenue. Methods of investigation and actions undertaken are reviewed and modified in the light of developments in Community legislation, Community case law and in the nature of frauds themselves.

During the reporting period, OLAF evaluated 118 items of information relating to this sector. 34 of these cases were classified as non-cases. 84 cases (14 external investigations, 60 coordination cases and 10 assistance cases) were opened. Furthermore, 137 cases were closed at the operational stage. During this period the last remaining cases initiated by UCLAF were closed. Some were sent for financial or judicial follow-up. Others required no further action.

Figure 36 shows customs cases by type of fraud. It should be noted that most of the specified fraud concern false declaration of origin.

Figure 36: Breakdown of Customs cases in assessment and active stage at the end of the reporting period by type of fraud

Method of Fraud	Customs	Alcohol	Cigar-ettes	Pre-cursors	VAT	Grand Total
Accounting records not presented					1	1
Drug precursor traffic				11		11
False description of goods	6		2			8
False origin declaration	43		1			44
False quantity declaration	2					2
False supporting documents	1					1
False value declaration	3					3
Other false declaration	8		2		2	12
Other fraud	19		8		17	44
Other irregular documents	1					1
Other transit fraud	1		1		2	4
Smuggling		1	34		4	39
Grand Total	**84**	**1**	**48**	**11**	**26**	**170**

Case Study: Civil Action in the US Courts on Cigarettes

Historically, a key concern for the European Community has been the introduction of contraband cigarettes into the European Community. For that reason, the European Community has taken vigorous action to address cigarette smuggling. European law-enforcement efforts, including those of OLAF, have resulted over the past several years in the reduction of the amount of cigarettes that enter the EU as contraband. In 2000 and 2001 the European Commission and ten Member States (Belgium, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain) launched a civil action in the Courts in New York against the cigarette manufacturers Philip Morris, RJ Reynolds and Japan Tobacco International alleging that they bore responsibility for cigarette smuggling, and seeking injunctive relief to prevent smuggling in the future.

Following negotiations with Philip Morris (in which OLAF played a key role, in cooperation with the Legal Service of the Commission), on 9 July 2004 the European Commission, together with 10 Member States, and Philip Morris International (PMI), announced a multi-year Anti-Contraband and Anti-Counterfeit Agreement that includes an efficient system to fight against future cigarette smuggling and counterfeiting and which ends all litigation between the parties on this issue. Through the Agreement, Philip Morris International will work with the European Commission, OLAF, and law enforcement authorities to help in the fight against contraband, including the rapidly growing problem of counterfeit cigarettes. The agreement includes substantial payments by PMI, which could total approximately USD 1.25 billion over twelve years, and which could be used to improve the fight against cigarette fraud. The Agreement also includes an initiative whereby PMI has agreed to make payments in the event of future seizures in the European Community of its genuine products above defined quantities. If other Member States sign the Agreement, including the new Member States, they will also be entitled to receive these payments.

The initiative includes far-reaching product tracking procedures that will facilitate law enforcement efforts to determine the point at which any genuine product is diverted from the authorised sales channel. Consistent with the Agreement, PMI will mark certain packaging with information indicating the intended market of retail sale, mark "master cases" of cigarettes with machine-scannable barcode labels, and implement other procedures useful for the tracking and tracing of its products. These tracking and tracing obligations embody the first major initiative in this area and are consistent with the anti-contraband provisions of the World Health Organization's Framework Convention on Tobacco Control (on which OLAF made an important contribution in the negotiations).

With the enlargement of the Community OLAF faces new challenges in the Customs area. OLAF has worked with many authorities in the new Member States in the past under the provisions of the Protocols to the Europe Agreements and has already established good contacts, particularly in the cigarettes area: these contacts are being deepened and strengthened.

Case Study: Fraudulent Importation of Stainless Steel

In February 2004, OLAF closed an investigation into the fraudulent importation of stainless steel wire into the European Community, opened in January 2001 on the basis of

information received from a Member State and industry sources. The investigation established that stainless steel wire manufactured in India had been imported into the Community via intermediaries in the United Arab Emirates (UAE) in violation of the antidumping and countervailing duty regulations introduced on such products. The applicable regulations, in force between 1999 and 2004, applied antidumping and countervailing duty rates ranging up to 55.6% on the value of the imported goods. By means of false declarations of origin more than 6 million euros in antidumping and countervailing duties were evaded. The fraudulent traffic of the goods concerned had ceased in 2001 due to the conduct of OLAF's operational activities in the UAE and the investigations in the United Kingdom at the time.

OLAF initiated and coordinated the case in close cooperation with the competent services from Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Sweden and the United Kingdom, and was assisted by the competent authorities in the UAE and India. In the UAE, a Community team composed of OLAF officials and representatives from certain Member States inspected the production facilities of the six UAE companies concerned, and assessed the production processes carried out on the stainless steel wire imported from India so as to determine whether the processing involved could confer the UAE preferential or non-preferential origin on the goods. The alleged UAE producers had claimed to process the Indian raw material to an extent which conferred UAE origin. The results of the mission proved that the origin of the product remained India and that the duties should therefore have been declared at import into the Community.

To date more than € 4 million of the evaded duties have been recovered. Criminal proceedings and prosecutions against importers and Indian principals have taken place or are still ongoing in Germany. OLAF supported German Customs in rejecting an appeal launched by one of the importers by providing additional evidence obtained from the Indian manufacturers.

Case Study: False Declaration of Origin of Shrimps Imports

Shrimps exported from the Philippines to the Community were suspected to be of Chinese origin. By declaring the shrimps to be of Philippine origin the importers made false claims to preferential duty treatment as well as evading a Community health prohibition. All Member States concerned were informed about the problem, and the Philippine competent authorities were contacted. In order to obtain proof to support the allegations OLAF officials visited the Philippines in March 2004. As a direct result of this exercise in administrative cooperation, Community own resources (customs duties and import VAT) in the region of € 2.5 million are expected to be recovered by the Member States' authorities. In addition, information obtained during the mission will be used by the Netherlands and Spain in their investigations into possible criminal actions by the importing companies.

The following 2 cases give some indication of the variety and types of cooperation that OLAF can provide to its partners in the cigarette and alcohol sectors of anti-fraud activity:

Case Studies: Cigarette Smuggling into the EU

As a result of a seizure in Sweden of 27 million cigarettes coming from the Russian Federation, Swedish Customs requested OLAF's assistance to check an address of a Belgian

company that appeared to be connected. With the company identified, Swedish Customs informed the Belgian Customs risk analyses section, which continued to monitor the activities of the company concerned leading to the detection of a container from Vietnam with 4.5 million cigarettes. It has been established that a significant criminal organisation is behind this fraud, which can be linked to several consignments of seized cigarettes in different EU countries.

At the request of the UK authorities, OLAF organised a meeting in Madrid with the Portuguese and Spanish authorities in relation to an ongoing operation in the UK concerning cigarettes and alcohol smuggling. Subsequently, the Spanish authorities instigated a judicial investigation, intelligence from which was shared, through OLAF, with the other countries involved in the investigation, especially with the UK, since the main target in Spain used to travel frequently to London. This intelligence greatly benefited the Portuguese and UK investigations. Further investigations by the Belgian Police identified a warehouse containing a large amount of cigarettes and alcohol, including 5000 litres of pure alcohol/ethanol. OLAF's main goals at the beginning of the case were to facilitate the identification and dismantling of a bottling plant under the criminals' control; the disruption of their cigarette smuggling activities; the investigation and disruption of their alcohol diversions and the investigation and disruption of a VAT carousel fraud. These goals were achieved at the end of the investigations in all the countries involved. In total, the most significant results of the investigation were: seizures of more than 25 million cigarettes, more than 80 000 litres of spirits, around 5 000 litres of pure alcohol, and 4.5 tons of cannabis resin; and the dismantling of one warehouse and one bottling plant.

Figure 37 shows the breakdown of VAT cases by product involved.

Figure 37: Breakdown of VAT cases at the end of the reporting period by product

Product	Total
Automobiles	8
Computer Equipment	4
Foodstuffs	2
Jewellery	2
Mobile telephones	4
Multiple Items	3
Non Ferrous Metals	1
Precious Metals	1
Silicone Carbide	1
Total	**26**

Case Study: VAT Carousel

The Italian judicial authorities requested OLAF's assistance in an ongoing investigation in the field of intra-Community trade in computer processing units **(**CPUs). Italian "missing traders" had failed to pay significant amounts of VAT to the Italian State in respect of computers and other hardware components, which had been shipped from Belgium and

Germany. The investigation was complex as the CPUs had allegedly been sold to intermediate companies (also in Italy) which in turn had sold them again to Germany.

The problem for the Italian judicial authority was to demonstrate that the same CPUs had again been sold to Italy and thus to prove that they had been traded in a closed VAT carousel circuit. This would have allowed VAT fraudsters to gain VAT at each passage of the commodities through the same Italian "missing traders". As a result of OLAF's assistance to the German and Italian judicial authorities and of the cooperation and investigation activity carried out in Germany and in Italy, excellent judicial results were obtained in Italy: 25 persons were reported for involvement, 7 persons were arrested, 15 fiscal carousels were discovered involving a fraud of € 30 million unpaid VAT perpetrated by missing traders and € 8 million VAT unduly reimbursed. OLAF will continue to offer its assistance, and further inquiries in France, Switzerland and Monaco will follow.

2.2.8. Multi-Agency Investigations

Last year's activity report highlighted a successful investigation conducted jointly by OLAF and the U.N. Office of Internal Oversight Services (OIOS) into a suspected fraud of € 3.9 million by a former EU employed consultant working for the U.N. in Kosovo.

Encouraged by this success, a new Multi-Agency investigations unit was established within OLAF to develop and strengthen cooperation on administrative investigations with bodies and agencies such as the OIOS and donor institutions such as the World Bank, where there are clear mutual interests and potentially overlapping investigations into alleged frauds. In addition to the agreement with the United Nations, a new cooperative arrangement was signed between OLAF and the World Bank to conduct joint investigations based on mutual interest and on identified common needs. Due to the increasing worldwide expenditure of the EU budget, further similar administrative investigative agreements are foreseen.

During the reporting period the new unit dealt with 8 cases: one in evaluation, 6 under investigation and one closed without follow up. Allegations of irregularities reported within an audit of the Publicly Owned Enterprises (POE) in Kosovo led to the setting up in November 2003 of a joint investigation task force of investigators from OLAF, the OIOS and the Italian Guardia di Finanza with the aim of examining the possibility of fraud, irregularities and corruption. The EU, including the European Agency for Reconstruction (EAR), has been the major aid donor to these enterprises (Railways, Electricity, Water, Airport), and OLAF's role in investigating potential fraud affecting the EU budget in Kosovo has been pivotal. To date the task force has fully concentrated its efforts on the activities of the enterprise responsible for running Pristina airport. This has extended to 37 differing elements within one case and includes allegations concerning procurement contracts, bribes to secure employment, the sale of Schengen visas, and the non-accounting of fees paid by companies using the airport.

3. OPERATIONAL SUPPORT

3.1. Intelligence Activity

3.1.1. Strategic Intelligence

The strategic intelligence capability of OLAF has continued to develop. It is improving its ability to gather information and provide in-depth analysis to give strategic direction and support to OLAF's operational activities and to reinforce OLAF's policy role. Output in the reporting period included:

- A preliminary risk assessment across the whole Community Budget. This exercise had two main objectives; first, to support the analysis underlying the Programme of Activities for 2005 and second, to help identify potential areas for more in-depth analysis by OLAF's intelligence units;

- A number of risk assessments based on reports of irregularities in the funding of the Common Agricultural Policy and Structural Funds have been produced to support Member States in the setting of priorities for control and investigation policies, and to support policy development and the prioritisation of case related issues. Effort has also been dedicated to training and support for the new Member States to prepare them for reporting and analysing irregularities in these sectors;

- Several mid-long term projects have been initiated in the area of External Aid;

- An in-depth analysis of certain statistical information relating to VAT has been carried out to determine its potential as a source for the detection of fraud, fraud patterns and fraud sensitive product groups. Intra-Community VAT fraud data is being more systematically exploited using text mining tools;

- Cooperation with anti-fraud intelligence units in the Member States, Candidate Countries, third countries and other international institutions has been further strengthened. Specific attention has been paid to building working relationships with authorities in the new Member States as part of the Multi-country PHARE programme. A working partnership has been developed with Europol following the signature of a Memorandum of Agreement, both in terms of strategic intelligence exchange and the sharing of analysis techniques and IT capabilities;

- Progress in the development of new tools and techniques to gather and exploit information and to identify new and improve existing sources. The ability to access, exploit and analyse data is key to the success of OLAF's intelligence capability.

3.1.2. Operational Intelligence

Operational intelligence includes specialist support and assistance to OLAF investigators on internal and external investigations. The team is sometimes also asked to assist the Member States. Figure 38 shows the distribution of some 1500 requests for information and intelligence support that were handled within OLAF:

Figure 38: Requests for Intelligence Support by Domain

Intelligence Sector	Total
Information Support	1259
Operational Intelligence	141
Technical Assistance	48
Evaluation Cell	51
Total	**1499**

Since 1 April 2004, such requests have been made through the Case Management System (CMS) following the development of an intelligence module within the CMS. The latter initiative makes it easier to manage the relationship between the intelligence analyst and the investigator who requires intelligence support. It is also consistent with the objective of strengthening the security of OLAF's operational environment. The analysts' involvement with OLAF investigators is becoming more intensive, with intelligence increasingly an integral part of the investigative process. Good interaction between the investigator and the analyst has become a key success factor in achieving results in the more complex cases.

Major projects carried out by the operational intelligence analysts include:

- Development and deployment of an automated monitoring tool. On the basis of experience gained during the 1995 wave of accession (Austria, Finland and Sweden) OLAF assessed the possible risk that operators within the EU could fraudulently take advantage of the transition process to membership. A pilot project undertaken with the Joint Research Centre during the first half of 2003 demonstrated that an automated monitoring tool could be created to assist in the detection of potential irregularities. This identifies unusual trade patterns by employing statistical methods which can then be further analysed and used by investigators;

- Analysis of beef imports. The EU import regime for beef prohibits multiple applications for tariff quota by single or connected traders. OLAF devised a methodology to identify related companies within and across Member States that unduly benefited by lodging multiple applications. The methodology applied in this investigation could serve as a basis to other quota driven regulations in the agricultural domain;

- Analysis of high risk trade flows. Experience in recent years shows that there has been a significant increase in fraudulent trading by certain exporters, mainly within the Community's external commercial policy areas and most prominently in the evasion of anti-dumping duties and in matters of food safety. OLAF has analysed the relevant products systematically in order to create an improved follow-up mechanism, using experience gained from the automated monitoring tool project. This initiative will be developed during the next reporting year. An early example of its use has led to the opening of OLAF investigations into the fraudulent importation of garlic of Chinese origin into the EU via transhipping in third countries.

- OLAF has continued to provide operational and logistical support for the Member States during Joint Customs Operations (JCOs). The technical difficulties encountered

by the Virtual Operational Coordination Unit (Virtual OCU) IT application in the beginning of 2003 have been overcome and the scope of the operations has now been extended to containers and to road transport. During this period two general container operations (each involving over 20 participating countries) were run from within the standard OCU and one regional operation was run exclusively via the Virtual OCU.

- The Contraffic search tool to assist in tracking containers has been developed and has entered the acceptance phase. The first operational tests show promising opportunities for the detection of fraudulent operations.

3.1.3. Technical assistance

OLAF continued to provide technical support in computer forensics for several OLAF investigations, for other Commission services, Agencies such as the European Agency for Reconstruction and Development, the Committee of the Regions and the UNMIK Organisation in Kosovo. The specialist team keeps abreast of international professional standards and has improved the efficiency of this service.

OLAF's technical assistance team has assessed the relevant capacities of law enforcement agencies in the new Member States in the context of a partnership in Special Investigation Methods. It has organised training in special investigative methods in Latvia and Hungary for these agencies under the Multi-country Phare programme.

OLAF has contributed to the "Border Control Project" at the new external borders by assisting in technical definitions. This project is a Commission activity, falling within the areas eligible under the Transition Facility (external border control, protection of the Communities' financial interests), administered by DG ELARG. The aim of this project is to assist the new Member States in equipping some 45 major land border crossings and 17 railway crossing points with automatic licence plate and container recognition software tools for multi authority use. This will assist in better targeting of controls and improved enforcement and anti-fraud capability, with minimum interference to legitimate traffic movements.

3.2. Information/IT support

All business mail received or generated by OLAF is now scanned and distributed internally by electronic means. This approach is more efficient than relying solely on the physical circulation of paper and has important security benefits. During the reporting period 39 500 documents were scanned, representing 312 000 pages.

Original case-related documents are stored in individual case files within the Greffe according to a standardised format. Documents removed by investigators for further examination are carefully controlled and monitored, thus ensuring that OLAF has a complete record of all documents relating to a particular file.

During the course of the reporting period significant improvements were made to the Case Management System (CMS). The CMS provides an individual electronic file for each case, from initial receipt of information right through the assessment, investigation and follow up stages. For each case there is a record of all scanned documents, relevant administrative information and comments on key events in the development of the case.

This allows case handlers to run their cases more effectively and gives managers a useful tool with which to monitor case progress and ensure that procedures are followed.

The CMS is the primary source of OLAF operational statistics; new reporting tools have been introduced that give managers greater flexibility in extracting relevant data. A new follow-up module was implemented in autumn 2003 to centralise data collection and maintenance of information relating to all types of follow-up. A new intelligence request module was introduced at the beginning of 2004 to facilitate the flow of information internally, between the operational and intelligence domains, and to manage request for intelligence support. Further CMS modules are being developed to allow closer links between Mutual Assistance requests and OLAF investigations, to record requests for legal advice, and to support the work of the weekly Investigation and Operations Executive Board.

3.3. Anti Fraud Information System (AFIS) / Customs Information System (CIS)

3.3.1. The AFIS Communications & Collaboration Network

The primary means of cooperation and information exchange with Member States is under the framework of Mutual Assistance (Regulation 515/97) using AFIS, the secure communication system. During the reporting period, considerable effort was expended in ensuring that the new Member States were trained in the use of and connected to AFIS terminals by June 2004. The enlarged user community extended to 3700 registered users, more than 800 of whom exchanged some 80 000 messages during the reporting period.

In response to the business and operational demands of Member States, IT development continued to provide streamlined and structured tools within AFIS aiming towards an increasingly targeted basis for risk assessment and analyses of the suspicious movements of goods. A new tool to support a YACHTINFO application to complete the set of tools for exchange of Maritime Intelligence (both non-commercial and commercial traffic) is one example. Likewise, in the framework of the Virtual OCU, specific reporting tools for container traffic (ConSur) and commercial road traffic (ViaSur) were added to the system. The ability of Member States to coordinate these operations using a Virtual OCU application provided by OLAF is a significant boost to the feasibility and practicality in running multi-country cross-border operations.

Preparations have begun towards providing a permanent structure to host an OCU within OLAF, to support Member States in joint customs operations. This will allow flexibility in timing of operations and a reduction in costs and other resources.

The Mutual Information System (MIS), extended to AFIS in 2003 initially to include beef meat exports by road to the Russian Federation, operated increasingly successfully. This led to the implementation of a new regulation 44/03 (modifying regulation 2584/00) in February 2004. This allowed for the monitoring of this traffic to the Russian Federation by all forms of transport and to the development of a more structured system of reporting within AFIS. Due to the changing nature of export refunds, pork meat was also included. The impact of this system is that exports can be verified and export refund payments can be paid to traders more accurately and quickly. More than 3000 communications from nine Member States were recorded during the reporting period.

Joint Customs Operations

Three operations (a maritime operation targeting the smuggling of sensitive goods by yachts and other vessels with a maximum tonnage of 1000 T; an operation focusing on the traffic of sensitive goods in sea containers; and a container operation focusing on the smuggling of cigarettes and alcohol) during the reporting period, all using the virtual OCU, led to the seizures of more than 42 million cigarettes, alcohol, counterfeit goods and dangerous goods, as well as seizures of illicit drugs.

3.3.2. The Customs Information System & FIDE

The Customs Information System (CIS) was implemented in March 2003 to enable competent partners involved in the application of Customs and Agriculture legislation and in customs legislation in the field of intergovernmental jurisdiction to input and interrogate a central database containing sensitive information. Since then limited use has been made of the database. In response to Member States' demands OLAF has instigated an ambitious 2-year plan for CISWeb, a more user friendly web application and has proposed legislative changes to address business needs. Training activities and follow up visits have been carried out in all Member States and CIS terminals were extended to the new Member States. An operational manual has been produced in 20 languages.

The feasibility study for the European Customs Files Identification Database (FIDE – from the French acronym) was completed and the resulting prototype and promotion material (video and leaflets) were provided to Member States in preparation for development to start later in 2004.

3.4. Legal support

OLAF has the capability to produce in-house the three categories of legal support which it requires to operate effectively and independently. These are legal advice on:

- national criminal law in Member States;
- general European law, including matters as diverse as the implications of the Director-General's independence, the public's right of access to documents, and the Staff Regulations;
- specific sectors of EC law such as agriculture and structural actions.

3.4.1. Legal advice on national criminal law

Specific in-house advice on national criminal law, investigation and judicial procedures is provided in support of investigations and follow-up matters. An increasingly important working cooperation with the national judicial authorities is also maintained. During the reporting period formal written advice was given to OLAF investigators on 26 occasions, particularly in the domains of structural actions and direct expenditure. In specific cases where the facts indicated potential criminal conduct, informal legal support was provided on an ongoing basis on 92 cases during the reporting period.

Figure 39: Judicial advice in the course of an investigation by sector

OLAF Sector	Number of cases
Anti-Corruption	13
Multi Agency Investigations	1
Direct Expenditure	13
External Aid	21
Structural Funds	10
Agriculture	16
Cigarettes	8
Customs	3
VAT	7
Total	**92**

Further to the Commission Decision of 4 April 2002 on whistleblowers, OLAF, as a designated EU contact point for EU officials who may exercise their legal obligation to report serious wrongdoing, has taken initial organisational steps to implement a suitable contact procedure within the Judicial Advice Unit. Details of the procedure will be published in due course.

One of OLAF's major challenges is to increase the contribution made by national public prosecutors to combat fraud against the financial interests of the EU. In response OLAF has developed further contacts and participated in meetings with the European Judicial Network and has created a flexible and operational network of prosecutors which held its first annual conference in November 2003.

3.4.2. Legal advice on European law

During the reporting period, regular advice and support was provided in the framework of OLAF investigations and follow-up activities and on specific matters including:

- the Code of Conduct which is intended to ensure timely exchange of information between OLAF and the Commission relating to the internal investigations of OLAF, as agreed with the Commission in July 2003;

- the OLAF Manual;

- the legal basis for the Office's strategic intelligence and analytical activities;

- Preparation for the civil proceedings with cigarette manufacturers involving the Community in the US courts (this advice and support was provided to OLAF colleagues, the relevant Member States and the Commission's U.S. lawyers).

- Particular attention was also paid to an increase in questions concerning access to documents (56 requests including 45 initial requests) and data protection, as well as to the complaints made to the European Ombudsman (9 in total) involving the

Office and to preparing responses to European Parliamentary questions concerning OLAF (127 written questions and 7 oral questions).

In addition, a contribution was made to developing the Office's working methodology. Advice was given in the drafting of cooperation instruments: including the Memorandum of Understanding between OLAF and Europol (April 2004) and inter-departmental memoranda of agreement with Commission departments to establish ground rules for cooperation, as recommended in the Commission's evaluation report of the activities of OLAF.

3.4.3. Legal advice on specific sectors of EC law

Sectoral legal advice and assistance in relation to EU law issues is part of OLAF's internal support to its investigation function, for instance on the competence of the Office to carry out external investigations in the field of projects financed by the European Investment Bank in third countries. It is often necessary to clarify the interpretation of complex sectoral legislation (e.g. on agriculture, structural funds, customs origin and preference issues as well as on the great variety of legislation and international agreements in the field of internal and external policies) at both the assessment and investigation phases of operational casework in order to determine whether suspicions of irregularity or fraud are well founded and can be properly substantiated. Advice on the application of time-bars laid down in Community legislation is also important, in order to ensure that the possibilities for successful recovery action are not lost. Furthermore advice on administrative sanctions has been provided, such as on the exclusion of beneficiaries and the flagging of possibly suspect counter parties in the Commission's Early Warning system (EWS).

In the direct expenditure and external aid sector, specific advice provided has contributed to 66 draft assessments on opening investigations (30 on direct expenditure and 36 on external aid) and to 80 draft final case reports (42 on direct expenditure and 38 on external aid) when it is proposed that investigations should be closed. The objective is to ensure the legality of an investigation, including conformity with Community financial regulations, internal rules, international law and contractual obligations.

4. FOLLOW-UP ACTIVITY

Follow-up activity refers to action taken by OLAF once the case investigation phase is closed. This activity falls into two broad categories, as follows:

- Financial (including recovery), administrative, and legislative follow-up;
- Judicial and disciplinary follow-up.

During the reporting period a "Follow-up Module" was created in the OLAF Case Management System (CMS) in order to facilitate the administration of OLAF follow-up activity. This has consequently enhanced the efficiency of related data capture, structuring and reporting.

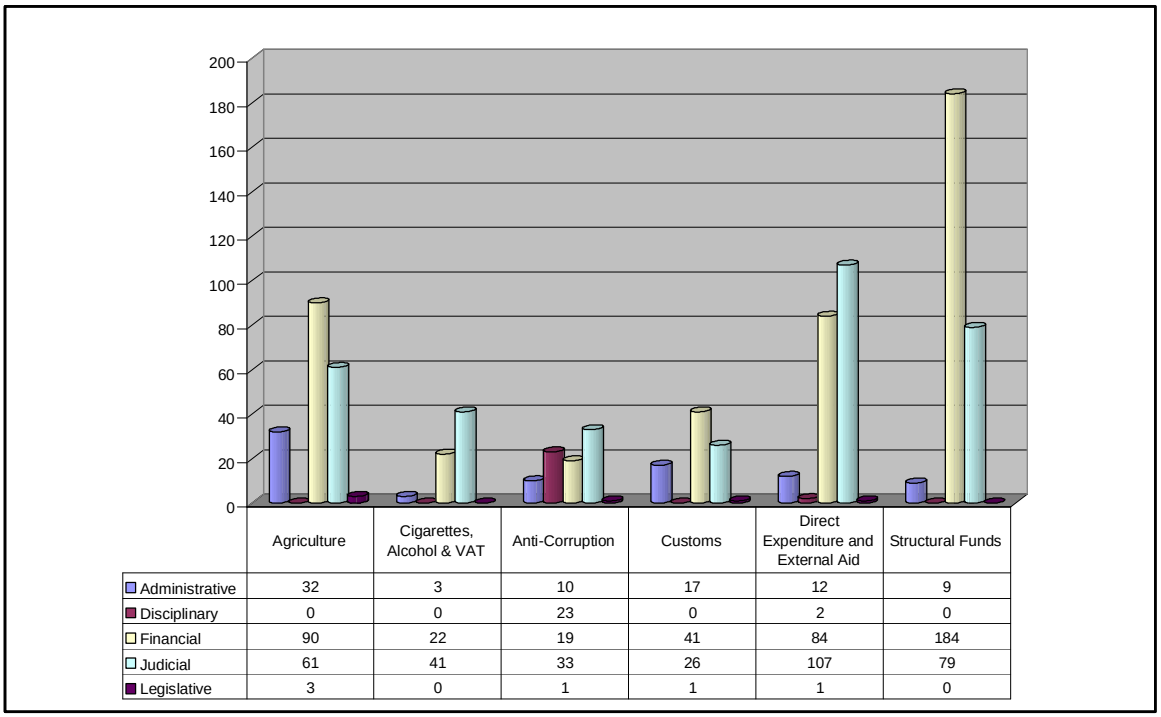
Figure 40 shows the increase in the number of follow-up cases during the reporting period by sector. While Structural Funds accounts for nearly one third of all cases in follow-up, significant increases in relative terms can be observed for all sectors, with peaks in Customs and Anti-Corruption.

Figure 40: Follow-up cases by sector

Sector	Number at 30 June 2003	Number at 30 June 2004	Percentage Increase
Agriculture	93	125	34%
Anti-Corruption	28	45	61%
Cigarettes, Alcohol and VAT	30	46	53%
Customs	20	52	160%
Direct Expenditure and External Aid	113	156	38%
Structural Funds	198	199	1%
Total	**482**	**623**	**29%**

Figure 41 shows the follow-up activities at the end of the reporting period by type of follow-up and sector.

Figure 41: Follow-up activities by type and sector at the end of the reporting period

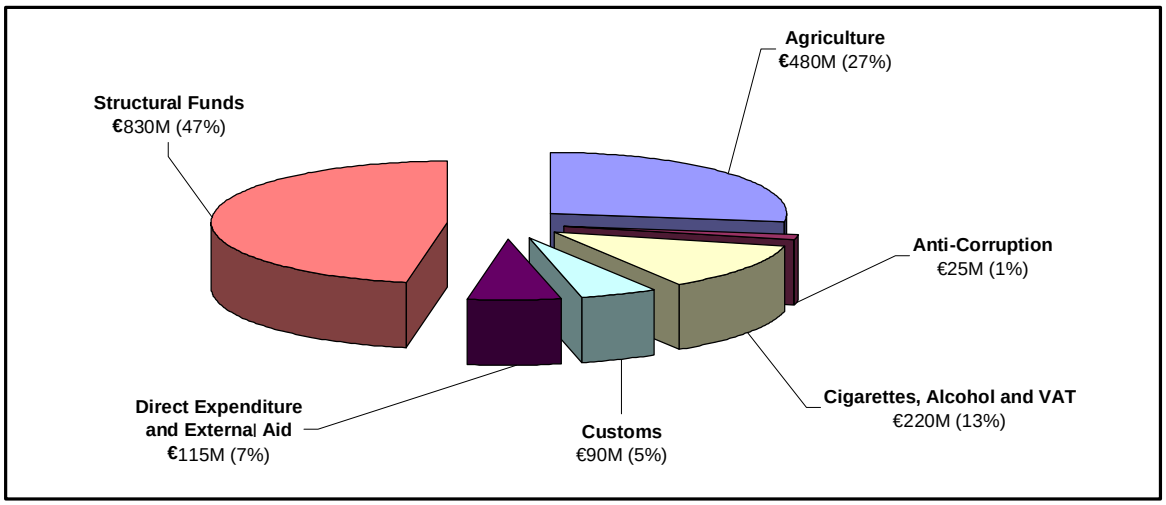


	Agriculture	Cigarettes, Alcohol & VAT	Anti-Corruption	Customs	Direct Expenditure and External Aid	Structural Funds
Administrative	32	3	10	17	12	9
Disciplinary	0	0	23	0	2	0
Financial	90	22	19	41	84	184
Judicial	61	41	33	26	107	79
Legislative	3	0	1	1	1	0

4.1. Administrative and Financial Follow-Up

The total financial impact of all cases that were in follow-up at the end of the reporting period as estimated at the end of the investigations amounts to more than € 1.76 billion. Figure 42 shows the distribution of estimated financial impact by sector.

Figure 42: Cases in Follow-up with estimated financial impact by sector (€ millions)



Financial recovery action is often, depending on the method of implementation for the budget sector concerned, carried out by national authorities under national legislation. Several Member States may be involved in a single case. Long term civil and/or criminal proceedings may also be underway. Legislation and the arrangements for its implementation may need to be formally clarified before practical steps can be taken.

4.1.1. Own Resources

Follow-up in the Own Resources sector mainly concerns closed investigation cases in the Agricultural import duties or Customs (import duties including anti-dumping duties, involving all types of industrial and fishery products) domains. Account must be taken of the strict provisions of the Community Customs Code (especially relating to applicable time-bar provisions for the notification of Customs debts), the rules of Origin/Preference (including those specified in the various Trade Agreements concluded by the Community) and the detailed operating requirements of certain specific regimes with economic impact, such as Inward Processing Relief. Related points of principle and/or interpretation of legislation issues frequently have to be settled before financial recovery action may proceed.

Case Study: Fur Imports under Wrong Tariff

Laboratory testing in Denmark of samples of furs imported from China established that the goods in question had been declared under the wrong tariff heading. Customs duties had therefore been paid at a rate of 4.2% instead of 13.4%. All Member States were accordingly alerted to the risk of such misclassification by a Mutual Assistance message. Although the financial impact of the case was initially estimated as being in the region of € 150 000, liaison with Member State authorities after the closing of the investigation phase has led to reports of additional instances of misclassification following post-clearance checks in Austria, Finland, France, Germany, Italy, Spain and Sweden. Additional duty liability has consequently been established. € 652 000 have been recovered to date in respect of this case.

4.1.2. Indirect Expenditure

The financial management of expenditure in the fields of agriculture (EAGGF-Guarantee) and of Structural Actions (Structural Funds and Cohesion Fund) is shared between the Commission and Member States. The initial responsibility for recovering funds wrongly paid out falls on the Member States. OLAF's financial follow-up function consists of consulting with the responsible services in Member States and with other Commission services in order to ensure that such sums are recovered. This is without prejudice to possible improvements in legislation as a result of lessons learned (legislative follow-up) or to criminal prosecution for fraud (judicial follow-up).

OLAF follows up cases which have been investigated by the Office, or where the Office has coordinated investigative action carried out by others. For cases involving agricultural expenditure and structural actions OLAF monitors the financial follow-up carried out by the Member States concerned. For every irregularity OLAF verifies whether the Member State has informed the Commission in application of Community Regulations and follows the progress of recovery of funds through the Member States' quarterly communications. Irrecoverable amounts are dealt with by the application of the relevant sectoral Community legislation.

Case study: Irregularities with Closure of Structural Programme

This case concerned the possible over-claiming of costs in connection with 18 projects co-financed within the framework of the Structural Funds Operational Programme in one Member State. The main fund affected was the Regional Fund during the period 1994-99. Following an inspection by OLAF, together with the national authorities, OLAF monitored the closure procedure for the programme concerned in order to check that the amount identified as affected by the irregularities established during the inspection was duly deducted from the final payment. This safeguarded some € 32 000. Financial follow-up was closed in 2004. Further enquiries into the same beneficiary led to the opening of an external investigation concerning other direct expenditure matters. OLAF assisted the national judicial authorities of the Member State concerned during the "commission rogatoire" procedure in another Member State. Penal proceedings continue in the Member State initially concerned.

Case study: Beef Exports to Turkmenistan

A Member State received information about discrepancies in the quantities of frozen beef exported from the EU to and arriving in Turkmenistan. These discrepancies were not reflected in the customs declarations made in Turkmenistan, presented to the paying agency as proof of arrival by the exporter. OLAF organised a joint on the spot mission to Turkmenistan, establishing that only some 30 000 tonnes had arrived over a period of six years and had been released for home consumption in that country, although the EU statistics showed higher quantities exported to Turkmenistan in the same period. These investigation results, combined with those gained from linked investigations in two Member States, have established that more than € 3.4 million in export refunds were unduly paid. OLAF is monitoring the reporting of the irregularities and the ongoing recovery procedures through contact with the paying agencies. The case will be closed either when the unduly paid amounts have been completely recovered or when a final decision is taken on the financial responsibility for those amounts which have not been entirely recovered.

OLAF continued its participation with DG AGRI in the Task Force Recovery established by the Commission to eliminate the large backlog of accumulated agricultural (EAGGF Guarantee) debts. The Task Force Recovery finalised the on the spot audits in the Member States of cases with an individual financial impact higher than € 500 000, as notified by the Member States before 1999. These cases represented initially a global financial impact of more than € 1 billion.

OLAF cooperated with DG REGIO in the follow-up of the audits that were carried out previously in all Member States to evaluate the national systems for the application of relevant structural fund legislation. It also drafted together with DG REGIO the summary report on the audits that was transmitted to the European Parliament, the Council and the Court of Auditors. Supplementary audits were carried out in Germany and Italy.

OLAF examined the closure statements for a total of 1088 programmes in the structural funds sector (operational programmes and direct projects 1994-1999) and coordinated with the relevant Commission services to make sure that amounts involving irregularities

had been properly settled. OLAF also finalised the closure of the follow-up stage including the "final closure report" in respect of 32 operational OLAF cases.

4.1.3. Direct Expenditure

Follow-up in the field of direct expenditure and external aid (including the follow up of multi-agency investigations) concerns expenditure where implementation tasks are performed by Commission departments rather than the Member States, or are delegated by the Commission to third countries. Follow up activities cover also the financial and administrative/legislative follow up, if appropriate, of internal investigations. The accumulated expertise and experience of the Office in recovery matters can be used in order to improve the fraud proofing of legislation, contract clauses and financial agreements with third countries. In addition, action to secure the Community's financial interests can be taken effectively during the investigation phase.

Most of these activities relate to monitoring of recovery of Community entitlements in conformity with the Financial Regulation. Financial follow up in the area of direct expenditure focuses especially on those investigations, which have led to criminal proceedings. In order to support recovery, OLAF assesses and supports the possibility of launching civil action within criminal proceedings.

Case study: Advance Payment for a Research Programme

Following the conclusion of a contract and an advance payment of € 333 000 to a beneficiary in the framework of the specific programme for research and technological development, the Commission received no results, cost claims nor management reports. It seemed that no work had been done on the project. The relevant Commission service, in its capacity as Authorising Officer, duly terminated the contract. In order to find the company's correct address, and also for the preparation of a recovery order, the responsible service requested OLAF's assistance. As the company seemed to have disappeared, OLAF conducted a debtor search and informed the Authorising Officer of the company's last known address. This search also identified that the contract was signed by the coordinator although the company had already been struck off the trade register. On the basis of this information and after having received further documents from the Authorising Officer, OLAF opened an external investigation. In cooperation with the Italian authorities, the matter proceeded to criminal proceedings in Italy. OLAF is involved in ensuring the recovery of the sums involved and the Italian Public Prosecutor is preparing the seizure of assets prior to possible civil action within criminal proceedings against the owner of the coordinating company.

In its role in searching for missing debtors in the areas of direct expenditure, OLAF established the latest known location of the parties concerned in 74% (55) of the 74 requests received from several Commission Services.

4.2. Judicial and disciplinary follow-up

Article 9 of Regulations (EC) No 1073/1999 and (Euratom) No 1074/1999 requires OLAF to draw up a report at the end of the investigation, specifying the facts established, the financial loss, if any, and the findings of the investigation. The report has evidential value, in particular in national judicial proceedings. In this connection, many reports by the

Office were sent to the judicial authorities of the Member States for use in criminal proceedings.

Whenever the investigation report recommends disciplinary and/or judicial follow-up, the file is first reviewed by OLAF's Judicial Advice Unit and then transferred to the national judicial authorities or the relevant institution's disciplinary authorities. Members of this Unit communicate as necessary with the relevant authorities in Member States and with the disciplinary authorities of EU Institutions so as to provide assistance when requested and to ensure that OLAF is aware of action taken following the transmission of OLAF reports. This is necessary so that any lessons can be learnt and so that OLAF can assess and report the final outcome of OLAF investigations.

Definitions

To assess the progress of judicial and/or disciplinary follow-up, OLAF has designed a simple system for each stage or phase, which is sufficiently general to cover the legal systems of each of the 25 Member States. This is explained here as background to the statistics below.

The following six stages were established for the judicial follow-up:

1. Review (OLAF)
2. Report sent to the national judicial authority
3. Criminal investigation
4. Trial
5. Ruling
6. Appeal

A similar system has been designed to assess progress in disciplinary measures. The following five stages were established:

(1) Review (OLAF)
(2) Report sent to the disciplinary authorities
(3) Disciplinary procedure
(4) Decision of the appointing authority
(5) Appeal

4.2.1. Judicial Follow-Up

Figure 43 gives an overall view of the judicial follow-up position. The Office opened 341 judicial follow up cases. 23 of these cases are under internal review, 318 have been sent to national authorities.

214 cases are shown as being processed by the national authorities. (In future this category will be broken down into two categories: report sent to national authority/criminal investigation commenced.) 21 cases are being tried in the courts. 19 have been closed following judicial rulings at national level.

Figure 43: Judicial Follow-up summary

Stage	Outcome	No of Cases
1	Review (OLAF)	23
2/3	National Authority	214
4	Trial	21
5	Ruling	19
6	Appeal	9
	Cases Dismissed	55
	Total	**341**

Figure 44 gives a breakdown of the 55 cases dismissed according to the justification given by the national authority. In 34 cases, the national authorities have informed OLAF that they are unable to proceed because they considered that there was insufficient evidence. Most of the cases in question were related to former UCLAF investigations. Criminal investigations are, of course, the sole preserve of the national authorities.

Figure 44: Justification for "Case dismissed"

Justification	No of Cases
Prescription (out of time)	10
Lack of evidence	34
No legal basis	3
Low priority	3
Others	5
Total	**55**

Figure 45 shows the 105 cases which were transferred to disciplinary and judicial follow-up during the reporting period by sector.

Figure 45: New judicial follow-up cases during reporting period by sector

OLAF Sector	Number of cases in judicial follow-up
Anti-corruption	4
Direct Expenditure	17
External Aid	24
Structural Actions	13
Agriculture	18
Cigarettes	3
Customs	18
VAT	8
Total	**105**

4.2.2. Judicial monitoring cases

OLAF receives information related to cases which have been opened by judicial national authorities. OLAF may decide not to conduct any operational activities itself but nevertheless to monitor the development of the case. In such situations, once the information has been assessed, a "monitoring case" is opened. OLAF always makes it clear that, if requested, it will give national authorities technical and/or operational assistance. Figure 46 summarises monitoring cases opened in relation to judicial proceedings during the reporting period.

Figure 46: New judicial monitoring cases during reporting period by sector

OLAF Sector	Number of cases in judicial follow-up
Direct Expenditure	1
External Aid	7
Structural Actions	2
Agriculture	9
Total	**19**

4.2.3. Disciplinary Follow-Up

Figure 47 shows that OLAF has opened 20 disciplinary follow-up cases. Two of these cases are currently under internal (OLAF) review; three cases have been sent to the disciplinary authority of the EU Institution concerned; 7 disciplinary procedures are on-going. The appointing authority (AIPN) has taken a decision in four cases. No cases are under appeal. Four cases have been dismissed by the disciplinary authority.

Figure 47: Disciplinary Follow-Up Summary

Outcome	No of Cases
Review (OLAF)	2
Disciplinary Authority	3
Disciplinary Procedure	7
Decision of the Appointing Authority	4
Appeal	0
Cases Dismissed	4
Total	**20**

5. ENLARGEMENT

Throughout the reporting period OLAF was fully engaged in the preparations for Enlargement and in particular in preparing the new Member States and the remaining Candidate Countries for their new responsibilities in relation to the protection of the financial interests of the EC.

5.1. Anti-Fraud Coordination Structures (AFCOS)

OLAF has continued its support to the national Anti-Fraud Coordination Services (AFCOS) and their partner institutions. Prior to the date of accession, meetings with all AFCOS representatives were organised in Brussels, Malta and Vilnius. Specific topics of interest for the new Member States and Candidate Countries were discussed and experience was exchanged with experts from existing Member States and OLAF.

To reinforce the focus on the institutional building aspects, OLAF requested SIGMA, a consultancy arm of the Organisation for Economic Cooperation and Development (OECD), to undertake an assessment of the administrative and operational capacity of the national anti-fraud structures in the new Member States and Candidate Countries. On the basis of the final country reports, recommendations to strengthen these capacities where needed are being formulated and will be discussed with the countries concerned. This will lead to further support activities.

The final report of a second needs assessment of the communication infrastructure undertaken by a specialised external company will be analysed to determine possible follow-up actions.

On 1 May 2004, all the new Member States had an AFCOS in place. OLAF is continuing to support the AFCOS structure through follow-up meetings in order to strengthen their legal framework and to develop their role as OLAF's main interlocutor.

5.2. The Multi-Country PHARE Programme (MCP)

The implementation of the MCP Activity Plan referred to in last year's report led to OLAF organising 33 different activities covering training, seminars, workshops, internships and exchange of know-how. These began in September 2003 in a number of centres. Several hundred civil servants from administrative control and law enforcement authorities from the new Member States and Candidate Countries took part in training seminars organised in these centres. Others took part in internships in OLAF and in sister organisations in other Member States. AFCOS representatives were also invited for study visits in OLAF.

Complementary training and needs identified following the SIGMA assessment meant that the expiry dates for the MCP were extended until 30 June 2005 for contracting and 30 June 2006 for disbursement. This gives OLAF the opportunity to make an interim evaluation of the results already obtained and to draft a complementary activity plan.

5.3. Expanding communication and information strategy to Candidate Countries

The OLAF Antifraud Communicators Network (OAFCN) has continued its activities in the context of enlargement, a major priority area for of its information and communication policy as a means of fraud prevention.

The OAFCN seminar in October 2003 in Romania was aimed at anti-fraud communicators from the (former) Candidate Countries. The importance of the meeting was underlined by the presence of the Romanian President, Prime Minister and Minister of Finance as well as the Commissioner for the Budget and the Chair of the Budgetary Control Committee of the European Parliament.

A seminar on anti-fraud communication for journalists from Malta in Valetta in February 2004 was co-organised by OLAF, the Maltese national authorities and the OAFCN. A further seminar for anti-fraud communicators from the New Member States and the Candidate Countries will take place in Brussels in October 2004.

6. COOPERATION WITH OLAF'S PARTNERS IN THE FIGHT AGAINST FRAUD

6.1. Consultation with the Member States

Committee work continued at a steady pace in 2003, with 5 meetings of the Advisory Committee for the Coordination of the Fight Against Fraud (COCOLAF) and its working party, Group Article 280. The Committees worked on the annual report on the protection of the EC's financial interests and debated documents such as OLAF's Activity Report, the Annual Report of the Commission under Article 280 of the EC Treaty. Regular exchange of information also took place on the irregularities, including suspected fraud, notified by the Member states and on how to improve the reliability of the data and simplify the reporting system.

From 2003, the AFCOS in Accession and Candidate Countries attended as observers in both Committees.

6.2. Customs Mutual Administrative Assistance Arrangements with Third Countries

Preferential trading arrangements with third countries form an integral part of the external commercial policy of the EU. Within this overall policy framework, in addition to its existing commitments with regard to on-going negotiations, the Commission has entered into new negotiations with certain third countries for the conclusion of various types of preferential agreements. These include overall Free Trade Agreements and Stabilisation and Association Agreements, as well as certain sector specific agreements, including in the customs and textiles sectors. Within the context of the commercial and sector specific negotiations, OLAF, under mandate by the Council for each specific country agreement, is responsible for the negotiation of the provisions on mutual administrative assistance in customs matters.

OLAF is also responsible (again under mandate from the Council) for the negotiation of specific provisions detailing anti-fraud measures. These 'defensive' measures are intended to provide a framework within the preferential agreements which would empower the Community to take unilateral measures to suspend the preferential treatment in the product sector concerned by the fraud or other irregularities.

Prior to the start of the reporting period there were 42 such agreements containing protocols of mutual administrative assistance in customs matters, relating to 45 third countries. During the reporting period, formal arrangements were concluded with further partner countries including Syria, India, Japan, China and Tajikistan. In addition, negotiations involving similar agreement provisions with countries including, respectively, the Gulf Arab States, Albania, Iran and the Mercosur Group are progressing well and are expected to be concluded within the coming months. Furthermore, a specific agreement on administrative cooperation with the US has recently been modified to include improved provisions on security issues affecting bilateral trade.

6.3. Fraud-proofing

The "fraud-proofing" procedure, aimed at preventing fraud, was devised to aid Directorates General of the Commission systematically to consult OLAF at a very early stage in drafting legislative proposals in areas sensitive to fraud or introducing (adapted) standard contracts used by them. OLAF's role here is to ensure that anti-fraud elements are included within both draft legislation and contractual clauses for conclusion with operators (relating to financial control, recovery, sanctions and prevention of conflicts of interests, for example).

In order to obtain a global view of the fraud-proofing procedure (in respect of both draft and existing legislation), preventive analysis has been further extended into the operational domain, to benefit from feedback arising out of operational experience. In this respect OLAF investigators have been asked systematically to include in their final reports a "lessons learned" statement focusing on possible weaknesses and loopholes detected in the relevant legislation. As a parallel development, the same kind of feedback has also been requested from Member States, asking them to indicate to OLAF any problems encountered in the practical implementation of EU legislation. A dedicated email address entitled "OLAF fraud-proofing Member States" was set up in January 2004 to facilitate this.

Case Study: Fraud-Proofing

During the course of the Financial and Judicial follow-up of a case where a company had benefited from EU funds and later became insolvent, OLAF traced the unused funds to a trustee bank account in the company's Member State. As a result those funds were successfully transferred back to the Commission budget. An investigation into a potential fraudulent insolvency is still ongoing in the Member State.

The clear lesson that has been learned was in the value of the actions of a Commission official in DG RTD who ensured that the transfer of funds was subject to an additional contractual condition ("the setting up of a trustee bank account"): so that the funds could only be used for the benefit of the specified project financed by the Commission and could not become part of the beneficiary's property. Consequently, EU funds did not become part of the funds available to the creditors of the company when it became bankrupt. The legal nature of trustee-ships also assists investigators of bankruptcy fraud due to the transparent legal obligations on the trustee which are relatively easy to monitor.

In particular the need for this fraud proofing instrument applies to the field of research (Sixth Framework Programme) where each contract is concluded with a large number of contractors (consortium) and where significant amounts are paid to the coordinator of the project who is obliged to administer and allocate the Community contribution between those contractors. OLAF has recommended the use of trustee bank accounts to DG RTD within the framework of the fraud proofing of the model contract for the implementation of the Sixth Framework Programme. The special clauses of the model contract adopted by DG RTD now contain a specific clause on Trust Bank Account. Although this clause is only implemented on an optional basis (for practical reasons, in particular as this system is not available in all Member States) it is nevertheless an effective mechanism for preventing the loss of EU funds especially where the beneficiaries have been declared bankrupt.

6.4. Contributions to developing OLAF's legal framework

Following the Commission's 2003 evaluation report under article 15 Regulation (EC) 1073/1999 further debate took place with the institutions on how to develop OLAF's legal framework. While the Commission's February 2004 proposal on amending Regulations (EC) 1073/199 and (Euratom) 1074/1999 aims to improve the legal framework for OLAF investigations and information exchange with the Commission, reflections on further medium term developments were proposed in the "Prodi" action plan presented to the European Parliament in November 2003.

The draft Constitutional Treaty on which the Intergovernmental Conference reached a political agreement in June 2004 foresees the possibility of OLAF assisting the future European Public Prosecutor's Office in its potential role in investigating and prosecuting perpetrators of offences against the Union's financial interests, as provided for in Article III-274. The Commission's anti-fraud action plan 2004-2005 comments on preparations for a White paper to create and implement a European Public Prosecutor's Office. OLAF will contribute by assisting the Commission in drawing up an extensive impact study together with the preparation of the White Paper. This will also include ideas on the future functional and organisational relationship between OLAF and an independent Public Prosecutor's Office.

6.5. Cooperation with bodies in charge of police and judicial cooperation

Further to the administrative agreement dated February 2003 between OLAF and Europol establishing a framework of cooperation in their respective competences, an administrative arrangement was signed on 8 April 2004 to allow for the practical modalities for cooperation between Europol and OLAF in order to fight fraud, corruption or any other criminal offence or illegal activity in the framework of international organised crime affecting the European Community's financial interests. This focuses on developing the exchange of technical and strategic information in the field of threat assessment and risk analysis within the areas of common interest, excluding the exchange of personal data.

Since then regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol. OLAF officials have participated in a number of restricted Analytical Work File meetings with a view to moving towards a more operational cooperation. There has been close cooperation in support of an AGIS funded programme with the French Gendarmerie on Financial Crime Analysis, for which both Europol and OLAF are partners. There have also been regular exchanges of information about developments in analytical tools and information sources.

In May 2004, in the area of judicial cooperation, OLAF and Eurojust adopted a new common document detailing the specific practical arrangements for the implementation of the 2003 Memorandum of Understanding. Several operational meetings have taken place between OLAF and EUROJUST in relation to different OLAF investigations, resulting in strengthened cooperation.

6.6. Protection of the Euro

OLAF continued to exercise its coordination role under the Commission's authority in relation to the protection of the Euro against counterfeiting. This coordination is mainly carried out through the counterfeiting experts' group of COCOLAF. This brings together

Member States' experts from national law-enforcement agencies, legal affairs and finance departments, as well as central banks. Europol and the European Central Bank (ECB) participate.

During the reporting period OLAF implemented the "Pericles" exchange, assistance and training programme, where seventeen projects were financed or co-financed, for a total amount of over € 1 million. These projects, initiated by OLAF or by Member States, were carried out with the participation of experts from Member States, Accession Countries, OLAF, the ECB and Europol.

On 3 September 2003 of the Commission published its second report on the implementation of the Framework Decision of May 2000 concerning the protection of the euro with criminal penalties. The report shows that Member States, before enlargement, generally comply with the provisions of the Decision.

The Commission's proposal for a Council Decision concerning the analysis and cooperation with regard to counterfeit euro coins was adopted by the Council on 8 December 2003. Member States thereby formally assigned to the Commission responsibility for the technical protection of euro coins. On 27 January 2004 the Commission adopted a proposal for a Council Regulation concerning medals and tokens similar to euro coins. This is intended to avoid fraud and confusion between such objects and euro coins. The European Technical and Scientific Centre (ETSC), functioning within OLAF, continued to analyse counterfeit coins and draw up statistics. The statistics show an increase in the counterfeiting of euro coins.

6.7. External training

The Office organised and/or co-financed 8 seminars involving more than 700 participants outside the scope of the MCP Activity Plan (*see 4.2*) during the reporting period, in cooperation with Member States, Candidate Countries and international organisations. These included:

- "International Anti-Fraud seminar for auditors from Member States, Candidate Countries and Switzerland in the field of Regulation 4045/89 and the EAGGF";
- AFCOS Roundtable "Protection of the financial interests of the EU and the fight against fraud – "The Responsibilities of Accession Countries and Candidate Countries";
- "European Union Conference of Fraud Prosecutors";
- "Fraud and Aid Funds: what the international community can do";
- "Europe against Value Added Tax fraud".

A Programme for the promotion of actions in the field of the protection of the Community financial interests (Hercules) was adopted in April 2004 by the European Parliament and the Council. It was granted a budget of € 11 775 000 for a three-year period from 2004. A fuller account is given in the Annual Report of the Commission 2004 adopted on 30 August 2004 (COM(2004) 573 final).

6.8. Information and Communication as a means of fraud prevention

OLAF supports its operational independence with its own information and communication strategy. The objective of this strategy is to satisfy the right of the citizen to know about what is being done to protect their interests. OLAF reinforces its information activities as a means of fraud prevention in the framework of the OLAF Anti-Fraud Communicators' Network (OAFCN)[19], together with its national operational partners. Although media relations comprise only part of this communication policy, OLAF has a spokesman function in reporting its operational activities. This must be balanced with the obligation to protect investigations and to respect the fundamental rights of the suspect, within the constraints prescribed by international, Community and national law. In spite of repeated challenges during the reporting period, the Office has maintained its firm line of balancing these interests.

OLAF initiated a Euro barometer survey on the subject of fraud and corruption in the EU and the (former) Candidate Countries[20] to explore the extent of public awareness of fraud in general and fraud against the EU and its budget, in particular. The results were published in January 2004:

More than half of the respondents disagreed with the statement that fraud against the EU and its budget happens very rarely. There was a wide consensus that defrauding the EU and its budget is harmful both for the vast majority of citizens who are honest and for national economies. Citizens of the then 15 Member States trusted the police to fight fraud, while citizens from Accession and Candidate Countries looked more to the EU itself. Both groups agreed that fighting fraud should be a political priority and that the EU definitely has a role to play. However, a majority felt poorly informed about the fight against fraud against the EU and its budget and expected the EU to provide more information about anti-fraud campaigns and success stories.

During the reporting period there were several hundred contacts with the media. These included press briefings, written and oral replies to press questions, referrals to members of the OLAF Anti-Fraud Communicators Network (OAFCN) and assistance to Commissioners' Spokespersons. Additionally, the Office published 22 press releases and produced a video and brochure to publicise OLAF's international cooperation with its operational partners in the Member States (investigative services, police, judicial and administrative authorities).

An internet Round Table on Anti-Fraud Communication has been created on the OLAF website aimed at experts in institutional communication (more specifically in anti-fraud, police and other law enforcement matters), academia (legal, economic, journalistic and communication fields), representatives of investigative and judicial services (national and international), members of the European Institutions, journalists and any other persons with specific experience in these fields. This has been supported by the partners of the OLAF Anti-Fraud Communicators Network (OAFCN). The Network has grown from 40 to 70 members to include additional law enforcement agencies in the New Member States and in the Candidate Countries.

[19] The OAFCN includes those responsible for public relations and the information officers from the national investigation services with whom OLAF cooperates .http://europa.eu.int/comm/anti_fraud/olaf-oafcn/en.html

[20] Euro barometer 60.01: http://europa.eu.int/comm/anti_fraud/press_room/eurobar/en.html

6.9. Public relations

The area of public relations encompasses visits to OLAF, the provision of OLAF participants for events, particularly training events, which are neither financed nor organised by OLAF and the response to general information requests from the public. There were 56 group visits to the Office, involving some 840 persons in total, mainly from customs, investigation services and public prosecutors offices from Member States and other countries. Additionally, the Office welcomed a number of distinguished visitors, including:

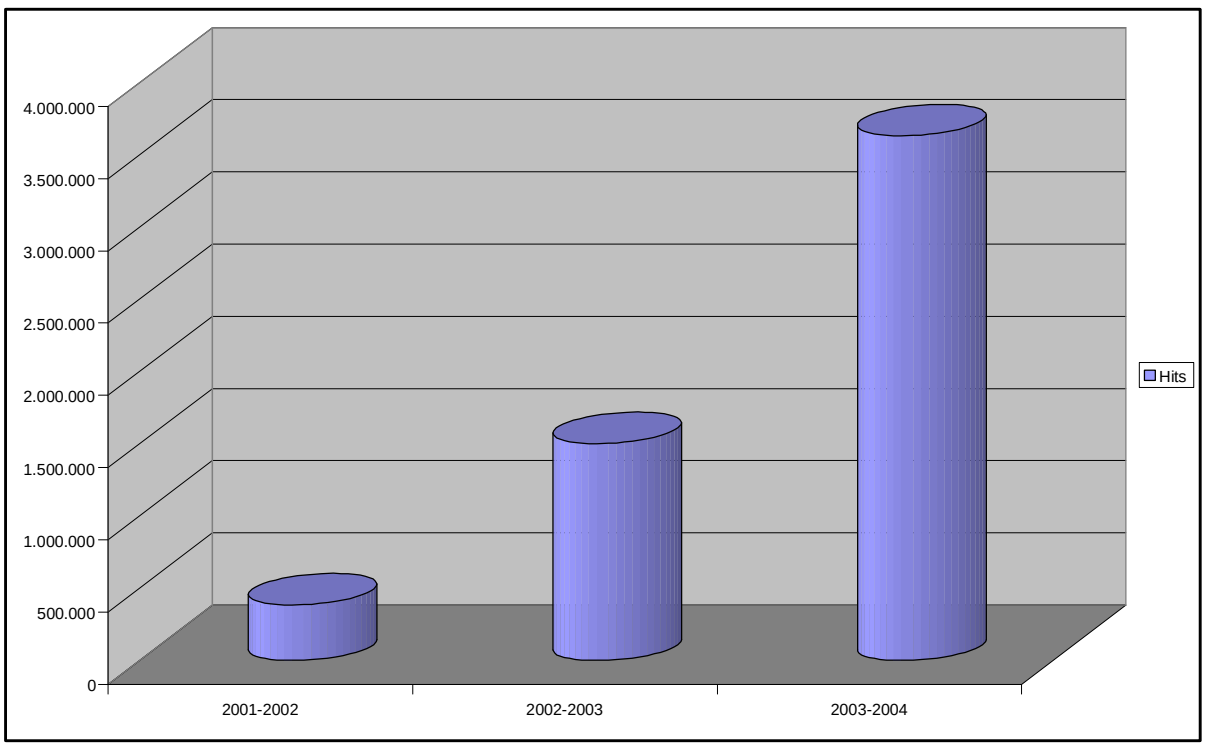
- The Deputy Head of the Administration of the President, Russian Federation,
- The Romanian Delegate Minister for the Implementation of the EU *acquis*;
- The Secretary-General of the Ministry of Security, Bosnia-Herzegovina;
- The Director of Europol;
- The Chairman of the European Union Military Committee;
- The Director-General of the Spanish Guardia Civil;
- The Director of the Serious Fraud Office, United Kingdom;
- The German Federal Ministry of Finance;
- The Brazilian Court of Auditors.

OLAF participated in 126 anti-fraud training actions which were organised externally.

6.10. OLAF Website

The OLAF Website continued to be the basic tool of the communication and information policy of the Office. During this reporting period the number of hits increased by 140 % (from 1.5 to 3.6 million), demonstrating the increased public interest in OLAF's work. The pages which received most hits were those of the "Press Room" followed by the "Reports" and the "Partners" pages.

Figure 48: Annual Number of Hits on OLAF's Website



7. ADMINISTRATION

7.1. Human Resources

Over the reporting period, the most significant factors to impact on OLAF's human resource planning were enlargement and the new staff regulations and related implementing rules.

OLAF benefited in the 2004 budget from an increase in the number of statutory posts beyond the 300 initially foreseen when the Office was created. An extra 29 posts were provided; though for technical reasons related to the enlargement process recruitment could not begin until after the end of the period covered by this report. 27 of the new 29 "A" posts are earmarked for enlargement related tasks (18 temporary and 9 permanent). These posts will largely be filled by successful candidates from the new member countries as soon as competition lists are available.

During this period 28 individuals left OLAF and 46 joined. On 1 June 2004, OLAF employed 287 members of staff compared to 262 twelve months earlier. A further 100 persons are employed as external staff (national experts, auxiliaries and "intra muros" contractors). A number of "external" staff have been employed through the use of financial appropriations which were originally provided to finance statutory posts which remain unfilled because of factors outside OLAF's control, notably delays in the setting up of a new recruitment and employment regime for temporary agents.

7.2. Internal training

Between July 2003 and June 2004, the Training Team organised 14 training sessions targeted at more than 160 operational staff and included trainers from DGs AIDCO, REGIO and BUDG. Mainstream operational subjects were covered including operational procedures, internal investigations, structural funds, agriculture and customs.

7.3. Budget

Last year's activity report noted that after implementation of the new Financial Regulation and improvements in the management of financial transactions, OLAF used 97.4% of the planned budget for 2002. This progressed to 99.72% for OLAF's 2003 budget.

While Title 24 of the European Commission's budget includes OLAF total budget, OLAF's administrative budget is described in annex COM III to the budget. Figure 49 outlines the areas of expenditure within this budget.

Figure 49: Development of the OLAF administrative budget 2002-2004

	Budget 2002 (€ m)	Budget 2003 (€ m)	Budget 2004 (€ m)
Personnel	19.3	23.4	26.7
External Personnel	4.7	4.6	5.0
Furniture/Infrastructure	7.8	7.7	8.6
Anti-fraud Actions	1.7	1.9	2.0
Supervisory Committee	0.2	0.2	0.2
Lawyers associations	0.4	0.4	n/a
Total	**34.1**	**38.2**	**42.5**
Percentage committed	95%	97%	n/a

Since 2004 OLAF's operational budget has been allocated in Title 24 of the European Commission's budget. The distribution of expenditure is shown in Figure 50.

Figure 50: Development of the OLAF operational budget 2002-2004

Budgetary line	Budget 2002 (€ m)	Budget 2003 (€ m)	Budget 2004 (€ m)
24.0201 General Anti-fraud measures[21]	5.5	5.1	3.3
24.0202 Péricles[22]	0.6	0.9	1.0
24.0203 Anti-fraud Information System (AFIS)[23]	2.6	3.8	4.3
24.0204 Hercule (lawyers associations included from 2004 on)	n/a	n/a	3.9
Total	**8.7**	**9.8**	**12.5**
Percentage committed	96.79%	95.20%	n/a

[21] Ex B5-910
[22] Ex B5-911
[23] Ex B5-912 and B5-3070

Forward Look

The main developments anticipated over the next reporting period (the 12 months ending on 30 June 2005) are as follows:

- Further concentration of resources on OLAF's main activities with particular emphasis on increased working cooperation with the relevant EU institutions in identifying and combating internal corruption and in protecting direct expenditure.

- Closer liaison with EU institutions and other international bodies in further developing information access and exchange procedures to improve actionable intelligence to help inform and prioritise OLAF's operational activity.

- Reinforcement of the role of the intelligence units by producing an improved overall risk assessment of the threat of fraud to the EC Budget in an ongoing cyclical process and in line with other EU threat assessments. Expansion of analytical and information sourcing skills.

- Greater emphasis on fraud prevention and deterrence benefiting from lessons learned from within OLAF and from EU institutions.

- Strengthening relationships with OLAF's network of partners including expansion of the tasks of the new multi-agency investigations unit in forging closer links with international partners and in developing new administrative investigative agreements.

- Improvement of management structures and practices in the light of the outcome of the audit by the European Court of Auditors.

- Implementation of the revised, comprehensive OLAF Manual (1 December 2004). This will include a summary of procedures and rights which will also be reproduced separately for ease of reference.

- Further improvements to OLAF's Case Management System (CMS), to support the weekly meetings of the Investigations and Operations Executive Board, a module to facilitate legal advice for operational staff, and a full text search module on all operational documents to enhance intelligence support.

- Increased training to improve case handling and a common investigative culture, incorporating the operational advisory and support activities of the Office.

- Increases in the levels of involvement of OLAF's legal advisers in OLAF's operational activity.

- Recruitment of staff from the new Member States and posting of OLAF officers in a number of new Member States, Accession and Candidate Countries within the overall aim to coordinate enhanced activity in relation to the EC budget in those countries.

- Implement the recommendations of the Article 15 Report.

- Continuing commitment to establishing multi-disciplinary task forces for complex and large cases.

ANNEX

DEFINITIONS (OLAF MANUAL, AUGUST 2003)

Assessment: The purpose of an initial assessment is to analyse the information initially received at OLAF in order to make a recommendation as to whether an investigation should be opened, and if so, which category of case.

Internal investigations: Internal investigations are administrative investigations within the Community organs for the purpose of detecting:

- fraud, corruption, and any other illegal activity affecting the financial interests of the European Community;

- serious matters relating to the discharge of professional duties that constitute a dereliction of the obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies, or members of staff, and liable to result in disciplinary or criminal proceedings. (Individuals who work inside Community organs but are not subject to the staff regulations, such as interim employees, cannot be the subject of an internal investigation.).

External investigations: External investigations are administrative investigations outside the Community organs for the purpose of detecting fraud or other irregular conduct of natural or legal persons. They may be carried out under either horizontal or sectoral legislation. Such cases are classified as external investigations where OLAF is providing the majority of the investigative input.

Coordination cases: Coordination cases are cases that could be the subject of an external investigation, but where OLAF's role is simply to facilitate the exchange of information and operational synergy among acting national and Community services; the majority of investigative resources are provided by other authorities. OLAF's role is to facilitate contacts and to encourage the responsible authorities to work together.

Assistance cases: (Criminal) assistance cases are cases within the legal competence of OLAF in which competent authorities of a Member State or Candidate Country carry out a criminal investigation and request OLAF's assistance, or OLAF offers its assistance.

Monitoring cases: Monitoring cases are cases where OLAF would be competent to conduct an external investigation, but in which a Member State or other authority is in a better position to do so (and is usually already doing so). Monitoring cases are passed directly to the authority judged competent to handle them. No OLAF investigation resources are required, but, as the interests of the EU are at stake, OLAF will follow up, via the appropriate follow-up unit, with requests for reports on developments at regular intervals.

Non-case: Non-cases are cases where there is no need for OLAF to take any investigation, coordination, assistance or monitoring action. Non-cases result from assessments that conclude, for a variety of reasons, that there is no reason to believe that EU interests are at risk from irregular activity. This process may result in the transmission to Member States of information about possible offences not related to the protection of EU interests.

Follow-up: Follow-up includes various activities designed to ensure that the competent Community and national authorities have executed the legislative, administrative, financial or judicial measures recommended by OLAF.

Administrative follow-up: Administrative follow-up consists of all measures taken by national administrative authorities or by the Commission services with regard to the execution of Community policies and law. It includes case-specific measures: ensuring that the authority in question has taken the necessary administrative measures to remedy the fraud, irregularities or other illegal activity at issue in a specific case; and more general measures, with wider relevance, such as ensuring that all the appropriate notifications have been made by the national authorities to the Commission services.

Legislative follow-up: Legislative follow-up involves the development of proposals for the "fraud-proofing" of draft legislation or contract provisions. Practical experience gained as a result of OLAF's operational activities is often the basis for a legislative follow-up action, which may include proposals for: new Community legislation; amendment of existing Community legislation; to modify standard Community contract clauses; and opinions on the need to modify Member States' legislation.

Financial follow-up and recovery: Financial follow-up activities differ significantly according to the sector involved. When recovery issues arise during the investigation, the investigator coordinates activities with the follow-up units. This includes Traditional own resources, Agricultural sector, Structural policy field and Direct expenditure.

Judicial follow-up: Judicial follow-up is where there is evidence of possible criminal acts and the case is referred to the competent national judicial authorities for further investigation and prosecution where necessary. OLAF prepares a report setting out details of the alleged criminal activity and the supporting evidence for transmission to the relevant national judicial authority; provides legal or investigative assistance as required by the competent national judicial authorities.

Disciplinary follow-up: Disciplinary follow-up concerns internal cases only where there is evidence of serious matters relating to the discharge of professional duties, such as to constitute a dereliction of the obligations of an official or other servant of the Communities, liable to result in disciplinary proceedings. OLAF would recommend that the case be referred to the appropriate EU authorities (DG ADMIN and the disciplinary services of the other Community organs) for appropriate disciplinary action. A recommendation should also be made, where appropriate, to initiate a procedure under Article 22 of the Staff Regulations for the recovery of funds from the officials/other servants guilty of deliberate misconduct (full reparation) or gross negligence (partial reparation).[24] This includes monitoring the progress of the case from the investigation stage to disciplinary proceedings and sanctions in order to provide relevant information in relation to the status of the case.

[24] See Guidelines for applying Article 22 of the Staff Regulations (financial liability of officials), SEC(2004)730/5, June 2004, point 4.2.

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Report of

the European Anti-Fraud Office

Sixth Activity Report
for the period 1 July 2004 to 31 December 2005

OFFICE EUROPÉEN DE LUTTE ANTI-FRAUDE
EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE

30 rue Joseph II
B-1000 Brussels
Website: ec.europa.eu/olaf

REPORT OF THE EUROPEAN ANTI-FRAUD OFFICE

Sixth Activity Report for the period 1 July 2004* to 31 December 2005

Rue Joseph II 30
1000 Brussels
Internet Website: europa.eu.int/olaf

* The statistics in this Report relate to the calendar year 2005, they are therefore comparable with the statistics published in OLAF's Supplementary Activity Report for the year 2004. This printed edition of the Sixth Activity Report incorporates some corrections to the version of the Report originally circulated in English on 13 July 2006. These changes have been on pages 8, 14 and 31.

Foreword by the Director of OLAF, Franz-H. Brüner

It is a privilege to be able to present the sixth Activity Report of the European Anti Fraud Office.

My first term as Director of OLAF expired on 28 February 2005. I was appointed for a second term of five years on 14 February 2006.

For most of the time covered by this Report, therefore, I officiated as Director of OLAF under the principle of continuity. I was charged with the conduct of current business, pending the completion of the complex appointment process which included consultations between the Commission, the Council and the European Parliament.

A number of significant developments for OLAF occurred during this period.

There was further debate about how the core functions of OLAF should develop. Notably, the European Parliament held a hearing in July whose conclusions generally endorsed OLAF's present role and status. On 24 May 2006 the Commission revised its proposal to improve OLAF's main legal base. The European Parliament and the Council are now considering this proposal.

Also in July 2005, the European Court of Auditors produced a Special Report on OLAF. Although much of the audit work was necessarily based on investigations which had been closed many months earlier, the ECA was able to demonstrate that OLAF had made significant progress since its creation in 1999 and at the same time to indicate areas requiring further management attention. I welcome these positive suggestions.

Another high point of the year was the appointment of a new Supervisory Committee in November. The appointment of members with both high qualifications and direct experience of operational anti-fraud work made it possible to resume a constructive dialogue with an active Supervisory Committee. In the words of the incoming Chair of the Supervisory Committee, Mrs Rosalind Wright, formerly Director of the Serious Fraud Office in the United Kingdom, the Committee's role is that of a "critical friend" to OLAF. I am convinced that this constructive approach will strengthen OLAF's ability to do its job.

In November, the Commission launched its Transparency Initiative with the strong support of the Vice-President with responsibility for the fight against fraud, Siim Kallas. OLAF was entrusted with a significant role in the further development of this Initiative which has real potential as an element of a global strategy against fraud.

It was already clear towards the end of my first term of office that a first task for any new Director would be to re-organise the Office to reflect the growth in staff numbers during OLAF's first five years, and to take account of the experience gained. These decisions on the re-organisation of the Office and on senior appointments were necessarily delayed until after my reappointment.

Also unfortunate were the long delays to OLAF's recruitment plans caused by changes to the EU staff regulations and the consequent need for amendments to various technical provisions affecting OLAF staff. These are matters outside OLAF's control.

The restructuring of the Office will therefore be a priority for 2006. This re-organisation will be the basis for my second term as Director, so that OLAF can build on the strengths, the expertise and the knowledge which it has established since its creation in 1999.

July, 2006

F.H. Brüner

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EXECUTIVE SUMMARY

Key figures

- At the end of 2005, OLAF was investigating 452 cases. A further 226 cases were in the initial assessment process. 233 cases were closed during the year.

- In 2005, for the first time, more cases were closed with follow-up (133) than without follow-up (100). This confirms an increase in substantive results obtained from investigations.

- There was a 20% increase in information on suspected fraud received in 2005 relative to 2004. This partly reflects an increase in information supplied by Commission staff and by informants.

- The average duration of the cases remains at somewhat under 2 years.

- A greater proportion of investigations in 2005 were "OLAF owned" (internal and external cases) rather than delegated primarily to Member State authorities (coordination and assistance cases).

- 40 internal investigations were opened in 2005, as against 23 in 2004.

- OLAF's own investigation activity in respect of the so-called "EUROSTAT affair" largely ended in 2005. Judicial procedures continue in three Member States.

- In the first full calendar year after enlargement, OLAF opened 24 cases in new Member States and 23 cases in acceding and candidate countries.

- Financial recovery has reached a new peak in 2005 with a total of € 203 million recovered.

Investigations

- At the end of 2005, internal investigations totalled 58 open cases and 30 cases in evaluation;

- 2005 saw a further increase in OLAF's activity in the external aid sector, in partnership with other bodies, in particular the Commission Directorate General AIDCO and ECHO. Cooperation with Member States and other international donors improved.

- The largest proportion of external aid cases continued to relate to Africa (35% of the total).

- OLAF launched major investigations into a number of NGOs active in the aid sector.

- Further improvements need to be made to international cooperation in the fight against fraud in the aid and development sector, particularly to increase information exchange.

- OLAF is paying increasing attention to the public procurement process wherever EU financial interests are at stake and wherever the relevant management decisions are taken.

- The Community structural action in which most fraud has been identified continues to be the European Social Fund.

- False declarations of product origin continue to be the most common fraud in the Customs sector. One such case involving textiles diverted from Asia to the Caribbean has led to the initiation of recovery proceedings for more than € 20 million.

Intelligence
- Integration of OLAF's operational intelligence assets into the investigative process has increased across several sectors of OLAF activity, including internal investigations and complex cases involving EU expenditure as well as in the Custom sector.

Rules of procedure
- The third revision of the OLAF Manual was published in February 2005.

Case Management System
- OLAF has further enhanced its Case Management System (CMS) to widen its management applications, in particular for judicial and disciplinary follow-up.

Enlargement
- OLAF has posted liaison officers to Bulgaria and Romania.

Cooperation with the United Nations
- The UN invited OLAF to carry out a peer review of the investigative arm, the office of Internal Oversight Services (OIOS).

Disclosure of information
- The Office received in total 36 requests for access to documents (among which seven were handled also as confirmatory requests) and provided full access to 18 and partial access to 55 documents. One new complaint to the Ombudsman made in the latter half of 2004 and five new complaints made in 2005 related to access to documents (a further three new complaints filed with the Ombudsman in the latter half of 2004 and two in 2005 concerned other matters). A total of 130 Parliamentary questions concerning OLAF (120 written and 10 oral questions) were handled.

OLAF and the media
- OLAF intensified its dialogue with journalists and their trade associations by organising a joint seminar with the International Federation of Journalists (IFJ) for members of the OLAF Anti-Fraud Communicators' Network (OAFCN) on building mutual trust between anti-fraud services and journalists.

Training
- OLAF put renewed emphasis on internal training, in particular tailor-made courses for investigators (for instance interviewing techniques).

MISSION STATEMENT

OLAF's Objectives

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, to fight fraud, corruption and any other illegal activity, including misconduct within the European Institutions that has financial consequences. In pursuing this mission in an accountable, transparent and cost-effective manner, OLAF aims to provide a quality service to the citizens of Europe.

OLAF's Methods and Means

The European Anti-Fraud Office achieves its mission by conducting, in full independence, internal and external investigations. It also organises close and regular co-operation between the competent authorities of the Member States, in order to co-ordinate their activities. OLAF supplies Member States, candidate countries and third countries with the necessary support and multidisciplinary technical know-how to help them in their anti-fraud activities, and cooperates closely with international organisations with parallel interests. It contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to strengthen the relevant legislation.

OLAF's Principles

The Office's activities will be carried out with integrity, impartiality and professionalism, and will, at all times, respect the rights and freedoms of individuals and be fully consistent with the law.

1. INTRODUCTION

Previous OLAF Activity Reports have covered successive 12 month periods ending in June. The decision was taken in 2005 to move to reporting on the basis of the calendar year.

The last full Annual Report therefore related to the 12 months to June 2004. A supplement was produced in July 2005 which presented statistics for 2004 and earlier years on a calendar year basis.

The present Report therefore describes, exceptionally, the 18 months from July 2004 to December 2005. However, the statistical information in the present Report relates to the calendar year 2005, so that it can be compared with the information for earlier years published in the supplementary report for 2004. Care is nevertheless needed when drawing conclusions from these statistics since quantity does not reflect the time and resources expended, nor indicate the quality of the outcomes achieved. Nor is it possible to quantify the preventive and deterrent value of OLAF's work in combating fraud.

This Report therefore completes the transition to calendar year reporting. The Annual Report for 2006 will be on a purely calendar year basis.

1.1. The Main Competencies of OLAF

OLAF's Mission Statement summarises the objectives of OLAF: to protect the financial interests of the European Union, and to fight fraud, corruption and any other illegal activity, including misconduct within the European Institutions that has financial consequences. OLAF's responsibilities also involve, over and above the protection of financial interests, certain activities linked with the protection of Community interests from irregular acts likely to lead to administrative or penal proceedings (such as the protection of the euro against counterfeiting). OLAF conducts investigations in full independence. As a service of the European Commission, OLAF also contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to prepare and strengthen relevant legislation, including instruments which fall under Title VI of the Treaty on European Union (which deals with police and judicial cooperation).

Since OLAF is part of the Commission, it is able to exercise Commission powers. However, OLAF is endowed with budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes two structures to reinforce OLAF's operational independence: guarantees associated with the post of OLAF's Director General, and the Supervisory Committee.

Legal Basis

The Community legal framework for the fight against fraud consists of provisions of the EC Treaty and several instruments of secondary law. OLAF was created and operates on the basis of these instruments. Primary law consists of Article 280 of the EC Treaty which establishes the legal basis for Community action against fraud. In addition, Article 274 establishes that the Commission is responsible for the implementation of the Community budget.

Secondary law includes Commission Decision 1999/352/EC/ECSC/Euratom which creates OLAF, and delegates to OLAF the Commission's powers to carry out all operational activities relating to safeguarding Community interests against irregular conduct liable to result in administrative or criminal proceedings. Specifically, this Decision empowers OLAF to conduct internal administrative investigations (Community institutions, bodies, offices and agencies) and external administrative investigations (economic operators in the Member States) to detect fraud, corruption, and other illegal activities against the Community's financial interests, and to carry out investigative assignments in other areas at the request of Community Institutions. In addition, it empowers OLAF to cooperate with the Member States in the field of fraud prevention; to prepare legislative initiatives; to give technical support, in particular in the area of training, to the other Community Institutions or bodies as well as to the competent Member State authorities; to maintain direct contact with national police and judicial authorities; and to represent the Commission in the forums concerned.

EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999, confer on OLAF powers to conduct internal investigations and all of the Commission's powers to conduct external investigations. It provides that OLAF must conduct investigations with full respect for human rights and fundamental freedoms, including the principle of fairness, the rights of persons involved to express their views on the facts concerning them, and the principle that the conclusions of an investigation may be based solely on elements that have evidential value. These Regulations provide that OLAF shall exercise the powers of the Commission in order to step up the fight against fraud, corruption and any other illegal activities detrimental to the Communities' financial interests.

OLAF conducts administrative investigations within the Community Institutions, bodies, offices and agencies in conformity with EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999, concerning investigations conducted by OLAF. These Regulations specify that OLAF is also charged with investigating serious matters relating to the discharge of professional duties.

Other legislation applies such as Council Regulation (Euratom, EC) 2185/96 which empowers the Commission to conduct on-the-spot external investigations on the premises of economic operators who may have been involved in, or concerned by, an irregularity, when "there are reasons to think that irregularities have been committed," and when (1) they involve economic operators acting in several Member States, (2) the situation in a Member State requires such a check to be strengthened in a case, or (3) at the request of a Member State.

OLAF's powers and tasks are in three main areas: investigations and coordination, intelligence, and development of anti-fraud policy. While OLAF is empowered to conduct internal and external administrative investigations, it may also perform the coordination function by conducting criminal assistance cases, coordination cases, and monitoring cases.

OLAF places priority on the development of effective cooperation with the Member States, in order to co-ordinate their activities. It offers assistance in conducting investigations by providing them with information gathered at Community level, and coordinates operational actions of the national authorities in transnational cases. It maintains direct contact with national judicial, police, and administrative authorities. OLAF has established the Anti-Fraud Information System (AFIS), a secure network for corresponding with the Member States and providing mutual assistance.

OLAF supplies Member States, candidate countries and third countries with the necessary support and multidisciplinary technical know-how to help them in their anti-fraud activities, and provides assistance with respect to specific operations, strategic analysis and risk assessment in order to target resources at the areas of greatest risk. OLAF cooperates closely with international organisations with similar interests.

In addition to the three main functions, OLAF is responsible for a number of other activities. These include: the implementation of Community legislation designed to ensure a coordinated approach within the EU and to assist the Member States in their investigations relating to trade in sensitive products; mutual administrative assistance on customs and agriculture matters among the Member States, between the latter and OLAF and between the EU and third countries; management of the Customs Information System (CIS); and follow-up of the results of OLAF investigations and recovery in the field of direct expenditure following an OLAF investigation, including civil actions in national courts.

1.2. The OLAF Manual

The internal rules of OLAF are set out in the OLAF Manual, which was originally adopted by a Decision of the Director General in 2001. Experience and feedback from within the Office in using the criteria set out in the original version of the manual have helped fine-tune it to a professional standard for the conduct of administrative investigations at an international level. The third revised and comprehensive version of the OLAF Manual came into effect on 25 February 2005. As a living document, it is available to staff in an electronic version. A printed version has been published in cooperation with the Publications Office (OPOCE) (ISBN 92-894-9590-1).

The Manual gives OLAF staff guidance under the following headings:

- Title I. Presentation of OLAF: this provides an overview of OLAF's legal and administrative framework, with emphasis on specific administrative issues.

- Title II. Operational working instructions: this sets out the operational priorities of the Office and outlines the casework procedures to be followed from assessment through to final case closure. A specific section regulates OLAF's approach in respect of the rights of concerned parties, with particular emphasis on the conduct of interviews.

- Title III. Information management: this sets out the procedures relating to internal and external communications, with emphasis on document access issues and information security policy.

- Five Annexes contain standardised forms, notes and letters in use on a daily basis; these are available to investigators electronically through the Case Management System (CMS).

A fourth edition of the OLAF Manual will be produced in due course to reflect changes in the organisational structure of the Office.

Case study: « CAMOS GRAU » judgement

On 6 April 2006, the Court of First Instance delivered a judgement in the case T-309/03 Camos Grau versus the Commission.

The Court ordered the Commission to pay €10,000 damages to Mr Manel Camos Grau, a Commission official who had been one of the subjects of an OLAF investigation concluded in October 2002. In the seven years of OLAF's existence, this is the first case that was lost in an action concerning an OLAF investigation. The judgement demonstrates that OLAF does not act in a legal vacuum, but that its investigations are under effective judicial control. The judgement contains three elements which are of significance for OLAF's operational investigation activities.

First, the Court confirmed its existing case law by stating that OLAF's final case reports (in this instance, a recommendation for the opening of disciplinary proceedings) are acts or decisions which do not have obligatory legal effects liable to affect the interests of the person concerned by modifying his legal situation in a specific way.

Second, the Court makes it clear that the strict observation of the principles of the rule of law prevails over the concern to conduct OLAF investigations rapidly.

Third, the Court found that OLAF had not respected the requirement of impartiality in the conduct of its investigation. Although one investigator had been withdrawn from the investigation because of a conflict of interest, that investigator was ruled nevertheless to have exercised influence over the investigation in a manner prejudicial to impartiality. The Court concluded that failure to respect the requirement for impartiality involved the non-contractual responsibility of the Community, in consideration of the damage caused to a private individual by a breach of Community law ascribable to a Community institution or body.

The lesson which OLAF has learnt from this relatively rare procedural circumstance (the apparent conflict of interest on the part of an investigator due to his previous professional responsibilities) is that the Office should show more vigilance and should strengthen its internal procedures in order to avoid any repetition. Since 2005 the OLAF Manual of procedures makes reference to an obligation applicable to all EU staff in the specific context in which OLAF operates: to inform the Director-General of any situation which could generate a possible conflict of interest, whether during the evaluation phase, the investigation itself, or its follow-up. The next update of the OLAF Manual will also take this judgement into consideration.

Ombudsman
In the latter half of 2004 four new complaints against OLAF were filed with the Ombudsman. One of these related to access to documents. During 2005 there were seven complaints of which five concerned access to documents.

Of the complaints filed in the latter half of 2004, the Ombudsman found maladministration in three instances and no maladministration in the fourth. The Ombudsman issued a Special Report to the European Parliament in respect of one of the complaints. This is still under consideration by the Parliament.

One of the two complaints filed during 2005 which dealt with matters other than the access to documents was subsequently withdrawn by the complainant. The other case is still pending.

1.3. The Investigations and Operations Executive Board

The Investigations and Operations Executive Board meets on a weekly basis to provide opinions to assist the Director General in taking decisions relating to the treatment of cases. These decisions concentrate on each new major stage of the lifecycle of cases: opening cases; non-cases; changing case types; closing cases; opening new follow-up paths; closing follow-up. The Board consists of representatives from each Directorate and their respective units thereby ensuring a cohesive formal approach to each decision. The Board continues to be consulted for each new major stage of the lifecycle of the case and where relevant keeps abreast of the external investigative, judicial and associated case partners.

Once a case has been opened and the operational activity has been completed in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage[1]. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up case is formally closed and any associated organs[2] or other parties are informed of the outcome.

If it is decided that there is no need to open a case, for whatever reason, then the case will be classed either as a monitoring case or a non-case. Where a national authority is better suited to investigate a particular matter, but where the information is deemed sufficiently interesting, for example for fraud proofing, OLAF may wish to follow-up on the matter and will designate this as a monitoring case.

Where initial information clearly does not relate to factors within OLAF's competence, the case is closed as a Non-Case Prima Facie without a formal procedure in the Board. For reasons of accountability and transparency, these cases are nevertheless stored in the CMS.

1.4. The Case Management System (CMS)

[1] In some circumstances follow-up activities may take place before the formal closure of the investigation stage.
[2] Institutions, bodies, offices and agencies

The Case Management System (CMS) was initially developed as a tool to support the efficient management of OLAF's casework. Individual case records are created as new information is received; these records, identified by a unique reference number, remain open throughout the lifecycle of the case. All significant events concerning a case are recorded here and scanned copies of all relevant documents are linked to each case record. This means that case handlers can have instant access to case-related information as they need it.

The CMS is constantly being refined and updated in response to the needs of the operational teams. The judicial and disciplinary follow-up part of the system was redesigned in 2005. As a result of this review a more sophisticated set of data fields were introduced and some 800 case records were updated.

As the CMS has developed it has become the primary source of management information for the Office. Operational statistics, including the information in this report, are generated from the data contained in the CMS. Statistical reports for internal and external use have continued to evolve, supported by a full text search capability.

A number of new modules have been introduced since the last full report:

- The Investigations and Operations Executive Board Module is used to prepare and circulate case-related documents which require a Board decision. The Module facilitates quick and easy access to documents for all authorised parties and is particularly useful for internal consultation. The Board agenda is automatically generated by the Module and work flows can be managed and audited; this ensures the rapid and accurate transfer of information between case-handlers and Board members;
- The Mutual Assistance Module links mutual assistance cases governed by Regulation 515/97 with specific OLAF cases. It is also used to record contact details of all Member State authorities;
- The Legal and Judicial Advice Module is used to manage and record internal requests for legal advice. This Module enables case-handlers to request advice on specific cases and gives the legal experts access to the relevant case file, thus ensuring that advice can be based on a full understanding of all the issues concerned;
- The Greffe Library Module is used to manage the transmission of original case-related documents within OLAF. These documents are normally retained centrally by the OLAF Greffe under the supervision of the Document Management Officer. There are occasions when case-handlers need access to the original documents; this module is used to record the whereabouts of original documents and to ensure that documents do not go missing.

Development of the CMS is a continuous process. The monthly management statistics are being overhauled in 2006, providing a much clearer picture of OLAF's key performance indicators. Further revision of the Case Module is also foreseen, with the emphasis on reviewing the way in which OLAF records its financial, legal and administrative results.

2. OPERATIONAL ACTIVITIES

2.1. Statistical overview of operations

Figure 1 provides a snapshot of all case records in the CMS by their stage at the end of calendar year 2005. The total number of valid case records is 5,165. This number includes 1,421 UCLAF[3] cases created before 1 June 1999.

Figure 1: Distribution of all cases by stage at the end of 2005

Assessment	Non Cases	Non Case Prima Facie	Monitoring	Opened	Closed without action	Follow-up	Follow-up complete	Total
226	1125	347	118	452	1980	714	203	**5165**

Figure 2 shows the level of incoming information over the past 5 calendar years. The volume of information received has increased by 20% in each of the last 2 calendar years. A procedural enhancement (detailed below) will have contributed to these increases. However the rise has also been supported by an increase in referrals from EU staff and the general public detailed in Figure 15 of this report.

Figure 2: New information received

2001	2002	2003	2004	2005	Total
735	571	602	720	857	**3485**

Each new piece of information received is subject to a process of assessment. Where information is received which clearly and unequivocally falls outside the competence of OLAF, the responsible Head of Unit may propose not to refer the information for full assessment. Since July 2004 this simplified procedure has recorded such information as 'non case prima facie' in OLAF's database.

For cases assessed under standard procedures, the decision to open or not to open a case is prepared by the *Investigations and Operations Executive Board*. The assessment period is calculated from the date of receipt of information to the point when the Board makes this decision. The recording of information which has been assessed under both simplified and standard procedures provides greater transparency of process and increased traceability of material. It has also contributed to the increased volume of registered information (as shown in figure 4). Nevertheless, since the result has been an improvement in the management of information OLAF resources have been more effectively targeted to allegations of a substantive nature.

Figure 3 demonstrates this effect. The figure displays the average length of standard assessments closed in each calendar year from 2001. The length of assessment falls consistently from 2001 to a low point of 3.5 months in 2004. The increase in 2005 was to be

[3] UCLAF was OLAF's predecessor up to 1999 (Anti Fraud Coordinating Unit in French acronym)

expected because from 2004, a greater proportion of information received was effectively excluded from this calculation by being determined as non case prima facie. This shows that resources are being better utilised to assess information in respect of which OLAF has a clear mandate.

Figure 3: Duration of assessments excluding non case prima facie completed in each calendar year

	2001	2002	2003	2004	2005
Assessment completed	763	656	629	503	531
Average duration (months)	18.9	10.6	7.6	3.5	5.3

Figure 4 shows that the increase in the assessment period has been accompanied by a parallel increase in the opening of case types specifically "owned" by OLAF, that is where other investigative bodies are not involved. This shows that the increased time taken to assess cases reflects an increase in the volume of assessment activity before the decision to open a case is taken. There was a 50% increase in the opening of the two such case types, namely external and internal investigation cases, in 2005. For co-ordination and criminal assistance cases the investigation is led by Member State authorities. Opening decisions in these two categories have fallen consistently over the 5 years shown below. Their decrease in 2005 reflected the increase in external and investigation decisions.

Figure 4: Decision taken at the end of the assessment stage in each calendar year

Type of decisions	2001	2002	2003	2004	2005
Co-ordination cases	138	107	86	82	34
Criminal Assistance Case	36	49	68	28	17
External investigation cases	190	158	127	86	124
Gen. non-case	155	178	261	255	274
Internal investigation cases	32	50	27	23	40
Investigation cases created in IRENE	251	78	19	0	0
Monitoring case	0	28	39	29	42
Total	**802**	**648**	**627**	**503**	**531**

The investigations created in IRENE refer to cases which had been classified in UCLAF's IRENE database. As in 2004, Direct Expenditure and External Aid cases represent a significant proportion of the new cases opened: 65 cases from 215 opened in 2005 (30%). This confirms the trend noted in last year's report, that OLAF's activities are moving towards areas in which Member States do not exercise specific responsibilities.

Figure 5: Number of Direct Expenditure and External Aid cases opened

Sector	2001	2002	2003	2004	2005
Direct Expenditure	40	39	23	23	27
External aid	80	95	56	30	38

This phenomenon is reaffirmed in Figure 6 which shows cases opened with Member States in sectors traditionally associated with co-operation case work. In 2005 the number of co-operation type cases opened in these areas (co-ordination cases and criminal assistance cases) has almost halved.

Figure 6: Co-operation cases with Member States in the field of Agriculture, Customs, Structural Funds and Trade by calendar year

Investigation type	2001	2002	2003	2004	2005	Total
Co-ordination cases	137	106	86	82	35	446
Criminal Assistance Case	22	27	40	14	10	113
Monitoring		14	15	21	25	75
Total	**159**	**147**	**141**	**117**	**70**	**634**
	60%	67%	69%	76%	57%	66%
External investigation cases	**106**	**73**	**64**	**36**	**52**	**331**
	40%	33%	31%	24%	43%	34%
Grand Total	**265**	**220**	**205**	**153**	**122**	**965**

Figure 7 shows that the average duration of the active stage of cases has remained consistent since 2003 (between 22 and 24 months).

Figure 7: Duration of active stage completed in each calendar year

	2001	2002	2003	2004	2005
Investigation completed	615	668	500	339	233
Average duration (months)	26	37	24	22	24

The statistics on duration for both assessments and active stages only include those stages **closed** in the reporting period. They do not include estimates for those stages which are ongoing at the end of the year.

Figure 8 shows the number of cases closed with and without a follow-up recommendation at the end of the investigation. The proportion of cases closed with follow-up has increased consistently in the last 5 years. 2005 is the first year in which more cases were closed with follow-up than without follow-up.

Figure 8: Cases closed with or without follow-up in each calendar year

Type of closure	2001	2002	2003	2004	2005
Follow-up	68	289	205	158	133
No Follow-up	629	381	288	181	100
Total	**697**	**670**	**493**	**339**	**233**

This is a positive development which demonstrates a proportional increase in substantive results from OLAF's operational and investigative work.
The result of a case may involve several types of follow-up activity: administrative, financial, legislative judicial or disciplinary follow-up. There can be more than one follow-up activity in respect of each case. Figure 9 demonstrates how many follow-up activities are related to the cases closed in each of the last 5 years. For instance, for the 133 cases closed with follow-up in 2005, 233 follow-up activities have been commenced.

Figure 9: Cases closed with Follow-up showing type(s) of follow-up opened

Type of closure		2001	2002	2003	2004	2005	Total
Cases Closed with Follow-Up		68	289	205	158	133	853
Related Follow-up Activity	Administrative	10	29	29	43	43	154
	Disciplinary	3	12	5	6	7	33
	Financial	49	232	142	95	93	611
	Judicial	32	157	132	114	89	524
	Legislative		2	4	2	1	9
Total		94	432	312	260	233	1331

The vast majority of follow-up work (85%) concerns financial recovery and judicial activities. For monitoring cases a similar pattern of activity emerges as indicated in Figure 10. Monitoring cases, introduced in 2002, are those where OLAF would be competent to conduct an external investigation but where a member State or other authority is in a better position to do so. The cases are passed directly to the relevant authority for completion. No OLAF investigation resources are required. One or more OLAF follow-up units will monitor case progress.

Figure 10: Monitoring cases opened showing type(s) of follow-up opened

Type of closure		2001	2002	2003	2004	2005	Total
Monitoring cases		0	28	39	29	42	138
Related Follow-up Activity	Administrative		7	11	5	6	29
	Financial		16	19	8	18	61
	Judicial		11	22	21	28	82
	Legislative				1	1	2
Total		0	34	52	35	53	174

Follow-up is in most cases the responsibility of the relevant national authorities. Figure 11 shows the number of cases and respective follow-up activities completed in each year. In the last 2 years the number of cases where follow-up is completed has reached a consistent level. It is still however below the number of follow-up cases opened in each year.

Figure 11: Completion of Follow-up showing type(s) of follow-up closed

Type of closure		2001	2002	2003	2004	2005	Total
Cases with follow-up completed		0	11	22	85	84	202
Type of Follow-Up activity closed	Administrative		3	2	11	17	33
	Disciplinary					2	2
	Financial		8	18	58	61	145
	Judicial		4	7	34	34	79
	Legislative				2	1	3
Total Follow-Up Activities		0	15	27	105	115	262

Figure 12 accumulates the estimated financial impact of OLAF cases by sector and stage. 'Open' are those 452 cases in active investigation by OLAF staff. 'Closed' represents some 3,016 cases in follow-up, monitoring cases, closed without follow-up and where follow-up is completed (see Figure 3 for a further breakdown of the type of closures).

Figure 12: Financial impact of Open and Closed OLAF cases at the end of 2005

Sector	Open (€ million)	Closed (€ million)	Total (€ million)
Agriculture	112.1	222.2	334.3
Alcohol	0.0	179.8	179.8
Cigarettes	344.6	972.3	1,316.9
Customs	216.9	503.1	720.0
Direct Expenditure	175.2	86.9	262.1
ESTAT*	102.9	3.1	106.0
External Aid	130.0	172.2	302.2
Internal Investigations	18.2	230.2	248.4
Multi Agency Investigations	0.0	3.7	3.7
Precursors	0.0	0.0	0.0
Structural Funds	390.2	1,144.9	1,535.1
Trade	0.0	934.7	934.7
VAT	435.1	242.9	678.0
Total	**1,925.2**	**4,696.0**	**6,621.2**

* See Paragraphe 2.2.1.- page 30

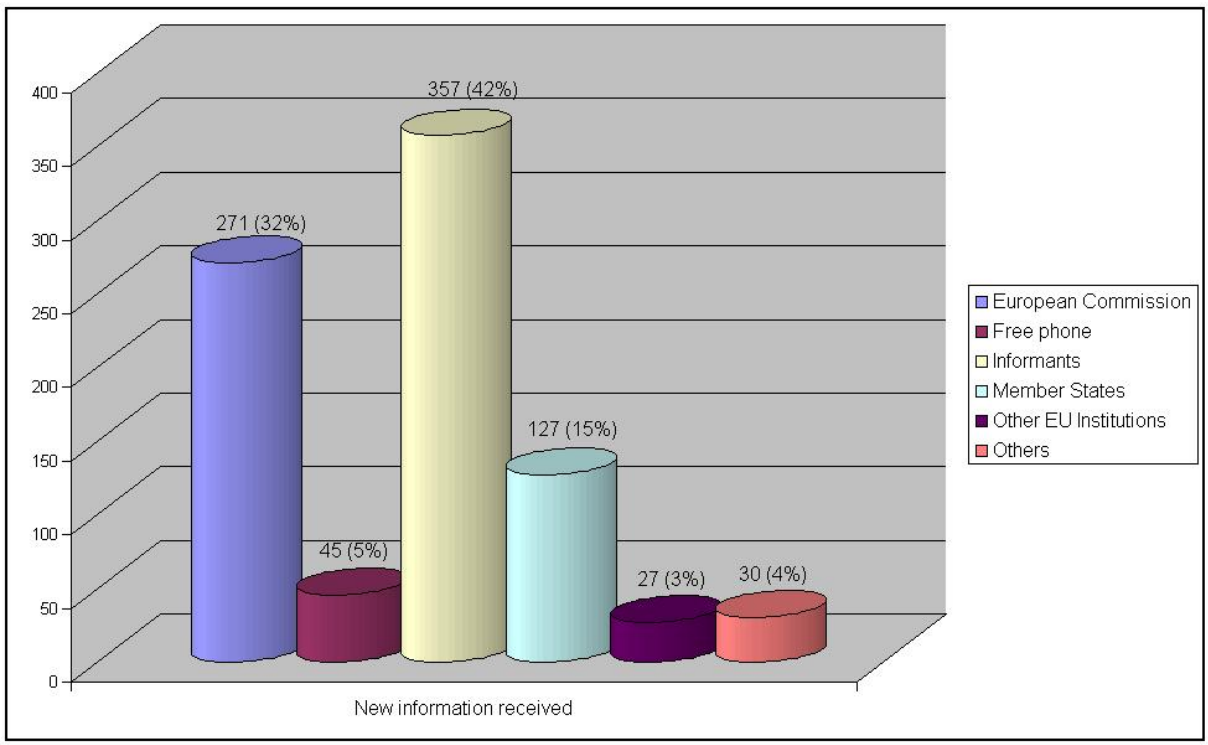
2.2. Operational Activities in the Reporting Period

During the reporting period OLAF received 857 new pieces of information. Standard assessments were commenced for 560 of these cases. The remainder were either treated under the simplified procedure as non cases prima facie or the information was found to relate to existing cases.

Each incoming piece of information is classified under a main information source heading and can be sub classified as necessary.

Figure 13 below shows the breakdown of the main sources of information relating to the new information received in 2005.

Figure 13: Distribution of new information received by source



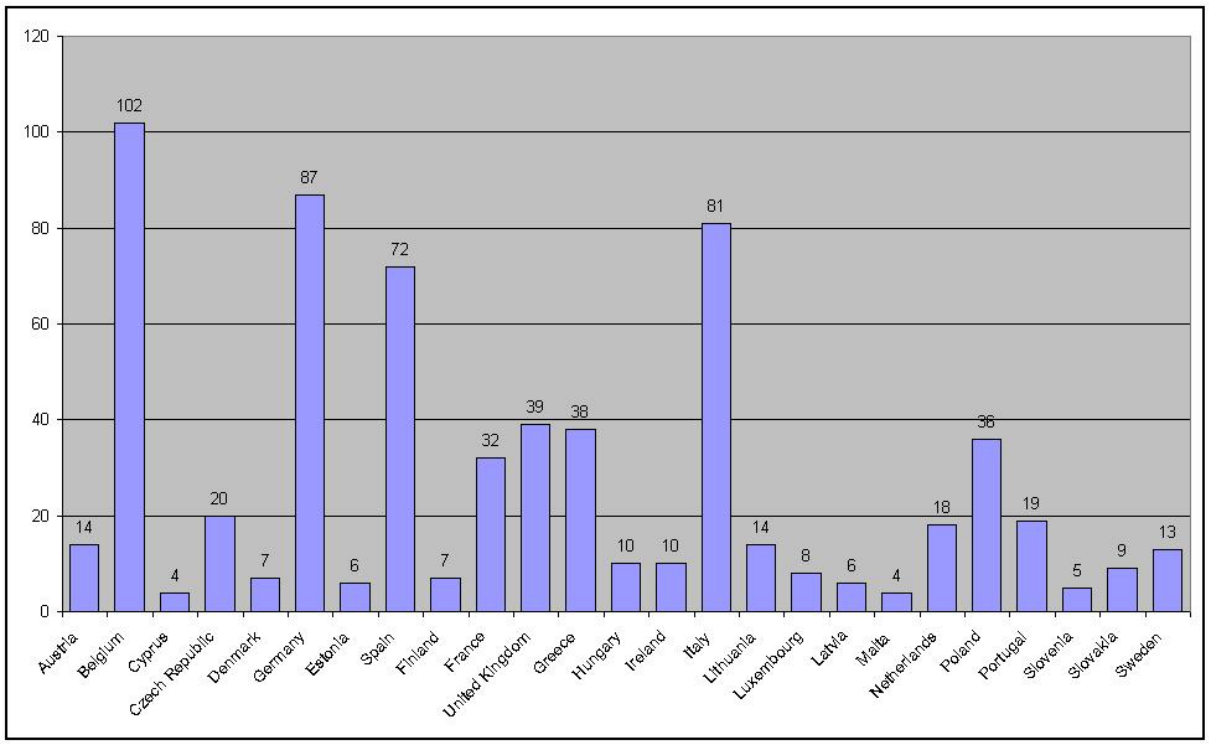
Whilst the volume of incoming information will have been augmented by the inclusion in the statistics of information treated under the simplified assessment procedure, 2005 has seen an increase in referrals from Commission staff and from informants. These are encouraging signs that the perception of the competence of the Office has improved both with official services and with the general public.

Informants are generally defined as being individuals who provide information concerning a matter within the legal competence of OLAF. This category is subdivided into witnesses; informants; anonymous, media and trade sources; and whistleblowers. A whistleblower is defined as a member of staff of a Community body who, in the course of or in connection with the performance of his or her duties becomes aware of facts which indicate either possible illegal activity falling under the competence of OLAF or serious failure by an official to comply with his or her professional obligations, and who then reports these facts to OLAF. It is a report directly from the individual rather than a report submitted through his or her hierarchy.

At the end of 2005, OLAF had five active cases where the primary source of information was a whistleblower with two further cases in follow-up and one monitoring case.

2005 was the first complete year following the enlargement of the Union. The geographical spread of new case records is shown in Figure 14.

Figure 14: Distribution of new case records created in 2005 by Member State



Note that in the database one case record may relate to more than one country and that the above figures indicate each occurrence of a country. A proportionally higher occurrence of Belgium and Luxembourg is to be expected given that they are seats of European institutions.

Despite the fact that both these sets of figures have risen since 2004, the overall picture is consistent with an increase in the level of registered new information.

Figure 15 shows the same details for the two acceding states, Bulgaria and Romania, and the three candidate countries: Turkey, Croatia and the Former Yugoslav Republic of Macedonia.

Figure 15: Distribution of new case records created in 2005 by Accession or Candidate Country

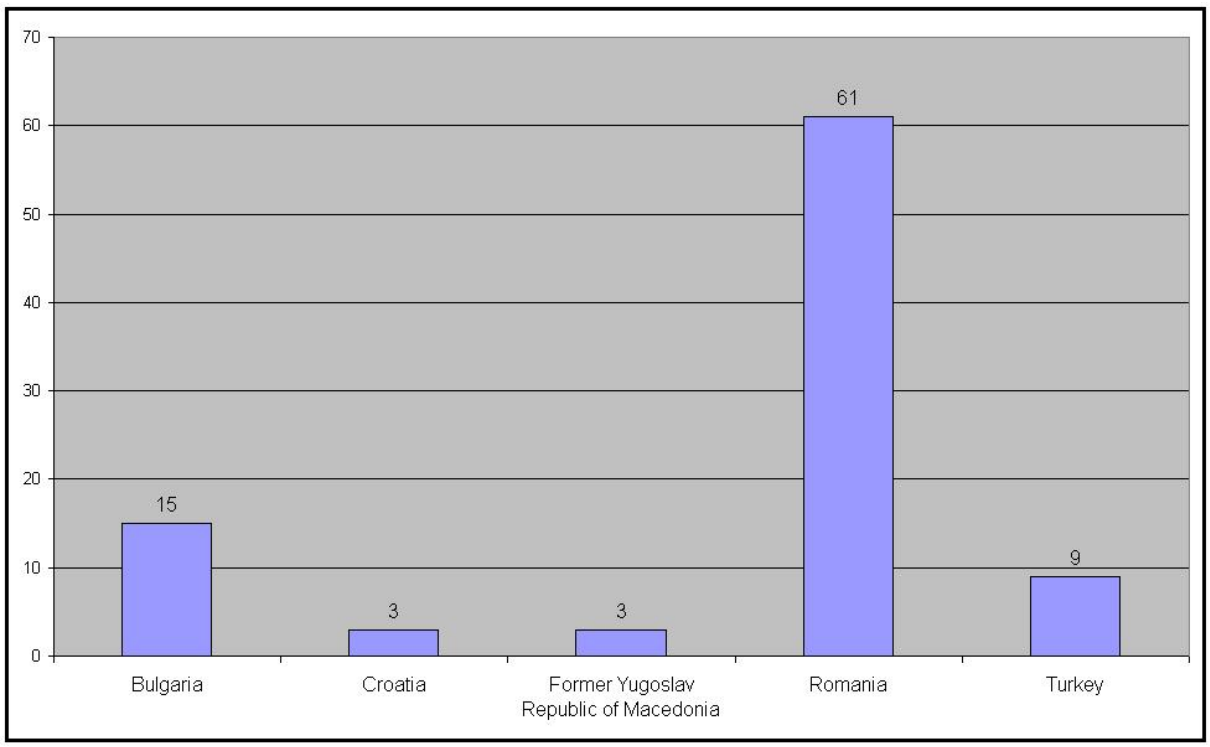


Figure 16 shows the distribution of new information in relation to activities in third countries. The pattern is similar to that in previous years.

Figure 16: Distribution of new information received concerning 3rd countries by geographical region

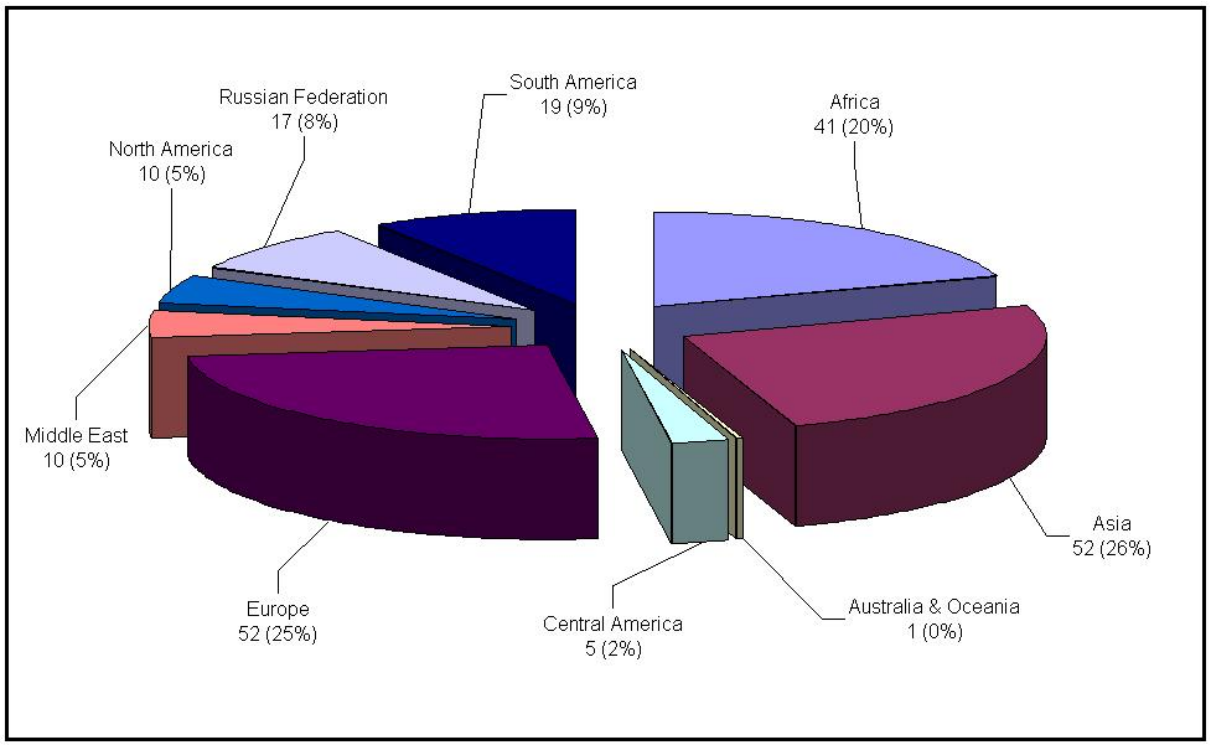


Figure 17 analyses the new information received by OLAF in 2005 by OLAF sector. The major change in relation to 2004 is a substantial increase in information registered in the internal investigations sector (120 in 2004 compared with 247 in 2005). However this must be considered in the context of the registration of items treated under simplified procedure as non case prima facie. Many of the latter communications concern tenuous allegations against individuals and bodies outside OLAF's jurisdiction. 140 were treated as non cases prima facie under the internal investigations heading.

Figure 17: New Information received in 2005 by OLAF Sector

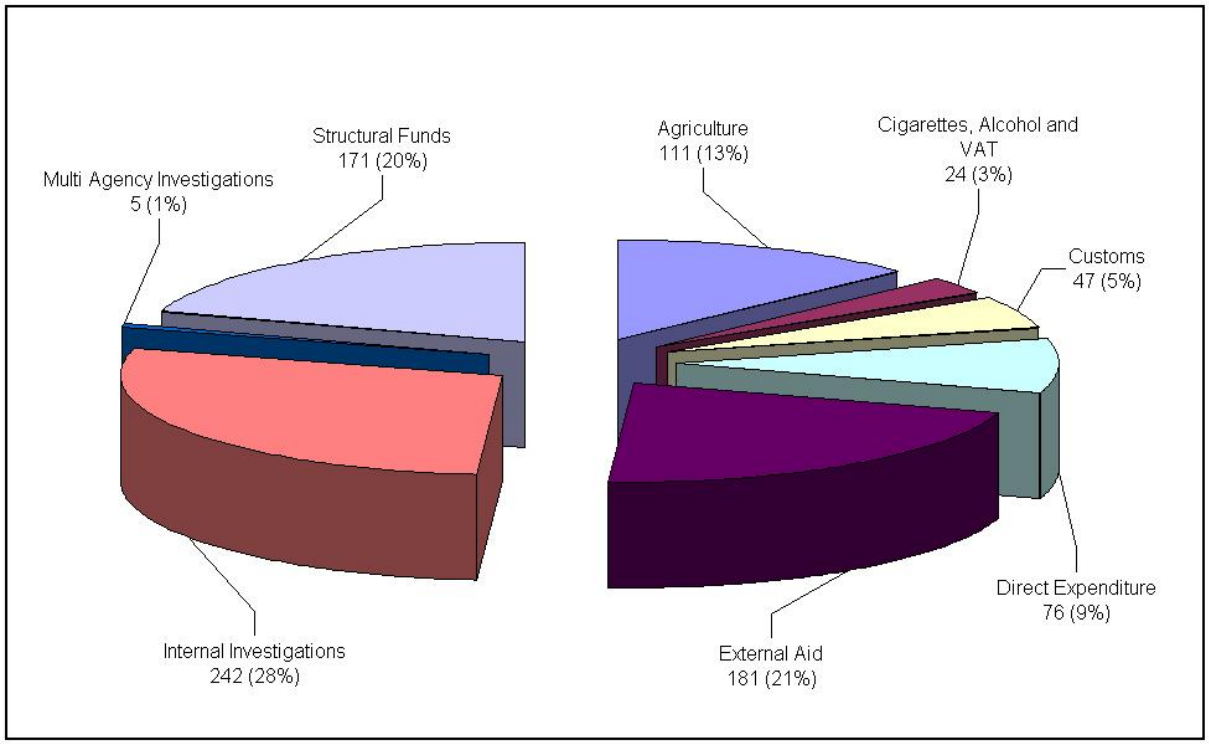
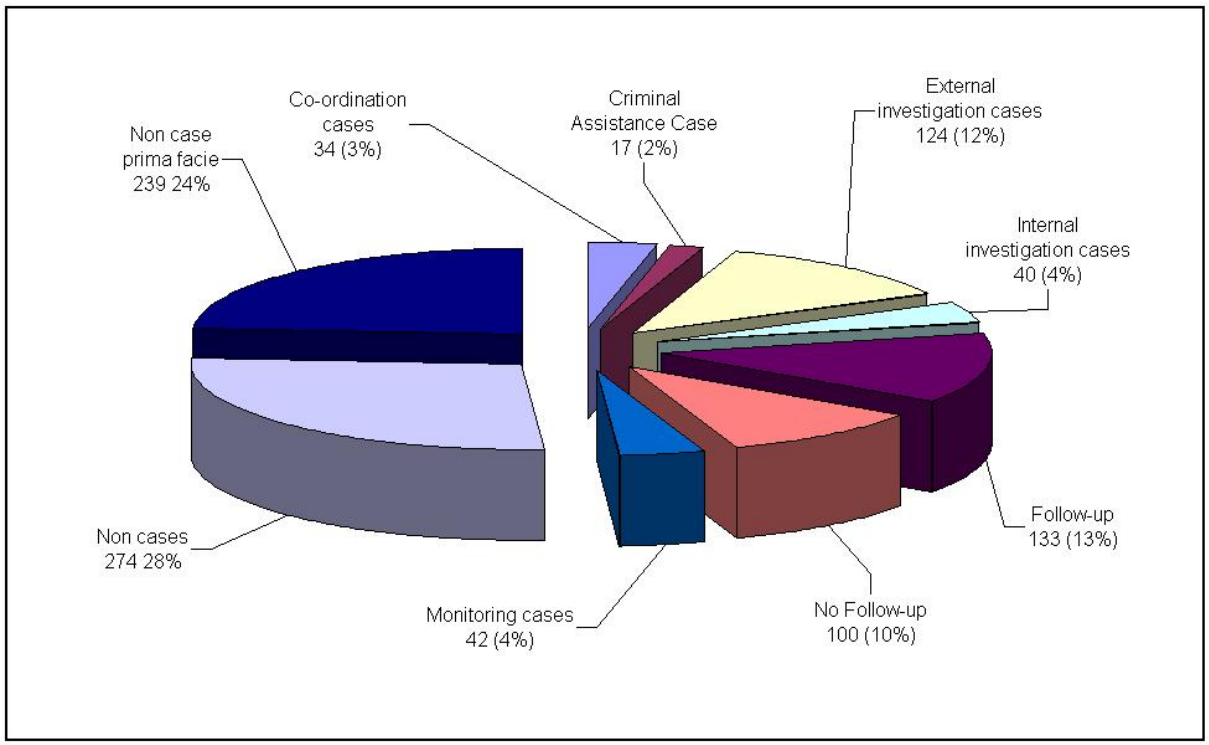


Figure 18 shows a breakdown of the number of opening and closure decisions taken in relation to OLAF records in 2005.

Figure 18: Decisions taken during 2005



Figures 19 and 20 provide more detail on the opening and closure decisions taken in 2005 by OLAF sector. The total number of opening decisions is little changed from the figure in 2004 (219). However as noted earlier there is a distinct shift in new OLAF casework from co-ordination and assistance work to "OLAF owned" investigations. This is driven by three factors: a reduction in the number of cases opened in the agriculture sector (64 in 2004); an increase in those opened in internal investigations (20 in 2004); and a change in the types of cases opened in the structural funds sector (only 11 external investigations were opened in 2004 as compared to 24 in 2005).

Figure 19: Opening Decisions taken in 2005 by Sector and type of decision

Major sectors	Co-ordination cases	Criminal Assistance Case	External investigation cases	Internal investigation cases	Total		Monitoring		Non Cases
Agriculture	16	0	19	0	**35**		6		39
Cigarettes	3	1	0	0	**4**		0		2
Customs	12	0	10	0	**22**		2		14
Direct Expenditure	0	4	23	0	**27**		2		41
ESTAT*	0	0	8	6	**14**		0		15
External Aid	0	2	36	0	**38**		12		48
Internal Investigations	0	1	1	34	**36**		2		28
Multi Agency	0	0	3	0	**3**		1		2
Precursors	0	0	0	0	**0**		0		4
Structural Funds	1	6	24	0	**31**		17		74
VAT	2	3	0	0	**5**		0		7
Grand Total	**34**	**17**	**124**	**40**	**215**		**42**		**274**

Non case decisions under standard assessment procedure show a marginal increase of 7% (255 in 2004)

* See Paragraphe 2.2.1.- page 30

Figure 20 shows in detail that 2005 is the first year in which more cases have been closed with follow-up recommendations than without.

Figure 20: Cases closed in 2005 by Sector

Major sectors	Follow-up	No follow-up	Total
Agriculture	25	19	44
Alcohol	0	1	1
Cigarettes	7	7	14
Customs	15	10	25
Direct Expenditure	16	8	24
ESTAT*	4	6	10
External Aid	25	13	38
Internal Investigations	9	17	26
Multi Agency Investigations	2	1	3
Precursors	0	7	7
Structural Funds	22	8	30
Trade	3	0	3
VAT	5	3	8
Total	133	100	233

Figure 21 provides an overview of the active operational and investigation cases at the end of 2005. It includes a breakdown of cases in standard assessment by OLAF sector. More than 60% of active cases are OLAF owned types (286 internal and external cases from 452 in total).

Figure 21: Active cases by type and cases in evaluation at the end of 2005

Major sectors	Co-ordination cases	Criminal Assistance Case	External investigation cases	Internal investigation cases	Total		Evaluation
Agriculture	50	2	34	0	86		22
Cigarettes	24	6	3	0	33		1
Customs	33	0	36	0	69		16
Direct Expenditure	0	6	41	0	47		19
ESTAT*	0	0	13	10	23		10
External Aid	0	5	63	0	68		65
Internal Investigations	0	5	0	53	58		30
Multi Agency Investigations	0	1	4	0	5		1
Precursors	0	0	0	0	0		4
Structural Funds	3	12	29	0	44		56
VAT	11	8	0	0	19		2
Grand Total	121	45	223	63	452		226

Figure 22 (see overleaf) provides a snapshot of all active cases at the end of 2005 showing the instances where Member States and Acceding/Candidate Countries are involved). More than one country is possible per case record. The figures indicate each occurrence of a country.

* See Paragraphe 2.2.1.- page 30

Figure 22: Active cases at the end of 2005 by Member State and Candidate Country

Status of Country	Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	ESTAT	External Aid	Internal Investigations	Structural Funds	VAT	Total
Member State	**Austria**	2	1	2	1		1			4	**11**
	Belgium	3	13	4	6	4		30	4	7	**71**
	Cyprus		9								**9**
	Czech Republic	1	2			1	4				**8**
	Denmark	1	1	4						5	**11**
	Germany	8	11	20	11			1	4	11	**66**
	Estonia	2	2								**4**
	Spain	11	3	7	6			2	8	5	**42**
	Finland	1	1	2							**4**
	France	7	4	6	2		3	2	4	3	**31**
	United Kingdom	5	8	8	3		2	3	1	7	**37**
	Greece	11	4	3	3	3			6	1	**31**
	Hungary	2		1	3					1	**7**
	Ireland	3	2	2							**7**
	Italy	12	6	8	4		8	4	16	13	**71**
	Lithuania	2	1	1							**4**
	Luxembourg	1		3		2		2		1	**9**
	Latvia	1	3								**4**
	Malta				1					1	**2**
	Netherlands	10	6	9	2				1	7	**35**
	Poland	2	3	1	1		2				**9**
	Portugal	6		1	1		1		2	1	**12**
	Slovenia	1	4	1	1		1		1		**9**
	Slovakia	1	1	1			2			1	**6**
	Sweden		4	2	1					4	**11**
	Net Total	**93**	**89**	**86**	**46**	**10**	**24**	**44**	**47**	**72**	**511**
Candidate Country	**Bulgaria**	2	4	2	1	1	1				**11**
	Croatia		2				1				**3**
	FYROM	2	4			1					**7**
	Romania	2	2			1	8				**13**
	Turkey	3		2			1				**6**
	Net Total	**9**	**12**	**4**	**1**	**3**	**11**	**0**	**0**	**0**	**40**

2.2.1. The "Eurostat" team

OLAF has been working on cases in relation with EUROSTAT since 2000. However, the so-called "Eurostat affair" first became a matter of public and political debate during the year 2003. On 24 September 2003 OLAF closed four cases related to Eurostat. On the following day, the then president of the European Commission, Romano Prodi, addressed the Presidents of the political groups in the European Parliament on this subject. Another five cases were closed during the year 2004 and a further five during the year 2005.

Two of the cases closed in 2005 involved internal enquiries. These did not discover any further illicit financial reserve of the kind identified in certain earlier investigations. However, the investigation found that between the years 1994 and 1999, one unit within Eurostat had administered contracts in a way which did not respect the then Financial Regulation. OLAF recommended the Commission to consider disciplinary action.

In addition, one external case was opened following the identification of numerous irregularities in management of Eurostat money. OLAF had identified a certain number of facts indicating possible breaches of criminal law relating to an organisation which had received grants from Eurostat. This case was transmitted to the judicial authorities of the relevant Member State (Portugal). The national judicial procedure is still continuing.

The closure of cases in 2005 therefore signifies the end of the period during which substantial OLAF resources were devoted to the investigation of the "Eurostat affair". (For technical reasons it was not possible during 2005 to change the title of the relevant unit to reflect the decline in Eurostat-related work.)

The main continuing action is now in the hands of the judicial authorities in Luxembourg, in France and in Portugal.

During the year 2005, OLAF opened one new external case relating to the attribution of three PHARE contracts to an external contractor of Eurostat based in Luxembourg.

In 2004, the OLAF unit dedicated to Eurostat investigations also assumed responsibility for investigations relating to the Publications Office. Two cases were closed during 2005. One of these cases was the subject of disciplinary follow-up.

In 2005, the team's remit was broadened to include casework on European agencies. This team opened 23 full cases and commenced 11 evaluations during 2005.

2.2.2. Internal Investigations

At the end of 2005, internal investigations totalled 58 open cases and 30 cases in evaluation.

In general terms, the quality of the initial information received in internal matters has improved, in particular the degree of detail and the completeness of supporting documents. Co-operation with the Institutions has improved significantly. Information is received and exchanged faster and more efficiently.

There appears to be an increase in allegations of irregularities and corrupt practices in delegations and other bodies away from the seats of the Institutions. This development is in line with OLAF's own risk assessment.

Figure 23 indicates the Institution involved in all internal cases where this is appropriate. As the European Commission manages by far the greatest part of the EC Budget, it is to be expected that it appears most frequently in the statistics. It should be noted that internal investigations may involve more than one Institution.

Figure 23: EU Institutions involved in internal investigations at the end of 2005

EU Institution	Evaluations	Active cases	Total
Committee of the Regions	1	1	**2**
Council	0	4	**4**
Court of Auditors	0	1	**1**
Economic and Social Committee	1	0	**1**
EU Agencies	2	12	**14**
European Commission	27	61	**88**
European Court of Justice	1	0	**1**
European Investment Bank	2	6	**8**
European Parliament	4	3	**7**
Total	**38**	**88**	**126**

Case study: Conflict of interest in a research contract

The Commission informed OLAF of an allegation that a former temporary agent, who had acted as coordinator within the Commission of a number of projects, might have had undisclosed connections with, and shown favour to, two companies which were contracted to carry out these projects. There was also a doubt about the accuracy of personal information which the agent had provided to the Commission before his recruitment. OLAF therefore opened both an internal investigation into the conduct of the agent and an external investigation into that of the companies concerned. OLAF directed its investigation towards four particular projects.

OLAF carried out a mission to the service concerned and conducted a number of interviews. At OLAF's request, the service engaged an independent expert to review some of the technical aspects of the relevant contracts and the scientific reasons given for the selection of particular companies to carry out the contracts. The expert produced two reports, which provided the basis for some of the questions put by OLAF to the agent at interview.

The evidence uncovered by OLAF indicated that the agent did have a conflict of interest in relation to the projects concerned, and indeed that his wife was regularly employed by one of them to draft project reports and computerise data. OLAF also found evidence that the agent had helped draw up tender specifications and draft contracts and had managed projects in a way which favoured the relevant companies. In addition OLAF found that the agent had made numerous false declarations to the Commission. In particular the agent had failed to disclose to the Commission that he had left his previous employer after the discovery of his links with the secret police of a former communist European state.

On completion of its investigation OLAF recommended that the Commission conduct a disciplinary inquiry into the agent's conduct, requested that the Commission take steps to recover amounts paid to the companies concerned and proposed improvements to the Commission's recruitment procedures.

Case study: Embezzlement of funds in an EC Delegation

DG External Relations of the European Commission informed OLAF of financial irregularities within one of the Commission's delegations in Africa. A sample control of the delegation's accountancy had suggested the possibility that a staff member could have embezzled considerable amounts of money from the delegation's imprest accounts.

The OLAF investigation, carried out largely on the premises of the delegation, involved an in-depth analysis of financial movements and numerous interviews.

The investigation revealed that a local agent, employed in the accounting department of the delegation, had systematically falsified the signatures of duly authorised delegation staff on several cheques, payment orders and other accounting documents. In this way, the local agent diverted some €300,000 through budget lines which he administered to his own bank account.

The results of the investigation have been referred to the competent judicial authorities.

Case study: Excessive Parliamentary allowances received by a Member of the European Parliament

Staff of the European Parliament alleged that a former MEP had claimed a higher secretarial allowance than his entitlement, by reporting to the Parliament that he was paying a higher salary to his assistant than was actually the case, and by continuing to claim the allowance after the assistant had left his service.

The OLAF investigation, – including an analysis of the documentation and a series of interviews - concluded that the MEP had obtained the maximum amount of the secretarial assistance allowance on the basis of incorrect information to the EP administration.

The place of residence thus enabled the MEP's travel expenses to be higher than they should have been by some € 45,000.

OLAF referred the matter to the judicial authorities of the MEP's home country, and sent its report to the Parliament to allow it to calculate the amount to be recovered from the MEP. The follow-up continues.

Case study: False documents used to obtain employment with the European Commission

An anonymous accusation of involvement in a criminal activity with implications for the EC Budget was made against a temporary agent of the European Commission. OLAF opened both a 'criminal assistance' case (assisting the investigation of a Member State judicial authority) and an internal investigation.

As the allegations concerning criminal activity could not be substantiated, the judicial investigation was closed and so consequently was OLAF's criminal assistance case.

However, OLAF's internal investigation revealed that the agent appeared to have provided false documentary evidence of his education and professional experience to the Commission in support of several applications he had made for employment. In addition, the agent was found during his period of employment to have carried out commercial activities which he had failed to disclose to the Commission.

On the completion of the investigation, the file was transferred to the relevant Member State judicial authorities, to enable them to consider a possible criminal investigation into the agent's use of falsified documents.

The matter was also referred to the Commission, to which OLAF made a number of recommendations. These were that the Commission examine the possibility of financial recovery in this case, that it consider the possibility of drawing up a 'persona-non-grata' list of persons not to be offered further employment and that it require in future that original documents be submitted in support of applications for positions.

2.2.3. Enlargement Investigation and Operational Activities

2005 was the first full year of an enlarged Union of 25 Member States. Figure 24 shows new cases opened in 2005 in respect of new Member States and accession and candidate countries. As noted in OLAF's last full year report, external aid infringements represent a significant proportion of work in the accession countries. OLAF's efforts in this field have been strengthened by the posting of OLAF liaison officers to Bucharest and Sofia. They work closely with the respective national anti-fraud coordination offices (AFCOS[4]) and with the relevant judicial authorities.

Figure 24: Cases opened in 2005 concerning new Member State, Accession and Candidate Countries and by OLAF sector

Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	ESTAT	External Aid	Structural Funds	VAT	Total
Bulgaria	1	1	1		1	2			6
Cyprus		2							2
Czech Republic	1	1				1			3
Estonia	1								1
Croatia									0
Hungary				2				1	3
Lithuania	3		1						4
Latvia	1								1
FYRO Macedonia		1							1
Malta				1				1	2
Poland	2	1		1		1			5
Romania	2	1		2	1	7			13
Slovenia				1		1	1		3
Slovakia									0
Turkey	2					1			3
Total	**13**	**7**	**2**	**7**	**2**	**13**	**1**	**2**	**47**

2.2.4. Direct expenditure and external aid

Figure 25 shows new information received in the external aid sector by country and by the programme affected. The data includes candidate and accession countries as well as some of the new Member States. OLAF is still receiving irregularity notifications relating to pre-accession funding from the most recent enlargement of the Union.

Figure 25: New External Aid case information created in 2005 from the relevant programme by new Member State, Accession and Candidate countries

Program	BG	CY	CZ	EE	FYR OM	HU	HR	LV	LT	MT	PL	RO	SI	SK	TR	Total
CARDS 2001							1									1
DA VINCI												4				4
ISPA													1			1
PHARE	1		3					1	1			6				12
RICOP												1				1
TEMPUS															1	1
Unspecified	5		7	3		2		1	1		12	33	1	1	3	69
Total	**6**	**0**	**10**	**3**	**0**	**2**	**1**	**2**	**2**	**0**	**12**	**44**	**2**	**1**	**4**	**89**

[4] AFCOS stands for Anti-Fraud Co-ordinating Structure in Accession and Candidate countries

Figure 26 shows new external aid cases for third countries by geographical region. Africa remains the most significant region of interest for OLAF casework, although the figures show a fairly even global divide.

Figure 26: New information received in respect of External Aid case in 2005 by geographical region

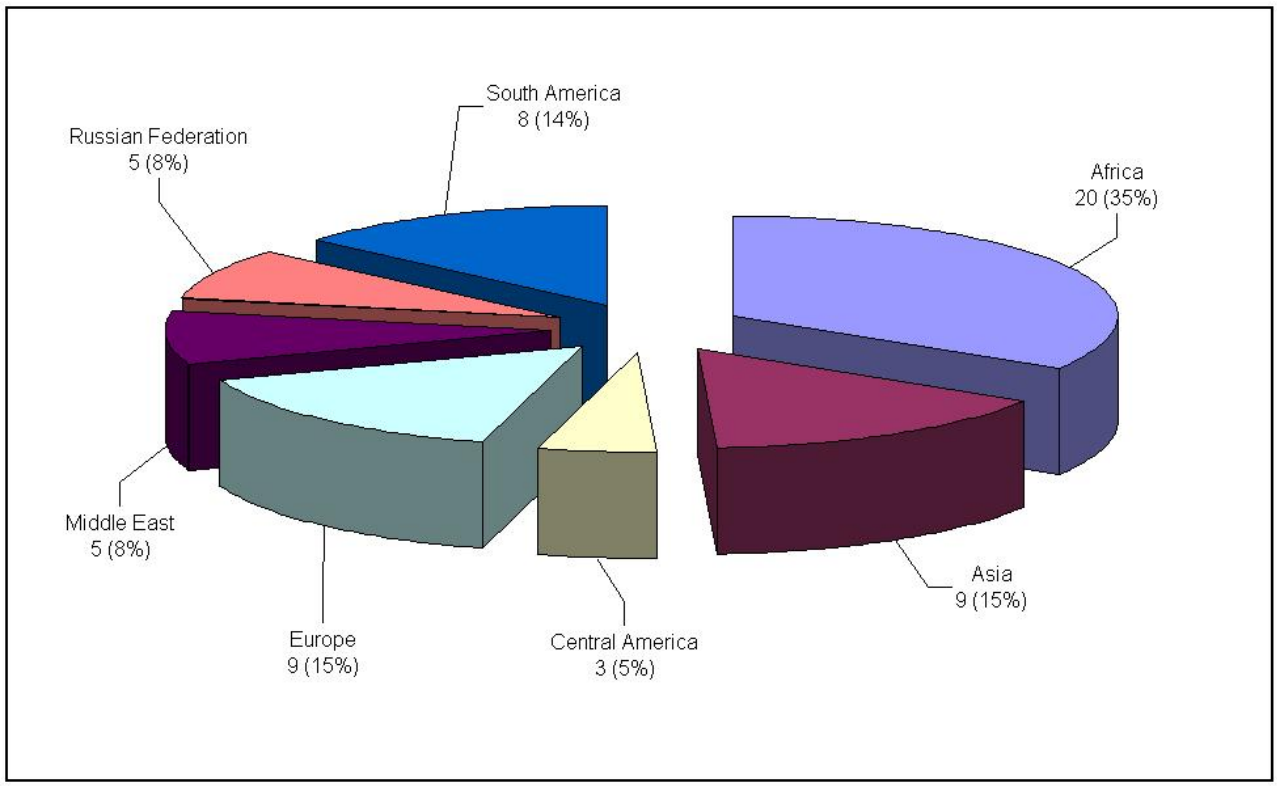
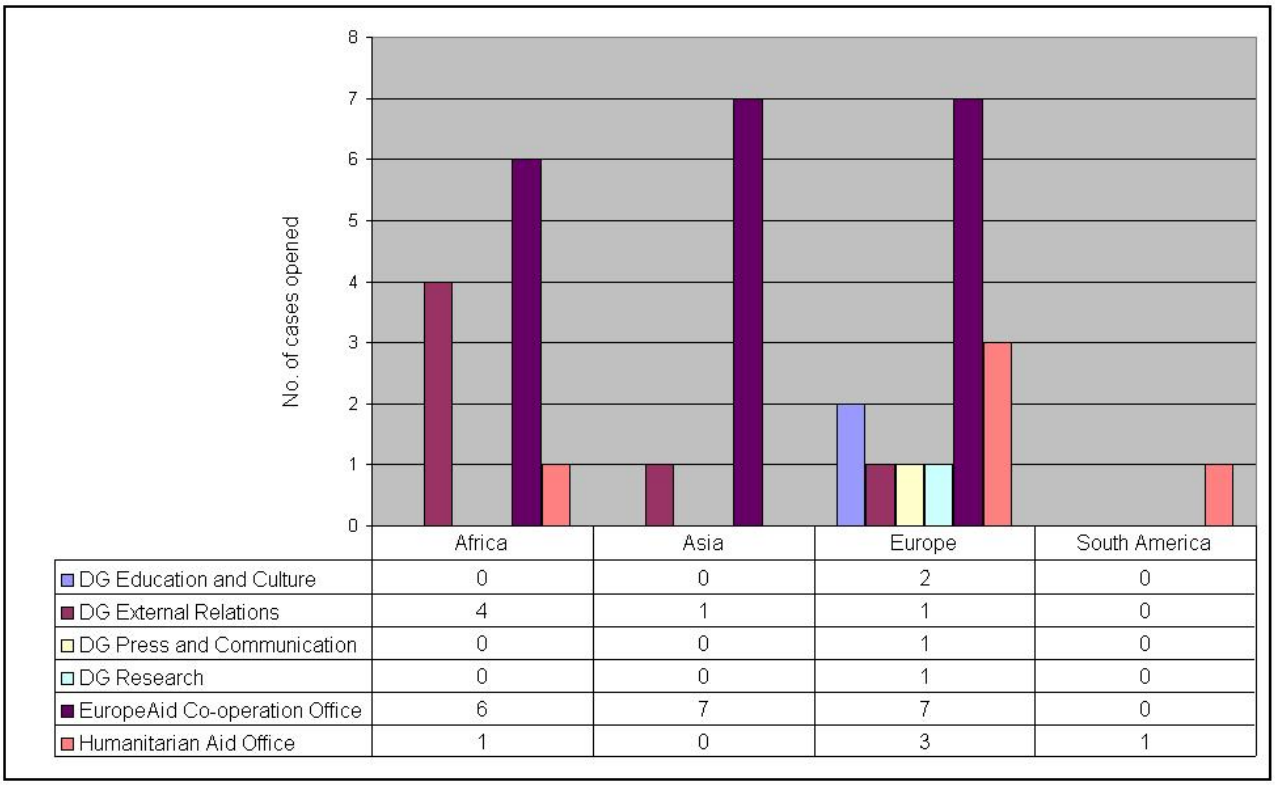


Figure 27 shows OLAF cases where an investigation was opened in 2005 by region and by the Commission Directorate-General with which the Office co-operated. The Europe-Aid Co-operation Office remains OLAF's most significant partner in this respect.

Figure 27: External Aid cases opened in 2005 by co-operating Commission DG and geographical region



	Africa	Asia	Europe	South America
DG Education and Culture	0	0	2	0
DG External Relations	4	1	1	0
DG Press and Communication	0	0	1	0
DG Research	0	0	1	0
EuropeAid Co-operation Office	6	7	7	0
Humanitarian Aid Office	1	0	3	1

Case study: Forged time-sheets

In January 2004, a Directorate General briefed OLAF about allegations it had received from an informant. Those allegations concerned a company involved in a consortium participating in a project worth €2.8 million of which the Commission would finance up to 50%. The company was unable to provide supporting documentation for the costs it claimed of about €230, 000.

The informant was an employee of the company in question and so was able to confirm most of the relevant information.

By conducting interviews and analysing documentation, the OLAF investigation showed that the time sheets had not been created on a genuine monthly basis. The company had first calculated the actual costs, added a small profit margin, and then forged invoices to cover the costs plus a profit margin.

Ultimately, the investigation proved that:

- The stated costs were higher than the actual costs,
- Some of the time sheets had been forged,
- Persons who had certified that the stated costs were eligible were aware that these statements were not correct,
- The former and current financial directors of the company had asked employees to forge missing time sheets to cover the days stated as worked,
- The current management of the company, although not in office when the irregularities had occurred, had become aware of the irregularities but had not informed the Commission about them. On the contrary, they had subsequently attempted to conceal the situation from OLAF.

OLAF forwarded this case to the national judicial authorities for prosecution and recommended the Commission to recover nearly €195,000.

Case study: EAC projects in Romania

The Commission's Directorate General for Education and Culture (EAC) carries out its activities in Romania by means of four programmes: Socrates, Leonardo da Vinci, Youth and Culture.

On the basis of an OLAF risk analysis, EAC and OLAF jointly decided to examine in detail the activities subsidised in Romania under those programmes.

Following this examination, in which EAC was closely involved, certain projects raised serious suspicions of fraud. All these projects concerned training for groups of Romanian individuals in EU Member States. OLAF opened six investigations.

The investigations revealed a common procedure. Fraudsters took advantage of the distance between the location where the funded actions were carried out (somewhere in a Member State) and the location where the supporting documents were submitted to the Implementing Agency for funding (Bucharest).

For example, seven people received four days training in a Member State, paying a sum to the "welcoming partner" in this Member State for lodging, meals and training. At the end of the training the partner delivered training certificates as well as invoices for lodging, meals and training. According to the documents presented to the Romanian Agency for funding, ten people had received two weeks training. In reality, the documents presented were fake invoices and the amount shown as paid was ten times the amount actually paid.

In the course of the investigation of these frauds, OLAF relied on close cooperation with the Romanian AFCOS (Anti-Fraud Coordination Service). In each case OLAF investigators carried out all the investigative activity in the relevant Member States. Once they had collected evidence of fraud, they informed the Romanian AFCOS who then performed the investigations in Romania, passing the information on to the Romanian judicial authorities where appropriate.

The investigation put an end to a specific and repeated scheme of fraud, the total amount of which was significant even if the money defrauded in each of the cases may seem small. The overall financial impact of these frauds was € 192,200.

External Aid

The European Union is one of the most significant providers of development and humanitarian aid. Working in partnership with other Commission services, notably the Europe Aid Cooperation Office (AIDCO) and the European Community Humanitarian Aid Department (ECHO), and with other international partners, OLAF plays a crucial role in preventing and detecting fraud against international aid and development funds.

A number of positive developments in anti-fraud work within the external aid sector were seen in 2005. First, cooperation and the exchange of information with some Member States have improved. This was accompanied by better cooperation with other international donors (such as UN agencies) and a better use of audit resources under framework contracts. This could not have been achieved without mutual trust and understanding between the Member States, the European Commission, third-countries and international institutions.

During the reporting period, OLAF investigated several sizeable non-governmental organisations (NGOs). The various organisations, including NGOs, with which OLAF investigators work across the globe, operate under very diverse systems and cultures. The distribution and administration of European funds are often influenced by internal political developments and by the different management cultures of a specific country. OLAF investigators need to be sensitive to these considerations.

Case study: Non-Governmental Organisation active in the development area

In June 2003, OLAF was informed that an NGO was manipulating the tender procedures launched in the framework of development and humanitarian projects financed by the European Commission. Four months later, OLAF communicated the first results of the investigation to AIDCO and ECHO. These results indicated that although tender procedures had apparently been correctly launched by the NGO, the purchases of goods were concentrated on certain firms which benefited from an unduly privileged relationship.

In June 2005, with the agreement of the relevant national judicial authorities, OLAF launched an on-the-spot control on the headquarters of the NGO. OLAF was assisted by external experts appointed by AIDCO and ECHO. These external experts were employees of private sector audit firms with specific experience in controlling ECHO and AIDCO projects. They participated as an outside body called to provide technical assistance to the OLAF investigation, as provided under Article 6(2) of Regulation No 2185/96.

The purpose of the inspection was to identify any irregularities in the implementation of NGO projects financed by the European Commission, mainly with reference to the procedures followed by the NGO in the acquisition of goods. Special attention was paid to business relations between the NGO and the commercial firms mentioned above.

The main results of the on-the-spot control and the analysis of different contracts funded by the European Commission showed that there was clear evidence of irregularity and frauds, including:

- Ad hoc offers prepared in such a way as to enable contracts to be awarded to a specific company;
- Conflict of interest between the companies taking part in the tendering process;
- Failure to adhere to the thresholds specified by the simplified tender procedure (which allows for a minimum of three offers);
- Business agreements were binding the participants in the awards procedures in such a way that it was impossible to determine the contract price correctly or to justify the selection of the successful company;
- Failure to declare to the European Commission the real salary paid to staff working on projects funded by the European Commission;
- Over invoicing of goods financed by European Commission projects;
- Conflict of interests between the company in charge of the internal control of the NGO and the commercial firms.

OLAF investigators have encountered typical modus operandi which illustrate the nature and character of organised fraud in the sector of external development and humanitarian aid.

Some of the biggest problems that make such fraud possible are shortcomings in coordination between the different global and international donor organisations. Such shortcomings affect the allocation of grant aid, auditing, monitoring, evaluation and the operation of warning systems. The

abundance of different projects, programmes, NGOs, organisations and foundations, combined with the fact that many of these function in different legal environments and financial systems, makes coordinating and supervising the donation and expenditure of the funds a challenging task.

The forum in which the problem of better cooperation is discussed is the Conference of International Investigators. All the main donor organisations, the World Bank, the IMF, the UN and others as well as the Commission are represented by their internal investigative bodies (in the Commission's case, by OLAF). This forum has created and endorsed international standards for investigation which have become the basis of investigative procedures for most of the international organisations. This standardisation is a first but crucial step towards increasing the exchange of information. The next step will be the creation of the Interpol Anti-Corruption Academy which will provide training for investigators in anti-corruption techniques. OLAF strongly supports both initiatives.

OLAF also strongly supports the proposal made by seven Member States calling for the creation of a European Anti-Corruption Network. This network would serve as a platform for anti-corruption agencies and bodies and would facilitate the exchange of operational experiences.

Moreover, many organisations legitimately look for multiple sources of financing in order to implement their projects. Unfortunately, there is no general information or verification infrastructure which could prevent different donor organisations from over-funding the same activity.

There are instances where, after the project money has been spent, the projects are only partly delivered or not delivered at all but false invoices are presented to justify the expenditure. OLAF investigators also encountered a number of cases where the fraud was committed during the procurement process. The main features of this kind of fraud involve manipulation or faking of tendering procedures, and the unjustified use of restricted tenders instead of open tenders.

OLAF investigators encounter various problems in their daily investigative work in the aid sector. These mainly concern the exchange of evidence, communication and cooperation. They have not only caused technical and organisational problems but have adversely influenced the duration and efficiency of investigations. OLAF’s cooperation with a number of bodies, particularly national authorities, parts of the European Commission and the departments of the international donor organisations responsible for spending money on aid projects, would benefit from further development.

These considerations have prompted OLAF to organise international conferences to discuss the main issues. During the second such conference on “Fraud and Aid Funds” in Brussels on 5-7 October 2005 the potential for a dramatic reduction in fraud against aid funds through better cooperation and information exchange between the main donors was confirmed. The principal partners of OLAF in this work, apart from AIDCO, ECHO and the delegations of the European Commission to relevant third countries, are investigative and judicial authorities, law enforcement agencies, international organisations and audit firms. OLAF will continue this dialogue with its international partners in order to raise awareness of the issues within the European Commission and to draw attention to OLAF’s own role within the EU’s institutional framework in the fight against aid fraud.

Case Study: Drinking water project in a South American country

Following an internal audit in December 2003, the Delegation of the European Commission concluded that there were serious irregularities within a project intended to construct some 20 wells for drinking water in rural areas in a South American country. The co-directors of the project had authorised payments of € 2.3 million from project funds to a private foundation, with no involvement in the project. The total budget for the project was € 7 million. The programme management unit consisted of a European co-director, who delegated his functions to a local NGO, and his counterpart in South America selected by the national Technical Secretariat of Planning.

Although the beneficiary of the misused project funds was the private foundation, the cheques signed by the co-directors were not made out to the foundation but to the bearer, in violation of the internal regulations of the project. These cheques were deposited in several bank accounts and the money was promptly transferred into the European bank accounts of family members of the European co-director. The mechanism of the diversion indicated that the foundation was a cover organisation. Furthermore, during the on-the-spot control the investigators found that there were irregularities relating to the construction of the wells. It appeared that an NGO managed by the European co-director was the real beneficiary of the entire action.

OLAF concluded that:

- The tender procedure relating to the construction of the wells was in the hands of co-directors of the projects and of the technical coordinator, who manipulated the entire process to the advantage of their NGO;
- The architects who apparently won the tender acted as middle-men and received a commission for participating in the tender in such a way as to make it appear in line with procurement rules;
- The members of the programme management unit (the national co-director, the European co-director and technical coordinator) were responsible for fixing the entire tendering process, including the documents of the evaluation committee, the statements of impartiality and the documents relating to the selection of the winning bidders.

This matter involved two fraudulent actions:

- the misappropriation of more than €2.3 million;

- a fraudulent tender procedure relating to the construction of nine wells with an estimated financial impact of € 0.5 million.

There are currently two national criminal judicial investigations in progress. OLAF investigators have made oral statements to the national court in the South American country.

OLAF is also keen to present and promote its activities in various regions across the world in order to show that cooperation and mutual assistance can also be beneficial to the investigations conducted by national authorities.

Furthermore, most investigations must be pursued in close cooperation with the investigative services of the EU Member States and of countries which benefit from European aid. It is also essential that other partner services and international organisations dedicated to anti-fraud investigations are involved. Cooperation between prosecutors, police officers, investigators and other anti-fraud services is necessary; indeed the degree to which this is present or absent is a determining factor in the final outcome of most investigations. Weaknesses in exchange of data, intelligence and evidence need to be identified and solutions found.

In addition, cooperation with auditors is also essential to the success of investigations. The support, knowledge and experience of the auditors are often indispensable and always provide a solid backing to OLAF investigators. This aspect of cooperation is especially vital because once evidence gathered by OLAF proves to be valid, a fully-fledged forensic audit is generally required.

Many beneficiaries have experience of audit and of the financial aspects of the management of aid. That is why information obtained may appear on first examination to be satisfactory and may require in depth examination from OLAF investigators before the underlying fraud is detected.

2.2.5. Structural actions

The responsibility for managing the Structural Funds lies in the first place with the Member States.

Structural Funds management remains rather complex. The control system is based on the principle that the Member State is generally responsible for controlling and correcting irregularities. When allegations of serious irregularities or fraud are brought to OLAF's knowledge, the Office may, after careful assessment, decide to intervene. It is always necessary to contact the competent national authorities to confirm whether EU funds are involved and to ensure that similar checks and inspections are not being carried out at the same time on the economic operators concerned. This exchange of information has substantial implications for the length of OLAF's investigations.

OLAF's results in the Structural Funds sector are obtained with the assistance of effective legal powers (on-the-spot controls under Regulation 2185/96). The results also reflect close cooperation with Member States' authorities and coordination with the relevant Commission Services.

Cross-checks performed under Regulation 2185/96 on other, related, economic operators have proved an essential tool in detecting fraud. They uncovered information indicating organised fraud and agreements between operators to defraud both European and national budgets.

During 2005, OLAF completed the standard evaluation of 122 allegations relating to Structural Fund actions. On the basis of these evaluations, 31 new OLAF cases were opened, 17 cases were referred to Member States authorities as monitoring cases and 74 allegations were closed as non cases. 58% of the 48 items pursued relate to the European Social Fund (ESF), 25% to the European Regional Development Fund (ERDF) and 13 % to the Guidance Funds for Agriculture and for Fish (EAGGF, FIFG). The remaining fraction relates to Cohesion or other structural funds.

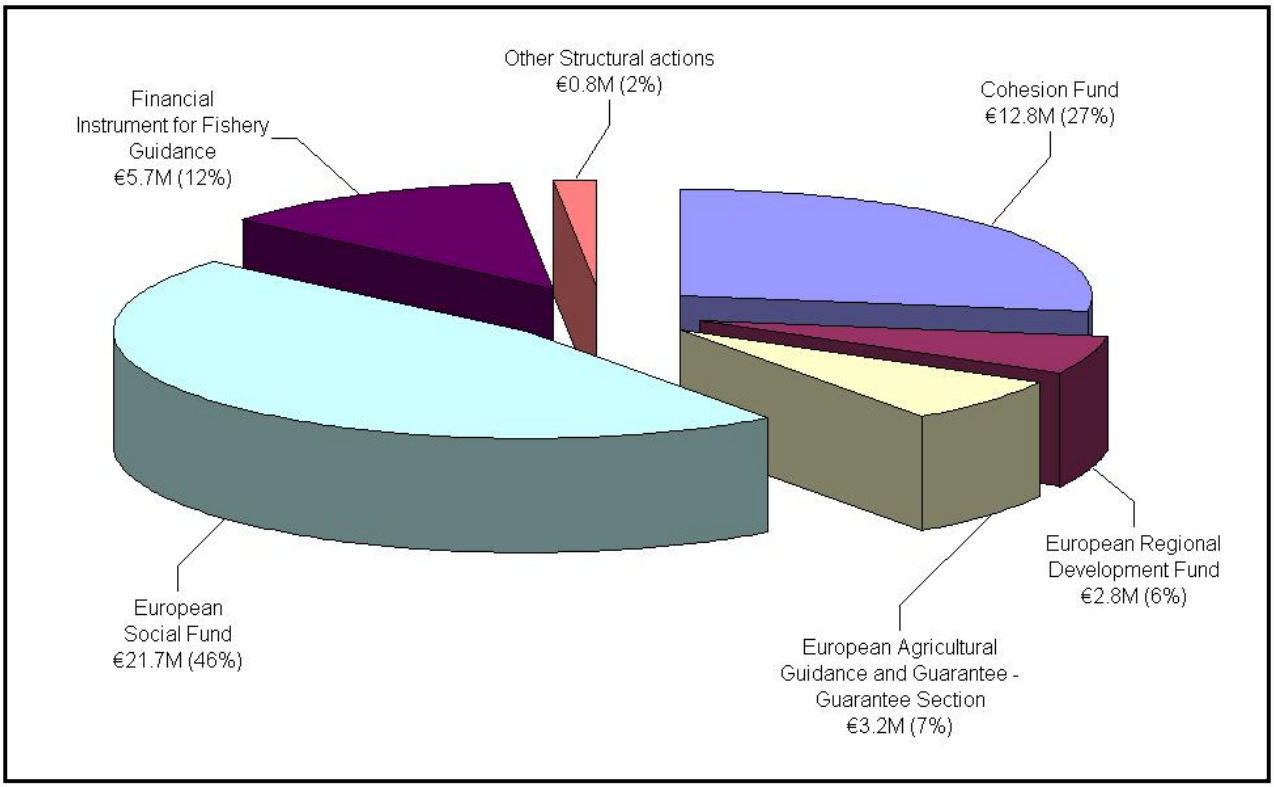
30 cases were closed after the completion of an OLAF investigation with 22 requiring follow-up activity. Figure 33 shows the breakdown of these closures by Member State involved. As more than one Member State can be involved in a particular case, the total exceeds 30.

Figure 28: Structural funds cases closed in 2005 by fund and countries involved

Program	ERDF	EAGGF	ESF	FIFG	Total
Austria			1		1
Belgium			1		1
Cyprus					0
Czech Republic					0
Denmark					0
Germany	1	1	2		4
Estonia					0
Spain	1	3	4	1	9
Finland					0
France	2		2		4
United Kingdom	1		2		3
Greece		1			1
Hungary					0
Ireland	1				1
Italy	1		4		5
Lithuania					0
Luxembourg					0
Latvia					0
Malta					0
Netherlands	1				1
Poland					0
Portugal	2				2
Slovenia					0
Slovakia					0
Sweden					0
Total	10	5	16	1	32

Figure 29 shows the financial impact of the 30 cases closed after completion of OLAF casework in 2005 and of the 17 monitoring cases.

Figure 29: Financial Impact of Structural funds cases closed in 2005



Case study: European Social Fund fraud

The director of a small consultancy firm was identified as a supplier of services to an entity under OLAF investigation in a case involving European Social Fund (ESF) funding. The director was also identified as a supplier to a direct expenditure project under investigation in another OLAF case. In both instances, the nature and quality of the services carried out were questionable. Further enquiries revealed that ESF funding had been granted directly to the firm in question for a project worth about € 1 million. Although it had been claimed that the consultancy firm would put up significant private matching funding, the project had been closed early with much lower costs and outputs than initially foreseen.

A first on-the-spot visit was hindered by the absence both of the director and of key supporting documentation. The second OLAF visit proved more successful.

On the basis of the evidence obtained, OLAF concluded that the claim for ESF funding was unsustainable. Explanations provided by the beneficiary were contradictory and inadequate. Major items of expenditure could not be reconciled with the bank statements presented. Indeed, payments to a property firm shown in the bank statements for the rental of premises bore no relation to invoices, marked as rent, which had been issued by a company which could not be traced. It proved impossible to obtain independent or third party confirmations in respect of other questionable major items of expenditure. Furthermore, there were also instances of the consultant's private and business associates being recorded as trainees in other ESF sponsored courses. The consultant's accountant was also a principal in one of his many small trading or service sector companies, some of which were recorded as inactive by credit-rating agencies.

The investigation concluded that the case was sufficiently compelling to justify referral to the national authorities for possible criminal proceedings.

The financial impact is estimated at € 275,000.

Case study: Regional Development fraud

This case was opened on the basis of information received through the OLAF Freephone. The complainant alleged irregularities on the part of the beneficiary of a project co-financed by the European Regional Development Fund (ERDF). This beneficiary was a non-profit-making Foundation. The total amount of the ERDF co-financing planned for the period 2000-2006 was over € 5 million, representing 50% of the total cost.
An external investigation was launched in the light of the information provided to the Office by the national authorities (in particular, that the Member State had not carried out any checks on the beneficiary).
On-the-spot controls were conducted on the beneficiary and on its principal supplier.
The controls carried out revealed serious irregularities;

- the Foundation, a non-profit-making private organisation, had participated in the establishment of and was a shareholder in its principal supplier;
- the principal supplier, in its turn a permanent member of the Foundation, acted as an intermediary, receiving kickbacks/commissions which increased the cost of the operations without providing added value. On occasions the procurement had been directly controlled by the Foundation, but the invoice was addressed to the "principal supplier", who sent another invoice to the Foundation, with the same description, but raising the final amount by some 10 to 25 per cent;
- the supplier's activity was limited almost exclusively to the collection of the "sales" made by the Foundation;
- public tendering procedures had not been respected;
- the beneficiary did not provide a statement from the vendor either certifying the origin of certain second-hand assets, or confirming that for the previous 7 years these assets had not benefited from national or Community subsidies.
- a cross-control of the supplier, covering the documentation justifying expenses, showed inconsistencies between the beneficiary's and the suppliers' accounting documents;
- close family relations of the Foundation President turned out to be partners and/or administrators of equipment and service supplier companies connected to the project (including the principal supplier).

The mission report was sent to the national management authority which had taken part in OLAF's mission. This authority did not comment on OLAF's conclusions or on the recommendations of the control team.

In view of the serious irregularities revealed, OLAF proposed that all ERDF aid already paid to the beneficiary (€ 0,9 million) should be recovered. In addition, the national authorities were advised to withhold further ERDF co-financing of the same project amounting to € 4,2 million.

The final report was sent to the national legal authorities, with a view to possible criminal proceedings.

2.2.6. Agriculture and trade

Origin fraud is a significant phenomenon in agriculture trade, both in relation to preferential tariff measures and to GATT tariff quota. For example, as shown in the case studies in this Report, large quantities of garlic of Chinese origin are declared with another origin and then benefit from the tariff measures mentioned above. On OLAF's initiative, the Commission published a notice to importers in August 2005. This advises Community operators to take all necessary precautions since the release of such goods for free circulation may give rise to a customs debt and lead to fraud against the Community's financial interests. It is the first Notice to importers where the scope of the origin of a product is not limited to a single third country but covers all relevant imports

During the reporting period, OLAF completed 80 standard evaluations of new information concerning agricultural matters. 35 new cases were opened (16 co-ordination and 19 external cases), 39 items were classified as non cases and 6 monitoring cases were opened with Member States.

After completion of operational work, 47 cases were closed in 2005: 28 with follow-up, 19 with no further action.

Figure 30 shows the breakdown of cases under examination at the end of 2005 by product and by the stage of proceedings.

Figure 30: Breakdown of Agricultural cases in assessment and active stage at the end of 2005 by product

Product	Assessments	Active cases	Total
Alcohol		3	3
Area aid		2	2
Cereals		2	2
Products under CITES[5] (imports of caviar, coral, etc)		3	3
Fruit and Vegetables	1	11	12
Garlic	2	15	17
Isoglucose		2	2
Live animals		2	2
Meat Products	2	18	20
Milk Products	1	4	5
Nitrates		1	1
Olive Oil	1	1	2
Products of non animal origin	1		1
Rice	1	2	3
Sugar	5	16	21
Tobacco		2	2
Wine	2	1	3
Wood		1	1
SAPARD (No specific Product)	4		4
No specific product	2		2
Total	22	86	108

In 2005, 36 controls on-the-spot under Regulation (EC) 2185/96 were carried out on operators in 7 Member States.

[5] CITES is the Convention on Trade in Endangered Species of Wild Flora and Fauna

Case study: Illicit trade in non-quota milk and milk products between 2 Member States

In May 2003 OLAF obtained information about an alleged fraud against the EU budget from a federation of dairy producers based in one Member State. The alleged fraud related to the trade of dairy products sold outside the quota system between producers in the same Member States and producers those in another Member State (i.e. without paying the levies imposed on such transactions). The trade was in both directions and involved full milk, skimmed milk and semi-skimmed milk.

OLAF opened an external investigation which established that in certain dairy companies the computer data recorded a higher quantity of milk purchased from producers than the quantity declared to the national control bodies. In addition trade operations were identified which involved what was described as "concentrated milk" sold at a very low price which could also serve to disguise milk quantities produced outside national quotas.

Following the completion of the OLAF investigation the file was passed to the administrative and judicial authorities of both countries. The estimated total financial impact is € 31.8 million. This case is an example of how OLAF works in partnership with national services to combat illegal trade which damages the EC budget and distorts legitimate trade.

Case study: Garlic imports from a third country

An OLAF mission to a third country was carried out in May 2005, under the Mutual Assistance in Customs provisions of the Euro-Mediterranean Agreement to which the third country is a signatory. The objective was to verify whether some 3,400 tonnes of fresh garlic which had been imported into two Member States in 2003 and 2004 had indeed originated in the third country as declared.

In the course of this mission it was established that at least 135 container loads of Chinese fresh garlic had been transhipped before being shipped to a Member State, where the loads were customs cleared as originating from the third country. The falsification of origin meant the special levy/duty amount of € 1,200/ton due on Chinese fresh garlic had not been paid.

OLAF provided the national customs authority in the third country with the original EUR.1 movement certificates, in order to allow them to check their authenticity. This also enabled them to use the certificates in a criminal investigation.

It was been established that all shipments imported in the EU in 2003 and 2004 under this origin had originated in China. Most of the EUR.1 certificates were forgeries; others had been issued in error, following the presentation of misleading information. Evaded customs duties are estimated at € 4.3 million. Recovery procedures and criminal investigations have been initiated in the two Member States.

The exchange of information between OLAF and the customs authorities in the third country has been extended to a shipment that was imported into a third Member State in 2005. The degree of cooperation is high, fully in line with expectations under the Mutual Assistance agreement.

2.2.7. Customs, Alcohol, Cigarettes, Precursors and VAT

In general terms, the Customs sector continues to work well with the Member States. However, resource constraints at Member State level mean that there are a limited number of investigators with sufficient experience to participate in joint external investigations with OLAF. This can lead to delays in processing cases where the burden of proof and the follow up work required from these Member State investigators is onerous and time consuming. As a result, experienced Member State investigators are often over-stretched and not as productive as they could be.

The illicit trade in tobacco products continues to be a major problem in the EU, causing considerable losses to the European Community as well as national budgets. OLAF coordinated and assisted the Member States in conducting a number of complex investigations, both inside and beyond the EU borders.

In 2005, OLAF organised a working group for the Member States to discuss the growing problem of counterfeiting. In addition to reinforcing work with the authorities in countries where counterfeiting is traditionally produced, the working group also focused on the emerging trend of establishing illegal production sites within the EU. Technical expertise was provided by the major cigarette manufacturer Philip Morris International.

In 2004 the Commission and several Member States signed an Anti-Contraband and Anti-Counterfeit Agreement with Philip Morris International. In 2005, several other Member States acceded to the Agreement, a unique partnership between law enforcement and industry.

During 2005, OLAF completed the standard evaluation of 60 items of information in the five Customs Sectors. These evaluations led to the opening of 31 cases and two monitoring cases. 27 items were closed in 2005 as non cases.

The 31 cases opened in 2005 can be summarised as follows:

Figure 31: Cases opened in Customs Sector in 2005

OLAF Sector	External investigation cases	Co-ordination cases	Criminal Assistance Case	Total
Cigarettes		3	1	**4**
Customs	10	12		**22**
VAT		2	3	**5**
Total	**10**	**17**	**4**	**31**

At the end of 2005, 121 cases remained open in the 5 sectors. Figure 32 shows a breakdown of the type of fraud involved in each of these cases. As each case may involve multiple types of irregularity, the total exceeds the number of actual cases. False declarations of product origin remain the most common form of irregularity.

Figure 32: Breakdown of types of fraud involved in the Customs cases open at the end of 2005

Type of fraud	Alcohol	Cigarettes	Customs	Precursors	VAT	Total
Accounting records not presented					1	1
False description of goods		1	7			8
False origin declaration			41			41
False quantity declaration			1			1
False value declaration			1			1
Non fulfilment of customs obligations			1		2	3
Other false declaration		1	5		1	7
Other fraud		2	12		13	27
Other transit fraud			1		1	2
Smuggling		31	1		1	33
Total	0	35	70	0	19	124

Figure 33 shows the breakdown of open VAT cases by product at the end of 2005.

Figure 33: Breakdown of VAT cases open at the end of 2005 by product

Product	Number of cases
Automobiles	6
Computer equipment	4
Foodstuffs	1
Mobile phones	3
Multiple items	2
Non ferrous metals	1
Pharmaceutical products	1
Silicone carbide	1
Total	19

Case study: Textiles from the Caribbean

In March 2005 a Caribbean Customs authority invalidated all EUR.1 movement certificates issued for more than 21 million pieces of knitted textiles (mainly jerseys, pullovers and cardigans) exported to the European Community in the three previous years. This was the result of a Community mission carried out in this country by a team composed of OLAF officials and representatives from the customs authorities of the Member States affected by the relevant textile imports and assisted by the national authorities.

OLAF opened an external investigation in March 2004 following information received from a Member State questioning the authenticity of the EUR.1 certificates submitted on importation into the Community. The importers used these certificates as proof of origin with a view to benefiting from the preferential treatment (0% duty rate) granted by the European Union within the framework of the Cotonou Agreement to products originating in the country. Goods have to satisfy the relevant preferential origin rule. In the case of the textile goods concerned, the preferential origin rule requires the manufacture to be from yarn.

OLAF carried out extensive research in preparation of the joint verification mission. The research revealed that the alleged Caribbean manufacturers had sourced only very small quantities of yarn. These could not possibly have sufficed for the production of the huge quantities of ready-made garments exported to the Community. Indeed, the subsequent investigation concluded that most of the goods exported to the Community were either manufactured in the country from pieces of imported knitted fabric already cut to form or were re-exports of finished garments originating from Asia. The Asian goods were supplied by a network of companies belonging to a multinational textile group which also operated the companies in the Caribbean. The latter had applied to local Customs for the issuance of the EUR.1 certificates. They had falsely declared that the goods exported had been manufactured from yarn. In January 2005, immediately after the quantitative restrictions applying to Asian textile supplied to the European markets were lifted, the Caribbean companies ceased their business activities.

OLAF received the full assistance and support of the national authorities in the course of this investigation.

To date, the Member States concerned have initiated recovery proceedings in respect of more than € 20 million of customs duties evaded by falsely declaring the goods at importation into the Community as originating in the country in question. Member State authorities are facing appeals lodged by several importers at the request of the multinational textile group.

Case study: Colour televisions from Asia

A European trade association alleged in September 2001 that colour televisions (CTVs) originating from two Asian countries were being fraudulently declared as originating in another country to avoid paying anti dumping duties on importation to the EU. The allegations were confirmed by the results of an anti-dumping investigation by the Trade Directorate General of the Commission. The latter confirmed the allegations of the false declaration of origin for the CTVs. OLAF opened its own investigation. All available information was communicated to Member States' customs investigation services in September 2002.

OLAF requested the assistance of the third country's authorities in December 2002. An initial preparatory visit to the Asian manufacturer took place in February 2003. A verification mission took place in January 2004, led by OLAF, in which four Member State customs investigation services and the local authorities also participated. These investigations established that the company concerned did indeed export CTVs of falsified origin to the Community. All relevant reports and data were forwarded to Member States' customs services for follow up action including recovery of anti-dumping duties. Civil debt recovery procedures for an estimated € 18 million in anti-dumping duties have already been notified to the importers in 8 Member States. Appeals against the debt recovery are underway in a number of Member States.

Case study: Ring-binder mechanisms

A European trade association alleged that ring-binder mechanisms (RBMs) originating in Asia were fraudulently declared as originating in a particular country to avoid the payment of EU anti dumping duties. OLAF opened an investigation. The allegations were confirmed by the results of an anti-dumping investigation by the Directorate General for Trade of the Commission published in June 2004 which confirmed the circumvention of anti dumping duties. Subsequently, the OLAF investigation was extended to cover a third country following the receipt of new information to the effect that this country had also been used to circumvent the anti-dumping duties.

OLAF opened its own investigation and communicated all available information to Member States' customs investigation services. OLAF requested the assistance of the national authorities in Asia in July 2004. Community verification missions took place in November and December 2004 led by OLAF. Three Member State customs investigation services and the local national authorities participated. These investigations established that the company concerned did indeed export RBMs of falsely declared origin to the Community.

The companies in all three countries are linked. All relevant reports and data for both cases have been forwarded to Member States' customs services for the necessary follow up action including recovery of anti-dumping duties. Civil debt recovery procedures for an estimated € 6 million in anti-dumping duties have already been notified to the importers in six Member States and criminal investigations are also underway in a number of Member States.

2.3. Multi-agency investigations

OLAF's fourth Activity Report described the investigations initiated by OLAF into the subsequent conviction in Germany of an individual who had defrauded a publicly owned enterprise in Kosovo of more than $ 4 million (subsequently recovered in full). In the light of the experience gained in this case, an Investigation Task Force (ITF) was established on 21 October 2003 in Kosovo by Decision of the UNMIK Special Representative, staffed by OLAF, the United Nations Office of Internal Oversight Services (OIOS) and the Italian Guardia di Finanza. The ITF concentrated initially on allegations of fraud at Pristina airport. This investigation was concluded in mid-2005. Seven cases have been referred to the judicial authorities in Kosovo, one to the local police and 17 involving administrative irregularities were referred to UNMIK. Subsequently, the ITF has concentrated on allegations of corruption and diversion of funds in public sector enterprises which generate and distribute energy. The amounts potentially at stake run to many millions of euros.

3. OPERATIONAL SUPPORT

3.1. Intelligence Activity

3.1.1. Strategic Intelligence

The strategic intelligence capability of OLAF has continued to develop. Improvements have been made in the ability to gather information and in the provision of in-depth analysis to give strategic direction and support to OLAF's operational activities and to reinforce OLAF's policy role. Output in the reporting period included:

- A number of risk assessments based on reports of irregularities in the funding of the Common Agricultural Policy and Structural Funds have been produced to support the Office in the setting of priorities for control and investigation policies, and to support policy development and the prioritisation of case related issues.

- Analyses of irregularities and frauds have been presented to Member States' authorities in order to highlight trends and major weaknesses in the sectors of shared management (agriculture and structural actions).

- Training and support have been offered to the new Member States and Candidate Countries to prepare them for reporting and analysing irregularities in these sectors.

- An in-depth analysis of certain statistical information relating to VAT has been carried out to determine its potential as a source for the detection of fraud, fraud patterns and fraud sensitive product groups.

- Co-operation with anti-fraud intelligence units in the Member States, candidate countries, third countries and other international institutions has been further strengthened. Specific attention has been paid to building working relationships with authorities in the new Member States as part of the Multi-country PHARE programme. A working partnership has been developed with Europol following the signature of a Memorandum of Agreement (see paragraph 6.4), both in terms of strategic intelligence exchange and the sharing of analysis techniques and IT capabilities.

- Following the signature of a cooperation arrangement in 2005, arrangements for information exchange have been established with the Belgian Financial Intelligence Unit (FIU).

- Progress in the development of new tools and techniques to gather and exploit information and to identify new and improve existing sources. The ability to access, exploit and analyse data is key to the success of OLAF's intelligence capability.

3.1.2. Operational Intelligence

Operational intelligence includes specialist support and assistance to OLAF investigators on internal and external investigations. The team is sometimes also asked to assist the Member States. Some 2,200 requests for information and intelligence support were handled within OLAF during 2005, compared to some 1,500 in the 9 months in 2004 for which figures are available.

Since April 2004, such requests have been made through the Case Management System (CMS) making it easier to manage the relationship between the intelligence analyst and the investigator who requires intelligence support. The analysts' involvement with OLAF investigators is becoming more intensive, with intelligence increasingly an integral part of the investigative process. This is reflected in the underlying increase in particular of requests in support of internal investigations where the combination of normal data and institutional data sources involve specialist knowledge and expertise. The increased level of activity is also found in the more complex nature of tasks performed. The use of forensic techniques and work on high volume data is a more common occurrence.

Major projects carried out by the operational intelligence analysts include:

- Gradual deployment of an automated monitoring tool. The Automated Monitoring Tool (AMT) automatically monitors a range of trade statistics in order to produce "alerts" which are triggered when changes in statistical patterns hit preset thresholds. For example increases in the volume of trade between trading partners, or price outliers (unusually low or high prices relative to usual patterns). These alerts can then be studied by analysts in order to determine whether there are grounds for suspicion which merit deeper examination in anti-fraud prevention and investigation. The methodology could in principle be applied to trade data of any sector. At present, it is being used to monitor certain areas of high risk to EU financial interests, for example in agricultural and textile trades. Alerts and results have been disseminated to Member States and increasingly in collaboration with other Commission services (DG TAXUD, DG TRADE, EFSA – European Food and Safety Agency).

- Garlic is subject to a significant import duty when imported from China outside the existing import quota. This has led to a series of fraud cases in the past, where operators used Chinese garlic for transhipments via certain third countries or importation to third countries with subsequent re-exportation and misdeclared the product at importation into the European Community in order to camouflage the true nature and origin of the garlic. On this basis, OLAF has carried out an extensive analysis of all trade flows of Chinese garlic worldwide and has identified 14 possible cases of transhipments in third countries of which 5 cases were already active investigations. 9 cases were to be assessed further and have led to the opening of 5 new investigations.

- Antidumping duty ad valorem on bicycle parts has recently been increased and extended to Taiwan. Operators have attempted to evade such measures by using different routes for export (mainly via South East Asian countries: Philippines, Malaysia, Indonesia, etc). Similar extensive analysis and research techniques using a range of public and commercial data sources were also used to identify new transhipment routes and to trace companies involved. The exercise also identified a tendency of undervaluation fraud as well as misdeclaration and geographical circumvention. Goods are declared at a much lower value per unit, resulting in lesser duties paid on the total value of the shipment.

- Analysis of high risk trade flows: The EU has banned imports of certain animal products from countries where Foot and Mouth Disease (FMD) is endemic. The price differences resulting from such a prohibition create a considerable incentive to introduce these products illegally into the territory and the markets of the EU. In the context of a comprehensive risk assessment on FMD related issues, the European Food Safety Authority (EFSA) had requested OLAF to produce a study on the risks of possible illegal introductions of animal products from FMD risk areas on EU territory. Global trade flows for 11 products originating from 7 FMD risk areas were analysed. This analysis suggested that although the

risk of illegal imports into the EU appears to be lower than in other areas (e.g. garlic), in particular after the ban of transits via EU Member States, exports of meat from FMD risk areas to EU countries which are neighbours to the EU in Central and Eastern Europe have risen strongly. This creates a potential risk for further spreading of the disease.

- TED (Tender Electronic Data): OLAF obtained a very large quantity of data about public procurement which had been published in the Official Journal and filtered this to create a database of Commission procurement expenditure which could be used for strategic and operational analysis. The application of data mining and clustering techniques to this database is of strategic interest, and the same database is being used in a number of ongoing investigations in the procurement domain.

- OLAF has continued to provide operational and logistical support for the Member States during Joint Customs Operations (JCOs).

- OLAF invested considerable resources into creating the Permanent Operation Coordination Unit (P-OCU), which is used to conduct Joint Customs Operations (JCO). An operations room was equipped with 15 work posts, a meeting room for briefing/debriefing sessions was made available, and secure network connections were set up allowing operational staff to exchange information securely with their colleagues in Member States and third countries. The P-OCU was inaugurated in May 2005. In the past the preparation of such operations in Member States required long and complex planning and preparation; this new permanent infrastructure "on stand-by" at OLAF premises allows for a flexible timing and rapid execution in case of urgency. It is also used for training courses for members of the AFIS/CIS community.

Case study: Joint Customs Operations

With its new installations, dedicated room (P-OCU room) and software (Virtual OCU), OLAF supported seven Joint Customs Operations in 2005.

The successful operation FAKE (a container operation in collaboration with DG TAXUD targeting the smuggling of counterfeit goods from Asia) led by OLAF resulted in the seizure of 140 air freight consignments and of 60 deep sea containers. The total weight of counterfeit goods was nearly 500 tonnes. More than 1.2 million packets of counterfeit cigarettes were seized, along with some 0.8 million other items. Apart from cigarettes, the other counterfeit materials were mainly textiles, electronics, and medicines.

“FAKE” was accompanied by a co-ordinated communication strategy in all EU and Accession Countries which explained its impact on the illegal trade in counterfeit goods.

The Virtual Operational Coordination Unit (OCU) IT application has successfully managed three types of operations:

- MARSUR for fraud conveyed by yacht;

- CONSUR for fraud conveyed by container transport;

- VIASUR for fraud by road transport.

3.1.3. Technical assistance

Improved technical support in computer forensics continued to be provided for OLAF investigations, by applying new technologies to make electronic data more easily accessible. The volume of data captured during single operations has grown exponentially. Large complex operations were performed in cooperation with partner services such as the Italian Guardia di Finanza and the UNMIK Organisation in Kosovo. During several operations, vast amounts of paper documents were digitised and made available to partner services on DVD in searchable format. For future operations mobile scanning support is foreseen. The specialist team keeps abreast of international professional standards.

3.2. Information/IT support

In 2005 OLAF completed the work on the separate secure physical infrastructure (separate cabling, switches, secure machine room) that will host the Core Business Information Systems (CBIS). CBIS comprises all systems managing sensitive operational information such as the Case Management System, the Anti-Fraud Information System and the various intelligence systems.

In order to maximise both efficiency and security all business mail received or generated by OLAF is scanned and distributed electronically. During the reporting period more than 38,000 documents were processed representing a total of more than 455,000 pages, which is an increase of approximately 20% compared to last year. OLAF introduced the scanning of all case-related documents in May 2003. In order to complete the electronic records for those cases created before this date, OLAF created a new infrastructure to support the scanning and processing of these documents.

Several major IT initiatives were launched during the reporting period in order to provide better support to OLAF's operational activities. These initiatives include the preparation and evaluation of public tenders for:

1. the provision of a whistleblower software to improve and expand information sources;
2. the development of OLAF's text-mining capability to improve intelligence work;
3. the provision of OLAF-specific IT and physical security services.

These tenders were completed successfully and contracts were signed before the end of 2005.

For a description of the further developments/improvements of the Case Management System and the Anti-Fraud Information System please refer to chapters 1.4 and 3.4.

3.3. Anti Fraud Information System (AFIS) / Customs Information System (CIS)

3.3.1. AFIS

The primary means of cooperation and information exchange with Member States falls under the framework of Mutual Assistance (Regulation 515/97) using AFIS, the secure communication system. During the reporting period, the user community increased to 4,378 registered users, with nearly 770,000 messages exchanged during 2005.

In response to the business and operational demands of Member States, IT development continued to provide streamlined and structured tools within AFIS aiming towards an increasingly targeted basis for risk assessment and analyses of the suspicious movements of goods. A pre-functional specification has been introduced in order to move the existing AFIS to a web browser technology.

The Mutual Information System (MIS) allows for the monitoring of beef and pork meat exports to the Russian Federation by all forms of transport. A new "business to business" function has been developed to minimise the need for manual intervention. This system enables exports to be verified and export refund payments to be paid to traders more accurately and quickly.

3.3.2. CIS/FIDE

Customs Information System (CIS)

The Customs Information System (CIS) based on Council Regulation (EC) No. 515/97 and the CIS Convention was put into full operation in 2003. The CIS was created to store information on commodities, means of transport, persons and companies in order to assist in preventing, investigating and prosecuting actions which are in breach of customs and agricultural legislation (1st Pillar) or serious contraventions of national laws (3rd Pillar). The initial level of use of the CIS by national authorities has been disappointing. From the launch of the system in March 2003 until the end of 2004, only 140 cases were registered in the Customs Information System (CIS) database.

OLAF and the Customs services of a number of Member States have adopted a strategy for increasing the use of what is potentially a powerful tool for cooperation between Customs administrations. This strategy has begun to produce its first benefits. By the end of 2005, 537 cases had been entered into the Customs Information System (CIS) database. These cases are accessible to over 3,000 users located in the main ports, airports, border posts, risk analysis services, investigation and intelligence services. The CIS database handled more than 16,000 search requests. The future introduction of a web-based AFIS/CIS should enhance the full use of the CIS.

For the CIS 1st pillar database, to which (unlike the 3rd pillar equivalent) the Commission (OLAF) has an unlimited access, the active cases are related to the following type of fraud alert:

Figure 34: 1st Pillar alerts to active cases

Type of Alert	Proportion
Counterfeit goods (including cigarettes)	34%
Cigarettes - Smuggling	23%
CITES (Endangered species of flora and Fauna)	13%
Misdescription of goods (CN code)	8%
Precursors (Chemical products for narcotics)	4%
False origin declared	3%
False customs value	3%
Others (average 1% each)	12%

FIDE

Further to the adoption of the protocol amending the Convention on the use of information technology for Customs purposes, OLAF conducted a feasibility study for the creation of a European Customs File Identification Database (known as FIDE after the French acronym). FIDE will be a central European database tool containing identification data on persons and companies convicted of (or suspected of) having infringed Customs laws. OLAF initiated the technical development of the system. If all the legal requirements are met by Member States, it is expected that the system will be launched on 1 November 2006.

Using search and interrogation features, FIDE will be able to provide a Customs authority with an overview of current or historical irregular activities by persons or companies in other Member States. If a search is successful, the Customs Authority will receive from FIDE all necessary information to contact the MS Customs department(s) dealing with relevant investigations.

FIDE will simplify the communication exchanges between Customs Officers in different Member States towards the identification and implication of a person or company in their own investigations. Instead of several phone calls to numerous Member States and offices, FIDE will reduce this task to a search in the database, followed by a phone call to the Customs office or offices directly concerned.

FIDE will be a common central database storing standardised Customs case investigation data provided by each Member State. It will be accessible at any time by authorised persons seeking information on other investigations.

Standardising the Customs investigative data provided by each Member State will reduce recording errors and ensure the consistency of quality of information recorded.

The overall benefits of FIDE as follows:

- Simplify the investigation process for local and Member State customs Cases.
- Reduce the time spent in searching and collating relevant information for investigating local and Member State customs cases
- Expand access and volume of case relevant data available to Customs investigations services).
- Increase in efficiency and more effective use of investigation resources due to the larger volume of better quality data.

Anti-fraud Transit Information System

Following the implementation of the New Computerised Transit System (NCTS), OLAF drafted, in agreement with DG TAXUD, an administrative arrangement for the introduction of the Anti-fraud Transit Information System (TIS) intended to provide important information on national and international movements of sensitive goods. The current Customs Early Warning System (EWS-C) will be retained exclusively as a fallback procedure in order to cover any periods of NCTS downtime and thus ensure the uninterrupted provision of pre-arrival information for transit movements of sensitive goods. The proposal was discussed within the EC/EFTA Working Group on Common Transit and has been approved. Technical solutions are currently being evaluated with both TAXUD and an external contractor in order to secure full implementation of the TIS by the end of the year 2006.

3.4. Legal support

The Case Management System provides for two modules to obtain legal support for the operational activities.

In the framework of the preparation of the Investigations and Operations Executive Board, a consultation stage allows a pro-active consultation on the opening and closure of investigation, for example on the legal base for the operational activity, the assessment of the financial impact or on the application of administrative sanctions under the Financial Regulation following the closure of OLAF's investigation.

3.4.1. Legal advice on national criminal law

During 2005, the judicial advice unit increased its involvement in operational cases. During the year, the new legal advice module of the CMS became operational. In addition, the unit is frequently consulted on the proposals to be presented to the executive board and in more informal ways.

Figure 35: Judicial advice provided in the course of an investigation (historical)

Major Sector	Number of cases
Agriculture	32
Cigarettes	27
Customs	12
Direct Expenditure	55
ESTAT	11
External Aid	75
Internal Investigations	74
Multi Agency Investigations	4
Precursors	1
Structural Funds	60
Trade	8
VAT	18
Total	**377**

3.4.2. Legal advice on European law in support of operational activity

The Case Management System has also been extended to include a module through which OLAF operational staff may obtain specialist legal advice from OLAF's legal units. This facility brings the legal advisers directly into the context of the enquiry. It also ensures effective coordination and communication and better organization and archiving of work within the legal units. In the eight months in which the module operated in 2005 more than 50 requests for legal advice where handled, relating to various areas of OLAF's operational activities, including internal investigations, direct expenditure, customs operations and international cooperation.

4. FOLLOW-UP ACTIVITY

4.1. Financial and Administrative follow-up

4.1.1. Traditional Own Resources

Administrative follow-up includes the monitoring of the application of sanctions and the withdrawal of importer privileges where fraud or irregularities have been detected. Financial follow-up is principally concerned with the recovery of debts related to the operational files. OLAF cases in the traditional own resources sector typically involve evasion of agricultural import duties, customs and anti-dumping duties applicable to all types of industrial and fishery products. Both kinds of follow-up activity were conducted throughout 2005 on an increasing number of cases.

In performing this often legally complex activity, due regard was paid to the strict provisions of the Community Customs Code, the rules of origin/preference (including the various Trade Agreements concluded by the Community) and the specific requirements of regimes with economic impact such as duty relief linked to inward processing arrangements.

It is frequently the case that points of principle have to be settled in a national hearing. Broadly speaking, such legal proceedings may become necessary in order to confirm an operator's financial liability for the payment of customs duty and thus trigger recoveries of customs duty. Formal challenges and appeals from importers are common. During the last year OLAF has found itself increasingly committed to providing specialist support both to other Commission services and to Member States' administrations involved in such litigation.

The front-line financial recovery machinery rests with Member States' competent authorities. OLAF supports the national customs administrations with the provision of data from the operational case file in order to maximise the chances of timely notification of import duty debts and the action taken to recover them. Council Regulation 2028/04 introduced some important changes to the latter activity, one of the most noticeable being that after 5 years from the date when the duty liability was definitively established, any related amounts of debt not yet recovered are deemed to be irrecoverable and are effectively written off in national traditional own resources accounts. Where the amount of debt in question exceeds € 50,000, the Member State authorities have to provide the Commission with information about the circumstances leading to the write-off. The Commission then has six months following receipt of the report to forward its comments to the Member State concerned. OLAF has taken these new provisions into account during 2005 when performing financial follow-up in the traditional own resources sector and closing follow-up cases for submission to the OLAF Investigations and Operations Executive Board.

Case study: Imports of coffee capsules from a third country

OLAF alerted Member States by means of a mutual assistance message to a possible irregularity involving imports of coffee capsules (for coffee machines) from a third country into the European Community. The suspicion was that the importing companies were not accounting for customs duty due on certain royalty fees which they had to pay on a quarterly basis to the exporter (manufacturer) in the third country. Following post-clearance audit action, the customs authorities of 7 Member States informed OLAF that irregularities had indeed been detected. The projected overall financial impact for this case currently stands at € 570,000 of which virtually all had been recovered by the end of the reporting period.

Case study: Imports of a mixture of milk powder and rice into the European Community

OLAF and the competent services of the two Member States concerned carried out an enquiry in connection with imports of a mixture of milk powder and rice into the European Community declared as originating in an OCT (Overseas Countries and Territories) country. It was subsequently established, however, that the specific mixing operations carried out in the OCT country concerned were not sufficient to confer qualifying origin status upon the final product, both in terms of preferential and non-preferential origin. A duty liability of 11% was therefore applicable, and not the preferential zero rate actually claimed. Of a total financial impact of € 6.5 million over € 700,000 in duty has been recovered for the Community budget to date in respect of this case, and follow-up enquiries are continuing both with regard to an ongoing Appeals Tribunal case and the possibility of further recovery action being required to rectify the inappropriate payment of export refunds.

4.1.2. Indirect Expenditure

The financial management of expenditure in the fields of agriculture (EAGGF-Guarantee) and of Structural Actions (Structural Funds and Cohesion Fund) is shared between the Commission and Member States. The initial formal responsibility for recovering funds unduly paid falls on the Member States. OLAF's financial follow-up function consists of consulting with the responsible services in Member States and with other Commission services in order to verify the recovery activities undertaken and results obtained. This is without prejudice to possible improvements in legislation as a result of lessons learned (legislative follow-up) or to criminal prosecution for fraud (judicial follow-up).

OLAF concentrates its follow up on cases which have been investigated by the Office, or where the Office has coordinated investigative action carried out by other competent partners in Member States. For cases involving agricultural expenditure and structural actions, OLAF monitors the financial follow-up carried out by the Member States concerned: for every irregularity OLAF verifies whether the Member State has informed the Commission in conformity with the Community regulations applicable and monitors the progress of the various recovery actions through the Member States' formal communications.

Case study: EAGGF Canned Peaches.

On the basis of allegations received through DG AGRI concerning the non-respect by a processing company of the minimum price to be paid to peach producers for the campaign 2000/2001, OLAF opened an investigation and carried out on-the-spot controls in a Member State.

The investigation in which the allegations were confirmed was finalised in 2003 and the case was transmitted for financial and judicial follow-up. The financial impact of the case was estimated at nearly €1.5 million in subsidies unduly paid. However, DG AGRI has taken steps in the Clearance of Accounts procedure to charge the whole expenditure under the relevant budget line for the period in question, some €13.7 million, to the Member State. At judicial level, the case was examined by two national prosecutors. However, in both cases, after the completion of the ordinary investigation, the national judicial authorities decided not to proceed due to the lack of evidence in regard to criminal activity.

Case study: EAGGF Rural Development.

Irregular funding was uncovered in a forestry rural development project from a region of a Member State. Initial information from the European Court of Auditors was pursued and OLAF opened a monitoring case. The financial impact was € 250,000 and has been recovered in full from the region in question. The case was accordingly closed in December 2005.

Task Force Recovery

OLAF continued to participate with DG AGRI in the Task Force Recovery (TFR) charged with clearing the backlog of non recovered amounts related to agricultural irregularities communicated by Member States before the end of 1999. The TFR submitted proposals for resolving 463 cases which exceed a threshold of € 0.5 million, involving a total amount to be recovered of € 857 million.

The proposal for each individual case was discussed in bilateral meetings with Member States in order to prepare a final Commission Decision on the financial liability for each case. These discussions took place within the framework of the formal Clearance of Accounts procedure for EAGGF Guarantee, under the responsibility of DG AGRI.

The TFR has also processed information received by Member States on some 3.200 cases notified before 1999 which fall below the € 0,5 million threshold. The total value is about € 200 million.

Structural Actions (Structural Funds and Cohesion Fund)

OLAF participated in the further simplification and improvement of the regulations which deal with the management of the Structural Funds. The main changes relevant to OLAF's work agreed in 2005 and published in regulations (EC) no. 2035/2005 and no. 2168/2005 were:

- definition of "irregularity" ;
- definition of the term "suspicion of fraud" ;
- clarification of the moment when a new case must be reported ;
- removal of the obligation to report cases of simple bankruptcy – except in cases of suspected fraud ;
- electronic transmission of the information concerning irregularities ;
- adapting the reporting threshold from € 4.000 to € 10.000 per single case;
- re-definition of the objectives in order to place more emphasis on risk analysis.

OLAF continued to assist the other Commission services with the closure of the programmes in the structural funds sector for the programming period 1994-1999, in order to make sure that the financial consequences involving irregularities communicated by Member States had been properly defined.

Finally, OLAF closed the follow-up stage in respect of 37 operational OLAF cases in the structural funds sector.

Case study: the European Social Fund

OLAF opened an investigation on allegations of fraud against a beneficiary in connection with five projects co-financed within the framework of the Structural Funds, and in particular the so called "old" European Social Fund, during the period 1986-1988. A criminal investigation was already in progress at national level. OLAF's assistance was given following a request by the national prosecutor.

The beneficiary in question had also benefited from subsidies of the European Social Fund during the first (1989-1993) and second (1994-99) programming period. The OLAF investigation revealed that the Community contribution for the five projects amounted in total to € 2.75 million. At OLAF's request, the national authorities carried out a control of all the programmes for which the beneficiary had received subsidies. OLAF was regularly in contact with DG EMPL and the national authorities in order to monitor the recovery of the amounts at stake. Despite the fact that the initial investigation was carried out only for the "old" European Social Fund, a detailed follow-up was made within the framework of the two later programming periods.

This further analysis revealed that a total of eight programmes relating to the same beneficiary were affected by irregularities. OLAF was consulted in June 2003 by DG EMPL on the closure of all the programmes of the first programming period related to the Member State in question. In May 2004, after analysis and clarification of the information received, OLAF agreed on the amounts to be corrected and related these to all OLAF cases in the follow-up stage. The national authorities deducted nearly € 1.4 million from amounts due to the beneficiary, within the total of over €12.5 million suspended by the Commission.

After further irregularities had been taken into account, the total recovered from the beneficiary in question exceeded € 6.7 million. Penal proceedings in the Member State are still ongoing.

At the same time, follow-up was closed for more than 10 similar irregularities cases relating to the programming periods described above and in the same Member State. This demonstrates that in the area of Structural Actions a long period is necessary in order to finalise all the follow-up procedures in cases which involve both administrative procedures and judicial proceedings.

4.1.3. Direct Expenditure

Follow-up in the field of direct expenditure and external aid (including the follow up of multi-agency investigations) concerns expenditure where implementation tasks are performed by Commission departments rather than the Member States, or are delegated by the Commission to third countries. Follow-up activities also cover, where appropriate, the financial and administrative/legislative follow-up of internal investigations. The accumulated expertise and experience of the Office in operational and recovery matters can be used to improve the fraud proofing of legislation, contract clauses and financial agreements with third countries. In addition, action to secure the Community's financial interests can be taken effectively during the investigation phase. Most of these activities consist of initiating, coordinating and monitoring recovery action by the Authorising Officers of sums due to the Community following OLAF's investigations.

Financial follow up in the area of direct expenditure focuses especially on those investigations which have led to criminal proceedings. In order to support recovery, OLAF assesses and supports the possibility of launching civil action within criminal proceedings in those jurisdictions where this is possible.

Administrative follow up concentrates on assisting the Commission services to apply the appropriate administrative sanctions (such as the exclusion of tenderers or beneficiaries from contracts or grants financed by the Community budget for a maximum period of five years or the payment of financial penalties) on the basis of OLAF's investigative findings.

In its role of looking for missing debtors in the areas of direct expenditure, OLAF established the latest known location of the debtors concerned in 73 % of the requests received from several Commission Services. In 2005 OLAF received a total of 124 requests for debtor searches and was able to supply additional information (e.g. address, names of company executives and/or liquidators) concerning 91 of these requests. These requests came from various Authorising Officers (e.g. DG DEV, DG INFSO, DG AIDCO etc.) and from DG BUDGET. The amounts to be recovered that were communicated to OLAF ranged between € 1,000 and € 1.000,000.

Case study: Loan to North African country

The European Investment Bank (EIB) signed a financing contract with a North African country, for risk capital loans worth €20 million. The funds were to be distributed, as loans, to various financial institutions in order to finance participations in commercial and industrial companies. Allegations were made about one of the financial intermediaries and OLAF opened an external investigation. An on-the-spot visit was carried out by the EIB and OLAF to investigate several loans. The conclusion was that the financial intermediary had not given full information to the EIB and the national Ministry of Finance. Had the full information been disclosed, the loans would almost certainly not have been accepted.
For example, a loan in excess of €205,000 was attributed to "company B" provided the company carried out a capital increase for the same amount. The investigation showed however that the capital increase was fictitious because it was based on false documents and false declarations. As the capital increase was a "sine qua non" for the attribution of the loan, the entire amount, plus interest, had to be recovered. Subsequently company B stopped its activities and the financial intermediary blocked the funds it had requested as a guarantee for its long term debt, thereby ensuring almost full recuperation of the loan.

Case study: NGO active in Central and South America

OLAF recently investigated an NGO which was active in Central and South America. Amongst the findings were conflicts of interest, false declarations and control and accounting procedures which were not properly followed. OLAF informed the responsible Commission service of the irregularities at an early stage of the investigation, thereby ensuring that timely safeguard measures could be put in place to prevent the loss of assets, as the beneficiary was in the process of dissolution. The Commission service involved has issued recovery orders for an amount in excess of €720,000.

Case study: Fraudulent practices of an NGO

OLAF investigated an NGO which is active in several countries in Africa, South America and Asia. The investigation uncovered fraudulent money transfers, unjustified expenditure, double funding and false signatures amounting to at least €2.4 million. OLAF assisted the Commission in establishing the exact amount to be recovered. Given that several authorising officers were involved in the recovery process concerning the same NGO, OLAF coordinated the recovery actions and prepared the way for a civil party action within criminal proceedings in a Member State in order to safeguard the recovery.

Case Study: EC Representation (see also 4.2.1.)

An OLAF investigation into allegations of fraud and forgery by a former bookkeeper at an EC Representation in a Member State, who had been recruited via a private sector employment agency, was closed in July 2003. The investigation revealed that the EC Representation had been defrauded of €64,000. During the financial follow-up, OLAF worked closely with DG PRESS and the EC Representation in order to ensure the recovery of the amount stolen. The EC Representation reported that the trial judge had agreed several times to the request of the defence to delay sentencing so as to give the accused the opportunity to repay the total amount stolen and so influence the sentence. In November 2005 the EC Representation informed OLAF that a total of € 55,148 (86 %) had been recovered. In November 2005 the guilty individual was sentenced to two years imprisonment with no reduction for the length of the proceedings.

4.1.4. Statistical summary of administrative and financial follow-up

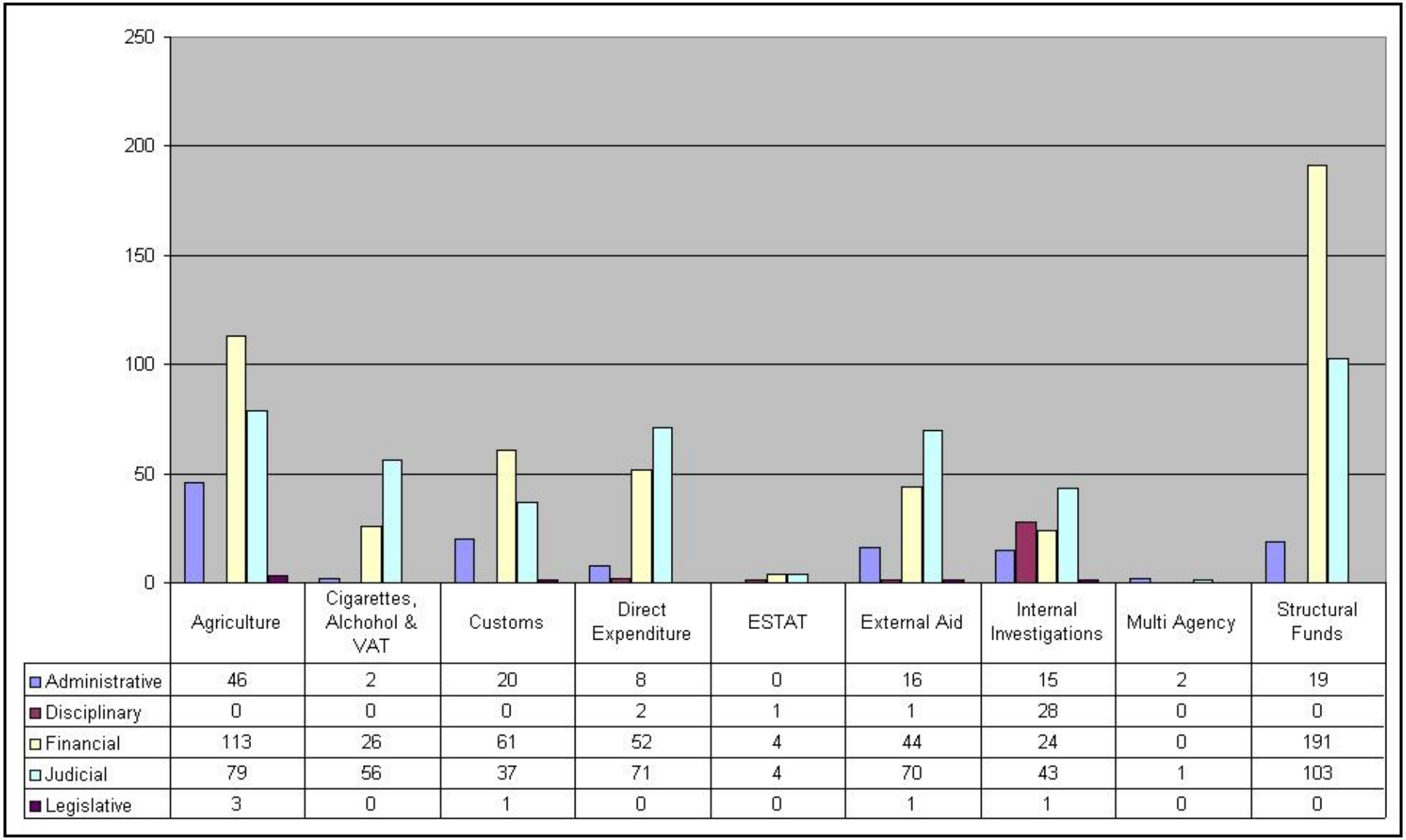
Figure 36 shows the increase in the number of cases in follow-up during 2005.

Figure 36: Cases in follow-up by sector at the end of year

Sector	2004	2005	Increase (%)
Agriculture	62	82	32%
Alcohol	4	4	0%
Cigarettes	23	27	17%
Customs	63	71	13%
Direct Expenditure	78	85	9%
ESTAT	4	8	100%
External Aid	82	87	6%
Internal Investigations	44	51	16%
Multi Agency Investigations	0	2	*n/a*
Structural Funds	202	199	-1%
Trade	70	70	0%
VAT	26	28	8%
Total	**658**	**714**	**9%**

Figure 37 shows the open follow-up activities in respect of these 714 cases.

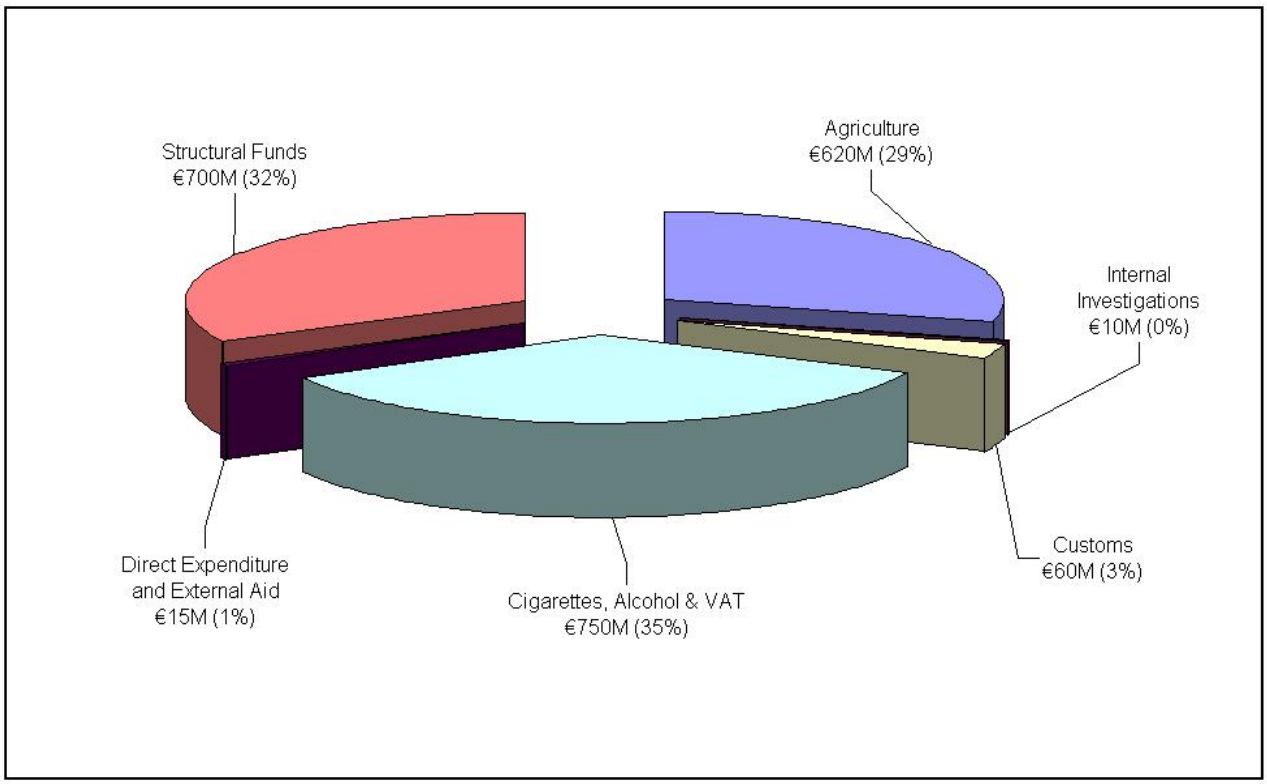
Figure 37. Type of Follow-up activities of closed cases at the end of 2005



	Agriculture	Cigarettes, Alchohol & VAT	Customs	Direct Expenditure	ESTAT	External Aid	Internal Investigations	Multi Agency	Structural Funds
Administrative	46	2	20	8	0	16	15	2	19
Disciplinary	0	0	0	2	1	1	28	0	0
Financial	113	26	61	52	4	44	24	0	191
Judicial	79	56	37	71	4	70	43	1	103
Legislative	3	0	1	0	0	1	1	0	0

The financial impact of the 714 cases in follow-up at the end of 2006 amounts to more than € 2 billion. Figure 38 shows a breakdown of the estimated financial impact by sector:

Figure 38: Financial Impact of Cases in follow-up at the end of 2005 (714 cases)



Financial recovery has reached a new peak with the completion of the recovery of €203 million during 2005. Figure 39 shows the annual breakdown of financial recovery completed in the last 4 calendar years.

Figure 39: Breakdown of amounts recovered in € million in each calendar year

OLAF Sector	Amounts Recovered 2002	Amounts Recovered 2003	Amounts Recovered 2004	Amounts Recovered 2005
Agriculture	0.000	0.000	0.065	13.955
Customs	0.000	0.035	1.578	62.949
Direct Expenditure	0.055	0.348	1.975	0.161
External Aid	0.005	0.826	2.010	31.773
Internal Investigations	0.000	0.000	0.038	0.000
Structural Funds	0.726	1.469	192.584	94.561
Total	**0.787**	**2.679**	**198.250**	**203.399**

4.2. Judicial and disciplinary follow-up

After completion of the investigation, OLAF draws up a final case report, specifying the facts established, the financial loss, if any, and the findings of the investigation. Whenever the investigation report recommends disciplinary and/or judicial follow-up, the file is transferred to the national judicial authorities or the relevant Institution's disciplinary authorities.

In those cases in which a judicial proceeding is opened, it is the responsibility of OLAF to assure the follow-up of the case, in order to support and assist the national judicial authorities where appropriate, and to monitor the development of the case until it is finalised.

Once the different procedural phases are completed and the decision adopted by judicial authorities becomes definitive, OLAF closes its judicial follow-up. Often, this is many years after the initial

investigation by OLAF (or its predecessor UCLAF) was initiated. This is an important activity, because it allows the Office to record the final outcome of its work and to learn any lessons from the case in question.

In relation to internal cases, OLAF has to maintain contact both with the disciplinary services of the different Institutions and with other European bodies and agencies. OLAF is available to assist these services in disciplinary proceedings, and monitors the outcome of the cases for the same reasons as it monitors judicial proceedings.

Finally, in those situations in which the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a coherent approach by liaising with both authorities.

4.2.1 Judicial follow-up

In 2005 43 closures concerning definitive decisions adopted by national judicial authorities were adopted. 9 of these closures were related to cases in which a positive outcome was reached. The rulings adopted in these cases condemned people to different penalties which cover fines and imprisonment, with the maximum in one case of 6 years. In 3 occasions the cases were settled out of the Court.

30 of the closures are related to cases which were dismissed by the national prosecution services or in which the Court decided to acquit the suspected people.

Figure 40 presents judgements made in 2005 and has been separated into 3 types: convictions, transactions and acquittals.

Figure 40: Summary of judgments received in 2005

Convictions

Convictions	Number of actions
Number of convictions	9
People condemned	23
Imprisonment	17
Financial penalties	33

Transactions

Cases settled out of the Court	Number of actions
Number	3
People concerned	4
Fines	4

Acquittals

Acquittals	Number of actions
Number of acquittals	6
Lack of evidence	3
No legal basis	3

Figures 41 provide a breakdown of the number of cases dismissed or in which the people suspected were acquitted according to the reason given the relevant national authority. Almost two thirds of dismissals and acquittals were made on the basis of a lack of evidence.

Figure 41: Summary of reasons for case dismissals by Public Prosecution Offices

Reasons	Number of actions
Prescription (out of time)	3
Lack of evidence	14
No legal basis	4
Low priority	1
Ne bis in idem	1
Death of suspect	1
Total	**24**

Figure 42 shows a summary of cases referred for judicial follow-up in 2005. As indicated in the figure, most follow-up referrals occur upon the closure of the investigative stage of the case but referrals can occur at any stage of a case's history.

Figure 42: New judicial follow-up paths opened in 2005 by sector and stage

Major Sector	Evaluation	Active investigation	Follow-up	Total
Agriculture			14	**14**
Alcohol				**0**
Cigarettes		3	4	**7**
Customs		1	6	**7**
Direct Expenditure		7	12	**19**
ESTAT		1		**1**
External Aid		4	16	**20**
Internal Investigations	1	4	8	**13**
Multi Agency Investigations			1	**1**
Structural Funds		3	20	**23**
Trade			1	**1**
VAT		7	3	**10**
Total	**1**	**30**	**85**	**116**

Case study: An example of cooperation and assistance to judicial authorities: the « Lesotho case »:

OLAF's previous Activity Report described how the Public Prosecutor of Lesotho had prosecuted a senior national official involved in a major case of corruption concerning some important water engineering works in that country funded by the World Bank, the EU and other sources. Work on this case continued during the period covered by the present Report.

OLAF assisted the Lesotho Public Prosecutor in contacting a public prosecutor in a Member State, and in obtaining access to a substantial quantity of documentation held by him which had been produced during investigations into corruption between 1992 and 1995. This documentation showed that the management of the firm under investigation in Lesotho had been prosecuted – and in some cases convicted – for serious corruption in that Member State.

The next step was to ensure that the statement by the public prosecutor in a Member State could be used as evidence during the criminal proceedings in Lesotho. The key issue was to reconcile a common law system (the South African law applied in Lesotho) with a civil law system in this practical case. The public prosecutor in a Member State agreed to a declaration drafted in close cooperation with OLAF. This statement, translated into English, was employed in the criminal proceedings currently taking place in Lesotho

Judicial follow-up case study: control of sugar regime

In order to control sugar production and minimise surpluses and storage, the European Union has a system of quotas and sets guaranteed national amounts. Quotas known as "A sugar" and "B sugar" reflect the maximum guaranteed amounts for production assigned to the Members States and distributed by Member States to sugar producers. If these amounts are exceeded, the excess production is known as "C" sugar on which the producer must pay a penalty.

In the marketing years 1996-1997, 1997-1998 and 1998-1999, two companies from one Member State devised a plan to conceal sugar surpluses and so to avoid these being classified as C sugar. This plan consisted of recording numerous sugar transfers between factories and warehouses of the same company. These transfers were in fact wholly fictitious and existed only in the accounts. This deceit involved numerous misleading statements such as the concealing of sugar surpluses, the creation of false transport documents and of false storage certificates and the submission of fake documentation to official bodies.

Following an investigation by the relevant national Anti Corruption Prosecution Office and a trial lasting more than five months, eleven individuals were sentenced to terms of imprisonment varying between 21 months and nine years for fraud against the EC budget and for forgery. The total terms of imprisonment summed to 62 years. The fines imposed on the two companies concerned and on individuals, including those sentenced to terms of imprisonment, and exceeded € 27 million. The sentence is under appeal.

4.2.2 Judicial monitoring cases

OLAF receives information related to cases which have been opened by national judicial authorities. OLAF may decide not to conduct any operational activity but will nevertheless open a case to "monitor" the development of the proceedings conducted in the Member State. A 'monitoring case' will be opened.

Figure 43 shows the number of monitoring cases of this type opened in 2005.

Figure 43: New monitoring cases opened with judicial authorities during 2005

Major Sector	Monitoring case
Agriculture	12
Alcohol	0
Cigarettes	0
Customs	0
Direct Expenditure	1
ESTAT	0
External Aid	12
Internal Investigations	0
Multi Agency Investigations	0
Structural Funds	12
Trade	0
VAT	0
Total	37

Judicial follow-up case study: evasion of anti-dumping duties

In 1999, UCLAF opened a case of a suspected evasion of anti-dumping duties on Chinese silicon metal imported into the Community via a third country. The goods were described on importation as originating in the third country. However, evidence was found that the silicon metal was in reality of Chinese origin and subject to an anti-dumping duty of 49%.

After closure of the case in 2004 a judicial follow-up of the criminal procedures which had been initiated in two Member States was carried out.

OLAF was informed in 2004/2005 that in one Member State a representative of the import company had been convicted to a prison sentence of three years for smuggling and that in the other Member State the proceedings had been closed by the competent court since it could not be proved that the suspects had intentionally submitted incorrect customs declarations.

The Third Conference of Fraud Prosecutors

The strengthening of the penal dimension of fighting fraud constitutes one of the major challenges for OLAF. For that purpose, OLAF works to reinforce the contribution made by national public prosecutors to combat any criminal offence against the financial interest of European Union. In order to achieve this, OLAF has developed further contacts and participated in meetings with the European Judicial Network. OLAF has also continued to consolidate the flexible and informal operational network of Prosecutors which held its third annual conference in November 2005.

The Third Conference brought together 70 prosecutors from over 25 European and other countries to explore ways in which they could cooperate together in the fight against fraud and corruption. A number of case studies were presented to make the participants more aware of the nature of fraud in the agricultural and commercial trade areas and to show how OLAF conducts investigations and can assist the national authorities in these areas. Eurojust was invited to chair the session on VAT fraud which highlighted the way in which OLAF and Eurojust can assist the member states in combating the massive VAT carousel fraud problem.

4.2.3 Disciplinary follow-up

Once the internal investigation is closed, the Final Case Report may contain some recommendations regarding the opening of the disciplinary proceedings by the relevant authority. In such cases OLAF follows-up the development of the case.

Figure 44 shows that at the end of 2005 OLAF had 32 cases with disciplinary follow-up.

Figure 44: Disciplinary Follow-up Summary

Stages	Total
Review	6
Report sent to Disciplinary authority	3
Disciplinary Procedure	19
AIPN Decision	3
End of Proceedings	1
Appeal	0
Total	32

5. ENLARGEMENT

5.1. The Multi-Country PHARE Programme (MCP)

Between August 2004 and December 2005, some 74 separate training actions were launched under the MCP. These included seminars, workshops and round tables. In addition to study visits and secondments to OLAF by AFCOS staff, officials of the new Member States and candidate countries continued to carry out work placements in counterpart institutions in the original 15 Member States to gain experience of best practice. The number of participants ran to many hundreds from each country. Several new training events were introduced into the programme across the new Member States and the candidate countries.

Apart from these actions, other activities were funded under the MCP such as the provision of technical assistance of 10 months in some new Member States and Candidate Countries (Latvia, Hungary, Slovak Republic and Romania). The assistance aimed at strengthening the administrative and operational capacities of the AFCOS services.

5.2. The Bulgaria – Romania Network Agreement (BGRONA)

The Commission adopted the multi-country PHARE programme (Fight against Fraud affecting the Financial Interests of the EU) specifically for Bulgaria and Romania in October 2004 with a budget of € 1.5 million. It foresees a number of training actions to be carried out by OLAF and framework contractors, as well as the organisation of work placements for Bulgarian and Romanian officials in the Member States until the end of 2007. The training actions have been planned. The first events are scheduled for early February 2006 and the programme of training events will then roll out until the end of 2006. However, placements within OLAF and the Member States are likely to go on well beyond this time.

6. COOPERATION WITH OLAF'S PARTNERS IN THE FIGHT AGAINST FRAUD

6.1 Consultation with the Member States

The Commission adopted Decision 2005/223/EC, which amended the previous legislation dating from 1994 setting up an advisory committee for the coordination of fraud prevention. The new Decision takes account of the requirements of Article 280 of the EC Treaty and the creation of OLAF in 1999 and includes provision for a consultation procedure in the area of the system of protection of the Euro (coins and banknotes).

The consultation of Member State experts is consequently now structured as in the table below:

Figure 45: Structures for consultation

Committees/working-groups where OLAF represents the Commission
• COCOLAF (Advisory Committee for the Coordination of Fraud Prevention):
• Article 280 working group
• Irregularities and Mutual Assistance- Agricultural Products - Group
• Group on risk analysis on fraud and irregularity
• ECEG (Euro Counterfeiting Experts Group)
• CCEG (Counterfeit Coin Experts Group)
• OLAF Anti-Fraud Communicators Network (OAFCN)

In year 2005 COCOLAF and its sub-groups held a total of 7 meetings and the expert groups on Euro counterfeiting (ECEG) and counterfeit Euro coins (CCEG) held 4 meetings each.

6.2. Mutual Administrative Assistance with Third Countries

A structured and legally-sound basis for mutual administrative assistance in customs matters remains an important element of the EC's external commercial policy. Implementation of the mechanisms for such cooperation, agreed in EC customs cooperation agreements or in protocols to trade agreements, is indispensable to the defence of legitimate commercial interests.

Two international agreements with significant mutual administrative assistance implications for the good conduct of trade affairs, with India and China, came into force in 2005. Negotiations continued with Japan. OLAF continues to be engaged in the implementation formalities of these arrangements. In addition, OLAF has helped to assure the inclusion of specific anti-fraud provisions in textile trading arrangements with China, Serbia and Belarus and has been involved in ongoing negotiations with a number of other countries and regional groupings.

Fraud-proofing

OLAF's operational experience and expertise can be used upstream in the Commission's legislative work.

A dedicated fraud proofing mechanism gives Commission departments access to this expertise at an early stage of the preparation of the legislation in order to make legal instruments more "fraud proof".

In 2005, seventeen legislative and non legislative proposals were submitted to OLAF. Six of these proposals had been identified for fraud-proofing at the beginning of 2005 and a further eleven proposals were submitted to OLAF during the year at the request of Commission services. Seven proposals related to agriculture, three to "horizontal" or cross-cutting issues, two to Customs and trade policy and to direct expenditure, and one to each of external policy, structural actions, and contracts.

Example: fraudproofing

On the basis of its operational experience OLAF assessed that the administrative sanctions on irregularities in tender and grant procedures provided for in the Financial Regulation (general budget) needed clarification. These measures are important from a fraud prevention point of view. They provide among other things for the exclusion of unreliable economic operators from procurement procedures and for administrative penalties. OLAF made recommendations to the lead Commission service which are being taken into account in the legislative process.

6.4. Cooperation with bodies in charge of police and judicial cooperation

6.4.1 Eurojust

OLAF has devoted substantial efforts to making its cooperation with Eurojust more efficient. Cooperation began immediately after the creation of Pro-Eurojust in 2001. One of Eurojust's competencies is to work in the field of fraud and corruption and any criminal offence affecting the European Community financial interests. This competence implies the possibility of overlap with OLAF, which needs to be avoided by creating a working framework based on good cooperation between both services. The Decision establishing Eurojust indicates that it "shall establish and maintain close cooperation with OLAF. To that end, OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation".

At the end of 2004 Eurojust and OLAF set up a common Liaison Working Group further to enhance cooperation in relation to cases of common interest. The system by which the Memorandum of Understanding signed in April 2003 is implemented came into effect in 2005. The main idea is to select cases of common interest and to discuss them on regular and scheduled basis. This pragmatic approach enables OLAF and Eurojust to find better solutions for working together.

Four such operational meetings took place during 2005. During these meetings OLAF provided Eurojust with information about cases in different areas that OLAF covers: four cases concerning smuggling of cigarettes, four cases affecting agricultural products imported to the European Union, one case related to the VAT area, one case concerning direct expenditure and two cases involving internal investigations.
OLAF has hosted Members of Eurojust in the context of an exchange programme and OLAF staff will similarly spend time in Eurojust in order to increase mutual understanding.

In December 2005, the Director General of OLAF and the President of Eurojust met in The Hague for the annual review of cooperation foreseen in the Memorandum of Understanding.

6.4.2. Europol

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol.

OLAF and Europol have begun working together in relation to combating cigarette smuggling. The analytical means of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid the unnecessary duplication of effort.

In 2005, work has been undertaken to improve the general information exchange between the two organisations. This activity has also highlighted the existing limits to such exchanges. However both bodies intend to renew their efforts to exploit further the operational potential of cooperation.

6.4.3. United Nations

OLAF's operational experience is also exploited through OLAF's contributions to international events related to the fight against fraud and corruption.

The UN invited OLAF to carry out a peer review of the Investigation Division of the Office of Internal Oversight (OIOS) of the United Nations. In the review report OLAF made a number of recommendations for improvements in the operational procedures within the Investigation Division. On 20 October 2005 a cooperation agreement was concluded between the OIOS of the United Nations and OLAF which among other things provides that the parties cooperate in the field of information exchange and technical support by consulting regularly, engaging in training, developing policy initiatives and providing mutual assistance, either spontaneously or upon request, with a view to promoting effective co-ordination of their respective activities.

6.5. Protection of the Euro

OLAF continues to coordinate Member State efforts to protect the Euro against counterfeiting. Quarterly meetings of the Euro Counterfeiting Experts Group bring together experts from the competent national authorities, judiciary, financial authorities and the central banks of the Member States and accession countries, as well as Europol, the European Central Bank and Interpol.

During the reporting period, OLAF continued to manage the Pericles programme for the exchange, assistance and training for the protection of the Euro against counterfeiting. More than € 0.9 million was committed to 12 projects initiated by Member States and by the Commission/OLAF during 2005. These projects were implemented with the participation of Member States, third countries, OLAF, the European Central Bank and Europol.

The Commission (OLAF) promoted a number of legal initiatives for the protection of the Euro. The Commission Decision of 29 October 2004 established the European Technical and Scientific Centre (ETSC) within OLAF for the analysis and classification of counterfeit coins. The Council adopted a Regulation on medals and tokens similar to Euro coins on 12 December 2004, aiming to prevent fraud and confusion in distinguishing between such objects and genuine Euro coins. On 27 May 2005 the Commission adopted a Recommendation concerning the authentication of Euro coins and the handling of Euro coins unfit for circulation. On 30 January 2006 the Council adopted the Decision, proposed by the Commission in April 2005, to prolong Pericles for the year 2006.

The ETSC continued to analyse counterfeit coins and to compile statistics. The statistics indicate an increase in the counterfeiting of Euro coins identified, which reached 96,000 in 2005, as well as a higher degree of sophistication. Technical activities for the protection of Euro coins against counterfeiting are coordinated by OLAF through quarterly meetings of the Counterfeit Coin Experts Group.

6.6. External training.

The Office organised and fully financed three conference events in 2005:

- § the Second Conference on Fraud Aid Funds (Brussels, 6th – 7th October);
- § the Fifth Training seminar of the OAFCN (Brussels, 28th October);
- § the Third EU Conference of Fraud Prosecutors (17th – 18th November).

Some 370 participants attended.

The Commission (OLAF) co-financed nine seminars in the framework of the anti-fraud training programme Hercule during the reporting period:

- § 27-29 September 2004, EUROCANET Project: Implementation of European network between seven Member States to control companies suspected of illegal activity in the value added tax carousel fraud;
- § 4-8 October 2004, International Anti-Fraud meeting for auditors from Member States, Candidate Countries, Croatia, Switzerland, Belarus and the Russian Federation, in the field of Regulation 4045/89 and the EAGGF[6]. Pörtschach, Austria;
- § 18-21 October 2004, Seminar to promote and reinforce the exchange and dissemination of information, experiences and good practice between customs and territorial controls relative to the illegal tobacco traffic. Madrid, Spain;
- § 29 Nov-1 Dec. 2004. The practice of combating money laundering in the context of EU membership. Pila, Poland;
- § 10-12 January 2005 International seminar on the fight against corruption and fraud with regard to the Communities financial interest. Lisbon, Portugal;
- § March – May 2005 Anticorruption training for middle and top management of Regional Authorities in the Czech Republic.
- § 11-13 April 2005 International Anti-Fraud Meeting and training meeting for Member States, Candidate Countries, Switzerland and Croatia in the field of VAT. Pörtschach, Austria;

[6] European Agricultural Guidance and Guarantee Fund

- § 15-16 April 2005 Fight against money laundering in the Balkan region – cooperation between the administrative authorities of the EU Member States and the Non-Member States. Athens, Greece;

- § 21-22 April 2005 EU Seminar on cigarette smuggling. Alicante, Spain.

1,123 people attended these conferences in total.

6.7. Information and communications as a means of fraud prevention

OLAF and its operational partners are convinced that information and communication must continue to be used as a means of preventing and combating fraud and corruption. Therefore OLAF supports its operational independence with its own information and communication strategy. The latter has to be implemented in a manner which respects the Office's obligation to safeguard investigations and to respect the fundamental rights of the individual, within the constraints prescribed by international, Community and national law. During the reporting period, the Office has maintained its firm line of balancing these interests.

The Office handled nearly 600 requests from the media during the reporting period. These included press briefings, written and oral replies to press questions, referrals to members of the OLAF Anti-Fraud Communicators Network (OAFCN) and assistance to the Commissioners' spokespersons. Additionally, the Office published 18 press releases of its own and contributed to several others of the Commission.

OLAF intensified its dialogue with journalists and their trade associations by organising, together with the International Federation of Journalists (IFJ), a joint seminar on "Building mutual trust between anti-fraud services and journalists" for members of the OLAF Anti-Fraud Communicators' Network (OAFCN). The IFJ summarised the event as "a ground-breaking discussion between journalists' leaders and European anti-fraud investigators".

With the support of the OAFCN partners OLAF published a booklet entitled "Deterring Fraud by Informing the Public". This booklet was the outcome of an OAFCN Round Table on Anti-Fraud Communication that had been created on the OLAF website. OLAF also produced a DVD on the same topic. Both communication tools were widely distributed, among others, to universities and schools of journalism.

In 2005, for the first time, an OLAF-partner service, the Serious Fraud Office (SFO) hosted an OAFCN meeting on its own. 46 participants from EU Member States and Candidate countries attended the event on 19 April in London. The second annual OAFCN meeting was held in Brussels, on 27 October 2005.

6.8. Public relations

In 2005 a total of 75 visits to the Office were organised, involving over 1,000 people in total, mainly from customs, investigation services and public prosecutors offices from Member States and other countries. Additionally, delegations were welcomed to OLAF from a variety of public bodies, including:

- The European Central Bank;

- Eurojust;

- The Dutch Court of Auditors;

-The Public Accounts Committee of the House of Commons (UK)

- The Select Committee on the Application of the Anti-Corruption Act of the Estonian Parliament;

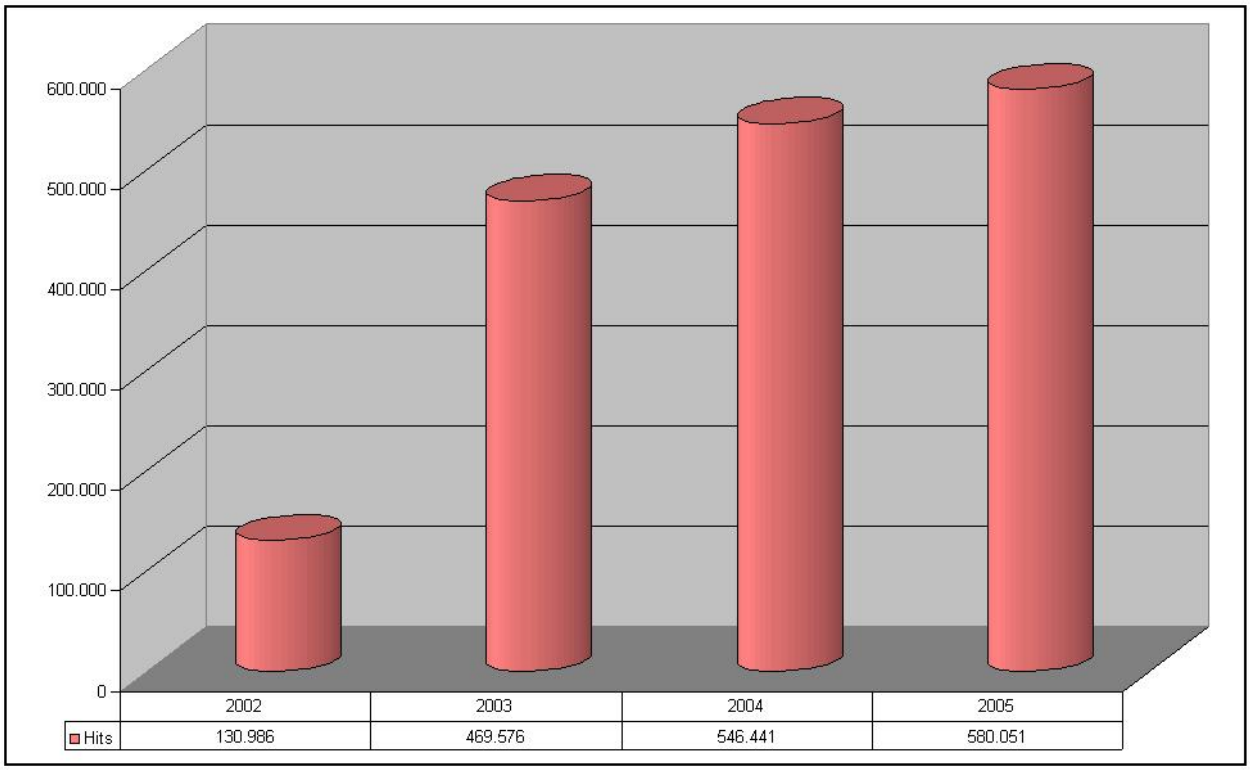
- The Director General of the Swedish Economic Crime Bureau;
- The Board of Economic and Financial Investigation of the French Central Criminal Police;
- The Chinese Ministry of Supervision;
- Heads of the Finnish Prosecution Service;
- The Romanian Financial Guard Board.

OLAF officers participated in 130 anti-fraud training sessions which were organised externally and responded to many information requests from the general public.

6.9. OLAF website

The OLAF Website continued to be the basic tool of the communication and information policy of the Office. It is also the portal to information concerning OLAF's co-operation with partner services in the framework of the OLAF Anti-Fraud Communicators' Network (OAFCN). The number of hits has constantly risen since its first installation. The main pages of the OLAF site (index, pressroom, mission, OAFCN, freephone) are available in all official languages. The site has been made more easily accessible for disabled citizens.

Figure 46: Annual hits on the OLAF Website



7. ADMINISTRATION

7.1. Human resources

In February 2005, an agreement was negotiated with the Staff Representatives of the Commission on staffing matters relating to OLAF. This agreement enabled OLAF to adopt a specific framework decision for the employment of Temporary Agents specialised in the fight against fraud within the Office and to launch a selection procedure for the recruitment of additional staff of this kind. Recruitment is likely to begin towards the end of 2006.

The length of time needed to complete the procedures for the appointment of the Director and of the new Supervisory Committee both delayed the adoption of major decisions related to the organisation and staffing of the Office.

There was therefore little change in the number of posts vacant through the year. However, OLAF was able to recruit 22 officials from the new Member States by drawing on the reserve lists of general competitions.

During the reporting period, 22 individuals left OLAF and 51 joined. On 31 December 2005, OLAF employed 290 “statutory” members of staff, compared to 278 twelve months earlier. A further 100 persons were employed as “external” staff, in the form of national experts, auxiliary staff and contract agents, and “intramuros” contract staff. As in previous years, financial appropriations which were originally earmarked to finance statutory posts have been employed to recruit a number of external staff on a short-term basis, as it was not possible to recruit statutory staff (i.e. officials or temporary agents).

7.2. Internal training

During the reporting period OLAF took measures both on the structure and substance of training.

OLAF prepared its first Strategic Training Framework (STF). This document is complementary to the Commission STF and takes into account the specific nature of the Office. The document outlines the present training organisation, gives a summary of the past year and an overview of the planning and the ongoing activities for 2005. A new structure introduced in July brought together different training tasks which had previously been separated. A training network was established in order to improve the internal communication and co-ordination of training activities and to focus more clearly on the training needs and internal resources. A framework contract to cover OLAF training was signed early in 2005, enabling OLAF to engage external trainers for specific training needs.

The content and substance of OLAF training has also changed. Attention has been focused on newcomers, on the OLAF Manual and increasingly on the need of investigators, including specialised language training concentrating on juridical and technical terms, and interviewing techniques.

7.3. Budget

While title 24 of the European Commission's budget includes OLAF total Budget, OLAF's administrative budget is described in annex COM III to the budget. Figure 47 outlines the areas of expenditure within this budget.

Figure 47: Development of the OLAF administrative budget, 2002 to 2005

Item	Budget 2002	Budget 2003	Budget 2004	Budget 2005
Personnel	19.3	23.4	26.7	25.2
Extra personnel	4.7	4.6	5.0	6.2
Furniture/infrastructure	7.8	7.7	8.6	10.5
Anti-fraud actions	1.7	1.9	2.0	1.2
Supervisory Committee	0.2	0.2	0.2	0.1
Lawyers associations	0.4	0.4	n/a	n/a
Total	**34.1**	**38.2**	**42.5**	**43.2**
Percentage committed	95.00%	97.00%	93.48%	99.85%

Since 2004, OLAF's operational budget has been allocated in Title 24 of the European Commission's budget. The distribution of expenditure is shown in Figure 48.

Figure 48: Development of the OLAF operational budget, 2002 to 2005

Budgetary line	Budget 2002	Budget 2003	Budget 2004	Budget 2005
24.0201 General anti-fraud measures	5.5	5.1	3.3	2.4
24.0202 Pericles	0.6	0.9	1.0	1.0
24.0203 Anti-fraud information system (AFIS)	2.6	3.8	4.3	4.8
24.0204 Hercule (lawyers associations included from 2004 on)	n/a	n/a	3.9	3.9
Total	**8.7**	**9.8**	**12.5**	**12.1**
Percentage committed	96.79%	95.20%	92.25%	94.40%

Report of

the European Anti-Fraud Office

Seventh Activity Report
for the period 1 January 2006 to 31 December 2006

OLAF
OFFICE EUROPÉEN DE LUTTE ANTI-FRAUDE
EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE

Foreword by the Director of OLAF, Franz-H. Brüner

Following my reappointment for a second 5-year term in February 2006, I was able to proceed with the reorganisation of the Office to take account of the lessons learned in the previous 6 years during which OLAF had more than doubled in size and greatly increased its efficiency.

The objective of the reorganisation is to place more emphasis on OLAF's operational work, to improve communication within the Office, and to strengthen its management. The new structure came into effect on 1 September 2006. It provides for two operational and investigation Directorates, one dealing with investigations internal to the Institutions and other bodies and with fraud in expenditure programmes managed directly by the European Institutions; and the second dealing with investigations and operations in those area of the Budget where responsibilities are shared between the Commission and the Member States (Own Resources, agriculture and structural actions). A third Directorate brings together the units which provide specialist operational support, such as intelligence, legal advice on criminal law, and the infrastructure for joint Customs operations. The fourth Directorate covers personnel, finance, management, information services and most of the policy issues on which I report to the College.

At the same time, negotiations were launched with the Commission and with the Staff Associations to identify a mutually acceptable arrangement for assuring the continuity of OLAF's staffing. This was essential, since large numbers of operational staff employed on fixed term temporary contracts were approaching the end of those contracts or were under pressure to return to national administrations. I am pleased to say that a solution was found early in 2007 in the form of a package of measures which included both a mechanism for giving qualified OLAF temporary staff indefinite contracts and the gradual reduction in the ratio of temporary to permanent staff. This agreement should end the uncertainties and instability about future staffing which were increasingly disrupting the operational work of the Office. In addition, it has at last proved possible to fill a significant number of vacant posts following the completion of various selection procedures. Priority was given to the recruitment of staff from the new Member States.

These developments, taken together, mark the end of what has been for OLAF a period of transition between the initial difficult years after the Office was set up and its transformation into a mature organisation which is consolidating the progress that it has made in the fight against fraud to the detriment of the EU's financial interests.

In 2006, for the first time, the number of investigations which OLAF conducted on its own account equalled the number of cases in which OLAF was assisting Member State authorities. I expect to see yet more concentration of OLAF resources in the coming years on major, complex fraud cases, both within the Institutions and in sensitive areas of the Budget such as procurement and external aid. Greater and more effective cooperation both between European bodies and internationally will be an essential part of this process.

I am delighted to say that, within Europe, OLAF's cooperation with Europol and Eurojust in operational matters is increasing. Beyond Europe, OLAF has forged an effective partnership

with its sister agencies in the United Nations and the World Bank, reinforced by the secondment of experienced OLAF staff. OLAF's ability to add value in the coordination of international operations is now well established.
On the revenue side of the Budget, where very large sums of money are at stake, I am pleased to report that the agreement reached between the Commission and Philip Morris on the prevention of cigarette smuggling is working well. All but one Member States have now joined the agreement and are benefiting both from the increase in cooperation in suppressing illegal cigarette trafficking and from the flow of payments provided for by the agreement. However, the refusal of some Member States to allow OLAF the means by which to demonstrate its potential in the fight against VAT fraud is as disappointing as it is difficult to understand.

Finally, I would like to thank the members of OLAF Supervisory Committee for their support, encouragement and advice. Since their appointment in November 2005, the members of the Committee have taken a close interest in all aspects of OLAF's work, making a constructive contribution both to the improvement of operational procedures and to the quality of management. The Committee remains an essential element in the defence of OLAF's operational independence.

F.H.Brüner

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1 OLAF's MISSION AND WORKING METHODS

1.1 Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect both the financial interests of the European Union, and therefore of its citizens, and the reputation of the European Institutions. It achieves this by investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions; by assisting Community and national authorities in their fight against fraud; and by means of deterrence, prevention and strengthening legislation, making it more difficult for fraud and irregularities to occur and so contributing to public trust in the European project.

OLAF performs its activities with integrity, impartiality and professionalism respecting individuals' rights and freedoms.

1.2 The main competencies of OLAF

OLAF's task is to conduct in full independence, internal and external administrative investigations as provided for in Articles 3 and 4 of Regulation (EC) N° 1073/99[1]. The Community legal basis for action against fraud is established in Article 280 of the EC Treaty.

- OLAF is empowered to conduct internal investigations based on Regulation 1073/99, and on the internal decisions which the Community institutions and bodies have adopted in accordance with the Inter-institutional Agreement's Model Decision[2] concerning the terms and conditions for internal investigations conducted by OLAF.

- OLAF is empowered to conduct external investigations based on the applicable regulations, and in particular on Regulation (Euratom, EC) N° 2185/96 which allows OLAF to conduct on-the-spot checks and inspections on the premises of economic operators who may have been involved in, or concerned by, an irregularity, and on the relevant sectoral rules. OLAF's investigators also comply with the national procedural rules of the Member State in which they conduct an investigation. They work in close cooperation with the competent Member State and third countries authorities. The specific legal basis is always identified before an investigation is launched.

- OLAF also organises close cooperation between the competent authorities of the Member States in order to coordinate their investigative activities. OLAF provides Member States, accession countries and third countries with the necessary support and technical know-how to help them in their anti-fraud activities, and cooperates closely with international organisations with parallel interests.

Since OLAF is part of the Commission, it is able to exercise Commission powers. However, OLAF is endowed with budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes two structures to reinforce OLAF's

[1] OJ L 136, 31. 5. 1999, p. 1 and 8. Where reference is made to Regulation 1073/99, it also applies to the equivalent Euratom Regulation .
[2] OJ L 126, 31. 5. 1999, p. 15.

operational independence: guarantees associated with the post of OLAF's Director General, and the Supervisory Committee.

As regards its investigative activities, OLAF is independent of the Commission. The opening, conduct and closing of a case is a matter under the exclusive competence of the Director General of OLAF. OLAF investigators operate under his hierarchical control.

OLAF staff act as agents of the Commission subject to its internal rules and powers. This concerns activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation.

A Supervisory Committee composed of outside experts provides independent oversight of OLAF's operational activities. The Committee monitors the implementation of OLAF's investigative function without interfering with operational activity. OLAF accordingly cooperates with the Committee under the authority of the Director General.

1.3 OLAF's new organisational structure

OLAF was restructured in September 2006 to take account of the main lessons drawn from the experience gained since its creation in 1999. The new Directorates A and B both deal with investigations and operations. Each operational Director is now assisted by an Adviser responsible for Case and Board Management.

A third Directorate (C) provides support functions to investigations and operations, such as intelligence, legal and technical advice, and the follow-up of cases. It also draws on the Office's increasing operational experience to improve fraud prevention and other anti-fraud actions. A fourth Directorate contains OLAF's general management and policy functions, but also contributes directly to operations by maintaining a dedicated database and other record systems.

Most of the resources are now deployed in OLAF's core remit: investigations and operational activity. About 70% of OLAF staff[3] is occupied with tasks related to the Office's operational activity including administrative support for operational activity (63% if administrative support staff are excluded). On 31st December 2006 there were 388 persons working in OLAF[4] of whom 313 were statutory staff.

OLAF's new organisation chart can be found at Annex I.

1.4 The Investigations and Operations Executive Board

The Investigations and Operations Executive Board ("the Board") assists the Director General by giving advice on the handling of cases. Board members include representatives of the

[3] Approximate figure based on an estimate of the time devoted by each member of staff to a task which contributes to the achievement of the Office's operational activity. Some OLAF staff carries out both operational tasks and tasks which are related to OLAF's other activities. This is the case in particular of units working on follow-up, administration and intelligence.

[4] Excluding 29 IT staff employed from contractors.

relevant Directorates. The Board considers evaluation reports prepared by the relevant units and recommends whether or not a case should be opened. The Director General or one of the Directors acting on his behalf decides whether to accept the recommendation.

The Board considers and advises the Director General on each major stage in the lifecycle of cases: opening; decisions on "non-cases"; changing case types; closing; opening new follow-up paths; and closing follow-up. Where relevant the Board is informed of the associated activities of external investigative, judicial and other partners associated with a case.

Once the operational activity has been completed in an open case in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage[5] if necessary. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up stage is formally closed and any associated EC entities[6] or other parties are informed of the outcome.

Since the reorganisation of OLAF in September 2006, the Board has met in two separate formations, one for each operational Directorate.

A. Evaluation of initial information

Every item of initial information received by OLAF is assessed in order to make a recommendation as to whether a case should be opened and, if so, which category of case. The initial evaluation of a case should normally be completed within two months of receiving the initial information, but can be extended if circumstances so justify.

B. When the Board recommends the opening of a case:

When the Board recommends that a case should be opened, it is classified under one of the following four categories:

- **Internal investigations:** Internal investigations are administrative investigations within the Community institutions and bodies for the purpose of detecting:

  - fraud, corruption, and any other illegal activity affecting the financial interests of the European Communities;

  - serious matters relating to the discharge of professional duties that constitute a dereliction of the obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies, or members of staff, and liable to result in disciplinary or criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or members of the staff of institutions, bodies, offices or agencies not subject to the Staff Regulations.

[5] In some circumstances follow-up activities may take place before the formal closure of the investigation stage.
[6] Institutions, bodies, offices and agencies.

- **External investigations:** External investigations are administrative investigations outside the Community institutions and bodies for the purpose of detecting fraud or other irregular conduct by natural or legal persons. They may be carried out under either horizontal or sectoral legislation. Cases are classified as external investigations where OLAF is providing the majority of the investigative input.

- **Coordination cases:** OLAF contributes to and focuses investigations carried out by national authorities or other Community departments by facilitating and stimulating the gathering and exchange of information and contacts, as well as by encouraging authorities to work together through coordinated action. This ensures operational synergy between the relevant national and Community departments.

- **Criminal assistance cases:** Criminal assistance cases are cases within the legal competence of OLAF in which competent authorities of a Member State, candidate country or third country carry out a criminal investigation and request OLAF's assistance or OLAF offers its assistance. No investigation activities may be undertaken.

C. When the Board recommends not to open a case

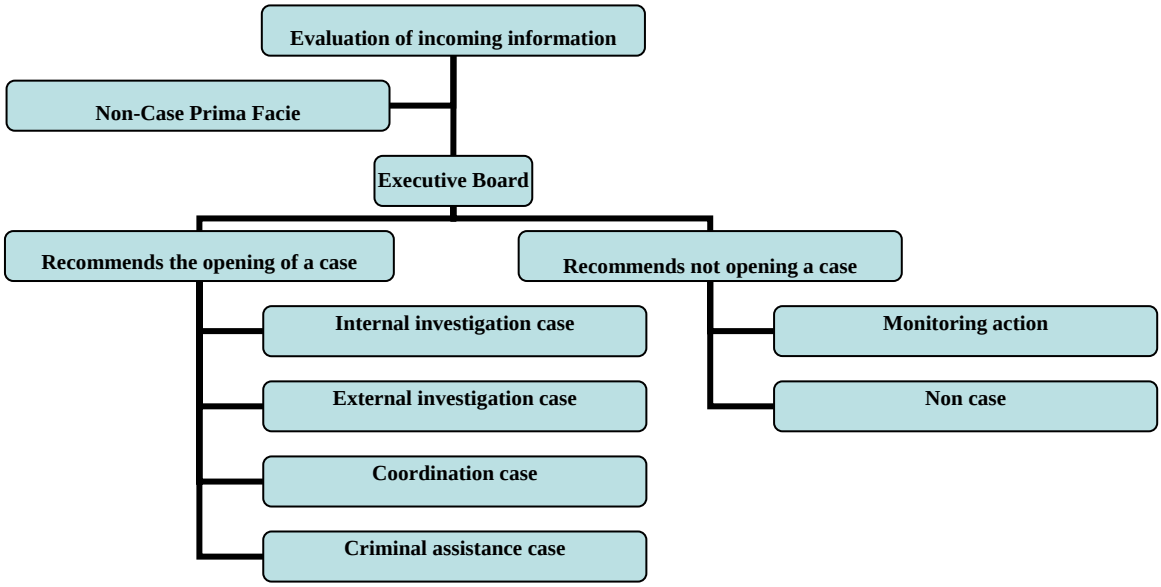
If the Board is of the opinion that a case should not be opened, it may recommend either undertaking a monitoring action or classifying the matter as a "non- case":

- **Monitoring action:** OLAF may decide not to open an external investigation but rather to monitor investigations carried out by national authorities, when the financial interests of the European Community are at stake. Monitoring actions are those where OLAF would be competent to conduct an external investigation, but in which a Member State or other authority is in a better position to do so (and is usually already doing so). Monitoring actions are passed directly to the authority deemed competent to handle them. No OLAF investigation resources are required, but, as the interests of the EU are at stake, OLAF will follow up with requests for reports on developments at regular intervals. Updates would normally be requested at least once every six months. Once a monitoring action has been opened, control of this action within OLAF passes directly to the appropriate follow-up unit. If the follow-up units consider that there are indications that the Member State or other authority is not dealing with an individual case in an appropriate way, then the matter should be referred back to the operations Directorate with a clear recommendation for re-evaluation on the basis of specific facts. No investigation activities may be undertaken.

- **Non-cases:** A matter is classified as a non-case where there is no need for OLAF to take any investigation, coordination, assistance or monitoring action. Non-cases result from evaluations that conclude that EU interests appear not to be at risk from irregular activity, or other relevant factors indicate that no case should be opened. This process may result in the transmission to Member States of information about possible offences not related to the protection of EU interests.

Where information is received which clearly and unequivocally does not fall within the competence of OLAF, then the responsible Head of Unit may propose not to refer the information for evaluation. This information does not reach the Board and is classified as a "**non case prima facie**". This is what is known as the **simplified procedure**.

The diagram below presents the whole process from the initial stage in which the information is received by OLAF to the final stage in which the decision is adopted by the Director General.



1.5 The Case Management System (CMS)

The CMS is used by operational staff to manage operational cases and related activities. The system contains information relating to OLAF's new, ongoing and closed operational cases. It is the primary source of operational information within the Office; this information is also used for intelligence and management purposes. Monthly management reports are produced and circulated to the management team. These reports were restructured in 2006 to allow managers to focus on key performance indicators, which were revised after the recommendations of the European Court of Auditors (ECA) in its report 1/2005.

The CMS consists of the following modules:

- The **Case Module** provides a single source of case-related information covering the work of all operational and follow-up units. Case handlers can use this part to manage their cases through each operational phase, to generate standard letters and notes and to organise electronically all case related documents.

- The **Intelligence Request Module** is used to manage all requests to the intelligence units, including both those originating from within OLAF and those originating from external partners;

- The **Investigations and Operations Board Module** (see paragraph 1.4) is used by the management team to manage weekly meetings of the Investigations and Operations Executive Board. It facilitates preparation, circulation and follow-up of documents;

- The **Mutual Assistance Module** is split into two sub-modules: the first is used to organise and record the information OLAF sends to the Member States, and to show the progress of investigations that take place in the Member States; the second is an address book that

records the names and coordinates of the various contact persons in the Member States and third countries;

- The **Legal and Judicial Advice Module** is used to manage and record internal requests for legal advice. This module enables case-handlers to request advice on specific cases and gives the legal experts access to the relevant case file, thus ensuring that advice can be based on a full understanding of all the issues concerned;

- The **Greffe Library Module** is used to manage the transmission of original case-related documents within OLAF. These documents are normally retained centrally by the OLAF Greffe under the supervision of the Document Management Officer.

Access to the data contained within the CMS is strictly controlled.

1.6 Reform of Regulation (EC) N° 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)

European Parliament and Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999 confer on OLAF both powers to conduct internal investigations and all of the Commission's powers to conduct external investigations

On 24 May 2006, the Commission adopted a proposal for the amendment of this Regulation[7]. This proposal is aimed at improving the governance and effectiveness of the Office and its procedures. It is currently being examined by Parliament and the Council under the co-decision procedure. Revision of OLAF's legal framework should strengthen the legal basis and procedural safeguards for the activities of the Office.

1.7 The implementation of recommendations made by the European Court of Auditors in its report on the European Anti-Fraud Office

Special report n°1/2005,[8] concerning the management of the European Anti-Fraud Office, adopted by the Court of Auditors on 9 June 2005, put forward a number of recommendations for improving of the organisation and working methods of OLAF. 2006 was the first complete year after the adoption of this Report. OLAF made considerable effort to address the challenges identified by the Court, and a large part of the recommendations have already been implemented.

The organisational structure of OLAF has been changed to enable it to focus on core activities and to improve the management and supervision of its operational work (see paragraph 1.3). In order to enhance the efficiency of operations and investigations, OLAF has refined performance indicators against which the achievement of objectives is measured and has improved operational statistical data and final reporting. Actions are also being taken to

[7] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti Fraud Office (OLAF) COM(2006) 244. final.

[8] Special report n°1/2005 concerning the management of the European Anti-Fraud Office (OLAF), together with the Commission's replies. OJ C 202, 18.8.2005

control the average duration of cases. The limited strategic intelligence resources are being targeted at the identification of high risk sectors where new cases may be identified. Training, particularly of investigators, has been increased.

Some issues remain to be tackled in 2007. These include reassignment, within the European Commission, of the financial follow-up function to the authorising Directorates General in order to allow better use of OLAF's resources for achievement of its key objectives; introduction of the Time Management System for the whole Office to measure better the staff's actual workload as well as properly to align the workload (put in place on 1 April 2007); and definition of investigative procedures in the new OLAF Manual (see annex II). An agreement was reached early in 2007 with the Commission and with the relevant staff associations on a package of measures to ensure the stability of staffing, notably through making indefinite contracts available to OLAF temporary agents in certain circumstances.

The implementation of a number of other actions recommended by the Court will depend on the adoption of the reform of Regulation N°1073/1999 (see paragraph 1.6 above).

2 STATISTICAL TRENDS IN OPERATIONAL ACTIVITIES (2002-2006)[9]

2.1 General trends

The volume of information received by OLAF has risen steadily since 2002. In parallel, the average length of the standard evaluations by the Board is declining overall. Since the introduction of the simplified procedure for "non cases prima facie", more information is assessed in less time. The Board is more efficient because it is only required to assess substantive information.

For the first time the number of OLAF's own investigations equals the number of cases in which OLAF assists national authorities. The trend observed is that OLAF's activity is moving gradually towards areas in which Member States do not exercise specific responsibilities. Direct Expenditure cases (including external aid) represent a significant and growing proportion of the new cases opened by OLAF over time.

The proportion of cases closed with follow-up has increased which is also an indicator that OLAF is focussing increasingly on substantive cases. The majority of follow-up work still concerns financial recovery and judicial activities which accounted for more than 70% of the total follow-up activities undertaken by OLAF in 2006. However, the number of administrative follow-up[10]cases is gradually increasing.

More informants are coming forward. The number of referrals from this source increased by 10% in 2006. This encouraging trend may be interpreted as the result of an improved perception of OLAF among the general public.

2.2 Trend analysis

Table 1 shows the level of incoming information over the past five calendar years. There is a difference in the data on incoming information this year. As the accounting convention has been changed in relation to previous reports in order to remove duplicate information, there are some differences in the data from the previous year's reports.

The volume of information received has steadily increased since 2002. The volume of information rose for the fourth consecutive year but not as significantly as in the previous year. This rise has also been supported by an increase in referrals from the general public detailed in Table 11 of this report.

Table 1: Number of initial items of information received per year

2002	2003	2004	2005	2006
529	559	662	802	826

[9] The last five calendar years (2002-2006) have been chosen as a reference period for identifying the main trends in OLAF's operational activity

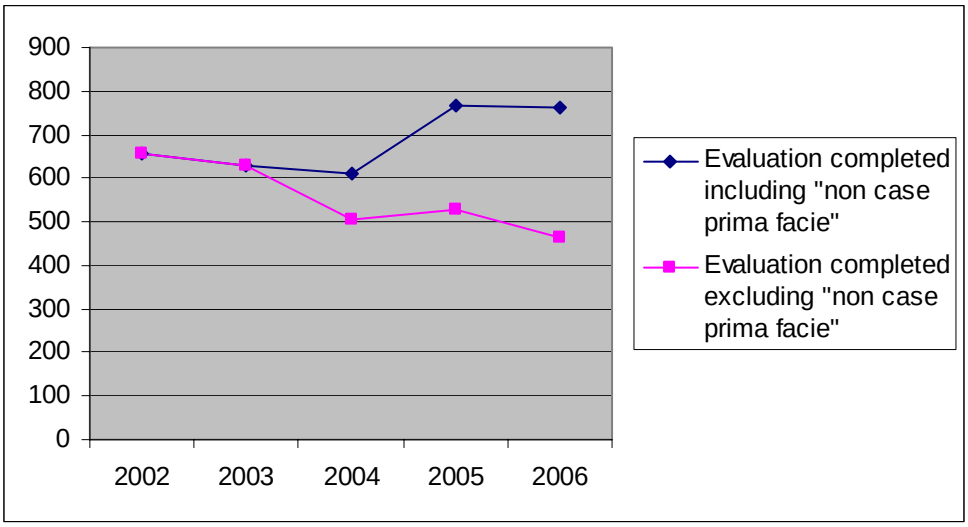
[10] An explanation of administrative follow-up is provided in paragraph 3.4.1

Each initial information item received is subject to a process of evaluation. The purpose of an evaluation is to analyse the information received by OLAF in order to make a recommendation as to whether a case should be opened and, if so, which category of case.

The evaluation period is calculated from the date of receipt of the information to the point when the Board makes its recommendation to the Director General. The declining number of evaluations by the Board should not be interpreted as a decline in its activity. On the contrary, as shown by Figure 1, this is due to the introduction of the "simplified procedure" explained earlier (see paragraph 1.4).

Figure 2 confirms the positive trend in the consistent reduction in the average length of standard evaluations in relation to years 2002 and 2003. It fell from 10.6 months in 2002 to 5.2 months in 2006. This shows that resources are being better utilised to evaluate information in respect of which OLAF has a clear competence. The increase in the average duration of the evaluations from 2005 was to be expected because the Board has dealt with more substantive and serious cases since the introduction of the simplified procedure in 2004.

Figure 1: Number of evaluations including and excluding "non case prima facie"[11] information completed in each calendar year



[11] The "non case prima facie" was introduced in 2004.

Figure 2: Average duration in months of evaluations excluding "non case prima Facie" information in each calendar year

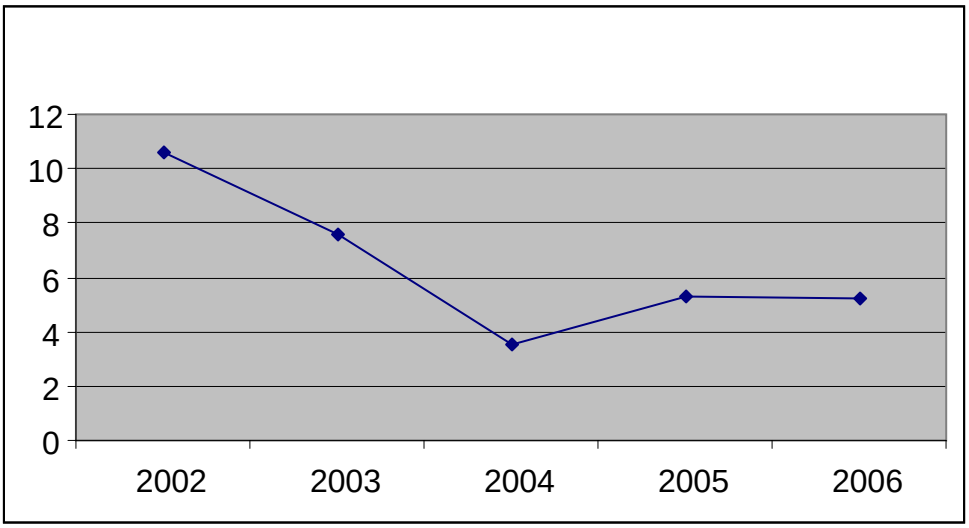


Table 2 below shows the type of decisions taken at the end of the evaluation stage. While the number of decisions adopted declined over time, the share between the different types of cases shows that OLAF is tending to concentrate on its own investigations, rather than simply assisting national authorities. Opening decisions in coordination and criminal assistance cases are still tailing off over the five years as shown below. The increasing number of monitoring actions is an indicator of closer cooperation with the relevant authorities in the Member States.

"Non case" decisions under standard evaluation procedure fell from 273 in 2005 to 210 in 2006. (256 in 2004).

Table 2: Decision taken at the end of the evaluation stage in each calendar year

Type of decisions	2002	2003	2004	2005	2006
Internal investigation case	50	27	23	40	37
External investigation case	158	127	87	121	112
Co-ordination case	107	86	81	36	26
Criminal assistance case	49	68	28	17	20
Monitoring action	28	39	29	42	59
Non case	178	261	256	273	210
Investigation created in IRENE	78	19	0	0	0
Total	**648**	**627**	**504**	**529**	**464**

The investigations created in IRENE refer to cases which had been classified in UCLAF's IRENE database.

Table 2 above shows that 195 cases were opened in 2006 (internal, external, co-ordination and criminal assistance).

As shown in Table 3, a significant proportion of the new cases opened in 2006 related to the direct expenditure area of the EC budget (65 cases out of 195 cases , i.e. one in three cases). This overall figure seems to confirm the trend that OLAF's activities are moving towards areas in which Member States do not exercise specific responsibilities. For organisational purposes, cases involving funds directly managed by the Commission (or, occasionally, other

EU bodies) are divided into two categories: "direct expenditure" within Member States and "external aid". Although there was a sharp increase in the number of cases in the external aid area, "direct expenditure" cases fell significantly in relation to 2005 as shown by Table 3.

Table 3: Number of direct expenditure and external aid cases opened

Sector	2002	2003	2004	2005	2006
Direct expenditure	39	23	23	28	11
External aid	95	56	30	36	54

This trend is borne out by Table 4 which shows external investigations, cases opened in which the cooperation of Member States is essential, and monitoring actions. For the first time the number of OLAF's external investigations equalled the number of cases in which OLAF assisted national authorities, including monitoring actions.

Table 4: Ratio between cooperation cases with Member States, including monitoring actions, and cases" owned" by OLAF in the sectors of Agriculture, Customs and Structural Funds by calendar year

Investigation type	2002	2003	2004	2005	2006
Co-ordination cases	106	86	81	36	26
Criminal assistance case	27	40	14	10	7
Monitoring actions	14	15	21	25	22
	147	**141**	**116**	**71**	**55**
	67%	*69%*	*76%*	*59%*	*50%*
External investigation cases	**73**	**64**	**37**	**50**	**55**
	33%	*31%*	*24%*	*41%*	*50%*
Total	**220**	**205**	**153**	**121**	**110**

Table 5 below shows that the number of cases completed has been declining over time and that the average duration of the active stage increased slightly from 24 months to 27 months in 2006. OLAF has taken action to monitor the duration of its investigations although a significant part of this duration is due to factors which are out of its control. Since the introduction of the "simplified procedure" in 2004 along with other changes in operational policy the decision to open a case is targeted more and more on the most serious cases, which are often very complex and take a long time to finalise.

Table5: Cases completed and duration of active stage completed in each calendar year

	2002	2003	2004	2005	2006
Cases completed[12]	668	500	339	233	216
Average duration (months)	37	24	22	24	27

Table 6 shows the number of cases closed with and without a follow-up recommendation at the end of the open stage of the case. The proportion of cases closed with follow-up is still growing. Cases closed with follow-up accounted for more than 60% in 2006. This is a

[12] The statistics on duration of active stages only include those stages closed in the reporting period. They do not include estimations for those stages which are ongoing at the end of the year.

positive development which demonstrates a proportional increase in substantive results from OLAF's operational and investigative work.

Table 6: Cases closed with or without follow-up in each calendar year

Type of closure	2002	2003	2004	2005	2006
Follow-up	290	205	157	133	132
No follow-up	380	288	182	100	84
Grand Total	**670**	**493**	**339**	**233**	**216**

The result of a case may involve several types of follow-up activity: administrative, financial, legislative, judicial or disciplinary follow-up. Table 7 demonstrates how many follow-up activities are related to the cases closed in each of the last five years. For instance, for the 132 cases closed with follow-up in 2006, 249 follow-up activities have commenced. This is due to the fact that there can be more than one follow-up activity for each case.

Table 7: Cases closed with Follow-up showing type(s) of follow-up opened

Type of closure		2002	2003	2004	2005	2006
Cases Closed with follow-up		290	205	157	133	132
Related Follow-up Activity	Administrative	29	29	42	45	60
	Disciplinary	12	5	5	9	10
	Financial	233	144	94	93	102
	Judicial	157	132	115	91	76
	Legislative	2	5	3	1	1
Total		**433**	**315**	**259**	**239**	**249**

The bulk of follow-up work concerns financial recovery and judicial activities. These account for over 70% of the follow-up activities undertaken. There is however a constant upward trend in administrative follow-up cases (see paragraph 3.4.1). Such cases accounted for almost 25% of the total follow-up actions in 2006 compared with less than 10% just three years ago (2003).

For monitoring actions a similar pattern of activity emerges as indicated in Table 8. The importance of the administrative follow-up is also increasingly significant. As explained in paragraph 1.4 monitoring actions, introduced in 2002, are those where OLAF would have the legal competence to conduct an external investigation but where a Member State or other authority is in a better position to do this. These cases are passed directly to the relevant authority for completion. No OLAF investigation resources are required. One or more OLAF follow-up units will monitor progress. The number of monitoring actions in 2006 almost doubled in relation to 2004. This trend is explained by the improved cooperation with the relevant authorities in the Member States.

Table 8: Monitoring actions opened showing type(s) of follow-up opened

Type of closure		2002	2003	2004	2005	2006
Monitoring actions		28	39	29	42	59
Related follow-up activity	Administrative	7	11	6	7	19
	Financial	16	20	9	21	34
	Judicial	11	22	21	32	47
	Legislative			1	1	1
Total		**34**	**53**	**37**	**61**	**101**

Follow-up is in most cases the responsibility of the relevant national authorities. Table 9 shows the number of cases and respective follow-up activities completed in each year. The follow-up paths are closed after the national or disciplinary authorities have taken their decision and it has become definitive. Therefore, completion of follow-up depends to a large extent on the input of those authorities. As OLAF made major efforts to close follow-up actions during 2004 and 2005, the number of closed actions came down in 2006 to a more normal level.

Table 9: Completion of Follow-up showing type(s) of follow-up closed

Type of closure		2002	2003	2004	2005	2006
Cases with follow-up completed		11	22	83	87	59
Type of follow-up activity closed	Administrative	3	2	10	17	12
	Disciplinary				2	2
	Financial	8	18	58	64	37
	Judicial	4	7	31	36	26
	Legislative			2	1	
Total follow-up activities		**15**	**27**	**101**	**120**	**77**

Table 10 shows the annual breakdown of financial recovery completed in the last five calendar years. In addition to the €113m recovered as a result of closed follow-up actions, an additional €336 million has been recovered in respect of follow-up actions which are still ongoing. By way of comparison, the cost of running OLAF was around €50 million in 2006 (cf: paragraph 6) and the prorata cost of OLAF's operational functions, at 70% of this figure, was about €35 million (equivalent to 0.03% of the EC budget).

Table 10: Breakdown of amounts recovered in € million in each calendar year

Major sector	2002	2003	2004	2005	2006	Follow-up ongoing at the end of 2006
Agriculture[13]	0 .000	0.000	0.065	14.201	1.175	134.555
Structural Funds	0.726	1.469	192.584	95.172	17.219	146.314
Cigarettes	0.000	0.000	0.000	0.000	0.000	0.736
Customs	0.000	0.035	1.578	2.977	0.130	21.323
VAT	0.000	0.000	0.000	59.972	0.000	29.714
Direct expenditure	0.055	0.348	1.975	0.161	0.376	0.287
External aid	0.005	0.826	2.010	31.773	92.750	1.853
EU institutions	0.000	0.000	0.038	0.000	2.080	0.160
EU bodies[14]	0.000	0.000	0.000	0,000	0.080	1.599
Total	**0.787**	**2.679**	**198.250**	**204.257**	**113.810**	**336.540**

[13] Agriculture includes also "alcohol" and "trade" categories from the previous year's reports.
[14] The Sector EU bodies is a new category which merges "EUROSTAT" and "Multiagency investigations" sectors from the previous years' reports.

3 OPERATIONAL ACTIVITIES IN 2006

3.1 Incoming information

OLAF received 826 new items of information in 2006 (see Table 1). Evaluations commenced for 464 of these cases (see Figure 1). The remainder were either treated under the simplified procedure as "non-cases prima facie" (300 cases in 2006) or the information was found to relate to existing cases.

Table 11 below shows the breakdown by main sources of the initial information received in 2006.

Table 11: Distribution of initial information received by source

Source	Total
European Commission	258
Free phone	26
Informants	397
Member States	105
Other EU institutions	19
Others	21
Total	**826**

2006 saw a 10% increase in receipt of information from informants in relation to 2005. As this source of information had already increased in 2005 the new figures are encouraging, showing an increased awareness of the competence of the Office among the general public. The other significant categories (information from EU institutions and Member States) remained broadly stable.

Informants include witnesses; anonymous sources, media and trade sources; and whistleblowers. In this context whistleblower is a member of staff of a Community body who, in the course of or in connection with the performance of his or her duties becomes aware of facts which indicate either possible illegal activity falling under the competence of OLAF or serious failure by an official to comply with his or her professional obligations, and who then reports these facts to OLAF. In 2006 OLAF received no information from whistleblowers.

Figure 3 below analyses the initial information received in 2006 by OLAF sector. The proportion is roughly the same as that obtained in 2005. A slight increase in the volume of information received is however to be noted in the external aid area.

Figure 3: Initial information received in 2006 by OLAF sector

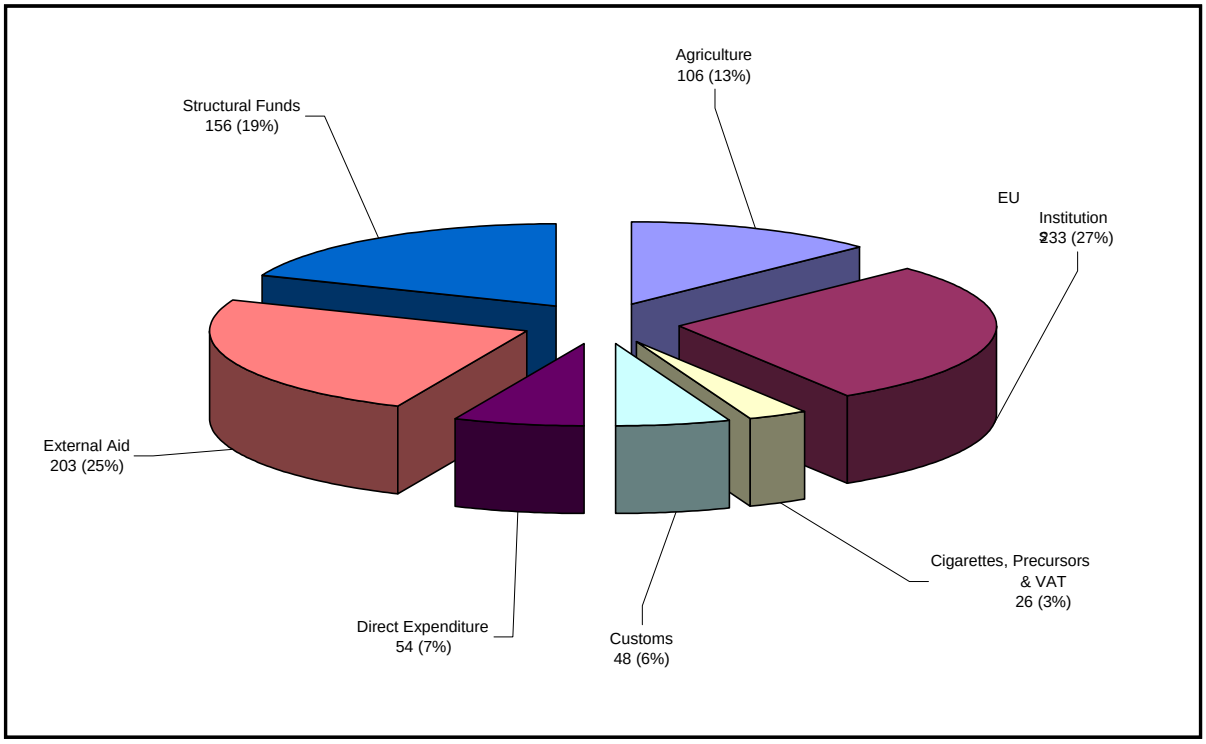
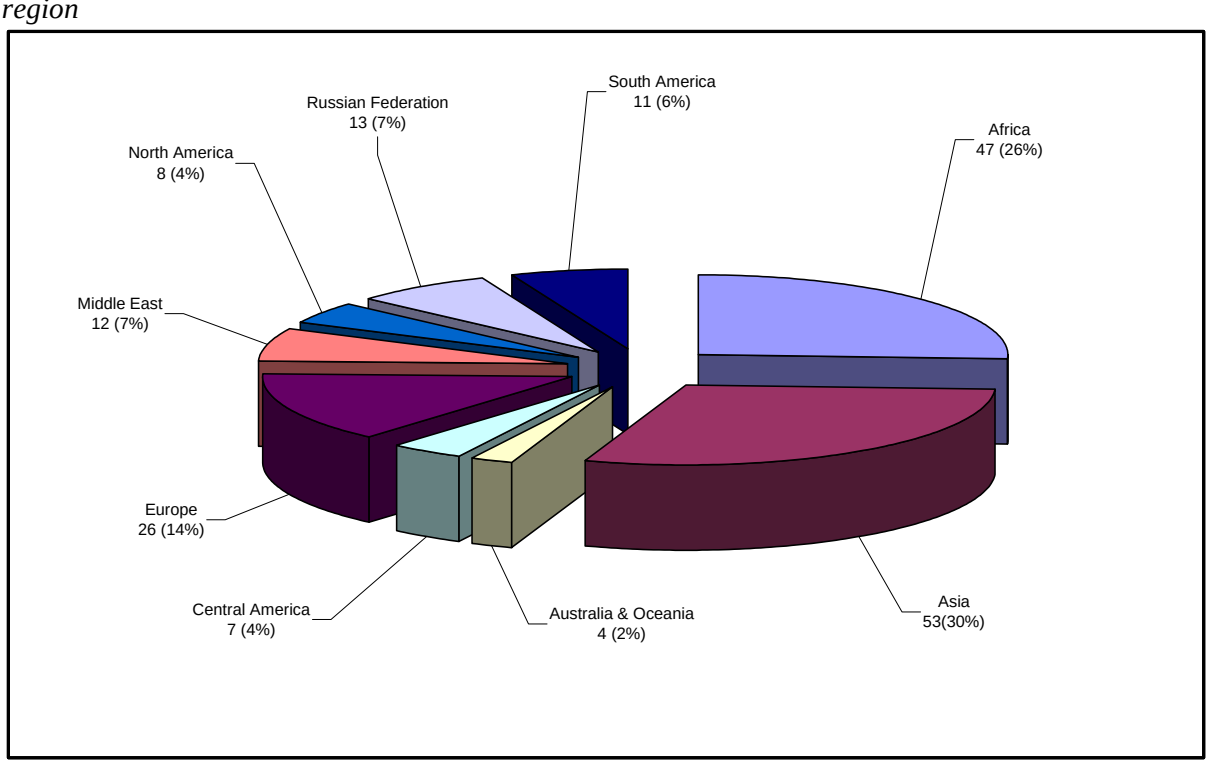


Figure 4 below shows the distribution of initial information in relation to activities in third countries. The pattern is similar to that of previous years. Africa and Asia still represent more than half of all the initial information received.

Figure 4: Distribution of initial information received concerning third countries by geographical region



As described earlier, the Investigations and Operations Executive Board analyses the information received by OLAF in order to recommend to the Director General whether or not a case should be opened. Figure 5 shows a breakdown of the number of decisions to open and not to open a case in 2006. The proportion is also very similar to that observed in 2005.

Figure 5: Decisions taken during 2006

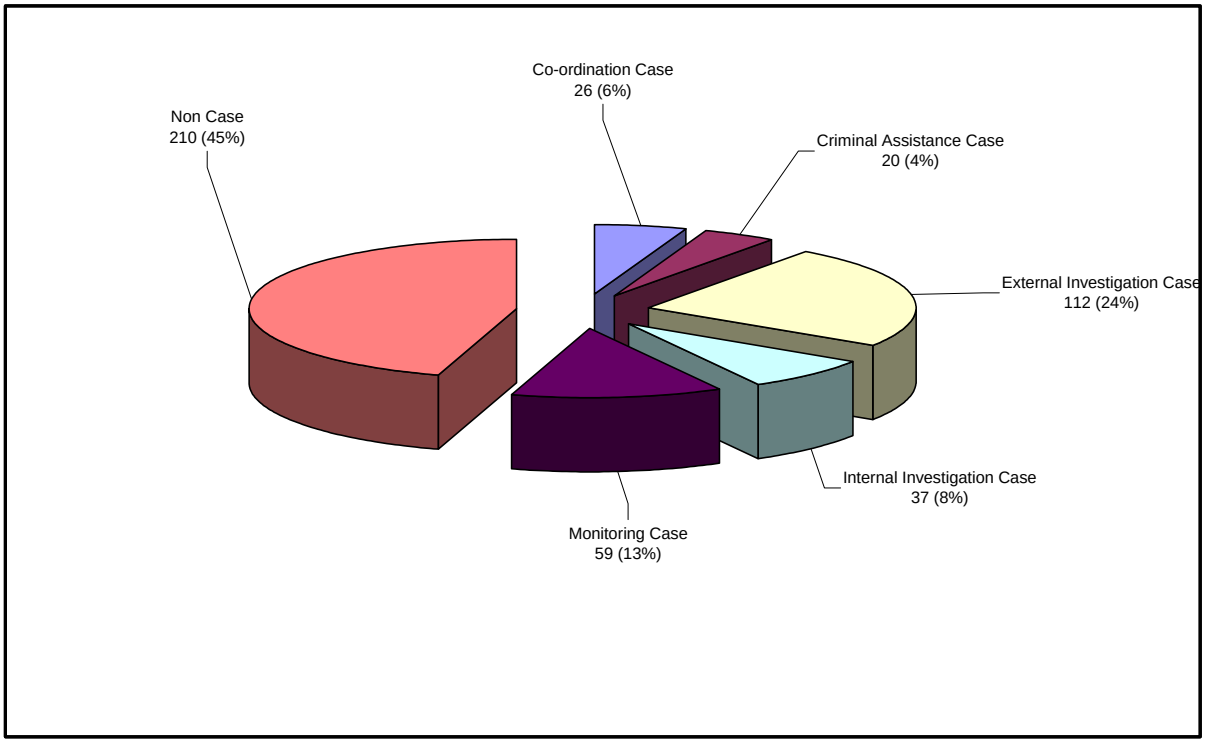


Table 12 below provides details of the opening decisions taken in 2006 by OLAF sector. The total number of opening decisions fell by around 10% compared with 2005 (from 215 to 195). The 2006 figures confirm the distinct shift in new OLAF casework observed last year away from co-ordination and assistance work towards OLAF's own investigations. This is driven by three factors: a reduction in the number of cases opened in the agriculture sector (64 in 2004, 35 in 2005); an increase in those opened in internal investigations (20 in 2004, 34 in 2005); and a change in the types of cases opened in the Structural Funds sector (11 external investigations were opened in 2004 and 24 in 2005).

Table 12: Opening decisions taken in 2006 by sector and type of decision

Major sector	Co-ordination case	Criminal assistance case	External investigation case[15]	Internal investigation case	Total
Agriculture	9	1	14	0	**24**
Structural Funds	1	2	25	0	**28**
Cigarettes	5	2	0	0	**7**
Customs	8	0	16	0	**24**
VAT	2	2	0	0	**4**

[15] External investigation cases within the sectors EU institutions and EU bodies relate to cases in which third parties, i.e. contractors, are involved.

Direct expenditure	0	2	9	0	**11**
External aid	0	10	44	0	**54**
EU institutions[16]	0	1	2	32	**35**
EU bodies[17]	0	0	2	5	**7**
Precursors	1	0	0	0	**1**
Total	**26**	**20**	**112**	**37**	**195**

Figure 6 shows the geographical breakdown of new case records. One case record may relate to more than one country as cases can have a transnational dimension. A proportionally higher occurrence of cases is to be expected in Belgium in proportion to its size, population and receipts from the EC budget given that it is the seat of the largest European Institutions. The vast majority of the internal investigations are undertaken within this country.

Figure 6: Distribution of new case records created in 2006 by Member State

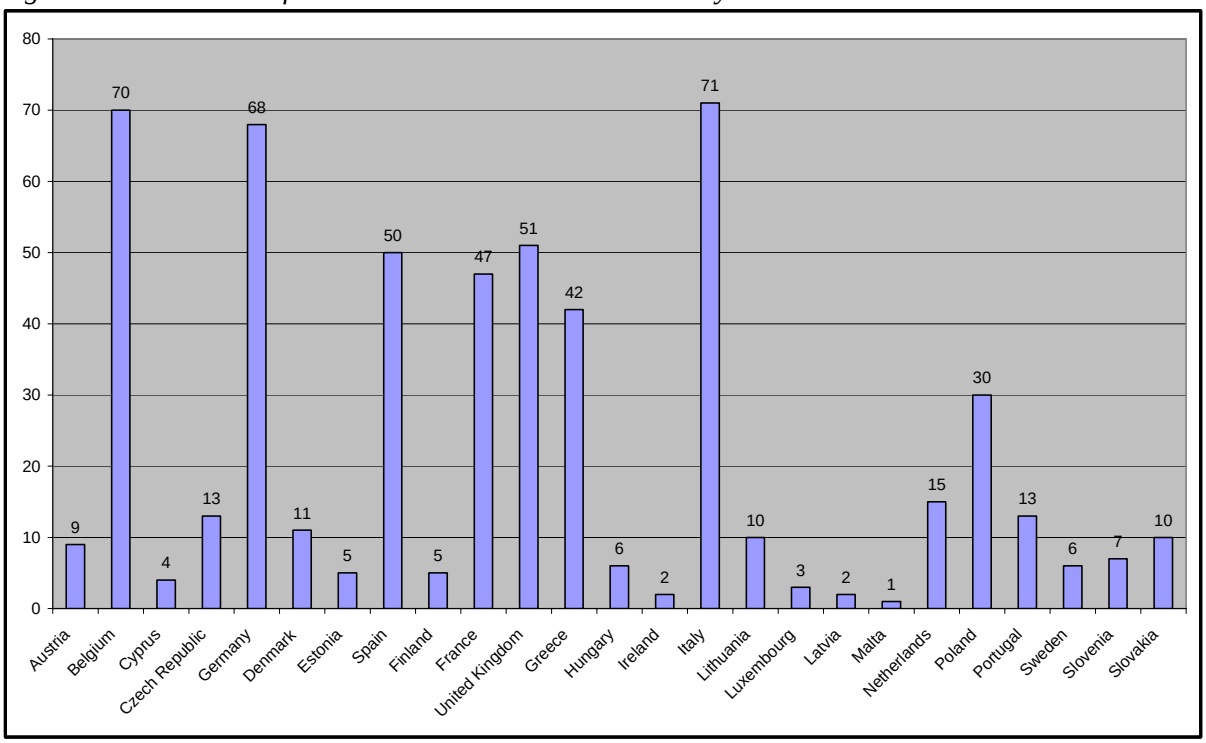
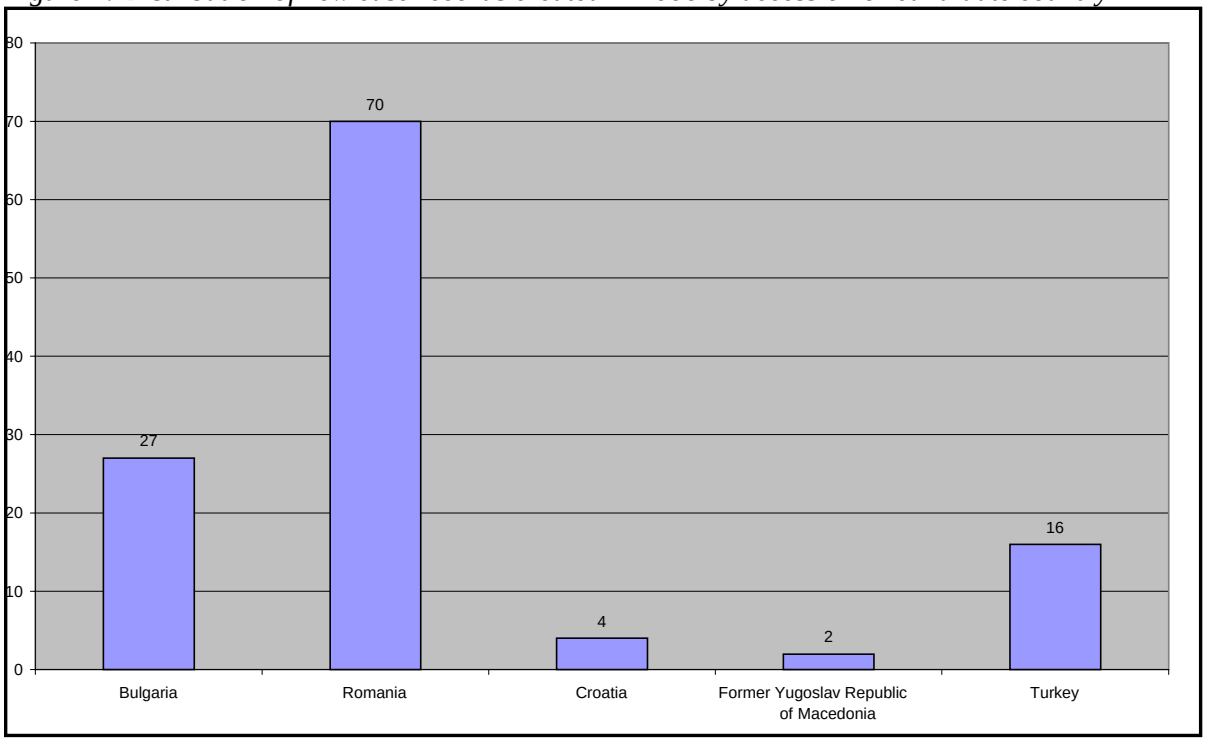


Figure 7 shows the same details for the two acceding states in 2006, Bulgaria and Romania, and the three candidate countries: Turkey, Croatia and the Former Yugoslav Republic of Macedonia (FYROM). The difference in the number of case records between these two groups of countries is due not only to the difference in the amounts of the financial allocations granted but also to the establishment of Anti-Fraud Coordination Structures within Bulgaria and Romania (AFCOS). Similar structures are expected to be set up in the candidate countries in the coming years. The significant difference between Bulgaria and Romania is due not only to the differences in the global amount allocated to each country but also to the good cooperation of Romania in providing OLAF with initial information about possible cases of fraud.

[16] External investigation cases within the internal investigations sector relate to cases in which third persons are involved along with EU officials.
[17] The Sector EU bodies is a new category which merges "EUROSTAT" and "Multiagency investigations" sectors from the previous years' reports.

Figure 7: Distribution of new case records created in 2006 by accession or candidate country



3.2 General statistics on case records and investigative activity

Table 13 provides an overview of the active cases and cases under evaluation by sector at the end of 2006. It includes a breakdown of cases under standard evaluation by OLAF sector.

Table 13: Active cases by type and cases under evaluation at the end of 2006

Major sector	Co-ordination case	Criminal assistance case	External investigation case	Internal investigation case	Total	Evaluation
Agriculture	26	1	38	0	**65**	28
Structural Funds	3	7	36	0	**46**	69
Cigarettes	22	5	3	0	**30**	2
Customs	29	0	41	0	**70**	24
VAT	4	7	0	0	**11**	1
Direct expenditure	0	5	35	0	**40**	24
External aid	0	10	68	0	**78**	85
EU institutions	0	6	3	59	**68**	37
EU bodies	0	0	12	10	**22**	12
Precursors	1	0	0	0	**1**	3
Total	**85**	**41**	**236**	**69**	**431**	**285**

Table 14 provides a snapshot of all active cases at the end of 2006 showing the instances where Member States and acceding/candidate countries are involved. More than one country is possible per case record. The figures indicate each occurrence of a country.

Table 14: Active cases at the end of 2006 by Member State and Candidate Country

Status of Country	Country	Agriculture	Cigarettes	Customs	Direct Expenditure	EU bodies	External Aid	Internal Investigations	Precursors	Structural Funds	VAT	Total
Member State (2006)	Austria	2	1	2	1						1	7
	Belgium		12	4	6	4	1	33		2	4	66
	Cyprus		6									6
	Czech Republic		1	1		1	1			1	1	6
	Germany	5	11	16	7			1		1	8	49
	Denmark	1		2					1		3	7
	Estonia	2	1				1				2	6
	Spain	7	3	6	5	1		1		10	4	37
	Finland		1	1	1					1	1	5
	France	1	3	7	3		6	4		6	2	32
	United Kingdom	5	7	7	3		1	2		3	3	31
	Greece	8	3	2	3	4				6		26
	Hungary	1		1	1						1	4
	Ireland	1	2	2								5
	Italy	9	5	6	6		6	9	1	13	7	62
	Lithuania	3	1				1					5
	Luxembourg	1		2		2		5				10
	Latvia	1	4									5
	Malta				1							1
	Netherlands	6	6	9	2						4	27
	Poland	1	3				1				2	7
	Portugal	3		2	1					4		10
	Sweden		3	1							2	6
	Slovenia		4	1	1		1			1		8
	Slovakia	1					1					2
	Net Total	**58**	**77**	**72**	**41**	**12**	**20**	**55**	**2**	**48**	**45**	**430**
Acceding countries	Bulgaria	5	2	1			2	1				11
	Romania	5	2		1	1	15					24
	Net Total	**10**	**4**	**1**	**1**	**1**	**17**	**1**	**0**	**0**	**0**	**35**
Candidate Country	Croatia		1				1					2
	FYROM	2	3									5
	Turkey	3		2			3	1				9
	Net Total	**5**	**4**	**2**	**0**	**0**	**4**	**1**	**0**	**0**	**0**	**16**
	Grand Total	**73**	**85**	**75**	**42**	**13**	**41**	**57**	**2**	**48**	**45**	**481**

Table 15 shows the number of cases closed by sector. They declined slightly from 233 in 2005 to 216 in 2006. As highlighted earlier more cases were closed with follow-up recommendations than without for the second consecutive year.

Table 15: Cases closed in 2006 by Sector

Major sector	Follow-up	No follow-up	Total
Agriculture	26	19	**45**
Structural Funds	22	4	**26**
Cigarettes	5	5	**10**
Customs	17	6	**23**
VAT	5	7	**12**
Direct expenditure	9	9	**18**
External aid	31	12	**43**
EU institutions	14	12	**26**
EU bodies	3	10	**13**
Total	**132**	**84**	**216**

Table 16 provides a snapshot of all registered cases by stage at the end of calendar year 2006. The total number of valid case records is 5 988. This number includes 1 421 UCLAF[18] cases created before 1 June 1999.

Table 16: Distribution of all cases by stage at the end of 2006

Evaluation of incoming information	Non Case Prima Facie	Monitoring	Non Cases	Opened	Closed without follow-up	Closed with follow-up	Follow-up completed	Total
285	647	165	1335	431	2064	799	262	**5988**

Table 17 shows the historical estimated financial impact of OLAF cases by sector and by stage at the end of 2006. 'Open' denotes those 430 cases in their active stage. ”Closed” represents cases in follow-up, including monitoring actions; closed without follow-up and where follow-up is completed. The overall estimated financial impact of cases is way over € 1 billion in each of the areas of the Structural Funds, agriculture and cigarettes.

Table 17: Financial impact of open and closed OLAF cases at the end of 2006

Sector	Open (€ million)	Closed (€ million)	Total (€ million)
Agriculture	202.7	1241.3	1444
Structural Funds	192.9	1413.8	1606.7
Cigarettes	315.6	1004.5	1320.1
Customs	284.4	705.4	989.8
VAT	148.9	578.9	727.8
Direct expenditure	182.4	85.6	268.0
External aid	109.7	241.7	351.4
EU institutions	301.0	243.2	544.2
EU bodies	1.2	108.5	109.7
Precursors	0.0	0.0	0.0
Total	**1 738.8**	**5 622.8**	**7 361.6**

[18] UCLAF (Unit for the Coordination and Fraud Prevention) was OLAF’s predecessor up to 1999

3.3 Case records and investigative activity by sector

3.3.1 Internal Investigations

As shown earlier in Table 13 the internal investigations workload totalled 68 open cases and 33 items of information under evaluation at the end of 2006. The number of open cases remained stable overall in relation to the previous year.

Table 18 indicates the Institutions involved in these internal investigation cases. As the European Commission manages by far the greatest part of the EC budget and accounts for most EU officials and other staff it appears most frequently. As an internal investigation may involve more than one Institution the total number of cases classified by Institution (80) is higher than the number of internal active cases (68).

The quality of initial information and the degree of detail of supporting documents have improved over time. Information is received and exchanged faster and more efficiently. Cooperation with the Institutions has improved significantly.

Table 18: Internal investigations under evaluation and active stage at the end of 2006

	Evaluation	Active cases	Total
Committee of the Regions	0	2	2
Council	1	3	4
Economic and Social Committee	0	1	1
EU agencies	0	1	1
European Commission	27	69	96
European Parliament	5	4	9
Total	33	80	113

Case Study: – Fraud by an accountant in an EC Delegation

The Commission's services informed OLAF that a verification of the accounts of an EC Delegation had found that several payments had apparently been made for the rent of the Delegation's offices for a single period. In the light of this information OLAF opened an internal investigation into the conduct of the Delegation's accountant, a member of the local staff.

Based on OLAF's investigation into this conduct, the EC funds improperly diverted by the accountant were calculated to be in excess of € 350 000.

As a result of OLAF's investigation, the Commission dismissed the accountant on grounds of serious misconduct. In addition, OLAF recommended referring the matter to the judicial authorities of the country concerned. Actions is being taken to recover the amounts unduly paid.

This case shows the importance of OLAF's powers to operate within the EU Institutions anywhere in the world and to liaise with the relevant national authorities.

Case Study: – False statements made by EC staff in order to qualify for weighting of a portion of their salaries

Traditionally, the remuneration regime for EU staff provided for an element of their salary to be paid in their countries of origin or countries where they had financial commitments, subject to "corrective coefficients" reflecting differences in the cost of living between the country of employment and the other country. In other words, officials were entitled if they met the conditions of the scheme to remit money to another country at a favourable exchange rate at the employing Institution's expense. The coefficients were greatly reduced when the current Staff Regulations came into effect on 1 May 2004. However, entitlements which existed at the date were phased out over a period of four years. Existing entitlements were defined as those in respect of which at least one regular payment had been made before 1 May 2004.

OLAF received a copy of a report written by a former internal auditor of the Committee of the Regions, in which it was alleged that a number of employees of that body had set up financial obligations in countries benefiting from a high corrective coefficient, in order to be paid a proportion of their salaries in those countries.

OLAF opened an internal investigation. The persons concerned were nine officials who appeared to have made irregular declarations aimed at obtaining the application of the corrective coefficient to a part of their salaries as well as five officials who authorised the apparently irregular requests. Three officials fell into both categories.

OLAF reviewed relevant documentation and conducted interviews. At the conclusion of the investigation OLAF reported five officials to the Belgian judicial authorities. OLAF also recommended that the Institution take disciplinary measures in relation to the officials involved and that payments made to eight officials be recovered.

3.3.2 Direct expenditure (excluding external aid)

Direct expenditure (excluding external aid) includes all the programmes and actions which are managed by the Commission under the so-called "centralised management" system in Article 53 (1) a) of the Financial Regulation.

Case Study: Rehabilitation of a power station in Serbia

A private consortium was involved in the major overhaul and rehabilitation of a power station in Serbia funded and managed by the European Agency for Reconstruction (EAR). In July 2004 OLAF received a note from the European Court of Auditors (ECA) relating to possible double invoicing. The company which was supposed to issue the final Work Acceptance Certificate had informed the EAR that the invoices and reports submitted by the Consortium were inconsistent, dubious and difficult to reconcile. The alleged financial impact was estimated to be € 300 000.

OLAF's investigations demonstrated that multiple accounting and invoicing of work components had occurred. Thanks to these findings the EAR avoided paying any more than the amounts properly agreed on the contract.

As there had been an attempt to commit fraud OLAF transmitted the file to the competent Prosecutor's Office.

Case study: Forged bank guarantees

An Italian company provided several bank guarantees in the context of the performance of six contracts in the Balkans region, again managed by EAR. There were serious suspicions that the guarantees had not in fact been issued by the banks as claimed by the company.

The external investigation opened by OLAF in cooperation with the Italian Guardia di Finanza concluded that the guarantees were fake. The Office decided to refer the case to the competent judicial authorities which subsequently launched a criminal investigation. This illustrates the importance for OLAF of cooperation with national competent authorities.

The chief executive of the Italian company resigned. EAR is considering a claim for compensatory damages. While there is no direct damage to the EC budget, OLAF's investigation proved valuable in detecting this criminal behaviour contrary to Community law and which put the EC budget at risk.

Case study: Fraud in several EC funded projects in Spain

OLAF received information about possible fraud committed by a company which was participating in various projects financed by the EC in Spain. This information stated that the money was kept by the manager and the projects had not been completed.

The first checks established that the company had benefited from several European projects. OLAF confirmed the veracity of the information received by detailed analysis of the various statements of costs as declared by the company, a systematic cross-check of available national administrative data, and interviews with employees. The damage to the European budget amounted to € 1 million. The information has been passed on to the Spanish judicial authorities. Judicial proceedings have been launched.

3.3.3 Pre-accession funds

Table 19 shows the number of cases opened in the new Member States and the candidate countries relating to pre-accession financial assistance (PHARE, ISPA and SAPARD). For the ten new Member States, all the cases refer to commitments made before their accession to the European Union on 1 May 2004.

It is to be noted again that most of the cases concern Romania (14). This is due not only to the fact that some 61% of the pre-accession assistance in 2006 (€ 2.9 billion) was granted to Romania and Bulgaria but also, as explained earlier, to the good cooperation of Romania in providing information on the suspected cases of fraud.

Table 19: Cases opened in 2006 concerning new Member States, acceding and candidate countries in the area of pre-accession funds.

Code	Country involved	N° of cases
BG	Bulgaria	2
CY	Cyprus	
CZ	Czech Republic	
EE	Estonia	1
HR	Croatia	
HU	Hungary	
LT	Lithuania	
LV	Latvia	
MK	FYROM	
MT	Malta	
PL	Poland	1
RO	Romania	14
SI	Slovenia	
SK	Slovakia	
TR	Turkey	2
	Total	20

<u>Case study</u>: Fraud in a project financed by PHARE in Romania

A project to train a group of young disabled workers in a clothing factory was financed by the financial instrument PHARE in Romania. In February 2005, a Romanian citizen filed a declaration at the EC Delegation in Bucharest, complaining about alleged fraud and irregularities in this project.

On the basis of this information, OLAF and the Romanian department for the fight against EU fraud, DLAF, jointly carried out an on-the-spot check. The objectives of this joint check were to shorten the duration of the investigation, to increase the effectiveness of the investigation by making use both of the

powers of OLAF and of the powers of Romanian authorities and to ensure that the evidence gathered could be used directly in a criminal proceeding in Romania .

The investigations confirmed the irregularities. As there was a suspicion of fraud the case was passed on to the judicial authorities in Romania. OLAF is following up the further developments of the case in that country.

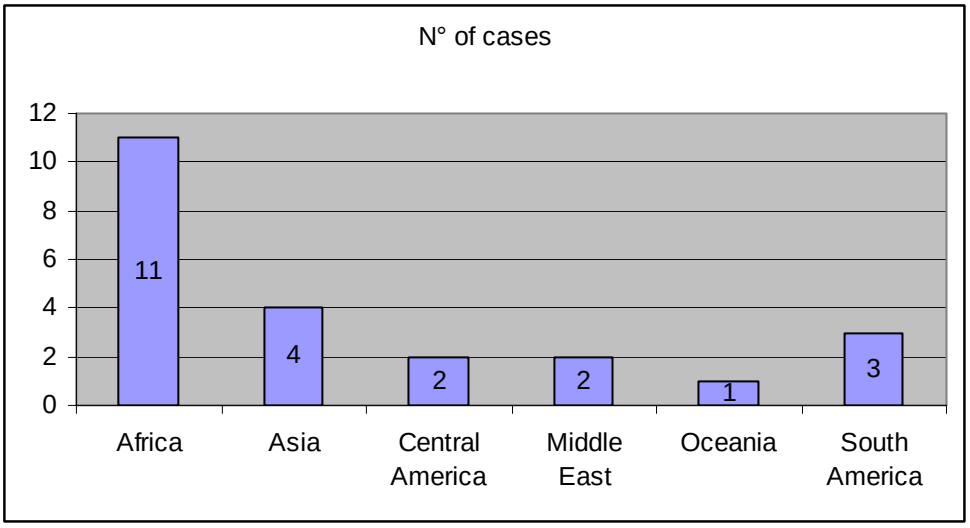
3.3.4 External aid

The European Union is the largest provider of development and humanitarian aid in the world. Development cooperation accounted for € 2.3 billion and humanitarian aid for € 0.7 billion in the 2006 budget. In addition, € 1.3 billion was devoted to the European Neighbourhood Policy. In addition, the EU was also last year involved in action in response to unforeseen needs, such as the reconstruction efforts in the tsunami-hit regions in Asia, actions in Iraq and Afghanistan, and compensations to ACP countries following the recent reforms in the sugar sector.

External aid is one of the traditional areas for OLAF's so-called "own" investigations. OLAF therefore plays a crucial role in preventing and detecting fraud in this field by working in partnership with other Commission departments- notably the Europe Aid Cooperation Office (AIDCO) and the European Community Humanitarian Aid Office (ECHO) – and also with international partners.

Figure 7 shows OLAF cases opened in cooperation with other Commission departments in 2006 by geographical region. Africa remains the most significant region of interest for OLAF casework, accounting for nearly 50% of the cases opened.

Figure 7: External aid cases opened in 2006 by geographical region



In the external aid sector OLAF investigators often encounter modus operandi typical of organised fraud. Some of the risks that make such fraud possible are shortcomings in coordination between the different global and international donor organisations. Such shortcomings affect the allocation of grant aid, auditing, monitoring, evaluation and the operation of warning systems. The abundance of different projects, programmes, NGOs, organisations and foundations, combined with the fact that many of these operate in different legal environments and financial systems, makes coordinating and supervising the aid a challenging task. Moreover, many organisations look for multiple sources of financing in order to implement their projects. Unfortunately, there is no general information or verification infrastructure which could prevent different cases of double financing of projects.

OLAF investigators encounter various challenges in their daily investigative work in the aid sector. These mainly concern the exchange of evidence, communication and cooperation. These challenges have not

only caused technical and organisational problems but have adversely influenced the duration and efficiency of operational work. OLAF's cooperation with a number of bodies, particularly national authorities, Commission departments and the departments of the international donor organisations responsible for spending money on aid projects would benefit from further development.

The forum in which the problem of better cooperation is discussed is the Conference of International Investigators. All the main donor organisations - the World Bank, IMF, UN and others, as well as the Commission - are represented (OLAF represents the Commission). This forum has created and endorsed international standards for investigations which have become the basis of investigative procedures for most of the international organisations. This standardisation is a crucial step towards the increasing exchange of information.

Case Study: Human rights project

An NGO was implementing a project in Romania aimed at promoting Community human rights and rule of law standards for people in detention. The same NGO participated in another Community project for which it had received about € 133 000.

The results of the OLAF investigation indicated that the total amount of funds received by the NGO from different sources had indeed exceeded the actual project expenditure and that the activities (and expenses) relating to one project had also been combined with those of other projects and reported in more than one report. Furthermore, the NGO had claimed higher salaries than paid in reality, some project staff did not actually work for the project and certain payments had covered personal expenses.

OLAF recommended that the Community grants should be repaid to the EC budget.

Case Study: OLAF investigation in Bolivia

The European Community part-financed (€ 6 million) a development programme in Bolivia to sustain agricultural production and to build education centres.

OLAF decided to open an external investigation in relation to alleged irregularities in the implementation of the invitation to tender and administrative development of the programme. As a result of the investigations it was found that several house rentals had been over-invoiced and some buildings planned in the project had not been constructed.

The OLAF investigation is still ongoing. The results of the OLAF investigation indicate that at least € 279 000 should be recovered.

Having seen the evidence of irregularities, the Bolivian authorities opened a judicial investigation. OLAF has recruited local real estate experts to help the national Prosecutor to determine the real value of the work done.

The role of OLAF in terms of cooperation with the Bolivian judicial authorities is manifold:

- OLAF has analysed the proof of irregularities and fraud to support the judicial proceedings;
-OLAF has given direct financial support for several activities to be undertaken during the national prosecution;
-OLAF is cooperating with the national institutions in Bolivia which are pursuing the same objectives (the Deputy Minister for Transparency and the Fight against Corruption, the Anti-corruption National Coordinator and the General Prosecutor of the Republic of Bolivia).

3.3.5 Structural actions

Some € 39.6 billion (in commitments) was allocated in 2006 to EU countries and regions to help with their modernisation, training, infrastructure and other development projects. The structural policy accounted for over 30% of the European budget in 2006. It is therefore an important area in the protection of EU financial interests.

The management of Structural Funds is undertaken under the so-called shared management system in Article 53(1) of the Financial Regulation. This means that the responsibility for management lies in the first place with the Member State.

The control systems in place in the area of Structural Funds are based on the principle that the Member State is generally responsible for controlling and correcting irregularities. When allegations of serious irregularities or fraud are communicated to OLAF, the Office, after the evaluation stage, may decide to intervene. In this case the Member State authorities will be contacted to confirm whether EU funds are at stake.

OLAF's results in the Structural Funds sector are obtained with the assistance of the effective legal powers provided by Regulation N°2185/1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities. Close cooperation with Member State authorities is crucial.

During 2006 OLAF received 156 allegations in the area of the Structural Funds (Figure 3). 28 new cases were opened in this sector (Table 12). 22 of the 26 cases closed were closed with follow-up (Table 15). At the end of the reporting period, 46 cases were open in this area (Table 13).

Table 20 shows the breakdown by Member State of cases closed in 2006. As might be expected, most of the cases relate to the main countries receiving assistance from the Structural Funds.

Table 20: Structural Funds cases closed in 2006 by fund and country involved

Country involved	ERDF	EAGGF	ESF	FIFG	Total
Austria					0
Belgium		1	1		2
Cyprus					0
Czech Republic					0
Germany	2		2		4
Denmark					0
Estonia					0
Spain	2		1	1	4
Finland	1				1
France	1		1	1	3
United Kingdom	1				1
Greece	1				1
Hungary					0
Ireland					0
Italy	3	1	2		6
Lithuania					0
Luxembourg					0
Latvia					0
Malta					0
Netherlands	1				1
Poland					0
Portugal		2	1		3
Sweden					0
Slovenia					0
Slovakia					0
Total	12	4	8	2	26

Table 21 shows the estimated financial impact of the cases closed in 2006 in the area of Structural Funds. The total amount is around € 270 million which represents some 0.68% of the total financial allocations in this sector.

Table 21: Financial impact of the Structural Funds and Cohesion Fund cases closed in 2006 by fund

Fund	Financial impact (€ million)	Percent	Code
European Regional Development Fund	210.3	78%	ERDF
European Agricultural Guidance and Guarantee Fund - Guidance Section	27.1	10%	EAGGF
European Social Fund	5.1	2%	ESF
Financial Instrument for Fisheries Guidance	27.0	10%	FIFG
Cohesion Fund	0.0	0%	
Total	**269.6**	**100%**	

Case Study: Falsification of documents and false payments under Financial Instrument for Fisheries Guidance (FIFG)

A company received over € 2 million of aid under the Financial Instrument for Fisheries Guidance (FIFG) (period 1994-1999). Based on a Commission departmental audit report, OLAF initiated an investigation which established that there had been serious irregularities in the management of funds.

The company in question had falsified invoices and there was evidence of false payments between the accounts of the supplier, the service provider and the beneficiary.

At OLAF's request the case was transferred to the national judicial authorities. The Member State has already recovered the funds.

Case Study: Criminal assistance case in the sector of Structural Funds

In the context of an operation against money laundering, the Swiss Federal Prosecutor's Office requested OLAF assistance to prepare charges against a citizen of a Member State who had allegedly undertaken illegal activities affecting several EU countries. The report contained information which showed that grants of the ERDF Industry Programme 1994-99 had been claimed against inflated invoice values. The framework for this cooperation between the Swiss authorities and the Commission is the cooperation arrangement[19] concluded in 2004.

On the basis of the information received from the Swiss investigations, OLAF decided to open a criminal assistance case. OLAF's objective in this case was to support and coordinate the investigation of the Member State concerned and the Swiss authorities. Substantial contracts for the supply of machinery had been placed between companies and suppliers mostly located in other EU Member States. However investigations revealed that, while the machinery, described as new and unused, was being shipped using invoices issued by the suppliers, actual billing was done by offshore agents operating in another Member State.

As a result of the investigations a recovery of an estimated € 7.33 million has been requested. The companies in question had been expected to receive further funding under an ERDF programme 2000-2006.

This case demonstrates the usefulness to OLAF of being a partner in investigations of possible cases of fraud involving money laundering. Likewise, it shows the importance of the cooperation arrangements

[19] Cooperation agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, on countering fraud and all other illegal activities affecting their financial interests. CS/2004/12352.

concluded with third countries in the fight against fraud in securing effective protection of the Community's financial interests.

3.3.6 Agriculture and trade

The agriculture sector accounted for € 42.6 billion expenditure in the EC budget in 2006: most of the allocations concern direct aid and market measures. While the Common Agricultural Policy (CAP) is the most important from the expenditure perspective, this area is also significant from the own resources point of view. Around 14% of EU own resources in 2006 came from customs and agricultural duties. Agriculture accounts for a significant share of EU trade with third countries, both imports and exports.

The European Union grants preferential access to EU markets to some countries or geographical regions in the world (e.g. to the ACP countries and under the EBA Initiative -"Everything But Arms"). As a result origin fraud is a significant phenomenon in agricultural trade, in relation not only to preferential tariff measures but also to GATT tariff quotas. The case study below on sugar imports is an example of this kind of phenomenon.

During 2006 OLAF received 106 allegations in the area of agriculture and trade (Figure 3) and 24 new cases were opened in these sectors (Table 12). Almost half the cases closed (45) were closed with follow-up (26) (Table 15). At the end of the reporting period, 65 cases were open in the area of agriculture and trade (Table 13).

Table 22 shows the breakdown of active cases by market. Sugar, fruit and vegetables and garlic account for over 55% of the current active cases in these areas (large quantities of garlic of Chinese origin are declared with another origin to benefit from tariff measures).

Table22: Breakdown of agricultural cases under evaluation and in active stage at the end of 2006

Area	Evaluation	Active Cases	Total
Area aid	1	1	2
Cereal products	3	1	4
Fish products	1		1
Fruit & vegetables	3	12	15
Garlic	2	16	18
Live animals		1	1
Meat products	6	7	13
Milk products	3	3	6
Nitrates		1	1
Olive oil	1	2	3
Rural development	2		2
Rice		3	3
SAPARD	3	5	8
Sugar	1	10	11
Tobacco		1	1
Wine	1	1	2
Wood		1	1
No specific product	1		1
Total	28	65	93

Table 23 shows the estimated financial impact of cases closed in 2006 in the agriculture sector. While agriculture was the largest Community policy area in terms of budget allocated in 2006, the financial impact of cases in this sector (€ 53 million) is significantly smaller than the financial impact of cases closed in the Structural Funds and Cohesion Fund sector (see Table 21).

Table 23: Financial impact of agriculture cases closed in 2006

Sub sector	Cases closed	Financial impact (€ million)
Trade cases with follow-up recommendation	17	24.326
EAGGF-Guarantee Section cases with follow-up recommendation	9	19.000
Monitoring actions	8	10.024
Cases closed without follow-up	19	0.000
Total	**53**	**53.350**

Case Study: Sugar imports in the framework of preferential trade arrangements

Sugar originated in some African countries can be imported into the Community free of import duty within the framework of a quota system. Imports under this arrangement are subject to presentation of an import license and a proof of origin.

In 2004, British customs authorities informed OLAF of a possible irregular importation of sugar declared as originating in Malawi. OLAF decided to open an investigation. In the context of this investigation it was established that more than 4000 tons of raw cane sugar, originating in a South American country and processed in Bulgaria before being imported to the United Kingdom and Malta, were declared as originating in Malawi, Zimbabwe and Zambia. This resulted in the evasion of approximately € 2 million as the sugar could not be considered as originating in ACP countries and, therefore, import duties should have been paid. False movement certificates had been presented at import to disguise the real origin of the goods, the importer having already been previously involved in similar irregularities relating to imports of sugar from the Western Balkans.

Administrative and judicial proceedings have been initiated in this matter. A number of consignments of sugar have been seized by Customs, and assets frozen.

Case Study: Fraud in the peach and citrus fruit sector

Various producers of peaches and citrus fruit were beneficiaries of agricultural payments financed by the EAGGF (Guarantee Section). Information was received by OLAF relating to the possibility that certain producers in a Member State in the period 2001-2004 had obtained Community aid for the processing of quantities of peaches and citrus fruit which did not correspond to the normal yield of the declared production area. The amount of aid is based on the weight of the raw material, irrespective of the end product.

As there were some suspicions that the financial sum paid did not correspond to the yield of the production area, OLAF carried out an administrative investigation in co-operation with the competent national authorities. It established that several producer organisations had overdeclared their production by using "black" national or imported fruit and had unduly received aid amounting to more than €3.3 million.

The case has been transferred to the national judicial authorities and the competent administrative departments in order to start recovery procedures.

This case is a further example of how OLAF works in partnership with national services to combat illegal actions which damage the EC budget and distort legitimate trade.

3.3.7 Customs, cigarettes, precursors and VAT

Customs duties account for around 14% of EU own resources along with agricultural duties. In addition, VAT resources account for about 16% of EU own resources.

During 2006, OLAF received 48 allegations in the area of customs and 26 in the other sectors of this chapter (cigarettes, precursors and VAT) (Figure 3). 24 opening decisions were made in the customs area and 4 in the area of VAT (Table 12). Most of the cases were closed with follow-up in 2006, in particular in the customs area (Table 15). At the end of the reporting period 70 cases were opened in the area of customs and 11 cases in the VAT sector (Table 13) of which 36 cases were opened in 2006 as shown by Table 22.

Table 24 shows the breakdown of the 36 cases opened in 2006. The large number of co-ordination and criminal assistance cases highlights the important role played by Member States in this area.

Table 24: Cases opened in customs, cigarettes, precursors and VAT sector in 2006

Major sector	External investigation case	Co-ordination case	Criminal assistance case	Total
Cigarettes		5	2	7
Customs	16	8		24
VAT		2	2	4
Precursors		1		1
Total	16	16	4	36

Table 25 shows a breakdown of the type of possible fraud involved in each of the cases open in 2006. False origin declaration is not surprisingly the most frequent method encountered. Smuggling is the other major method of fraud in this group. As each case may involve multiple types of irregularity, the total exceeds the number of actual cases.

Table 25: Breakdown of types of possible fraud involved in the customs cases open at the end of 2006

Method of fraud	Cigarettes	Customs	Precursors	VAT	Total
Accounting records not presented				1	1
Drug precursor traffic			1		1
False description of goods	2	8			10
False origin declaration		41			41
Non-fulfilment of customs obligations		1		1	2
Other false declaration	1	6			7
Other fraud	2	13		6	21
Other transit fraud		1		1	2
Smuggling	27	1		1	29
VAT carousel				1	1
Total	32	71	1	11	115

Table 26 shows the breakdown of open VAT cases by product at the end of 2006.

Table 26: Breakdown of VAT cases open at the end of 2006 by product.

Product	Total
Automobiles	3
Computer equipment	2
Foodstuffs	1
Mineral oil	1
Mobile phones	1
Multiple Items	1
Non ferrous metals	1
Precious metals	1
Total	11

Case Study: Misdescription of preferential origin at importation into the EU of fishery products from Oman

Goods originating in Oman may be imported into the Community from Oman duty free or with a reduction in customs duty under the Community's Generalised System of Preferences (GSP) scheme. In late 2005 certain Member States raised their concerns with OLAF about the origin of raw materials used for the production of fishery products exported to the Community from Oman. Although those specific concerns proved unfounded, research and analysis carried out by OLAF revealed a serious risk of incorrect declaration of origin of fishery products exported from Oman due to the existence of significant quantities of fish caught by third-country vessels.

Following an OLAF-led investigation (with the participation of Member State and Omani authorities) in March 2006 into four Omani exporting companies it was established that significant quantities of fishery products exported under cover of preferential certificates of origin were not entitled to benefit from the reduced GSP tariff preferences, due primarily to incorrect declarations of origin by the exporters and, in certain cases, the use of forged documents.

The amount of customs duties evaded is estimated to be in excess of €1 million and concerns imports into 8 Member States. Member States are looking into the suspected involvement of Community importers in the fraud and proceeding with the recovery of the customs duties where appropriate. The Omani authorities have also launched an investigation into the circumstances surrounding the presentation of falsified documents.

Case Study: Evasion of anti-dumping duties on importation of Chinese bicycles into the Community

Since 2000, imports of bicycles originating in China are subject to anti-dumping duties (rate up to 30.6%) on the value of the bicycles when imported into the Community. Various operators have sought to evade these duties by declaring the bicycles under other origins. OLAF received information concerning one such case in June 2003 where it was suspected that the bicycles had been fraudulently declared as originating in the Philippines. OLAF coordinated the investigation with the Member State concerned. The objectives of the investigation were to determine the true origin and, if established as Chinese, to take all necessary action to recover the anti-dumping duties from the Community importers.

A Community verification mission to the Philippines led by OLAF, with the participation of the Member State concerned, took place in October 2004. During the course of this verification mission, information, documents and statements were obtained in the Philippines (and also subsequently from Hong Kong) which demonstrated the true Chinese origin of the bicycles. In fact, it was established that the bicycles had been shipped from China via Hong Kong to the Community, that the containers had never passed through the Philippines and that the documents purporting to show Philippines origin were false. Furthermore, it was found that the Community importer was the owner and effectively controlled the two alleged "exporting" companies in the Philippines. As such he is suspected of being the organiser of the fraud and to have guilty knowledge of it.

Following receipt of the OLAF mission report, civil duty recovery action is being taken in Member States to recover the anti-dumping duties evaded, in the region of €1.5 million, from the Community importers. In addition, a criminal proceeding is also under way against the Community importer in question as he is suspected of having knowingly evaded the anti-dumping duties by declaring them as of Philippines origin when he was aware of the true Chinese origin.

3.4 Follow-up activity

Follow-up includes various activities undertaken by OLAF designed to ensure that the competent Community and national authorities have carried out the legislative, administrative, financial or judicial measures recommended by the Office, normally when a case is closed. The cases then move from the stage of investigation activity to the follow-up stage. Follow-up activities may, however, begin while the case is still open, if this is deemed necessary.

It is possible that initial information may become known during the follow-up stage, giving rise to follow-up actions other than or in addition to those recommended in the final case report or follow-up recommendations report. The duration of the follow-up phase varies according to the circumstances and complexity of the case. If court procedures are involved, the follow-up phase can often be very protracted.

Table 27 shows for the second consecutive year an increase in the number of cases in follow-up compared with the previous year. Structural Funds remain by far the main area in terms of number of cases in follow-up. The higher number of cases in most of the areas should be noted. As outlined earlier, it confirms the trend that more cases over time are being closed with follow-up actions.

Table 27: Cases in follow-up by sector at the end of 2006

Major sector	2005	2006	Increase (%)
Agriculture	157	174	15%
Structural Funds	200	211	6%
Cigarettes	26	28	8%
Customs	71	87	23%
VAT	28	33	18%
Direct expenditure	84	86	2%
External aid	87	105	21%
EU institutions	51	62	22%
EU bodies	10	13	30%
Total	**714**	**799**	**12%**

Table 28 shows the follow-up activities related to the 799 cases in follow-up which were closed at the end of 2006. The trend observed is an increase in the proportion of administrative and financial follow-up actions. As there may be several follow-up actions related to one case, the number of follow-up activities is higher than the number of cases in follow-up.

Table 28: Type of follow-up activities in respect of closed cases at the end of 2006

Path Type Label	Agriculture	EU institutions	Cigarettes & VAT	Customs	Direct expenditure	EU bodies	External aid	Structural Funds	Total
Administrative	54	20	2	23	11	3	34	34	**181**
Financial	129	33	22	78	54	4	65	202	**587**
Judicial	92	43	64	45	71	7	83	111	**516**
Legislative	5	1	1	1	0	0	1	0	**9**
Disciplinary	0	36	0	0	1	4	0	0	**41**
Grand Total	**280**	**133**	**89**	**147**	**137**	**18**	**183**	**347**	**1334**

3.4.1 Financial and administrative follow-up

Administrative follow-up consists of all measures taken by national administrative authorities or by the Community institutions and bodies in relation to the implementation of Community policies and law.

In respect of its own investigation and operational activity in all budget sectors, OLAF monitors and supports Member States and Commission departments to ensure that the necessary action is taken at the right time to maximise the chances of successful financial recovery.

Case study: Failure by an NGO to respect procurement rules

A Non Governmental Organisation which received Community funding was found during the OLAF investigation to have systematically failed to respect the procurement rules (false offers, conflict of interest) and to have obliged its aid workers to sign double contracts (one to present to the Commission, one internal document for the NGO). The result was that these employees made so-called "voluntary" contributions to the NGO of up to 30% of their salary, deducted at source by the NGO and effectively financed by the EC.

These serious breaches of contract and instances of professional misconduct, demonstrated in OLAF's final case report, led to the first exclusion of an NGO from Community funding in pursuance of Article 96 of the Financial Regulation (administrative penalty). OLAF gave full support to the Commission departments responsible for the initiation of the exclusion procedure and the preparation of the related Commission decision, which was notified to the NGO in 2006.

A criminal investigation has been opened by the national judicial authority. This investigation is reportedly close to completion.

Case study: Investigation concerning the European Social Fund (ESF)

Following an OLAF investigation it was found that a European Social Fund beneficiary had committed irregularities amounting to around €40 000, in respect of which national recovery procedures have been initiated.

At the same time as these irregularities were discovered, the Member State's management of the operational programme in question was assessed. This was considered not to be in accordance with the rules, prompting a financial correction of around €30 million for the programme concerned by these irregularities.

As part of the follow-up to the investigation, OLAF made sure that the financial corrections applied to the Member State did not terminate the procedures for recovering the amounts from the operator concerned.

The aim of OLAF investigations is to put an end to irregularities committed by operators and make them bear the consequences. The Member States, for their part, are held financially liable for failures established in the implementation of projects and programmes financed by the Structural Funds.

Table 29 shows the estimated financial impact of the cases in follow-up at the end of 2006. The global sum is over € 2.5 billion. Around 20% of this financial impact comes from the own resources side (€ 560 million coming from the agriculture, cigarettes and VAT sectors). Around 80% comes from the expenditure side (€ 2 billion). Structural Funds account for almost one half of the estimated global amount.

Table 29: Financial impact of cases in follow-up at the end of 2006

OLAF sector	Financial impact (€ million)	Total
Agriculture	560	22%
Structural Funds	1160	45%

Cigarettes& VAT	410	16%
Customs	150	6%
Direct expenditure	50	2%
External aid	60	2%
Internal sectors	210	8%
Total	**2600**	**100%**

3.4.1.1 Traditional own resources

Traditional own resources make up a relatively large share of the EU's financial resources. OLAF cases in the traditional own resources sector typically involve evasion of agricultural import duties, customs and anti-dumping duties applicable to all types of industrial and fishery products.

Administrative follow-up, which accounts for an increased proportion of all follow-up cases, includes in this area the monitoring of the application of sanctions and the withdrawal of importer privileges where fraud or irregularities have been detected. Financial follow-up consists of the recovery of the sums unduly paid or the collection of duties unpaid for different reasons (for example customs and agricultural levies after corrections arising from false origin declaration).

Both kinds of follow-up activity were conducted throughout 2006 in an increasing number of cases.

In performing this often legally complex activity, due attention was paid to the strict provisions of the Community Customs Code, the rules of origin/preference (including the various Trade Agreements concluded by the Community) and the specific requirements of regimes with economic impact such as duty relief linked to inward processing arrangements.

It is frequently the case that points of principle have to be settled in a national hearing. Broadly speaking, such legal proceedings may become necessary in order to confirm an operator's financial liability for the payment of customs duty and thus trigger recoveries of customs duty. Formal challenges and appeals from importers are common. During the last year OLAF found itself increasingly committed to providing specialist support both to other Commission departments and to Member States' administrations involved in such litigation.

The front-line financial recovery machinery rests with Member States' competent authorities. OLAF supports the national customs administrations with the provision of data from the operational case file in order to maximise the chances of timely notification of import duty debts and the action taken to recover them. Council Regulation 2028/2004 introduced some important changes to the latter activity, one of the most noticeable being that after five years from the date when the duty liability was definitively established, any related amounts of debt not yet recovered are deemed to be irrecoverable and are effectively written off in national traditional own resources accounts. Where the amount of debt in question exceeds €50000, the Member State authorities have to provide the Commission with information about the circumstances leading to the write-off. The Commission has six months following receipt of the report to forward its comments to the Member State concerned.

Case study: Garlic imports from third countries

Following various operational investigations concerning imports of fresh Chinese garlic into the Community from 2002 onwards, OLAF initiated a number of administrative follow-up actions. A Notice to importers[20] was published in 2005 since this type of fraud involved various third counties, six Member States and numerous economic operators in the Community.

[20] OJ C 197/8 of 12.8.2005

The notice warned economic operators of the doubts concerning the origin of garlic imported into the Community. It advised them that declaring the origin for garlic and releasing the goods in question for free circulation might give rise to a customs debt and lead to fraud against the Community's financial interests.

Following the publication of this Notice to importers, there was in 2006 a significant decrease in the number of cases concerning misdeclaration of the origin of imports of fresh Chinese garlic into the Community via transhipments through certain third countries.

3.4.1.2 Indirect expenditure

The financial management of expenditure in the fields of agriculture (EAGGF-Guarantee) and structural actions (Structural Funds and Cohesion Fund) is shared between the Commission and Member States. The initial formal responsibility for recovering funds unduly paid falls on the Member States. OLAF's financial follow-up function consists of consulting the responsible services in Member States and with other Commission departments in order to verify that recovery activities have been undertaken and results obtained.

3.4.1.3 Direct expenditure

Follow-up in the field of direct expenditure, including external aid, concerns expenditure where implementation tasks are performed by Commission departments without the involvement of Member States, or are delegated by the Commission to third countries. Follow-up activities also cover, where appropriate, the financial and administrative follow-up of internal investigations. The accumulated expertise and experience of the Office in operational and recovery matters can be used to improve the fraud-proofing of legislation, contract clauses and financial agreements with third countries. In addition, recovery actions may be avoided with a preventive anti-fraud policy anticipating the possible major problems to be encountered or with actions during the phase in which a particular case is open. These actions consist mostly of initiating, coordinating and monitoring recovery action by the authorising officers of sums due to the Community following OLAF's investigations.

In the area of direct expenditure, financial follow-up often follows those investigations which have led to criminal proceedings. In order to support recovery, OLAF assesses and supports the possibility of launching civil action within criminal proceedings in those jurisdictions where this is possible.

In the area of direct expenditure, administrative follow-up concentrates on assisting the Commission departments to apply the appropriate administrative sanctions (such as the exclusion of tenderers or beneficiaries from contracts or grants financed by the Community budget for a maximum period of five years or the payment of financial penalties) on the basis of OLAF's investigative findings.

3.4.2 Judicial and disciplinary follow-up

Where a case brings to light evidence of possible criminal acts and such information has not been forwarded to national judicial authorities during the course of the investigation, the final case report must mention this fact. The follow-up recommendation should, where necessary, recommend that the case be referred to the competent national judicial authorities for further investigation and prosecution. Where such a follow-up recommendation has been approved, OLAF ensures the judicial follow-up with the competent national judicial authorities.

Once the different procedural phases are completed and the decision adopted by judicial authorities becomes definitive, OLAF closes its judicial follow-up. Often, this is many years after the initial case by OLAF (or its predecessor UCLAF) was initiated.

Where an internal investigation reveals evidence of serious matters relating to the discharge of professional duties such as to constitute a dereliction of the obligations of an official or other servant of

the Communities liable to result in disciplinary proceedings, the follow-up recommendation will recommend that the case be referred to the appropriate EU authorities (the Directorate General for Personnel and Administration and the disciplinary units of the other Community institutions and bodies) for appropriate disciplinary action. Where such a follow-up recommendation has been approved, OLAF ensures the follow-up with the appropriate EU authorities. In this context, the Office maintains contact both with the disciplinary services of the different Institutions and with other European bodies and agencies. OLAF is available to assist these departments in disciplinary proceedings, and monitors the outcome of the cases for the same reasons as it monitors judicial proceedings.

Whenever the investigation report recommends disciplinary and/or judicial follow-up, the file is transferred to the national judicial authorities or the relevant institution's disciplinary authorities.

Finally, in those situations where the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a coherent approach by liaising with both.

3.4.2.1 Judicial follow-up

Table 30 presents judgements made in 2006. They are broken down into six different categories depending on the kind of ruling adopted by the judges.

A total of 106 actions corresponding to 35 decisions were undertaken in the area of the protection of the EC's financial interests. A significant proportion of these actions resulted in financial penalties (36). The two other most frequent actions were damages (23), suspended sentences (21) and imprisonment (20). The suspects were acquitted in only 4 cases.

Table30: Summary of judgments received in 2006

Judgements	Actions
Acquittal	4
Damages	23
Financial penalty	36
Imprisonment	20
Suspended sentence	21
Other	2
Total	**106**

Table 31 provides a breakdown of the number of cases for which Public Prosecutors decided not to proceed with charges together with the reason given by the relevant national authority. The prescription of the offence and the lack of evidence are by far the main reasons for dropping cases.

Table 31: Summary of reasons given by Public Prosecution Offices

Reasons	Number of Actions
Prescription	11
Lack of evidence	9
Low priority	4
Not specified	1
Other	3
Total	**28**

Table 32 shows a summary of cases referred for judicial follow-up in 2006. 47 judicial follow-up paths were opened in 2006, most of them, as stated earlier, occurring upon the closure of the case. External aid was the area with the highest number of judicial follow-up actions opened.

Table 32: New judicial follow-up paths opened in 2006 by sector and stage

Major sector	Evaluation	Active investigation	Follow-up	Total
Agriculture			12	12
Structural Funds			4	4
Cigarettes			2	2
Customs			7	7
VAT				0
Direct expenditure			2	2
External aid	2	4	14	20
EU institutions			5	5
EU bodies		1	1	2
Precursors				0
Total	2	5	47	54

3.4.2.2 Disciplinary follow-up

Once the internal investigation has been closed, the final case report may contain some recommendations relating to the opening of disciplinary proceedings by the relevant authority. In such instances OLAF follows up the development of the case.

Table 33 shows that there were 38 cases with disciplinary follow-up at the end of 2006.

Table 33: Disciplinary Follow-up Summary

Stages	Total
OLAF internal review	7
Report sent to disciplinary authority	3
Disciplinary procedure	17
AIPN decision	3
End of proceedings	8
Appeal	0
Total	38

3.4.3 Judicial monitoring actions

Monitoring actions are those where OLAF would be competent to conduct an external investigation, but in which a Member State or other authority is in a better position to do so (and is usually already doing so). Monitoring actions are passed directly to the authority deemed competent to handle them.

OLAF receives information relating to cases that have been opened by national judicial authorities. OLAF may decide not to conduct any operational activity but will nevertheless "monitor" the development of the proceedings conducted in the Member State. A "monitoring action" will be opened.

As a result of the strengthening of judicial monitoring with a view to reducing the proportion of cases in which proceedings are discontinued by the national courts, 76 cases were at different stages of judicial proceedings at the end of 2006. 39 cases were at the stage of formal communications sent to the judicial authorities in order to expedite handling of the file. A significant number of contacts were made with national judicial authorities in the course of daily work.

Table 34 shows the number of monitoring actions opened in 2006. Given its increased importance in OLAF's workload, over half of them concern the external aid area. The number of new monitoring actions was higher than in 2005 (37).

Table 34: New monitoring actions opened with judicial authorities during 2006

Major sector	Monitoring actions
Agriculture	5
Structural Funds	9
Cigarettes	0
Customs	0
VAT	0
Direct expenditure	3
External aid	29
EU institutions	1
EU bodies	0
Precursors	0
Total	**47**

3.4.4 Cooperation with other Commission departments

3.4.4.1 Task Force on Recovery

In 2006 the Task Force on Recovery (TFR) participated in the clearance of accounts procedure for the EAGGF Guarantee Section with the result that the final proposals were prepared for Member States to assume the financial liability for approximately 400 cases of non-recovery with a value of more than € 1 billion.

As a result of the TFR's activities, on 3 October 2006 a first formal Commission Decision[21] was taken concerning financial liability for 349 cases of non-recovery (cases of more than € 500.000) totalling approximately €895 million. This Decision cleared from the debtors' lists: 41 cases totalling €176 million, which were charged to the Community budget; 164 cases totalling €317 million, which were charged to the Member States concerned, meaning that this amount will be returned to the Community budget in 2007 and the remaining 144 cases totalling approximately €402 million, which were removed from the debtors' list as non-cases or double entries.

In the Structural Funds area, recovery of unduly paid sums arising from an irregularity or fraud case is ensured by Member States. The programmes part-financed by the Structural Funds are multiannual and are implemented on the basis of intermediate payments. The refund to the Commission may be carried out through a reduction or withdrawal of the financial allocations. Recovery of unduly paid sums may be undertaken before or after the closure of the programme.

Further to the conclusions and recommendations formulated by the ECA in its special report on the management of OLAF, the Office has undertaken a general rethink of its role on recovery. A management dialogue was initiated, including discussions with other Commission Directorates General concerned.

In the meantime, OLAF continued to assist the other Commission departments with the closure of programmes in the Structural Funds sector for the programming period 1994-1999, in order to make sure that the financial consequences involving irregularities communicated by Member States had been properly defined.

3.4.4.2 Fraud-proofing

OLAF's operational experience and expertise can be used upstream in the Commission's legislative work.

[21] Commission Decision 2006/678/EC of 3 October 2006, OJ L 278, 10.10.2006, p. 24.

A dedicated fraud proofing mechanism gives Commission departments access to this expertise at an early stage of the preparation of the legislation in order to make legal instruments more “fraud proof”.

OLAF fraud-proofing activity during the period involved the analysis of 21 draft legislative texts (for all sectors concerned) and 17 projects.

OLAF was associated up front in the preparation of the three-yearly revision of the Financial Regulation which led to amendments further protecting the Communities’ financial interests. OLAF also contributed from a fraud prevention point of view to the improvement of standard contracts in the research area.

4 OPERATIONAL SUPPORT

4.1 Intelligence activity

Intelligence activity consists in the provision of strategic and operational analysis, case studies and other support to investigators based on information collected prior to and during a case.
Case analysis may continue to be provided throughout the life of a case to support specific requests from investigators.

Intelligence activity which is intended to provide a source of information for OLAF is called **strategic intelligence**. Strategic intelligence evaluations may lead to the opening of specific cases, or provide more general guidance relevant to policy development and operational strategy.

Conversely, activities aimed at providing specific case-related operational support in the context of an ongoing OLAF evaluation or during the open stage of a case are known as **operational intelligence**.

4.1.1 Strategic intelligence

The strategic intelligence capability of OLAF has continued to develop with strengthened and greater facility to support operational activities and to reinforce OLAF's policy role.

In 2006 activities in the area of strategic intelligence included the following:

- In January 2006 a risk evaluation of fraud against the Community budget was prepared. The paper outlines the specific risks relevant to each individual sector of the European Community budget as well as a number of horizontal risks which apply across the budget as a whole such as corruption, organised crime, multiple financing or the control systems in the Member States.

- A number of risk evaluations based on reports of irregularities in the funding of the Common Agricultural Policy and Structural Funds were produced to support the Office in the setting of priorities for control and case related policies. Likewise, analyses of irregularities and frauds were presented to Member States' authorities in order to highlight trends and major weaknesses in the sectors of shared management (agriculture and structural actions).

- Training and support were offered to the new Member States and Candidate Countries to prepare them for reporting and analysing irregularities in these sectors.

- An in-depth analysis of certain statistical information relating to VAT was carried out to determine its potential as a source for the detection of fraud, fraud patterns and fraud sensitive product groups.

- Co-operation with anti-fraud intelligence units in the Member States, candidate countries, third countries and other international institutions was further strengthened. Specific attention was paid to building working relationships with authorities in the new Member States as part of the multi-country PHARE programme. A working partnership was developed with Europol following the signature of a Memorandum of Agreement (see paragraph 5.7.2), both in terms of strategic intelligence exchange and the sharing of analysis techniques and IT capabilities.

- Progress was made in developing new tools and techniques to gather and make use of information and to identify new and improve existing sources. The ability to access, exploit and analyse data is key to the success of OLAF's intelligence capability.

4.1.2 Operational Intelligence

Operational intelligence provides on request specialist support and assistance to OLAF investigators and the Member States.

Operational intelligence activities include:

- information support relating to the provision of information based on available pre-defined databases, in-house or abroad expertise and contacts;
- enhancing initial information highlighting links between people, organisations and their financial interests in EU projects;
- providing hands on expertise in Commission internal or external commercial databases and open sources, which could entail identifying the total expenditure relative to a particular case, trade statistics, checks on companies and persons worldwide or background information on vessels, ports and containers;
- Pre-processing of data with a view to subsequent analysis, which often consists of scanning, processing for optical character recognition and indexing electronic data. Data preparation also requires considerable data cleaning; text mining[22] may help uncover the named entities in a large data set;
- analysing, linking and visualising high volumes of data using I-base environments to produce Analyst Notebook charts, event charts and geographical presentations;
- assisting with comparative and other more complex analysis;
- technical support such as forensic computer support or developing case based IT solutions.

Since April 2004, intelligence support requests have been made through the Case Management System (CMS) making it easier to manage the relationship between the intelligence analyst and the investigator who requires intelligence support. The analysts' involvement with investigations and operations activity is becoming more intensive, with intelligence increasingly becoming an integral part of the investigative process. This is reflected in the growth of requests for support to internal investigations where the combination of normal data and institutional data sources involve specialist knowledge and expertise.

Initial information sources and new software solutions of high qualitative standard were identified, introduced and exploited; together with the introduction of new methodologies (e.g. such as text mining) for data analysis and dissemination.

Technical assistance consists of a wide range of hardware-related actions such as seizure of data in various electronic formats held on computers, laptops, servers and other technical media, and forensic computer support.

This improved technical support in computer forensics provided for OLAF investigations has made electronic data more easily accessible by applying new technologies. The volume of data captured during single operations has grown exponentially. Additional technical support for individual cases was provided

[22] Text mining refers generally to the process of extracting interesting and non-trivial information and knowledge from unstructured text.

by extending OLAF's scanning capability with two mobile scanning units, which soon proved their operational use in several OLAF investigations. High volumes of seized data are quickly made exploitable by investigators.

After a case has been opened operational intelligence activities may entail more sophisticated techniques such as advising on and coordinating the use of specialised investigation methods, calling upon a network of contacts in enforcement agencies in the Member States, in third countries or with international organisations.

4.2 Legal and judicial advice

Investigators may obtain Community law related legal and judicial advice on operational matters within OLAF's sphere of independence.

The Case Management System (CMS) provides for a "legal and judicial advice module" to obtain legal support for operational activities. 2006 was the first full year in which this advice module was operational. This tool enables OLAF operational staff to request advice on specific cases from OLAF's legal units. As the legal advisers have access to the case file this facility brings them directly into the context of the case. It also ensures effective coordination and communication and better organisation and archiving of work within the legal units.

During 2006 legal and judicial advice played a significantly increased role in operational cases. The number of cases in which advice was provided in 2006 was over 200. The historical number of requests for advice reached more than 600.

Table 35 shows the breakdown by sector of the total number of pieces of legal and judicial advice given.

The Structural Funds sector has overtaken external aid as the main area for which legal advice has been provided. It accounts for around one in three instances.

Table 35: Legal and judicial advice provided in the course of an investigation

Major sector	Number of cases
Agriculture	40
Structural Funds	208
Cigarettes	28
Customs	15
VAT	21
Direct expenditure	79
External aid	15
EU institutions	102
EU bodies	107
Precursors	1
Total	**616**

Legal and judicial advice includes among other things the following activities:

- advice on issues that arise in specific cases concerning the interpretation of the Community legal framework which governs OLAF's performance of its investigative tasks, as well as other, more general, Community legal requirements such as professional secrecy, the extent of immunity, EC employment law, the territorial scope of application of OLAF investigative powers, the extent and limits of OLAF's independence, and relations with the Commission, the other Community Institutions and bodies and Member States;

- advice on problems experienced in the execution of OLAF's operational duties requiring solutions that concern the Commission's sphere of competence (e.g. infringements by Member States of their duties to cooperate with OLAF during a case);

- Advice on the establishment of practical arrangements for cooperation with other bodies such as Europol and Eurojust, taking into account the overall legal framework of the European Union.

5 COOPERATION WITH OLAF's PARTNERS IN THE FIGHT AGAINST FRAUD

5.1 Cooperation with the Member States

The consultation of Member State experts by OLAF is structured as set out in the table below:

Table 36: Structures for consultation

Committees/working-groups where OLAF represents the Commission
• COCOLAF (Advisory Committee for the Coordination of Fraud Prevention):
• Article 280 working group
• Irregularities and Mutual Assistance- Agricultural Products - Group
• Group on risk analysis on fraud and irregularity
• ECEG (Euro Counterfeiting Experts Group)
• CCEG (Counterfeit Coin Experts Group)
• OLAF Anti-Fraud Communicators Network (OAFCN)

In the course of 2006 two COCOLAF meetings, two Article 280 Group meetings, one Group "Statistical analyses of irregularities", two meetings of the Agriculture sector[23]group and two Mutual Assistance Committee meetings were held. In addition OLAF followed two formal discussions in the EAGGF Committee.

The Euro Counterfeiting Experts Group (ECEG) met four times.

A Memorandum of Understanding was signed by the General Prosecutor of the Italian Court of Auditors and the Director General of OLAF to establish a system of cooperation with judicial audit authorities in Italy.

Lastly, OLAF has started a new policy of arranging for audits and accountancy expertise at the request of national authorities when this is necessary to make investigations possible. This type of assistance was provided on three occasions during 2006.

5.2 Anti Fraud Information System (AFIS) / Customs Information System (CIS)

5.2.1 AFIS

The IT System AFIS (Anti-fraud Information System), a secure communication system, supports and facilitates the exchange of anti-fraud information among the relevant authorities of the Member States and between them and the Commission. AFIS is primarily used by the Member States and OLAF in the area of mutual administrative assistance in customs and agricultural matters.
The objectives for 2006 were twofold:

- Ensuring internal and external quality management of AFIS in OLAF
- Introducing the new AFIS system, comprising new applications under new technologies

In order to ensure internal and external quality management of the AFIS project in OLAF it was planned to launch calls for tenders so as to establish a contractual base for AFIS production, development, quality assurance and control. The second phase of the restricted tendering procedure was underway at the end of 2006. The technical change for managing the AFIS system was implemented.

[23] "Irregularities and Mutual Assistance - Agricultural Products, Regulations (EEC) N°595/91 and (EC) N°515/97"

In addition, the permanent Operational Co-ordination Unit (OCU) aims to provide logistical and technical support for joint customs operations. Virtual-OCU is an application that allows participation in joint customs operations activities without the need for a physical presence. OLAF supported five joint customs operations using the OCU in 2006.

5.2.2 CIS/FIDE

Customs Information System (CIS)

The Customs Information System (CIS), based on Council Regulation (EC) No. 515/97 and the CIS Convention, was put into full operation in 2003. The CIS was created to store information on commodities, means of transport, persons and companies in order to assist in preventing, investigating and prosecuting actions which are in breach of customs and agricultural legislation (first Pillar) or serious breaches of national laws (third Pillar). The initial level of use of the CIS by national authorities has been disappointing. From the launch of the system in March 2003 until the end of 2004, only 140 cases were registered in the Customs Information System (CIS) database.

OLAF and the customs services of a number of Member States have adopted a strategy for increasing the use of what is potentially a powerful tool for cooperation between customs administrations. This strategy has begun to produce its first benefits. By the end of 2006, 758 cases were stored in the Customs Information System (CIS) database. These cases are accessible to over 1700 users located in the main ports, airports, border posts, risk analysis units, investigation and intelligence services.

For the CIS first pillar database, to which (unlike the third pillar equivalent) the Commission (OLAF) has unlimited access, the active cases are related to the following type of fraud alert:

Table 37: First pillar alerts to active case (historical)

Type of Alert	Number	Percent
Counterfeit goods (including cigarettes)	576	76.0%
CITES (Endangered species of flora and fauna)	105	13.9%
Smuggling of genuine cigarettes	21	2.8%
Misdescription of goods (CN code included)	13	1.7%
False origin of goods	7	0.9%
False customs value	2	0.3%
Precursor (chemical product for drugs) / steroid	2	0.3%
Cash control (money)	2	0.3%
Others (average 1 case: transit, excise, human being, drugs)	30	4.0%
Total	**758**	**100.0%**

FIDE

The European Customs File Identification Database (FIDE) will be a central European database tool containing identification data on persons and companies convicted (or suspected) of having infringed customs laws. Further to the adoption in 2003 of the protocol amending the Convention adopted in 1997 on the use of information technology for customs purposes, OLAF conducted a feasibility study for the creation of this database and initiated the technical development of the system. At the time of reporting FIDE was expected to be in production by the end of 2007.

Using search and interrogation features, FIDE will be able to provide a customs authority with an overview of current or historical irregular activities by persons or companies in other Member States. If a search is successful, the customs authority will receive from FIDE all necessary information to contact the Member States' customs department(s) dealing with relevant investigations.

FIDE will bring the following overall benefits:

- Simplifying the investigation process for local and Member State customs cases;
- Reducing the time spent in searching and collating relevant information for investigating local and Member State customs cases;
- Expanding access and volume of case relevant data available to customs investigations services;
- Boosting efficiency and making effective use of investigation resources due to the larger volume of better quality data.

Anti-fraud Transit Information System

Following the implementation of the New Computerised Transit System (NCTS), OLAF drafted, in agreement with other Commission departments, an administrative arrangement for the introduction of the Anti-fraud Transit Information System (TIS) intended to provide important information on national and international movements of sensitive goods. The current Customs Early Warning System (EWS-C) will be retained exclusively as a fallback procedure in order to cover any periods of NCTS downtime and thus ensure the uninterrupted provision of pre-arrival information for transit movements of sensitive goods. The proposal was discussed within the EC/EFTA Working Group on Common Transit and has been approved.

5.3 Preparing candidate countries

5.3.1 Cooperation with candidate countries

OLAF's activities in the area of enlargement includes contributions based on its operational work for all matters related to the development and implementation of policy towards the preparation of the candidate countries and potential candidate countries for enlargement. It includes also the key coordinating work played by the two OLAF liaison officers based in Romania and Bulgaria.

In 2006 OLAF was involved in the preparation and implementation of the screening sessions for Croatia and Turkey on chapters 24 (Justice, Security and Freedom), 29 (Customs Union) and 32 (Financial Control).

In addition, OLAF started to work from the beginning of accession negotiations in October 2005 with Croatia and Turkey to establish the necessary administrative structures for the fight against fraud and the protection of EU financial interests in both countries. Both countries have expressed their commitment to establish such structures. Croatia has informed OLAF that the Ministry of Finance will host it. Turkey designated the Prime Ministry Inspection Board (PMIB) as temporary contact point for OLAF.

Initial contact has also been made with the relevant authorities in the Former Yugoslav Republic Of Macedonia for the same purpose.

5.3.2 The Bulgaria – Romania Network Agreement (BGRONA)

The Bulgaria and Romania Networking Agreement (BGRONA) was designed to assist these two countries' preparation for accession in the area of the fight against fraud and protection of the EU financial interests.

The activities consist of a series of training seminars which were delivered mostly by framework contractors and in some instances by OLAF staff in the beneficiary countries. The Activity Plan also covered the hosting of trainees in OLAF in the investigations and operations units and a number of IT initiatives relating to AFIS and the CIS. OLAF hosted 18 trainees in 2006 under this programme.

5.4 Mutual administrative assistance

Implementation of the mechanisms for mutual administrative assistance in customs matters such as cooperation agreed in EC customs cooperation agreements or in protocols to trade agreements is indispensable to the defence of legitimate commercial interests.

During 2006 OLAF was the responsible Commission service for the negotiation of the Protocol on Mutual Administrative Assistance and the anti-fraud clause (protective measures) within the context of trade and customs agreements concluded with Albania, with the Gulf Arab States and with the Government of Japan, for which the signature is still pending. In addition, OLAF proposed the conclusion of a Practical Cooperation Arrangement between OLAF and the Dubai authorities for the purpose of protecting the financial interests of the parties.

An amended proposal for a new horizontal instrument on mutual administrative assistance adopted in September 2006[24] is aimed at establishing a more complete and multidisciplinary framework for the protection of the European Community's financial interests and fight against fraud and any other illegal activities. For this purpose, the proposed Regulation requires Member States and the Commission to cooperate and assist one another and exchange information to allow swift investigations and appropriate action in any area. The Regulation would not give the Commission any investigative powers of its own, but offers the Commission's assistance to the Member States for cases of cross border fraud such as VAT "carousel" fraud. The proposal aims to optimise the use of information available, for example by using financial information from the anti-money laundering sector for the fight against fraud harmful to Community financial interests.

More specifically, on 22 December 2006 the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 515/97 on mutual administrative assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters[25] was adopted. The main reason for this proposal is the strengthening of cooperation between the Member States and between them and the Commission, the accent being put more strongly on the operational dimension.

5.5 The Philip Morris International Agreement (PMI)

In 2006 six Member States joined the Agreement concluded in 2004 between the European Commission, ten Member States and Philip Morris International (PMI). At the end of 2006 twenty-four Member States participated in this Agreement (the exception being the United Kingdom). The Agreement envisages an efficient system to fight smuggling and counterfeiting of cigarettes. It improves the exchange of information between the participants in the areas of seizure, smuggling and counterfeiting.

Under the Agreement, PMI agreed to pay around $ 1 billion over a period of 12 years to the European Community and the Member States who had joined the Agreement by July 2004. By the end of 2006 PMI had already paid around $ 425 million . In October 2006 the ten Member States which signed the Agreement in 2004 and the Commission confirmed their agreement on the sharing of these payments. The amount allocated to the Community budget accounts for 9.70% of the total sums paid by PMI. In the context of the implementation of this Agreement the Commission proposed to add € 44 million to the amount granted to the Hercule II programme[26] in the period 2007-2013 (of which € 6 million in 2007). These additional amounts will finance training activities and equipment aiming at combating the smuggling and counterfeiting of cigarettes.

[24] COM(2006)473.
[25] COM (2006) 866.
[26] §5.9

Among the main elements of the Agreement there are the Protocols for control and follow-up regarding the cooperation between OLAF and the Member States on the one hand and Philip Morris on the other hand. This cooperation includes the "tracking and tracing" of cigarettes to identify where they have left the legitimate supply chain to fall into the hands of smugglers.

5.6 Cooperation with third countries and international bodies and fight against corruption

OLAF has direct contacts with investigation and enforcement authorities of third countries, including customs, police and judicial authorities, and international organizations with parallel interests. OLAF may transmit case-related information to the competent authorities of third countries subject to professional secrecy and compliance with data protection legislation.
In 2006 cooperation has been further enhanced through the International Investigators' Conference which attracted nearly 100 participants from over 30 institutions. In the context of these international fora OLAF provided its expertise in the fight against corruption in other groups such as the Inter Agency Group for Anti-Corruption (IGAC), the Interpol Group of Experts on Corruption (IGEC) and the OECD working group for anti-corruption measures in transition economies.

OLAF is also strengthening its relations with international donor institutions other than the EU in order to exchange experience and enhance cooperation.

Following the Oil-for-Food enquiry in the United Nations (UN), a variety of problems was detected in UN procurement services. In order to investigate suspected fraud and corruption in this sector the United Nations sought the assistance of OLAF. OLAF responded by seconding an experienced investigator to New York to set up and lead a specialised Task Force. This investigator is the former Head of Unit who was in charge of the multi-agency investigations within OLAF. The United Nations have expressed considerable satisfaction with this measure as a number of investigations were completed leading to both criminal referrals and disciplinary hearings.

Additional cooperation has been requested from OLAF following a decision by the World Bank to conduct a review of the Office of Institutional Integrity within the Bank. Once again OLAF agreed to this request by seconding the same experienced officer as counsel to the panel of experts conducting this review.

5.7 Cooperation with bodies in charge of police and judicial cooperation

5.7.1 Eurojust

OLAF has continued to work in 2006 towards making its cooperation with Eurojust more efficient. The Decision establishing Eurojust indicates that Eurojust "shall establish and maintain close cooperation with OLAF. To that end, OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation".

At the end of 2004 Eurojust and OLAF set up a joint Liaison Working Group to enhance further cooperation in relation to cases of common interest. The Memorandum of Understanding signed in April 2003 came into effect in 2005. The main idea is to select cases of common interest and to discuss them on a regular and planned basis. This pragmatic approach enables OLAF and Eurojust to find better solutions for working together.

A number of contacts were made to reinforce the cooperation with the European Judicial Network and with Eurojust**.** The President of Eurojust and the Director General of OLAF met in May 2006 to discuss developing the cooperation system.

In 2006, Eurojust took the initiative to bring heads of EU organisations working in the EU area of Justice, Freedom and Security together. The "EU JHA agencies" participating comprise Eurojust, Europol, OLAF, the EU Joint Situation Centre, Frontex (European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU) and CEPOL (the European Police College), as well as Council working groups, such as the Police Chief Tasks Force (PCTF) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).

On 14 July 2006, Eurojust organised a meeting of "Heads of EU JHA agencies" with a view to bringing together all EU players concerned with European policies in the field of justice and police co-operation. OLAF's Director General participated in the meeting, although OLAF is not an EU JHA, because of the relevance to the meeting of OLAF's independent investigative role in the protection of EC financial interests. The "Heads of EU JHA agencies" underlined their commitment to better cooperation to ensure that Member States' authorities can take full advantage of the tools established at a European level.
As a follow-up, OLAF agreed to organise a working group on legal challenges to the exchange of information. On 6 December 2006, OLAF hosted a first technical meeting of the legal and data protection officers from CEPOL, Eurojust, Europol, Frontex and PCTF.

5.7.2 Europol

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol.

OLAF and Europol have begun working together on combating cigarette smuggling. The analytical means of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid the unnecessary duplication of efforts.

Two other meetings were held in 2006 between OLAF and Europol. These dealt with the counterfeiting of currency and were organised by the Forgery of Money Unit at Europol in The Hague. The meetings bring together the heads of the National Central Offices for combating currency counterfeiting in the Member States and in some third states, Interpol, the ECB and the European Commission. The main items on the agenda were the Euro counterfeiting situation in the states represented and technical and operational issues relating to Euro counterfeiting.

5.8 Protection of the Euro

OLAF continues to coordinate Member State efforts to protect the Euro against counterfeiting in close cooperation with Europol and the European Central Bank (ECB). The ECB has underlined the importance of this cooperation in the fight against counterfeiting of the euro.

Quarterly meetings of the Euro Counterfeiting Experts Group, in the framework of the Anti-Fraud Advisory Committee (COCOLAF) bring together experts from the competent national authorities, judiciary, financial authorities and central banks of the Member States and candidate countries, as well as European institutions and bodies and Interpol.

During the reporting period, OLAF continued to manage the Pericles programme which provides funding for the protection of the euro against counterfeiting. The challenge for 2006 was to respond appropriately to requests for assistance, information and knowledge exchanges, and training, while bearing in mind that new Member States were showing increasing interest in the activities provided under the Pericles Programme as they approach inclusion in the Euro zone. Five Pericles actions were registered on activities that focussed on the protection of the euro for acceding and candidate countries**.**

The Commission (OLAF) promoted a number of legal initiatives for the protection of the Euro. Based on the Commission Decision of 29 October 2004 which established the European Technical and Scientific Centre (ETSC) within OLAF, for the analysis and classification of counterfeit coins, an exchange of letters in December 2006 between the Commission and the French Ministry of Finance confirmed the use by the ETSC of equipment belonging to the French mint for its analysis work. In 2006 the ETSC identified 70 new types and sub-types of counterfeit Euro coins.

5.9 External activities

5.9.1 OLAF Conferences

OLAF itself organised five conferences and seminars in 2006 for training purposes to cover priority areas such as cooperation with candidate countries, investigations in cooperation with national services, communication and cooperation with national Prosecutors.

5.9.2 Hercule programme

The Hercule programme, managed by OLAF, provides the possibility to part-finance actions in the area of the fight against fraud for which Member States ask for grants.[27] These grants are allocated for technical assistance, training, seminars and conferences in relation to fraud prevention.

In 2006 three major types of action were part-financed by the Hercule programme:

- The fight against fraud supported by training actions;

- Various activities of European legal associations devoted to the protection of the financial interests of the Communities and;

- Technical and operational support for fraud investigators.

Eleven training events were part-financed at a total cost of about € 550,000, including international seminars and workshops and some IT-related training. These funds were distributed to the most cost-efficient projects, bearing also in mind the need for geographical balance and the distribution of assistance in earlier years.

In the legislative sector five seminars and one comparative law study were selected to reinforce cooperation between the different departments responsible and to promote legal research in the area of the protection of the Communities' financial interests. The actions were selected in line with the criteria set out in the annual work programme, and on the basis of the priority topics, such as "Legal aspects of cooperation between OLAF and all national anti-fraud agencies", and "Law and administrative practices in the field of fraud prevention, in particular blacklisting and early warning system procedures, and sanctions". Around € 375 000 was allocated.

In the field of technical and operational support for fraud investigations, 23 grants were awarded out of 27 requests made. A total of € 2 963 000 was allocated under the Technical Assistance part of the Hercule programme out of a total budget of € 3 million.

[27] http://ec.europa/anti-fraud/programmes/index_fr.html.

Table 38: Number of actions selected

Area	Number of activities
Training	11
Legislative area	6
Technical and operational support	23

5.10 Information and communication

5.10.1 Data protection officer

Compliance with Regulation (EC) 45/2001 on data protection[28] is a comprehensive and challenging aspect of OLAF's its operational work, in particular since the requirements of data protection must be balanced with the fulfilment of OLAF's investigative and operational tasks.

OLAF staff will at all times respect the rules on the protection of personal data established in Regulation (EC) 45/2001, in particular the requirements with respect to data quality, providing information to the data subject, rights of the data subject regarding access, rectification, blocking, and erasure.

As a data subject, the person concerned has a right of access to the personal data related to himself contained in the file. However, this right of access may be deferred if access would be harmful to the investigation or operation. This is decided on a case-by-case basis. For OLAF, the most important exemptions and restrictions that may apply in a given case are the need to safeguard "the prevention, investigation, detection and prosecution of criminal offences" and "an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters."

OLAF treats the protection of personal data as an issue of particular priority. The European Data Protection Supervisor (EDPS) has acknowledged OLAF's progress in this area. OLAF has developed its data protection structures and activities and has provided training for its staff. Data processing operations presenting specific risks have been sent for prior checking to the EDPS.

5.10.2 Ombudsman

In 2006, seven new complaints were filed with the European Ombudsman concerning OLAF, most of them alleging that OLAF had not replied to correspondence sent to it. OLAF submitted replies to all complaints and requests for information from the Ombudsman on time.

5.10.3 Spokesman, communication and public relations

OLAF and its operational partners are convinced that information and communication must continue to be used as a means of preventing and combating fraud and corruption. Therefore OLAF supports its operational independence with its own information and communication strategy. The latter has to be implemented in a manner which respects the Office's obligation to safeguard investigations and operations so as to respect the rights of the individual, in particular the presumption of innocence, within

[28] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data

the framework prescribed by international, Community and national law. During the reporting period, the Office maintained its firm line of balancing these interests.

Case Study: Legality of an OLAF press release

On 4 October 2006 the European Court of First Instance delivered a judgement (T-193/04) concerning, among other things, an OLAF press release.

In 2002, a journalist employed by a German magazine published two articles in which he described irregularities within the European institutions to which attention had been drawn by an official of the European Commission. After having opened an investigation to identify the officials or servants of the European Commission at the source of the leak of the memorandum written by that official and two internal OLAF notes, OLAF stated in a press release dated 27 March 2002 that an investigation had been opened and that it could not be ruled out that payment may have been made to somebody within OLAF (or possibly another EU institution) for those documents.

The journalist brought the matter of this OLAF press release before the European Ombudsman, who stated that making allegations of bribery without a factual basis constituted an instance of maladministration.

In 2004, OLAF forwarded information concerning suspicions of breach of professional secrecy and bribery to the public prosecutor in Brussels and Hamburg. An investigation into alleged corruption and for breach of professional secrecy was opened in Belgium where a search was carried out by the national authorities at the journalist's home and office and documents were seized.

The journalist then requested the Court of First Instance of the European Communities to annul the act by which OLAF had forwarded information to the public prosecutor in Brussels and Hamburg and to order compensation for the harm suffered, including that caused by the press release. The journalist pointed out that the public allegations by OLAF not only constituted an act of maladministration but also an infringement of the principles of sound administration, the presumption of innocence and the right to a fair trial. According to him, the publication of press releases about ongoing investigations constituted a breach of Article 8 of Regulation No 1073/1999, since information forwarded or obtained in the course of internal investigations was subject to professional secrecy.

In its ruling, the Court dismissed the action for annulment of the act by which OLAF forwarded information to the German and Belgian judicial authorities. It further dismissed the action for damages allegedly caused by this forwarding of information.

Finally, the Court also dismissed the action brought against the press release: concerning OLAF press releases in general, the Court stated that, in view of the autonomy granted to OLAF by Regulation No 1073/1999 and of the general objective of press releases of providing information to the public, OLAF enjoys discretion as regards the appropriateness and content of its press releases in respect of its investigatory activities.

On the specific OLAF press release in question, the Court points out that the allegations contained therein, formulated in a hypothetical way, without indicating the journalist's name or the name of the magazine for which he worked, do not constitute a manifest and grave disregard, by OLAF, of the limits of its discretion. The Court adds that, in particular, the classification as an "act of maladministration" by the Ombudsman does not mean, in itself, that OLAF's conduct constitutes a sufficiently serious breach of a rule of law.

As the journalist has lodged no appeal against the ruling it has become definitive.

In a more recent ruling which also refers to an OLAF press release (F-23/05 of 2 May 2007) the Court has further elaborated on the need to inform the public about the fight against irregularities and fraud stating that a culture of responsibility had grown inside the Community institutions, which responds in particular to the wish of the public to be informed and reassured that dysfunctions and cases of fraud are being identified and, if that is the case, duly eradicated and sanctioned. The Court further states that this requirement carries the consequence that officials and other agents holding management posts in an

administration like the Commission have to take into account the possible existence of a well justified need to communicate certain information to the public.

OLAF launched various information and communication activities to provide a reliable image of the Office.

One such activity was the organisation of two Anti-Fraud Communicators' Network (OAFCN) meetings and of an OAFCN seminar on 'Transparency and Media Relations as a Means of Fighting Fraud and Corruption Affecting the EU Financial Interests" that was co-chaired by the International Federation of Journalists (IFJ) and hosted by the Bulgarian Ministry in Sofia. OLAF issued 22 press releases and two press briefings were held, jointly with the Commission, on the OLAF Activity Report and the Commission report on the protection of the EU's financial interests.

OLAF registered 523 responses to media requests (i.e. interviews, press conferences briefings). OLAF participated in 157 anti-fraud training activities which were not organised or financed by the Office.

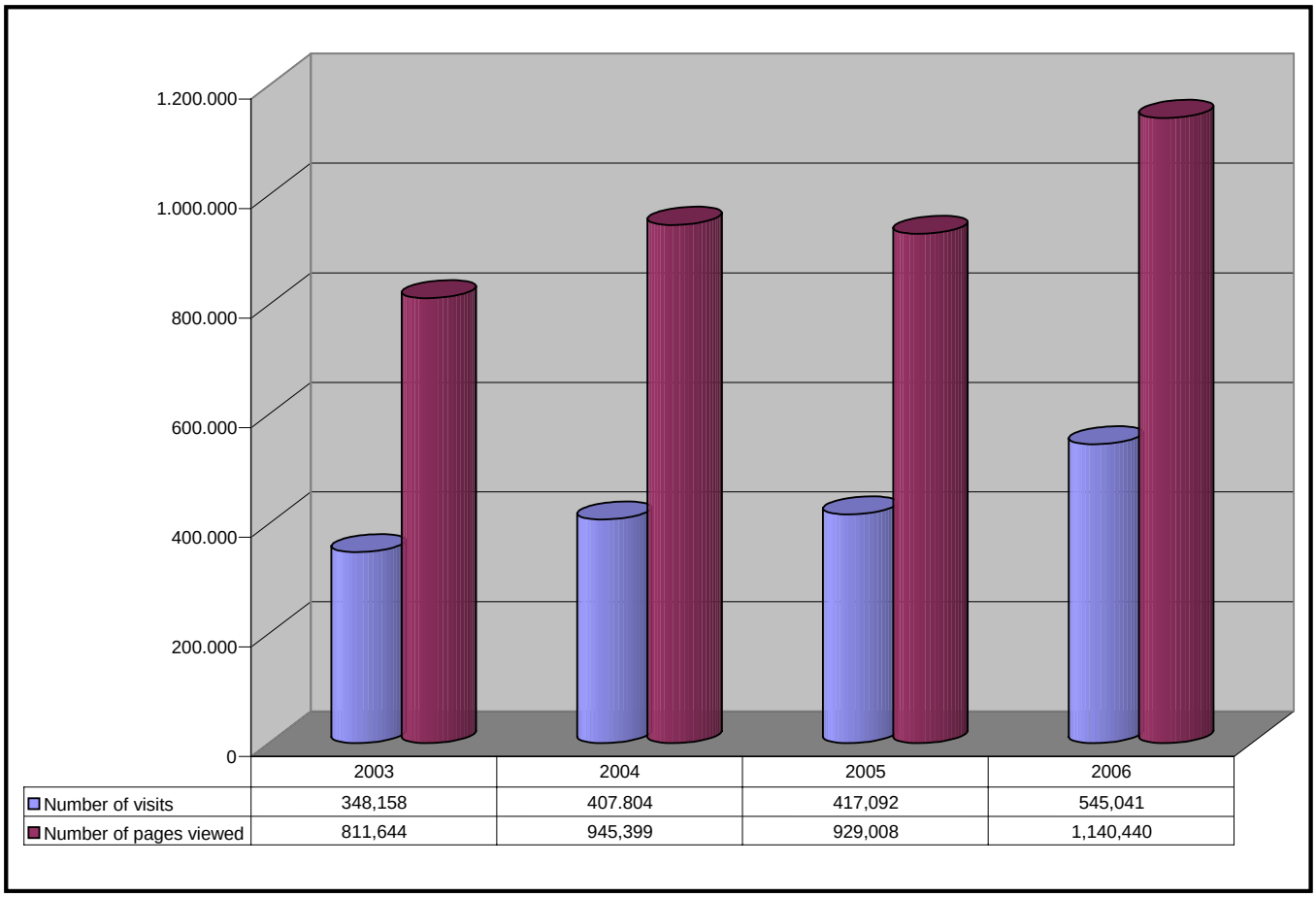
In 2005 a total of 62 visits to the Office were organised, involving 848 persons in total, mainly from customs, investigation services and public prosecutors offices in Member States and other countries. Additionally, delegations were welcomed to OLAF from a variety of public bodies.

The OLAF Website continued to be the basic tool of the Office's communication and information policy. The number of hits has constantly risen since its first installation. The main pages of the OLAF site are available in all official languages. The site was improved in 2006 by the creation of new sections relating to the presentation of OLAF (functions, management, organisation, independence, communication, and so forth) and the new Supervisory Committee as well as press, cooperation with journalist associations, relations with the European Parliament, the image bank and conferences. The site has also been made more accessible to handicapped persons thanks to special blind software according to international standards (OLAF website: http://ec.europa.eu/dgs/olaf/index_en.html).

The OLAF website registered over 545 000 visits in 2006. At the end of the year the OLAF Internet site comprised 2 385 pages and the OLAF Intranet 60 pages. The sections most visited are the press room, mission and reports.

Figure 8: Number of visits to the OLAF Website[29]

[29] The number of visits differs from what was published in previous reports as the methodology used to reckon the figures has been revisited. Visits from search engines and other 'non significative' visitors had been removed from the statistics.



	2003	2004	2005	2006
Number of visits	348,158	407.804	417,092	545,041
Number of pages viewed	811,644	945,399	929,008	1,140,440

6 BUDGET

Table 39 outlines the areas of expenditure within this budget. OLAF's administrative budget[30] is over € 50 million in 2007. The personnel heading accounts for over 60% of total administrative expenditure.

Table 39: Development of the OLAF administrative budget, 2002 to 2006

Item	Budget 2002 (€ million)	Budget 2003 (€ million)	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)
Personnel	19.3	23.4	26.7	30.4	32.09
External personnel	4.7	4.6	5.0	2.8	2.6
Management expenditure				2.2	2.6
Furniture/infrastructure	7.8	7.7	8.6	9.8	10.9
Anti-fraud actions	1.7	1.9	2.0	1.7	1.7
Supervisory Committee	0.2	0.2	0.2	0.2	0.2
Lawyers associations	0.4	0.4	n/a	n/a	n/a
Total	**34.1**	**38.2**	**42.5**	**47.1**	**50.1**
Percentage committed	95%	97%	93%	92%	93%

Table 40 shows OLAF's operational budget for the last five calendar years[31]. It was over € 13 million in 2006. The distribution of expenditure is as follows:

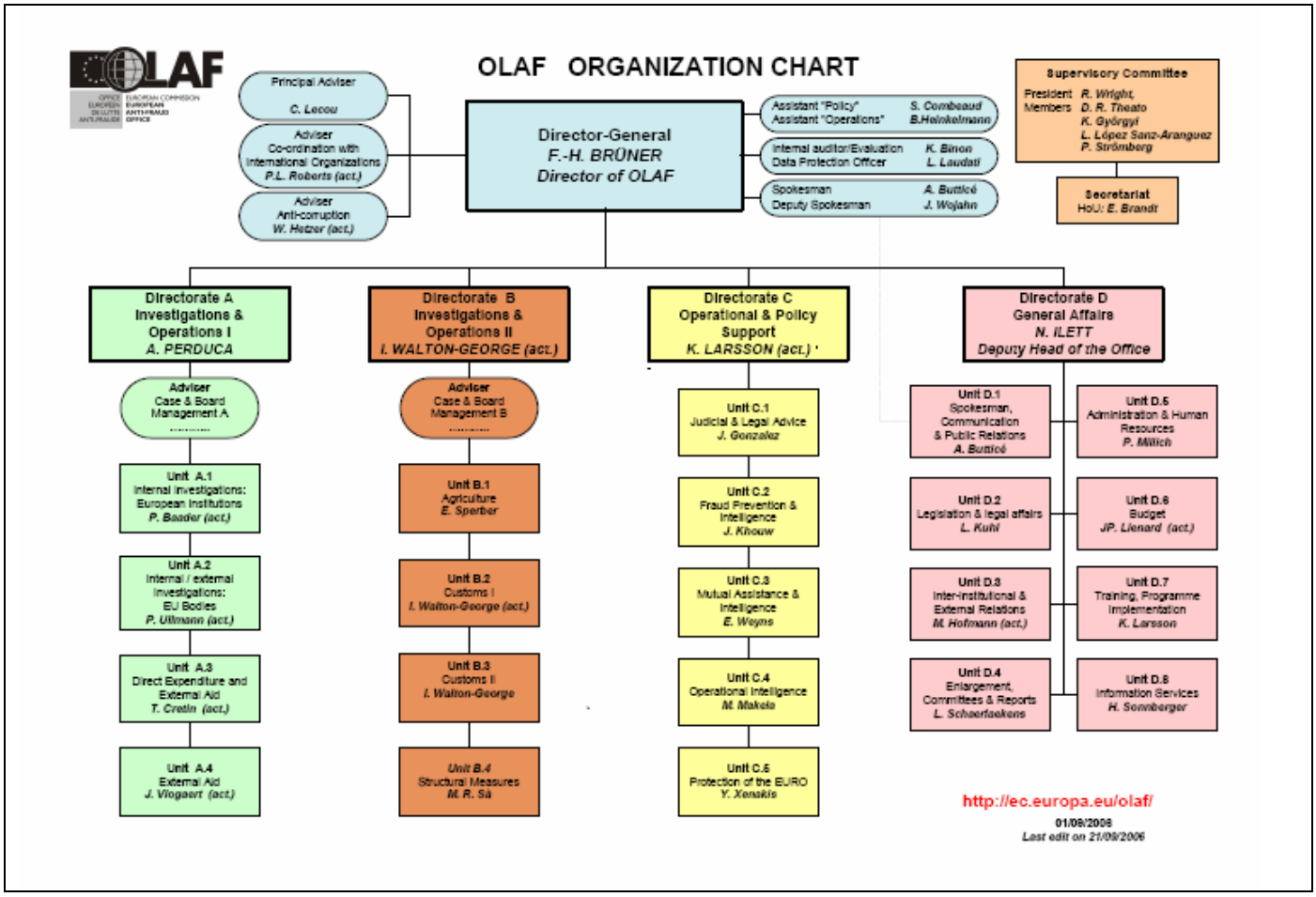
Table 40: Development of the OLAF operational budget, 2002 to 2006

Budgetary line	Budget 2002 (€ million)	Budget 2003 (€ million)	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)
24.0201 General anti-fraud measures	5.5	5.1	3.3	2.4	3.8
24.0202 Pericles	0.6	0.9	1	1	1
24.0203 Anti-fraud Information System (AFIS)	2.6	3.8	4.3	4.8	4.8
24.0204 Hercule (lawyers associations included from 2004 on)	n/a	n/a	3.9	3.9	3.9
Total	**8.7**	**9.8**	**12.5**	**12.1**	**13.5**
Percentage committed	97%	95%	92%	94%	94%

[30] While title 24 of the European Commission's budget includes OLAF total Budget, OLAF's administrative budget is described in annex COM III to the budget

[31] Since 2004, OLAF's operational budget has been allocated in Title 24 of the European Commission's budget.

Annexe I: OLAF's new Organisation chart



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FOREWORD BY THE DIRECTOR-GENERAL OF OLAF

After eight years of existence of the European Anti-Fraud Office (hereinafter referred to as "OLAF" or "the Office"), it is now time to provide OLAF staff with an updated set of rules and procedures. This also responds to the Commission's call for OLAF to update its working procedures and to the comments formulated by the Court of Auditors in its special report No 1/2005 on the management of OLAF. Consequently, I have decided to draw on our experience of these past eight years and to reform the old OLAF Manual. The new rules meet the standards underlying the Principles and Guidelines of the Uniform Framework for Preventing and Combating Fraud and Corruption agreed by the International Financial Institutions.[32] However, certain differences are necessary given the distinct legal environment in which OLAF operates.

This document, Manual – Operational Procedures, is a short and concise set of basic instructions for OLAF staff, focusing primarily on the conduct of investigations. It is intended to provide OLAF investigators with a summary of the basic principles and rules which, in line with OLAF's mandate, will enable them to produce results that can be used by Community bodies or in national administrative and judicial procedures. This set of rules also gives an overview to third parties, Community bodies, national authorities and individuals of their rights and obligations within OLAF investigations and operations. It increases transparency and legal certainty. However, it is purely explanatory in nature and is not intended to produce any legal effects that are contrary to the applicable legal framework.

The Manual – Operational Procedures will become the core part of a longer and comprehensive version of the Manual containing all of the Office's internal procedures, which will be available internally to OLAF staff.

The Manual – Operational Procedures (hereinafter referred to simply as the "Manual") is divided into three parts. Part 1 contains the introduction to OLAF and its mandate and the general principles of its operational activities. Part 2 sets out the basic rules and instructions to be applied during investigations and operations from the time initial information is received and assessed to the transfer of the case to other Community or national authorities for follow-up proceedings and during the follow-up phase. Part 3 is devoted to the rights of individuals, which the investigators are obliged to respect during their activities.[33]

I am confident that the new Manual will help to consolidate OLAF's investigative practice, increase its operational efficiency and ensure full compliance of its investigative procedures with legal requirements and fundamental freedoms.

More information on OLAF's activities and procedures can be found on OLAF's website:

http://ec.europa.eu/dgs/olaf/index.htm

Franz-Hermann Brüner

Director-General

Brussels, May 2007

[32] International Financial Institutions Anti-Corruption Task Force, September 2006.

[33] Basic terms used in the text are defined in a Glossary at the end. For convenience, pronouns appear throughout the Manual in masculine gender. However, these references are meant to apply to both men and women.

1) STATUTORY AND PROCEDURAL PRINCIPLES

1.1. OLAF's mandate

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union (EU) and therefore of its citizens, and the reputation of the European Institutions. It achieves this by investigating fraud, corruption and any other illegal activity affecting those interests, including misconduct within the European Community (EC) bodies; by assisting Community and National Authorities in their fight against fraud; and by means of deterrence, prevention and strengthening legislation, making it more difficult for fraud and irregularities to occur and thereby contributing to public trust in the European project.

OLAF's mandate covers in principle all Community revenues and expenditures. It includes the general budget, budgets administered by the Communities or on their behalf and certain funds not covered by the budget, administered by the Community agencies for their own account. It also extends to all measures affecting or liable to affect the Communities' assets. Finally, it covers other, non-financial interests, and concerns all activities designed to safeguard Community interests against serious irregular conduct liable to result in administrative or criminal proceedings, including investigations in areas other than the protection of the Communities' financial interests.

1.2. OLAF's powers and legal framework

OLAF achieves its mission by conducting fully independent internal and external administrative investigations as defined in Regulation (EC) No 1073/99 and Regulation (EURATOM) 1074/99.[34] The Community legal basis for action against fraud is Article 280 of the EC Treaty.

- OLAF is empowered to conduct internal investigations under Regulation (EC) No 1073/99 and the internal decisions adopted by Community bodies in accordance with the Model Decision[35] contained in the Interinstitutional Agreement concerning the terms and conditions for internal investigations conducted by OLAF. The purpose of internal investigations is to fight fraud, corruption and serious misconduct within the Community bodies and to bring to light any serious matters concerning the discharge of professional duties by the staff of the Communities that may be detrimental to the interests of the Communities and liable to result in disciplinary or criminal proceedings.

- OLAF is empowered to conduct external investigations based on Regulation (EC) No 1073/99 in conjunction with Regulation (EC, EURATOM) No 2185/96,[36] Regulation (EC, EURATOM) No 2988/95[37] and the relevant sectoral rules that permit on-the-spot checks and inspections on the premises of economic operators who may have been involved in, or concerned by, an irregularity or fraud. OLAF's investigators also comply with the national procedural rules of the Member State in which they conduct an investigation. They work in close cooperation with the authorities of the Member State in question. The purpose of external investigations is to detect irregularities and to fight fraud and corruption detrimental to the EU's financial interests committed by economic operators in the Member States or third countries.

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34 OJ L 136, 31. 5. 1999, pp. 1 and 8. Where reference is made to Regulation (EC) 1073/99, it also refers to Regulation (EURATOM) 1074/99.

35 OJ L 136, 31. 5. 1999, p. 15.

36 OJ L 292, 15. 11. 1996, p. 2.

37 *OJ L 312, 23. 12. 1995, p. 1.*

The specific legal basis will always be identified in the decision formally opening an investigation.

- OLAF also organises close cooperation among the competent authorities of the Member States and third countries in order to coordinate their investigative activities. OLAF supplies Member States and third countries with the necessary support and technical know-how to help them in their anti-fraud activities, and cooperates closely with international organisations with parallel interests. These activities, other than internal or external investigations, are described as operations or operational activities.

Integral to these investigative and operational processes are the information, intelligence and technical support functions of the Office.

This Manual describes the features common to operations and to internal and external investigations. Where the rules differ, the differences are pointed out.

1.3. Independence and the Supervisory Committee

Within general administration activities, participation in the Commission's legislative and policy initiatives, international cooperation, etc., OLAF staff act as agents of the Commission subject to its internal rules and powers.

On the other hand, as regards operational investigative activities, OLAF staff act as agents of an independent investigative body. The opening, conduct and closing of an investigation is a matter under the exclusive competence of the Director-General. OLAF investigators act under his direction, delegated authority and control.

The Director-General is appointed by the Commission following consultation with the European Parliament and the Council for a term of five years. In performance of his duties with regard to the opening and carrying out of investigations, the Director-General does not seek or take any instructions from any government, Community body or anybody else.

In order to ensure independent monitoring of the implementation of OLAF's operational function, a Supervisory Committee was established. It is composed of five independent experts appointed by common accord of the European Parliament, the Council and the Commission. The Supervisory Committee carries out its function without interfering with investigations and operations in progress. OLAF cooperates with the Committee under the authority of its Director-General.

The Director-General keeps the Supervisory Committee regularly informed of the Office's activities, investigations, the results thereof and the action taken on them. Where an investigation has been in progress for more than nine months, the Committee is to be informed of the reasons and the expected time for completion. The Committee is also to be informed where a Community body has failed to act on the recommendations made by OLAF and of the cases requiring information to be forwarded to the judicial authorities of a Member State.

1.4. General principles

OLAF investigators must perform their activities in accordance with the principles of legality, integrity and proportionality. They must act impartially, handle case work within a reasonable time span, respect the authority of the hierarchy, comply with the procedures relating to the protection of Community

privileges and immunities, and observe professional secrecy and confidentiality, as indicated below. OLAF staff must respect the fundamental rights and freedoms of individuals at all times. More detailed rules are set out in Section 3 of this Manual.

Legality and integrity

All activities must be carried out in full compliance with the applicable legal rules. In addition, OLAF staff must adhere to the highest standards of ethics as provided for in the Commission's codes of conduct and Code of Good Administrative Behaviour.

Proportionality

When fulfilling their tasks, investigators must take into consideration the seriousness of risks for the Community and its citizens, the rights of others, the overall interests and mission of the Communities as well as the limited resources of the Office. They must conduct their cases in an efficient and effective manner.

Impartiality

The impartiality of investigative and operational activities presupposes the absence of any potential conflict of interest that might occur on the part of the investigator. In accordance with Article 11a of the Staff Regulations,[38] an OLAF official must not, in the performance of his duties, deal with a matter in which, directly or indirectly, he has any personal interest (in particular family or financial interests) such as to impair or appear to impair his independence.

During investigations and operations OLAF investigators gather and take into account any relevant information, both *inculpatory* and *exculpatory*.

Reasonable duration of cases

OLAF investigators must always conduct investigations and operations continuously within a reasonable time span, taking into account the complexity of the case, the division of responsibilities between national and Community authorities and any other relevant circumstances. If the case is still ongoing nine months after being opened, the investigator prepares a report for the Supervisory Committee summarising the allegations, the status of the case, the reasons for the delay and the estimated time for completion.

Authority

All staff undertaking an investigation or an operation must be duly empowered. When carrying out their tasks, they must produce written authorisation showing their identity and their capacity. They must be equipped for each intervention with written authority indicating the subject matter of the investigation.

Immunities

Internal investigations are conducted in accordance with, *inter alia*, the EC Protocol on Privileges and Immunities and the Staff Regulations. In relation to national authorities OLAF stipulates that the protocol requires each Community body to waive its own immunity wherever it considers that the waiver of such immunity is not contrary to the interests of the Community.

In a case where OLAF considers that immunity has to be lifted, it advises the national authority accordingly on required requests to be addressed to the relevant Community body.

Professional secrecy and confidentiality

[38] OJ P 45, 14. 6. 1962, p. 1385.

The information obtained during an investigation or operation is subject to professional secrecy, which must be observed at all times. It is based on Article 287 of the EC Treaty, Article 17 of the Staff Regulations, Article 8 of Regulation (EC) No 1073/99, Article 8 of Regulation (EC, EURATOM) No 2185/96 and on the sectoral regulations.

Information obtained during the course of an investigation or operation is provided only to persons and bodies whose professional duties require them to know that information (need to know principle) and the use that can be made of the information is limited to preventing fraud, corruption or any other illegal activity.

2) CASE PROCEDURES

a) Assessment

i) Sources of initial information

OLAF may receive information from any source, including Community bodies, Member State and third-country authorities, international organisations, informants, whistle-blowers, witnesses, anonymous sources, etc. OLAF also uses its own intelligence resources to search for indications of fraud.

In compliance with the Commission's Code of Good Administrative Behaviour, whenever the information originates from an identifiable person, OLAF investigators acknowledge receipt of such information. Equally, whenever either a non-case or a closure decision has been agreed, this individual or body will be notified in writing of the decision.

Information from anonymous sources is assessed according to the same standard as any other information received. Members of the public can contact OLAF to provide information of investigative interest. Appropriate communication tools will be made accessible on OLAF's website.

ii) Assessment of initial information

All information received by OLAF relating to a possible irregularity or fraud is to be made available to the Office, and not withheld by any individual member of its staff. It should be registered and assessed, irrespective of whether it is anonymous or not. The purpose of the assessment is to evaluate first of all whether the matter falls within the competence of OLAF, and then whether the information received appears to be reliable and whether the suspicions are sufficiently serious. The assessment is undertaken in order to decide whether to recommend to the Director-General that a case should be opened. If the assessment is positive, a report is submitted for management's consideration. Where the issue falls outside the competence of OLAF, the information can be referred to another national or international authority.

During the assessment phase, OLAF evaluators make all appropriate enquiries in order to clarify or corroborate initial information. In general, the assessment phase does not exceed 2 months from the date the information is registered; it can, however, be extended by an additional 6 months and, in exceptional cases, even further.

At this point, a case has not yet been formally opened. Investigators must therefore limit their action only to clarifying the initial information with the source and with other Community bodies and authorities involved in Member States or third countries, and to evaluating and verifying the accuracy of information against other information and intelligence resources.

Executive Board

The Board assists the Director-General by giving advice on the handling of cases. Board members include representatives of the relevant Directorates. On the basis of the evaluation report, the Board may

recommend that a case be opened or that the incoming information be classified as a non-case if there are no grounds for further action. The Director-General or one of the Directors acting on his behalf decides whether to accept the recommendation.

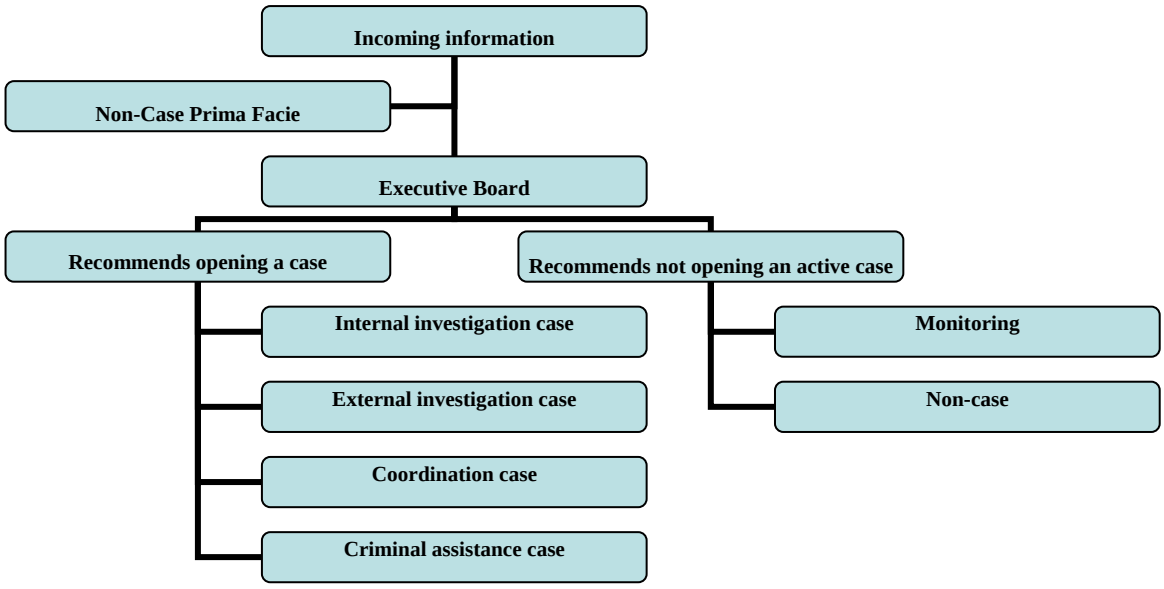
b) Investigations and operations

The purpose of investigations is to collect the evidence needed to establish the facts of the case in order to verify whether an irregularity, fraud, corruption or serious misconduct detrimental to the EU's financial interests has occurred. OLAF investigators carry out their mandate to investigate by collecting information, reviewing documents, and carrying out on-the-spot checks, inspections and interviews. The purpose of operations is to assist or coordinate with other national administrative and judicial authorities in their investigations and other related activities.

Monitoring

OLAF may undertake monitoring activities with regard to action undertaken by other Community, international or national authorities. In this context, Member States' authorities may be requested to provide information.

i) Types of cases



This section summarises the investigative tools and means used by OLAF investigators in the different types of cases.

Internal investigations

OLAF investigators may use the following means, in particular, within an internal investigation:

- collecting documents and information in any format which can be used as evidence after technical and / or forensic examination;
- conducting operational meetings with the departments and parties concerned;
- conducting interviews with any person who is able to provide information relating to an investigation;

- carrying out checks on the premises of the Community body concerned. Members and staff of the bodies concerned are required to cooperate fully with and supply assistance, information and explanations to OLAF.

External investigations

Within an external investigation OLAF investigators may use the following means, in particular:

- collecting documents and information in any format which can be used as evidence after technical and / or forensic examination;
- conducting operational meetings with the departments and parties concerned;
- conducting interviews with any person who is able to provide information relating to an investigation;
- taking statements from any person who is able to provide information relating to an investigation;
- carrying out on-the-spot checks and inspections;
- carrying out control missions in third countries under the terms of sectoral legislation or mutual assistance provisions;
- taking samples for scientific examination.

Coordination and criminal assistance

In addition, OLAF conducts coordination activities in order to facilitate and target operations undertaken by other administrative or judicial authorities and provides assistance to judicial authorities.

OLAF staff help to maintain the operational platform for mutual administrative assistance (MAA) to facilitate investigations and operations in the customs and agricultural sectors (Regulation (EC) No 515/97[39]). This functions at three levels:

- between the competent authorities of Member States;
- between the competent authorities of Member States and the Commission (OLAF); and
- between the competent authorities of Member States, the Commission (OLAF) and the designated authorities of third countries.

OLAF investigators may take part in national checks subject to sector-specific legal rules. Where OLAF intends to conduct investigations of its own, an external or internal investigation needs to be opened. Where OLAF investigators need to conduct checks in third countries, the case becomes an external investigation.

Changing the scope of a case; opening a supplementary case

When a case is opened, the subject matter must always be defined. Whenever the subject matter changes, OLAF must change the scope of the case or open a separate case.

ii) Specific conditions for conducting investigations and operations

Authority

[39] *OJ L 82, 22. 3. 1997, p. 1.*

When conducting investigations vis-à-vis other parties, bodies or authorities:

- OLAF investigators must produce written authorisation showing their identity and their capacity.

- For each intervention they must produce a written authority showing the subject matter and details of certain investigation activities to be undertaken. Specific mention must be made of all access to premises, access to computers and other storage media and on-the-spot checks if any.

Duty of Member State authorities and Community bodies to provide assistance

The Director-General may submit a written request to the Commission, a Member of the Commission or an official or other member of staff of the Commission to provide all the information needed to carry out the duties assigned to OLAF. When requesting such information, OLAF should state the purpose of the request, what information is required, and the time limit within which the information is to be provided.

Where useful, OLAF investigators may point out to the competent authorities that Article 6(6) of Regulation (EC) No 1073/99 establishes that the competent authorities of the Member States and Community bodies are obliged to provide the necessary support to enable OLAF to carry out its investigative functions.

iii) On-the-spot checks and other inspections and their recording

Internal investigations

As part of an internal investigation, OLAF investigators have the power of immediate and unannounced access to the premises of a Community body for the purpose of gathering any relevant information. This includes the right to enter the premises, inspect, take a copy and/or obtain extracts from any document (including accounts) or data medium, and, if necessary, to take custody of such document or data medium to ensure it is preserved for future use; and to request oral information from members and staff of Community bodies.

External investigations

As part of an external investigation, based on Regulation (EC) No 1073/99 in conjunction with Regulation (EC, EURATOM) No 2185/96 and other relevant sector-specific legal rules, OLAF investigators can conduct an inspection of the premises of an economic operator in search of information and documentation on the operations concerned, under the same conditions as national administrative inspectors and in compliance with national legislation.

These inspections can serve the following purposes:

- detecting serious or transnational irregularities or irregularities that may involve economic operators acting in several Member States;

- consolidating an inspection to improve the effectiveness of the protection of financial interests and to ensure equivalent protection in the Community; or

- complying with a request of the Member State authority concerned.

Copies of documents and storage media may be seized and economic operators and their representatives may be asked for explanations. Where persons, including representatives of public authorities or entities, are interviewed, the standard rules must be applied. Statements may be taken from the representatives of economic operators under conditions that satisfy the individual rights specified in Section 3.

The premises, land, means of transport or other areas used for business purposes of any economic operator suspected of committing an infringement of Community law harmful to the Community's financial interests can be checked. Economic operators may be individuals, firms, and other entities, including public enterprises (but not the competent authorities of the Member States). The premises of an economic operator with whom a person concerned has had contact may also be checked if this is deemed necessary to establish whether or not an irregularity or other suspected or actual infringement has occurred. If a private dwelling is used for business purposes, access must be granted. Refusal to grant access is a breach of Community law.

Only the Member State concerned can ensure that entry can be effected in accordance with national legal provisions, and it has a duty to help OLAF investigators gain entry if this is necessary. Should a Member State not provide such assistance, the Commission can initiate an infringement procedure.

While conducting the check, investigators must comply with national procedural rules at all times. If necessary, they should consult the national authorities before carrying out the check. OLAF informs the national authorities that they may take part in the check.

A comprehensive and complete report of the on-the-spot check has to be drafted and the information submitted to the national authorities in accordance with the rules applicable under Regulation (EC, EURATOM) No 2185/96.

iv) Interviews and their recording

During investigations, investigators may invite persons able to provide relevant information and persons who are directly concerned by the allegations to an interview.

(a) Person able to provide relevant information

A person able to assist OLAF with its enquiries by providing relevant information has to be invited in writing to attend an interview on an agreed date. When the circumstances require swift communication, the invitation may be convened by any other means accepted by the interviewee, such as e-mail, fax or phone call. The interviewee must be informed of his rights as specified below.

(b) Person concerned

The person concerned has to be invited in writing to attend the interview no later than ten working days before the date of the interview. In agreement with the person concerned, this notification may be shorter. The notification states the reasons for the interview, the legal basis for the case and the rights of the person concerned.

The interview must be conducted in compliance with the rights of defence and the local requirements of the relevant jurisdiction(s). The person concerned must be informed that the investigation may lead to one or more of the following outcomes: no further action; financial recovery; or referral of the matter to the relevant Community body concerned and/or to the competent national administrative or judicial authorities. The investigator must advise the person concerned that:

- a legal counsel may assist him during the interview;
- he has a right not to make self-incriminating declarations;
- *he has the right to be interviewed in any one of the official Community languages of his choice. In the letter of invitation, interviewees are requested to inform the investigator of their choice of language for the interview. Whenever appropriate, investigators may use an interpreter. This is entered in the interview record;*
- an official written record of the interview will be drawn up;

- he may request that the documents he has produced be annexed to the interview record and sent with the case documents to the judicial authorities or to the disciplinary unit of the relevant EC body;

- before signing the record he has the right to read and add to it;

- he may request that his declaration be recorded as a statement. He may also ask to annex documents in his possession to the statement;

- the official record of the interview may be used as evidence in disciplinary or court proceedings;

- he will receive a paper copy of the interview record as soon as practicable.

An interview may also be carried out by videoconference.

Investigators record the interview in writing. The record of the interview is signed at once by all present; it indicates the identity of all persons present, the place and date, starting and finishing time of the interview and details of any interruption to the interview.

If the interviewee refuses to cooperate, either by failing to appear or refusing to answer questions, OLAF may refer the matter to a Member State judicial/prosecuting authority.

In addition, in internal investigations, members and staff of Community bodies are also informed of their duty to cooperate fully with OLAF, to lend any assistance required to the investigation, and to provide OLAF with any relevant information and explanations unless this would infringe their right against self-incrimination. If an EC official refuses to cooperate, he must be reminded that refusal to cooperate can result in disciplinary proceedings. The assistance of the Community body concerned can also be sought.

v) Forensic and technical examination

Forensic and technical examination may be carried out as part of an external investigation in accordance with Article 7(1) of Regulation (EC, EURATOM) No 2185/96. This includes the right to copy the contents of the computer's storage devices.

In internal investigations, investigators may access documents and information in any format and any data medium. Investigators have immediate and unannounced access to the contents of any computer or other data medium belonging to a Community body that has been made available to an official exclusively for the performance of his duties. This includes the right to seize the computer or to copy the contents of the computer's storage devices.

vi) Transmission of information during investigations

OLAF may refer any information obtained in the course of an external investigation to the competent authority at any time, as appropriate. OLAF may refer any information obtained in the course of an internal investigation to the relevant Community body. Transmission of information to a competent authority must be under the authority of the Director-General. It must observe the rules on professional secrecy, and be on a need to know basis and in full compliance with the following rules, in particular:

The Community body concerned will be informed of the opening of an internal investigation.

OLAF investigators notify the Community body in advance whenever they carry out investigative acts on the premises of a Community body. If the circumstances of the investigation so require, they may delay notification until the time of the visit, at the latest.

When it becomes apparent that an EC official or other staff member is involved in the matter subject to investigation, OLAF informs the respective Community body, giving the following information:

- *the identity of the person concerned;*

- *a summary of the facts;*

- *information as to whether the person has already been notified of the evidence against him or, where appropriate, on the need to postpone such notification to avoid jeopardising the investigation.*

The Community body will be informed where the internal investigation shows that the Community body should take appropriate steps to safeguard its interests.

OLAF refers information obtained during investigations into matters liable to result in criminal proceedings to a national judicial or prosecuting authority. When such referral is made within an internal investigation, OLAF informs the Community body concerned.

The information to the Community body concerned might be deferred in exceptional cases where absolute secrecy is required and transmission of the information could jeopardise the objective of the investigation, or if so requested by the national judicial authority.

Third countries and international organisations

OLAF investigators and other staff should be aware of the need to consider relations with third-country authorities and international organisations as an integral aspect of OLAF's work, while taking into account the Community interests, including the Community's political and financial commitments to third countries in relation to Community expenditure and international protocols relating to Community revenue. OLAF has direct contacts with the competent investigation and enforcement authorities of third countries, including customs, police and judicial authorities, and international organisations with parallel interests.

OLAF may transmit case-related information directly to the competent authorities of third countries subject to professional secrecy and in compliance with data protection legislation. This transmission is needed to ensure appropriate follow-up and thus to maximise the protection of the Community's financial interests.

When informing the relevant authorities, OLAF presents its conclusions and may suggest measures to be taken such as orders to allow the seizure of evidence, compensation orders and orders for the freezing of assets. However, it cannot require national authorities to take any specific action.

Member States' courts

In the course of handling a matter concerning Community law, the courts of a Member State may ask OLAF to provide operational information or documents. In such cases, Community bodies are under obligation to lend their active assistance to national legal proceedings on the infringement of Community rules. Thus, Member States' courts should normally be provided with such information unless there are imperative reasons not to do so relating to the need to avoid any interference with the functioning and independence of the Communities or to the protection of the rights of third parties.

c) Closing a case

i) Final case report

At the conclusion of a case, a final case report is prepared and submitted to the Board, presenting the findings and conclusions. The final case report gives an objective account of the facts as they emerged from the investigation or other operations, and an analysis of the findings; it presents conclusions and, where appropriate, makes recommendations for appropriate action to be taken by the competent national, Community or international authorities Where appropriate, it should also record any "lessons learned"

that can be implemented at a later stage. On the basis of the draft final case report, the Board may recommend closing a case with or without recommendations (follow-up). Where appropriate, the Board may amend the draft final case report.

The report should have the status of admissible evidence in administrative and judicial proceedings.

OLAF performs the administrative, disciplinary, financial, judicial and legislative follow-up of its investigations and operations according to the specific requirements of each individual case, in close consultation with other Commission departments and/or competent authorities in the Member States, as appropriate. In the direct expenditure sector this may also involve civil actions in national courts.

ii) Transmission of information once a case is closed

Transmission of the final case report and other documents regarding the outcome of OLAF's investigations and operations is under the authority of the Director-General.

In internal investigations, the Director-General informs the Community body concerned when a case or follow-up is closed and forwards the final case report and any relevant documents.

In external investigations or operations, the final case report and relevant documentation are forwarded to the competent authorities of the Member State responsible for taking follow-up action.

OLAF also reports to the European Parliament, the Council, the Commission and the Court of Auditors on the results of investigations and operations. This reporting is carried out in compliance with the confidentiality of these investigations and operations, the legitimate rights of the persons concerned, data protection rules and national provisions concerning judicial proceedings.

iii) Re-opening cases

A closed case may only be re-opened if new material evidence appears that could challenge the previous conclusions.

When a case is closed with follow-up, the new facts are also referred to the authority or Community body dealing with the case.

Cases closed with no follow-up or with follow-up completed are only to be re-opened when new facts of a nature likely to alter the outcome of the previous investigation have come to OLAF's attention. A decision to re-open a case can only be taken after an assessment of the new facts in accordance with the established procedures for opening new cases.

3) INDIVIDUAL RIGHTS AND INFORMATION DUTIES

Investigations and operations undertaken by OLAF are administrative in nature but nevertheless must be undertaken with full respect for the rights of persons and fundamental freedoms, in particular the principle of fairness, the right of the person concerned to express his views on all the facts which concern him, and the principle that conclusions of a case may be based solely on facts which have evidential value.

a) Rights and obligations of persons concerned

OLAF staff must respect the rights of persons directly implicated in a case (persons concerned).

The internal decisions of each Community body setting out the terms and conditions under which internal investigations may be conducted are applied as appropriate.

i) Right to be informed (notification duties)

Internal investigations

OLAF must notify the person concerned at various stages of an internal investigation: at the initial stage, to arrange an interview, and at the closure of the case.

Where an internal investigation requires absolute secrecy, or at the request of a national judicial authority subject to national law, notification of the person concerned may be deferred, on the basis of a reasoned written decision. In this case, OLAF may ask the Community body not yet to inform the person concerned. As soon as the reasons for the deferral cease to apply, the information will be forwarded to the person concerned.

If the case is closed and no further action taken, the person concerned is informed in writing. If the case is closed with follow-up, the person concerned is informed in writing to which authority the case has been passed on, unless this would be detrimental to the follow-up action.

External investigations

In external investigations, OLAF investigators inform the person subject to the investigation, as long as this would not be harmful to the investigation. OLAF investigators also inform the person concerned when the investigation has been closed as long as this would not be harmful to any further action.

ii) Contradictory procedure

Internal investigations

OLAF investigators must take into due consideration that members, officials and servants of Community bodies are required to cooperate with OLAF in its investigative efforts. This duty extends not only to an obligation to provide information, but also to cooperate in any other aspect as required by OLAF in the conduct of an internal investigation.

Conclusions cannot be drawn referring by name to a member, official or servant of a Community body once the investigation has been completed, without first giving the person concerned the opportunity to express his views on all the facts which concern him. Thus, the person concerned is invited to an interview before conclusions which refer to him by name in a final case report are drawn. At the interview, OLAF staff may only disclose the information necessary to reach conclusions affecting the interviewee directly.

External investigations

In external investigations, OLAF investigators enable the person concerned to express his views on all the facts that concern him before drawing any final conclusions. Whenever the person cannot be heard, the investigator records what steps were taken to meet this requirement. Compliance with the obligation to invite the person concerned may be deferred in cases necessitating the maintenance of absolute secrecy for the purpose of the investigation or at the request of a judicial authority.

iii) Defence rights

Investigators inform the person concerned of the following defence rights:

- *the right not to make any declarations which might be self-incriminating;*
- *the right to be assisted by a legal counsel of his choice;*
- *the right to be interviewed in any one of the official Community languages of his choice. In the letter of invitation, interviewees are requested to inform the investigator of their choice of language for the interview. Whenever appropriate, investigators may use an interpreter, which is noted in the interview record;*
- *the right to provide their statements in any one of the official Community languages of his choice.*

Access to files

Without prejudice to the rules on transparency of the European public administration, in particular the right to request public disclosure of documents under Regulation (EC) No 1049/2001,[40] and the rules on the protection of personal data under Regulation (EC) No 45/2001,[41] throughout OLAF's operational activities the person concerned (or his legal counsel) has no specific right of direct access to the OLAF investigation file. OLAF files can however be accessed indirectly, during follow-up proceedings conducted by the Community or national authorities, through these authorities, subject to applicable procedural rules. This can be, for example, in the context of disciplinary proceedings or sanctions before other Community body or national administrative or judicial proceedings. In disciplinary proceedings, the person concerned has the right of access to "all documents directly related to the allegations made against him" (Articles 90-91, Article 2 of Annex IX to the Staff Regulations).

iv) Review and remedies

OLAF applies high standards of ethical behaviour. All persons concerned have the right at any time to complain to the Director-General about the manner in which an investigation or operation is conducted. The Director-General will appoint an OLAF senior agent who was not involved in that activity to act as an independent expert and to review the complaint. The Director-General will inform the person concerned of the findings and any action taken to remedy such a situation.

This review is without prejudice to complaints made under Article 90a of the Staff Regulations and to the general right to bring an action before the Court of Justice of the European Communities. In cases of alleged maladministration, any person may also refer the issue to the Ombudsman.

b) Other rights

i) Informants and whistle-blowers

[40] *OJ L 145, 31.5.2001, p. 43.*
[41] *OJ L 8, 12.1.2001, p. 1.*

An informant may contact Community bodies and/or OLAF officials directly by phone or correspondence. A whistle-blower may use the dedicated phone line operated by OLAF.

An informant or a whistle-blower may wish to remain anonymous. Any OLAF official having contact with an informant or a whistle-blower must inform the latter that, while the Office will make every effort to respect his desire for anonymity, it cannot guarantee anonymity once the case is referred to judicial or administrative authorities.

As a matter of policy, OLAF does not offer any reward to informants.

All informants or whistle-blowers with an interest in the outcome of the case are advised of the outcome when the case is closed, unless this would be detrimental to any follow-up action.

ii) Witnesses

Witnesses in principle do not request or require anonymity. However, general rules on confidentiality and data protection apply.

iii) Public access to documents

Subject to the applicable rules on data protection, professional secrecy and confidentiality, OLAF staff help to implement European rules on transparency, in particular with respect to public access to documents. Any EU citizen or legal entity registered in the EU can request public disclosure of a document produced or held by OLAF in accordance with Regulation (EC) No 1049/2001. The specific nature of such disclosure is that the document, once disclosed, is provided in the same form to anyone and possibly published on the internet. Therefore, such disclosure should not be confused with access to a file by any person concerned. When providing an applicant with access to a document, the investigator or any other member of the staff may not disclose any information that cannot be disclosed to the wider public.

iv) Protection of personal data

OLAF staff must at all times abide by the rules on the protection of personal data established under Regulation (EC) No 45/2001, in particular the requirements on data quality, providing information to the data subject, rights of the data subject regarding access, rectification, blocking, and erasure.

As a data subject, the person concerned has the right of access to any personal data contained in the file relating to himself. However, this right of access may be deferred where access would be harmful to the investigation or operation. This is decided on a case-by-case basis. For OLAF, the most important exemptions and restrictions that may apply in a given case are the need to safeguard “the prevention, investigation, detection and prosecution of criminal offences” and “an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters.”

Any data subject may lodge a complaint with the European Data Protection Supervisor where he considers that his rights have been infringed as a result of the processing of personal data by a Community body.

GLOSSARY OF BASIC TERMS

- Case

A case is an operational file covering an investigation or another kind of operation as described in Section 2.2.1, opened by decision of the Director-General, or by a Director with delegated power, to launch an action following an assessment.

- Declaration

A declaration is formally recorded oral information about factual elements relevant to an OLAF case.

- External investigation

An external investigation is a case in which investigative activities are conducted based on Regulation (EC) No 1073/99 in conjunction with Regulation (EC, EURATOM) No 2185/96, Regulation (EC, EURATOM) No 2988/95 and the relevant sectoral rules and cooperation agreements that permit on-the-spot checks and inspections on the premises of economic operators in the Member States and third countries.

- Informant

An informant is a natural person who voluntarily discloses factual information to OLAF concerning a matter within the competence of the Office. He can be a whistle-blower or another person.

- Internal investigation

An internal investigation is a case in which investigative activities are conducted within Community bodies on the basis of Regulation (EC) No 1073/99 and the rules and regulations set out in the internal decisions adopted by Community bodies.

- Interview

An interview is a formalised dialogue guaranteeing due application of the rights of defence within a specific procedure.

- Legal counsel

A legal counsel is a qualified lawyer or any other person who gives advice and assists the person in formal contacts with OLAF.

- Operation and operational activity

An operation is a case in which neither an internal nor an external investigation is conducted by OLAF, but relevant assistance and/or coordination is provided as described in Section 2.2.1.

- Community body

A Community body is a European Community institution, office or agency.

- Person concerned

A person concerned is the individual or entity to whom facts under an OLAF investigation or operation may be directly attributable. He is an individual or an economic operator who is suspected of having committed an irregularity or fraud.

- Statement

A statement, as distinguished from a formal interview, is a written deposition by a person or an entity within the framework of an OLAF investigation. A statement is always signed by the person providing it.

- Third party

A third party is a person or entity, but not a Community body or national authority, which is related to an OLAF case and has certain rights. He can be a person concerned, a witness, an informant, a whistle-blower, etc.

- Whistle-blower

A whistleblower is an EC official or other member of EC staff who is under a statutory obligation (Article 22a of the Staff Regulations) to come forward with the relevant information. As long as he complies with the rules, he is protected from adverse consequences on the part of the Community body.

- Witness

A witness is an individual who is not a person concerned but provides information concerning a matter within the competence of OLAF.

Glossary

AFCOS	Anti-Fraud Coordination Service
AFIS	Anti-Fraud Information System
BGRONA	Bulgaria and Romania Network Agreement
CEPOL	European Police College
CIS	Customs Information System
CMS	Case Management System
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
ECA	European Court of Auditors
ECB	European Central Bank
EFTA	European Free Trade Association
ERDF	European Regional Development Fund
ESF	European Social Fund
FIDE	European Customs File Identification Database
FIFG	Financial Instrument for Fisheries Guidance
FRONTEX	European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU
IGAC	Inter Agency Group for Anti-Corruption
IGEC	Interpol Group of Experts on Corruption
IMF	International Monetary Fund
ISPA	Instrument for Structural Policies for pre-Accession
JHA	Justice and Home Affairs
NCTS	New Computerised Transit System
OAFCN	OLAF Anti-Fraud Communication Network
OCU	Operational Coordination Unit
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
PCTF	Police Chief Tasks Force
PHARE	Poland and Hungary Action for Restructuring the Economy
PMI	Phillips Morris International agreement
SAPARD	Special Accession Programme for Agricultural and Rural Development
SCIFA	Strategic Committee on Immigration, Frontiers and Asylum
UCLAF	Unit for the Coordination and Fraud Prevention
UN	United Nations
TFR	Task Force Recovery
VAT	Value Added Tax

Report of
the European Anti-Fraud Office

Summary version

Eighth Activity Report
for the period 1 January 2007 to 31 December 2007

Rue Joseph II 30
B-1000 Bruxelles
Internet : http://ec.europa.eu/olaf

Note to the reader: The Summary version of the Eighth Activity Report of the European Anti-Fraud Office which is available in every official languages of the European Union is an abridged version of the full Report, which is available in English, French and German.

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Executive Summary

- OLAF again experienced a significant increase in the amount of information received (up 59% since 2003 and up nearly 8% since 2006), in particular from Member States and individual informants, which confirms public confidence in OLAF.

- OLAF tends increasingly to concentrate on its own investigations, rather than simply providing assistance to national authorities. In 2007, more cases were closed with follow-up recommendations than without for the third consecutive year, with a two-to-one ratio.

- A significant share of OLAF's new case records relates to a small number of countries: Approximately 60% of all new case records created in 2007 originated in 5 member states (Belgium, Bulgaria, Germany, Italy and Romania). In proportion to population, and with the exception of Belgium and Luxemburg, the highest occurrence of cases was to be found in Bulgaria, followed by Romania and Greece.

- OLAF continued to prioritise its resources to focus increasingly on serious cases, as demonstrated by the fact that 65% of cases were closed with follow-up in 2007, compared with less than 45% before 2004.

- A policy of 'zero tolerance' for fraud and corruption does not necessarily mean that OLAF has to take on board all cases where other mechanisms exist to deal with less serious matters. Priority continues to be given to the consideration of information in respect of which OLAF has a clear mandate.

- The general caseload of the Office is under control so as to avoid building a backlog of cases. The clearance rate – the ratio between the numbers of cases opened and closed - is close to 1 over time, in line with OLAF's operational strategy.

- Cases assessed and opened by OLAF are of an increasing complexity. In 2007, the average "active stage" duration increased slightly from 27 to 28 months.

- The achievement of this long term target must take account of wide differences between types of investigation and areas concerned. However, some detailed indicators already demonstrated positive developments could be expected in the coming months.

- Cooperation with the Member States, other institutions and third countries remains essential to ensure the success of investigations and remained a key concern to OLAF, which strengthened its ties with operational partners on numerous occasions.

- In 2007, OLAF provided assistance to five joint customs operations (JCO), during which the customs authorities of the participating Member States brought to light a large number of serious offences.

- A second agreement was signed with a cigarette manufacturer, Japan Tobacco International, in order to combat cigarette smuggling and prevent loss of revenues for the European Budget.

- Relations with Eurojust and Europol have strengthened.

- in 2007, the main focus of networking efforts of OLAF was put on Africa, with events such as the first Conference on the "protection and optimisation of public funds", held in Rabat, Morocco.

- As of 31 December 2007, 467 persons were working in OLAF. The ratio of permanent staff rose from 46% in 2006 to 62% in 2007.

- The administrative budget of OLAF in 2007 was €52 million.

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- The operational budget, which funds anti-fraud activities in the Member States, almost doubled compared to 2006 at € 20.6 million. This increase is mainly due to the entry in force of the Hercule II Programme.

- A higher level of stability for the staff was achieved, through the granting of indefinite contracts to many temporary staff and the agreement reached with the Commission and the staff associations about longer term staffing strategy.

- In 2007 OLAF achieved full notification of all its processing operations to the European Data Protection Supervisor, making a significant progress to implement data protection rules.

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Foreword



The principal trends in this, OLAF's eighth annual activity report, are consistent with those of recent years; an increase in the volume and the quality of information received, indicating more visibility and greater public confidence in OLAF; more emphasis on significant and complex cases, where OLAF can add real value and sometimes break new ground; a greater proportion of cases undertaken by OLAF as lead investigator, rather than in support of national authorities; and a greater proportion of cases with significant recommendations for follow-up. Also as in previous years, I am happy to report that OLAF's activities again have led to the recovery of sums of taxpayers' money equivalent to several times the annual cost of running the Office.

This process has been achieved through cooperation with OLAF's many partners and notably with the other services of the Commission. 2007 saw a landmark in the development of operational cooperation between OLAF and other Commission services in the form of an improved range of services provided by OLAF in areas such as, financial follow-up, fraud prevention and awareness raising. Several targeted intelligence projects were launched for the benefit of these Commission services. A new bottom-up approach to fraud prevention was adopted, and there was a shift of responsibility for financial follow-up from the Office towards the authorising services of the Commission, on the lines recommended by the European Court of Auditors.

A successful and well-attended conference in October enabled both OLAF and the Commission services with which it works most closely (those responsible for some of the Commission's most significant expenditure programmes) to demonstrate the extent to which their mutual operational cooperation can make real progress in the fight against fraud. This was further confirmed by the results of a Commission-wide internal survey which showed that a vast majority of the Commission's staff considers OLAF a pillar of trust.

The accession to the EU of two new Member States in January 2007 led to further intensification of OLAF's existing activities in those countries. I look forward to even closer co-operation with the Romanian and the Bulgarian authorities in the fight against fraud affecting the EU financial interests.
OLAF has in addition strengthened its working relations with partners in international institutions such as the United Nations and the World Bank, as well as with its partners in the EU 's agencies and bodies and in third countries. A first international conference in Rabat, specifically organised for the countries in French-speaking Africa engaged in development co-operation with the EU, has led to several concrete agreements that will facilitate OLAF's future operational work on the ground.

2007 also saw the conclusion of an agreement between the Commission and a second major international cigarettes manufacturer, achieved largely on the basis of operational work by OLAF. This follows a ground-breaking earlier agreement in 2004 with another producer and will similarly contribute to a more effective fight against cigarette smuggling in Europe and beyond.

Within OLAF, I am pleased to report that the re-organisation which was implemented in 2006 has proved effective. This gives greater weight to the operational role of OLAF and took account of the recommendations of the European Court of Auditors. We have started to reap the reward of these changes.

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While we have continued to invest in particular in the security of information, data protection and operational support to Member States, people are our most valuable asset. Two Directors were appointed to operational posts during the year. As I anticipated in my foreword to last year's report, early in 2007 an agreement was reached between the Commission, the Staff Associations and OLAF which has permitted to offer indefinite contracts, after a screening process, to many of its long-standing temporary staff. This avoided a loss of expertise and experience which would seriously have damaged OLAF's operational capacity. The process of ensuring that OLAF can recruit and retain sufficient qualified and experienced staff will continue with specialist recruitment competitions for officials in 2008.

I am grateful to everybody who contributed to all OLAF's achievements in 2007.



Franz-H. Brüner
Director-General, July 2008

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1 OLAF's mission and working methods

1.1 Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, and therefore of its citizens, and the reputation of the European Institutions. OLAF carries out its duties with integrity, impartiality and professionalism respecting individuals' rights and freedoms.

OLAF's general objective remains **"To protect the financial interests of the European Union against fraud, corruption and any other illegal activities and to protect the reputation of the European institutions."**

OLAF achieves its objectives by investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions; assisting Community and National Authorities in their fight against fraud; and through deterrence, prevention and stronger legislation, making it more difficult for fraud and irregularities to occur and so contributing to public trust in the European project.

1.2 The main competencies of OLAF

- OLAF is empowered to conduct in full independence:
    - **internal investigations**. i.e. inside any European institution or body funded by the EU budget.
    - **external investigations**. i.e. at national level, wherever the EU budget is at stake. For this purpose, OLAF may conduct on-the-spot checks and inspections on the premises of economic operators, in close cooperation with the competent Member State and third-country authorities.
- OLAF has budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes guarantees associated with the post of Director General, and a Supervisory Committee composed of five outside experts providing independent oversight of OLAF's operational activities.
- While OLAF is operationally independent, its staff are also agents of the European Commission and are subject to its internal rules and powers. This concerns activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation.

1.3 OLAF's resources

On 31 December 2007 there were 467 persons working in OLAF[1] of whom 333 were statutory staff. Most people are deployed on OLAF's core remit: investigations and operational activity. About 70% of OLAF staff[2] are occupied with tasks related to the Office's operational activity including administrative support for operational activity (63% if administrative support staff are excluded).

OLAF's administrative budget in 2007 was € 52 million. Its operational budget, which funds anti-fraud activities, almost doubled compared to 2006 at €20.6 million. This increase is mainly due to the entry into force of the Hercule II Programme.

[1] Additionally, 60 external contractors were working in OLAF on 31.12.2007.
[2] Approximate figure based on an estimate of the time devoted by each member of staff to a task associated with the Office's operational activity.

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1.4 The Case Management System

The computerised CMS is the primary source of management information for the Office. It constitutes OLAF's database and contains all information on new, ongoing and closed operational activities. It enables authorised personnel to track the progress of cases at all times during their lifecycle and guarantees the integrity of original documents. All significant events concerning a case are recorded in the CMS.

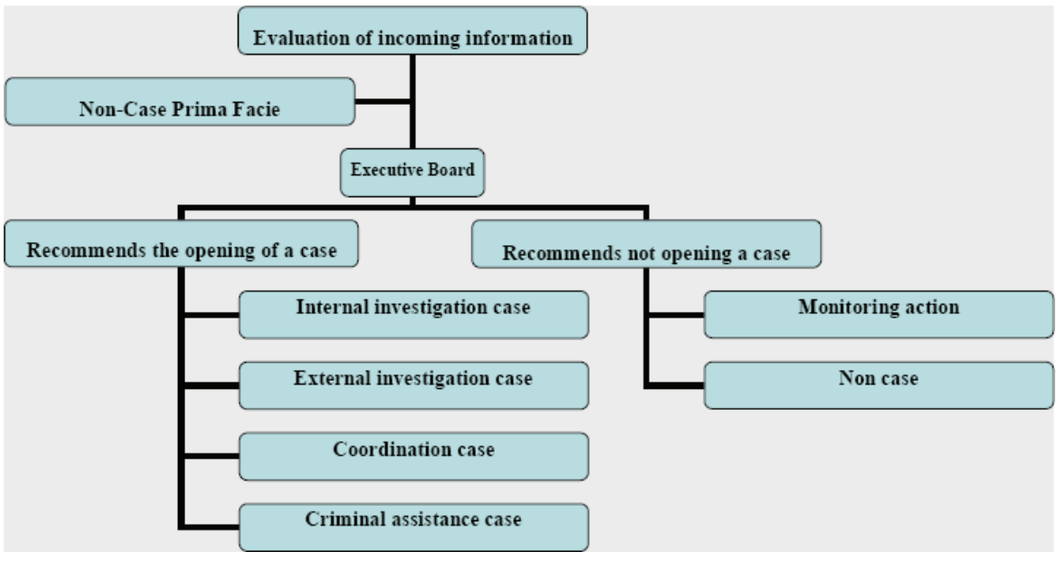
1.5 The Investigations and Operations Executive Board

The Investigations and Operations Executive Board ("the Board") assists the Director General by giving advice on the handling of cases. The Board considers evaluation reports and recommends whether or not a case should be opened. The Director General decides whether to accept the recommendation.

The Board advises the Director General on each major stage in the lifecycle of cases:

- opening decision. *i.e.* internal investigation, external investigation, coordination case or criminal assistance case;
- decisions on "non-cases";
- changing case types; closure;
- opening new follow-up paths; and
- closing follow-up.

Where relevant the Board is informed of the activities of external investigative, judicial and other partners associated with a case.



Once the operational activity has been completed in an open case in accordance with formal procedures and approved by the Board, the case moves to the follow-up stage[3] if necessary. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up stage is formally closed and any associated EC entities[4] or other parties are informed of the outcome.

[3] In some circumstances follow-up activities may take place before the formal closure of the investigation stage.
[4] Institutions, bodies, offices and agencies.

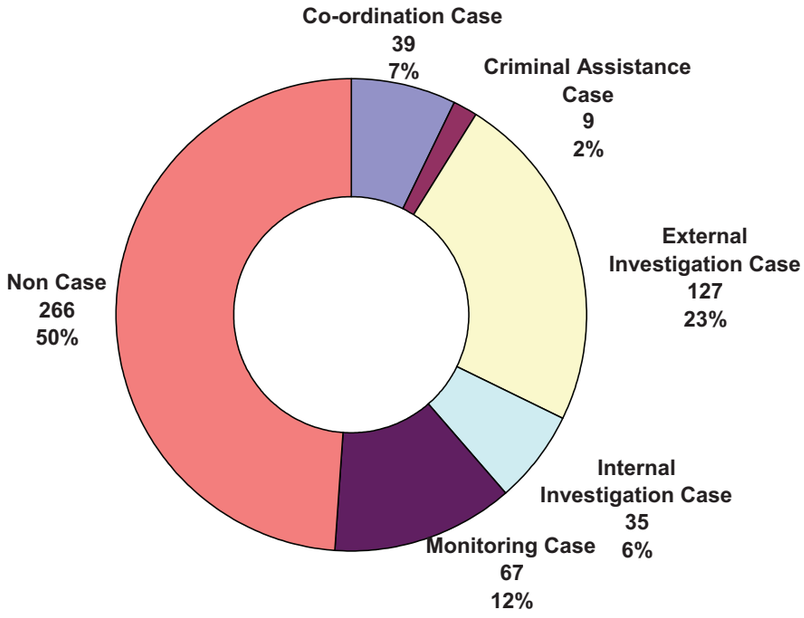
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2 OLAF's workload

2.1 More incoming information confirms public confidence in OLAF

OLAF is increasingly known and trusted to make effective use of information it receives. The volume of information received has risen steadily from 529 new items of information in 2002 to 886 new items in 2007.
In 2007, 543 decisions (up 15% compared to 2006) were taken on the basis of new incoming information. A detailed breakdown by type of case or action[5] is set out below in **Chart A.**

Chart A: Decisions taken in 2007



2.2 Operational activity: prioritising and focusing on core business

Out of 543 decisions taken, 210, or 38.6%, resulted in the opening of a case, a slight increase compared to 2006. In addition, the proportion of cases closed with follow-up continued to increase, and represented more than 65% of all cases closed in 2007, compared with less than 45% before 2004[6]. These data confirm OLAF's policy to use its resources to investigate the most serious cases. Priority also continues to be given to assessing of information in respect of which OLAF has a clear mandate.
Since 2004, the number of OLAF's own investigations has caught up with and has now overtaken the number of cases in which OLAF assists national authorities (**Chart B**). The trend demonstrates that OLAF's activity has gradually moved towards a 75% share of "own investigations", with only a 25% share of "coordination and assistance cases".

[5] A detailed explanation of the procedures and types of cases and actions can be found in paragraph 1.4 of the full report.
[6] See **Chart 24** in the full report

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Chart B: Number of opening decisions by year and nature of the investigation

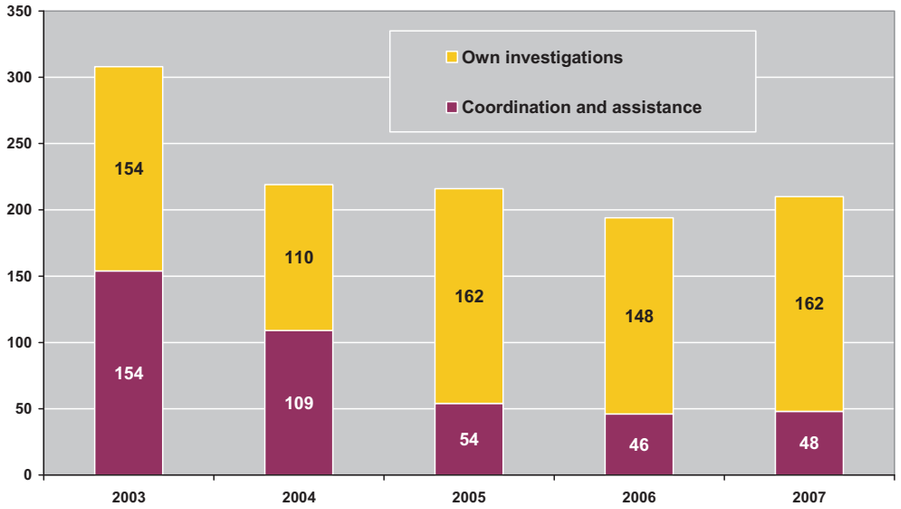


Chart C gives a breakdown of the 210 opening decisions adopted in 2007. *Direct Expenditure* and *External Aid* cases represent a growing proportion of the new cases opened by OLAF – up from 30% in 2005 to 36% in 2007. Together with *Internal investigations* (16.6%), these areas of activity, where OLAF is the only authority in charge of the preliminary administrative investigation, represent more than half of the total opening decisions.

Chart C: Opening decisions taken in 2007 by area and type of decision

Major Area	Coordination case	Criminal Assistance case	External Investigation case[1]	Internal Investigation case	Total
Agriculture	15	0	15	0	**30**
EU Institutions + Bodies	0	0	12	34	**46**
Cigarettes	5	3	0	0	**8**
Customs	18	4	8	0	**30**
Direct Expenditure	0	0	11	0	**11**
External Aid	0	1	62	1	**64**
Precursors	0	0	0	0	**0**
Structural Funds	1	1	19	0	**21**
VAT	0	0	0	0	**0**
Total	**39**	**9**	**127**	**35**	**210**

(1) External investigations cases in the area of "EU institutions and bodies" relate to cases in which third parties, e.g. contractors, are involved.

In 2007, 232 cases were closed. **Chart D** shows that the number of cases completed, which had been declining for five years, increased again in 2007, in line with the higher number of cases opened during the year.

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Chart D: Cases completed in each calendar year

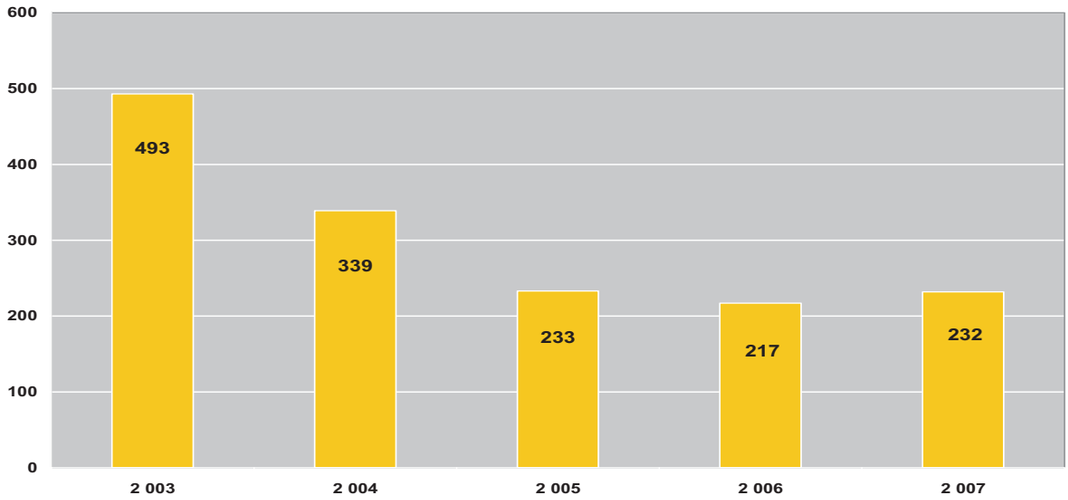


Chart E shows the number of cases opened and closed annually in the period 2003-2007. It illustrates that the clearance rate is getting closer to 1 over time. A clearance rate – the ratio between the numbers of cases opened and closed - of 1 has been set as a medium-term target in order to adapt the workload to the resources available and to avoid an excessive backlog of cases.

Chart E: Opening, closing decisions and clearance rate (2003-2007)

	2003	2004	2005	2006	2007
Cases opened	308	219	214	195	210
Cases closed	493	339	233	216	232
Clearance rate	0.625	0.646	0.918	0.903	0.905

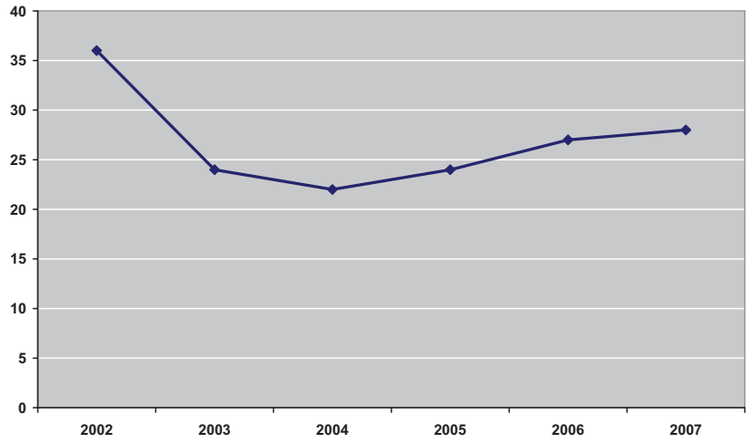
Chart F shows that the average duration of cases has been relatively stable over time. OLAF keeps this indicator under close watch, since reducing the average duration of cases is of a key concern for the Office. However, the achievement of the long-term aim of bringing the average duration of cases down to less than 24 months must take account of wide differences between types of investigation and areas concerned.

The increase in the average duration emphasises the difficulties faced by investigators in complex cases, and in cases where the involvement of Member States or outside partners is required[7].

[7] See section 2.2 of the full Report.

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Chart F: Duration in months of active stage of investigations completed in each calendar year



2.3 Follow-up activity

Cases closed with follow-up accounted for an increased proportion of cases closed in 2007 - more than 65% as compared to 41% only five years earlier. This positive development demonstrates that OLAF's operational and investigative work has been successfully translated into a proportionate increase in significant results.

Chart G: Cases closed with and without follow-up in each calendar year

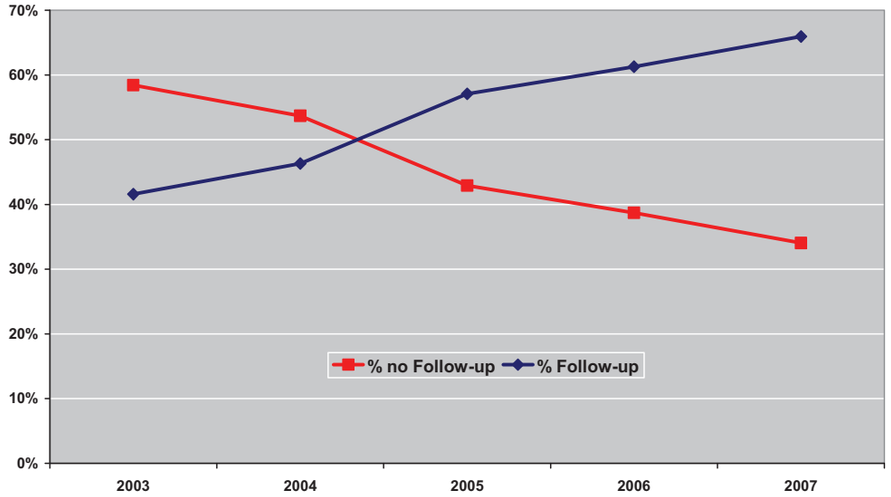
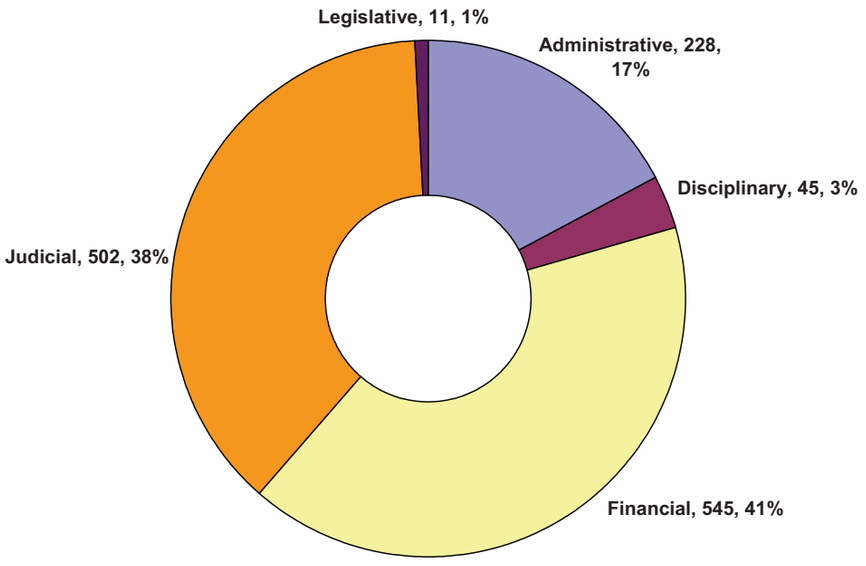


Chart H illustrates the follow-up activities related in terms of the 781 cases closed for which at least one follow-up path was still open at the end of 2007. Most activities relate to judicial and financial follow-up.

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Chart H: Type of follow-up activities in respect of closed cases at the end of 2007



2.4 Recovery

In 2007, a sum exceeding €478 million was recorded as recovered in the context of OLAF cases. This arises from the follow-up paths closed in 2007 (about €203 million) and from the actions that were still in follow-up at the end of the year (about €275 million).
Chart I shows the annual breakdown of financial recovery completed in the last five years. These sums only represented a fraction of the total amounts recovered following a fraud or other irregularity, as most of the recoveries are made by Member States with no direct link to OLAF cases[8].

Chart I: Breakdown of amounts recovered in million Euros in each calendar year in respect of financial follow-up paths (*closed only, except for the last column*)

Major Area	2003	2004	2005	2006	2007	Total	*Additional amounts recovered in respect of follow-up paths still open in 2007*
Agriculture	0,00	0,07	14,43	1,18	0,84	**16,52**	*144,77*
Customs	0,03	1,58	63,05	0,13	3,34	**68,13**	*102,47*
Direct Expenditure	0,22	1,86	0,18	0,25	0,49	**2,99**	*0,44*
EU Institutions + Bodies	0,00	0,04	0,00	2,16	0,13	**2,33**	*1,84*
External Aid	0,88	2,01	31,78	92,72	0,90	**128,29**	*3,97*
Structural Funds	1,47	192,62	97,96	17,22	197,67	**506,95**	*22,04*
Total	**2,61**	**198,17**	**207,40**	**113,66**	**203,37**	**725,21**	***275,52***

[8] See the *Commission Report on the Protection of the Communities' financial interests – Fight against Fraud 2007* for more details.

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3 OLAF's added value: some case studies

Case study: Plagiarism in research projects

A Directorate General of the European Commission passed information to OLAF on possible irregularities committed by the manager of a research centre in the course of projects subsidised by Community funds. The alleged wrongdoings included falsification of time management reports and plagiarism of the findings of earlier projects.

OLAF investigated the case using computer forensics and gathered additional information to firm up evidence of irregularities. In parallel, the DG concerned carried out an audit of research projects, which confirmed that false statements had been filed by the interested party. OLAF subsequently carried out on-the-spot administrative checks on several projects subsidised by the EC, together with the national police force which was acting as representative of the Member State. The police then notified the Director of the research centre of the seizure of all documents related to these projects and of allegations of forgery and use of forged documents underpinning the national judicial investigation.

The analysis carried out by OLAF confirmed the allegations of plagiarism through the systematic use of old academic papers.

The results of the investigation were forwarded to the judicial national authorities for the criminal investigation, and to the Commission service concerned, for recovery of the unduly paid subsidies of up to one million Euros.

Case Study: Major smuggling ring broken up

OLAF received intelligence from the customs authorities in a Member State about the suspected smuggling of cigarettes into the EU on board ships and the imminent arrival of a suspect vessel in an EU port.

This information was immediately passed to national Customs who, on searching the vessel, discovered more than one and a half million cigarettes hidden in its forepeak.

Under OLAF coordination, investigations were launched in several EU States as well as in non-EU countries. Assistance was provided by Philip Morris International (PMI) under the terms of the Anti-Contraband and Anti-Counterfeit Agreement between PMI and the European Commission and 26 Member States.

It was established that a major criminal organisation was smuggling large quantities of cigarettes into the EU on board vessels docking in ports in at least three Member States. The cigarettes were then sold on the black market and the proceeds were transferred back to a non-EU country.

The investigation led to several arrests and the seizure of more than 4 million cigarettes in the EU, as well as the detention of several suspects in Russia. The estimated losses to the Community and national budgets on the cigarettes seized amount to more than half a million Euros and would have run into several hundred million if the gang had continued smuggling.

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4 Cooperation with OLAF's partners: a key factor in the fight against fraud

4.1 Cooperation with Member States

4.1.1.1 Joint Customs Operations

In 2007, OLAF provided assistance to five joint customs operations (JCO), during which the customs authorities of the participating Member States brought to light a large number of serious offences designed to deprive the European budget of revenue. Joint customs operations can significantly improve the effectiveness of the national authorities by targeting checks at European level. OLAF supported five such operations: DIABOLO, BRIGANTINE, WASABI, PRIMA2, PRIMA3.

Operation 'Diabolo' for example, a joint World Customs Organisation (WCO) and ASEM[9] Customs operation, which was conducted from OLAF's headquarters in Brussels and involved the customs authorities of the 27 Member States, resulted in the seizure of some 135 million counterfeit cigarettes. It ensured that the budgets of the Union and the Member States did not incur significant losses in terms of customs duties and tax revenue (estimated in excess of €22 million).

4.1.1.2 Agreements with cigarette manufacturers

In 2004, the European Community and 10 Member States concluded an agreement with the cigarette manufacturer Philip Morris International (PMI) on a system for combating the smuggling and counterfeiting of cigarettes. Under this agreement, approximately one billion dollars will be paid over a 12-year period to the European Community and to the 10 Member States which were party to the agreement in July 2004. Between the signing of the agreement and the end of 2007, PMI paid almost USD 575 million (approximately EUR 364.5 million). Since then, 16 more Member States have signed the agreement.

In December 2007, the European Commission and 26 Member States[10] signed a second cooperation agreement with Japan Tobacco International (JTI). The agreement, which runs for 15 years, makes provision for the payment of USD 400 million (approximately €250 million), which could be used to combat the smuggling and counterfeiting of cigarettes. It shares all the main features of the agreement with PMI.

One of the main features of the two agreements is the mechanism to prevent the smuggling of PMI and JTI cigarettes over the long term into the European market. In cooperation with OLAF and the Member States, the agreements provide for procedures to monitor and trace products to determine the point at which real cigarettes (of the PMI and JTI brand) are diverted from the legal supply chain and fall into the hands of smugglers.

4.2 Cooperation with EU bodies in charge of police and judicial cooperation

OLAF was present at the second meeting of "Heads of EU Justice and Home Affairs agencies" organised by Europol on 26 June 2007[11]. Even though OLAF is not formally an EU JHA agency, it

9 Asia Europe Meeting: is an informal dialogue process initiated in 1996.
10 The United Kingdom is not a party to this agreement.
11 The "EU JHA agencies" meeting comprise Eurojust, Europol, OLAF, the EU Joint Situation Centre, Frontex (European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU) and

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was invited to the meeting because of its independent investigative role in the protection of EC financial interests.

Based on the preparatory work of the OLAF-chaired technical meeting of legal and data protection officers of the "EU JHA agencies", held on 19 and 20 April 2007, the "Heads of EU JHA agencies" agreed to take note that the "EU JHA agencies" - insofar as their legal framework makes provision for processing personal data for operational purposes – consider each other as providing an adequate level of data protection, including security measures, and as offering the same level of protection for the handling of information.

4.2.1 Eurojust

The First OLAF/Eurojust Joint Seminar was held on 26-27 March 2007 on fraud and corruption affecting the European Communities' financial interests, with the aim of improving the cooperation between Member States and the two agencies. The President of Eurojust and the Director General of OLAF met twice in 2007 to review the joint activities and discuss further development of the cooperation.

OLAF is a permanent observer at the European Judicial Network (EJN) meetings hosted by Eurojust. In 2007, OLAF actively participated in the 27th and 28th Plenary Meetings of the Contact Points of the European Judicial Network in Trier and in Obidos, and in the Eurojust Seminar "*Eurojust - Navigating the Way Forward*" in Lisbon in October.

4.2.2 Europol

In 2007, two meetings at technical level took place, as well as a high-level meeting between the Director General of OLAF and the Director of Europol on 18 July 2007.

OLAF and Europol also work together on combating cigarette smuggling. The analytical resources of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid unnecessary duplication of effort.

4.3 Cooperation with international partners: raising awareness and building trust

OLAF itself organised 10 conferences and seminars in 2007 for training purposes to cover priority areas such as cooperation with candidate countries, investigations in cooperation with national services, communication and cooperation with national Prosecutors. The most significant of these were:

• Conference on "Corruption Affecting European Communities' Financial Interests", 26-27 March in Brussels in cooperation with Eurojust;
• 8th Conference of International Investigators, Vienna, 9-11 May;
• 1st Conference on the "protection and optimisation of public funds" in the area of external aid, Rabat, Morocco, 14-16 May;
• 5th OLAF Conference of Fraud Prosecutors, Brussels, 18-19 October;
• International Co-operation against fraud and corruption, Buenos Aires, Argentina, 11-14 November;

CEPOL (the European Police College), as well as Council working groups, such as the Police Chiefs Task Force (PCTF) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).

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Report of

the European Anti-Fraud Office

Eighth Activity Report
for the period 1 January 2007 to 31 December 2007



Rue Joseph II 30
B-1000 Bruxelles
http://ec.europa.eu/olaf

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1 OLAF's mission and working methods

1.1 Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect both the financial interests of the European Union, and therefore of its citizens, and the reputation of the EU institutions. OLAF performs its activities with integrity, impartiality and professionalism respecting individuals' rights and freedoms.

OLAF's general objective remains 'To protect the financial interests of the European Union against fraud, corruption and any other illegal activities and to protect the reputation of the European institutions.'

The Community budget is financed by tax paid by citizens of the EU. The policies so financed are intended to implement projects of general benefit. Evasion of the taxes, duties and levies which fund the Community budget or the improper use of funds provided by the Community budget therefore harms both European taxpayers and the entire European project.

It is the responsibility of the European institutions to guarantee that the best use is made of taxpayers' money and to fight fraud as effectively as possible. This is why OLAF was established in 1999.

OLAF achieves its objectives by:

- investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions;
- assisting Community and national authorities in their fight against fraud;
- through deterrence, prevention and strengthening legislation, making it more difficult for fraud and irregularities to occur and so contributing to public trust in the European project.

1.2 OLAF's main powers and responsibilities

OLAF's task is to conduct in full independence, internal and external administrative investigations as provided for in Articles 3 and 4 of Regulation (EC) No 1073/99.[1] The legal basis for Community action against fraud is Article 280 of the EC Treaty[2].

Since OLAF is part of the Commission, it is able to exercise Commission powers. However, OLAF has budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes two structures to reinforce OLAF's operational independence: guarantees associated with the post of OLAF's Director-General, and the Supervisory Committee.

As regards its investigative activities, OLAF is independent of the Commission. The opening, conduct and closing of a case is a matter for the Director General of OLAF alone. OLAF investigators operate under his authority and control.

OLAF staff act as agents of the Commission subject to its internal rules and powers as far as activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation are concerned.

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[1] OJ L 136, 31.5.1999, pp. 1 and 8. Where reference is made to Regulation No 1073/99, this also applies to the equivalent Euratom Regulation.

[2] For more details, see OLAF's activity Report for 2006 at http://ec.europa.eu/anti_fraud/reports/olaf_en.html

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A Supervisory Committee composed of five outside experts provides independent oversight of OLAF's operational activities, so as to guarantee OLAF's independence in the conduct of investigations. The Committee monitors the implementation of OLAF's investigative function without intervening in operational activity. OLAF cooperates with the Committee under the authority of the Director-General.

On 17 October 2007 the Supervisory Committee delivered its Activity Report covering the period from December 2005 to May 2007. The Director-General of OLAF emphasised in his reply to the Report that he appreciated the constructive approach pursued by the Supervisory Committee.

In addition, the Supervisory Committee issued two Opinions on specific issues in 2007, one on the 'OLAF's reports on investigations that have been in progress for more than nine months' and one on 'OLAF's Preliminary Draft Budget for 2008'. OLAF followed up both opinions. In response to the Opinion on the nine-month reports OLAF strengthened control of case management and introduced a new form for the nine-month reports which fully implements the Supervisory Committee's proposal. In response to the Opinion on the Preliminary Draft Budget OLAF gave detailed explanations orally to the Committee.

1.3 OLAF's organisational structure

OLAF was restructured in September 2006 to take account of the main lessons drawn from the experience gained since its creation in 1999.

Directorates A and B both deal with investigations and operations. A third Directorate (C) provides support functions for investigations and operations, such as intelligence, legal and technical advice, and follow-up on cases. It also draws on the Office's increasing operational experience to improve fraud prevention and other anti-fraud actions. A fourth Directorate (D) groups OLAF's general management and policy functions, but also contributes directly to operations by maintaining a dedicated database and other record systems.

Most of the resources are deployed in OLAF's core remit: investigations and operational activity. About 70% of OLAF staff[3] is occupied with tasks related to the Office's operational activity including administrative support for operational activity (63% if administrative support staff is excluded). On 31 December 2007 there were 467 persons working in OLAF of whom 333 were statutory staff (208 were permanent officials and 125 temporary agents).

OLAF's organisation chart as at 1 April 2008 can be found in Annex I.

1.4 The Investigations and Operations Executive Board

The Investigations and Operations Executive Board ('the Board') assists the Director-General by giving advice on the handling of cases. Board members include representatives of the relevant Directorates. The Board considers evaluation reports prepared by the relevant units and recommends whether or not a case should be opened. The Director-General or one of the Directors acting on his behalf decides whether to accept the recommendation.

The Board considers and advises the Director General on each major stage in the lifecycle of cases: opening; decisions on "non-cases"; changing case types; closing; opening new follow-up paths; and

[3] Approximate figure based on an estimate of the time devoted by each member of staff to a task which contributes to the achievement of the Office's operational activity. Some OLAF staff carry out both operational tasks and tasks which are related to OLAF's other activities. This is the case in particular of units working on follow-up, administration and intelligence.

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closing follow-up. Where relevant the Board is informed of the associated activities of external investigative, judicial and other partners associated with a case.

Once the operational activity has been completed in an open case in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage[4] where this is necessary. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up stage is formally closed and any associated EC entities[5] or other parties are informed of the outcome.

Since the reorganisation of OLAF in 2006, the Board has met in two separate formations, one for each operational Directorate.

A. Evaluation of initial information

Every item of initial information received by OLAF is assessed in order to make a recommendation as to whether a case should be opened and, if so, which category of case. The initial evaluation of a case should normally be completed within two months of receiving the initial information, but can be extended if circumstances so justify.

B. When the Board recommends opening a case

When the Board recommends that a case should be opened, it is classified under one of the following four categories:

- **Internal investigations:** Internal investigations are administrative investigations within the Community institutions and bodies for the purpose of detecting:

  - fraud, corruption, and any other illegal activity affecting the financial interests of the European Communities;

  - serious matters relating to the discharge of professional duties that constitute a dereliction of the obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies, or members of staff, and liable to result in disciplinary or criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or members of the staff of institutions, bodies, offices or agencies not subject to the Staff Regulations.

- **External investigations:** External investigations are administrative investigations outside the Community institutions and bodies for the purpose of detecting fraud or other irregular conduct by natural or legal persons. They may be carried out under either horizontal or sectoral legislation. Cases are classified as external investigations where OLAF provides the majority of the investigative input.

- **Coordination cases:** OLAF contributes to investigations carried out by national authorities or other Community departments by facilitating and stimulating the gathering and exchange of information and contacts, as well as by encouraging authorities to work together through coordinated action. This ensures operational synergy between the relevant national and Community departments.

[4] In some circumstances follow-up activities may take place before the formal closure of the investigation stage.
[5] Institutions, bodies, offices and agencies.

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- **Criminal assistance cases:** Criminal assistance cases are cases within the legal competence of OLAF in which the competent authorities of a Member State, candidate country or third country carry out a criminal investigation and request OLAF's assistance or OLAF offers its assistance.

C. When the Board recommends not opening a case

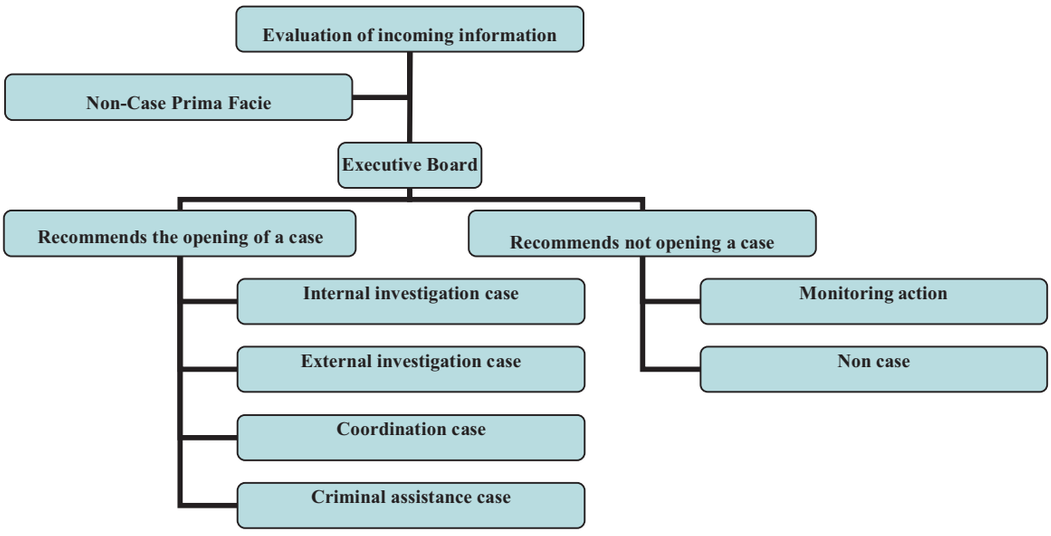
If the Board is of the opinion that a case should not be opened, it may recommend either undertaking a monitoring action or classifying the matter as a 'non- case':

- **Monitoring action:** OLAF may decide not to open an external investigation but rather to monitor investigations carried out by national authorities, where the financial interests of the European Community are at stake**,** with a view to opening a case at an appropriate stage, if this is needed.

- **Non-cases:** A matter is classified as a non-case where there is no need for OLAF to take any investigation, coordination, assistance or monitoring action. Non-cases result from evaluations that conclude that EU financial interests appear not to be at risk from irregular activity, or other relevant factors indicate that no case should be opened. This process may result in the transmission to Member States of information about possible offences unrelated to the protection of EU financial interests.

Where information is received which clearly and unequivocally does not fall within the competence of OLAF, then the relevant Head of Unit may propose not to refer the information for evaluation. This information does not reach the Board and is classified as a "**non case prima facie**". This is what is known as the **simplified procedure**.

The diagram below presents the whole process from the initial stage in which the information is received by OLAF to the final stage in which the decision is adopted by the Director-General.



1.5 The Case Management System (CMS)

The CMS is used by operational staff to manage operational cases and related activities. The system contains information relating to OLAF's new, ongoing and closed operational cases. It is the primary source of operational information within the Office; this information is also used for intelligence and

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management purposes. Monthly management reports are produced and circulated to the management team. These reports have been restructured since 2006 to allow managers to focus on key performance indicators, which were revised after the recommendations of the European Court of Auditors (ECA) in its report 1/2005.

Access to the data contained within the CMS is strictly controlled on a need-to-know basis: staff may only have access to CMS data if there is a compelling business need (also see 5.9.1 on the Data Protection Officer).

1.6 Reform of 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)

European Parliament and Council Regulation (EC) No 1073/1999 and Council Regulation (Euratom) 1074/1999 confer on OLAF powers to conduct internal investigations and also all of the Commission's powers to conduct external investigations

On 24 May 2006, the Commission adopted a proposal to amend this Regulation.[6] This proposal is aimed at improving the governance and effectiveness of the Office and its procedures. It is currently being examined by Parliament and the Council under the co-decision procedure. This revision of OLAF's legal framework should strengthen the legal basis and procedural safeguards for the activities of the Office.

In the course of 2007, OLAF continuously supported the discussions with the European Parliament and the Council on the adoption of proposal COM (2006) 244.

1.7 The implementation of recommendations made by the European Court of Auditors in its report on the European Anti-Fraud Office

Special Report No 1/2005,[7] concerning the management of the European Anti-Fraud Office, adopted by the Court of Auditors on 9 June 2005, put forward a number of recommendations for improving of the organisation and working methods of OLAF. Following progress made in 2006, OLAF made considerable efforts to address the challenges identified by the Court, and a large part of the recommendations has already been implemented.

An action plan was created to address the accepted recommendations. The implementation of the action plan is closely monitored by OLAF management and by the Commission. Of the 18 actions points drawn up to follow-up on the recommendations of the Court of Auditors:

- 7 actions have been implemented or are in the finalisation stage:
- 2 actions have been partly implemented;
- 5 actions are ongoing / permanent;
- 4 actions are still pending subject to the adoption of the revised Regulation No 1073/1999 (see paragraph 1.6 above).

Cooperation between the European Court of Auditors (ECA) and OLAF was significantly strengthened in 2007 in order to improve mutual understanding of their respective roles and tasks and to share experience and know-how. In January 2007, a high-level meeting took place between the

[6] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), COM(2006) 244 final.

[7] 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.

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Director-General of OLAF and the President of the ECA. Following a visit by one of OLAF's Investigation directorates to the Court of Auditors in June 2007, a joint ECA-OLAF workshop was organised in December 2007 to discuss external actions.

Since 2006, the organisational structure of OLAF has changed to enable it to focus on core activities and to improve the management and supervision of its operational work (see paragraph 1.3). In order to enhance the efficiency of operations and investigations, OLAF has refined performance indicators against which the achievement of objectives is measured and has improved operational statistical data and final reporting. Action is also being taken to control the average duration of cases. The limited strategic intelligence resources are being used to pinpoint high risk areas where new cases may be identified. Training, particularly of investigators, has been increased.

Some important issues were tackled in 2007, as planned. These included an agreement with the Commission and with the relevant staff associations, reached in early 2007, on a package of measures to ensure stability of staffing, notably through making indefinite contracts available to OLAF temporary agents under certain circumstances. A ***Time Management System*** was introduced on 1 April 2007 for the whole Office to improve measurement of the staff's actual workload, and to enhance its overall efficiency. Investigative procedures have been set out in the OLAF Manual.

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2 Statistical trends in operational activities (2003-2007)[8]

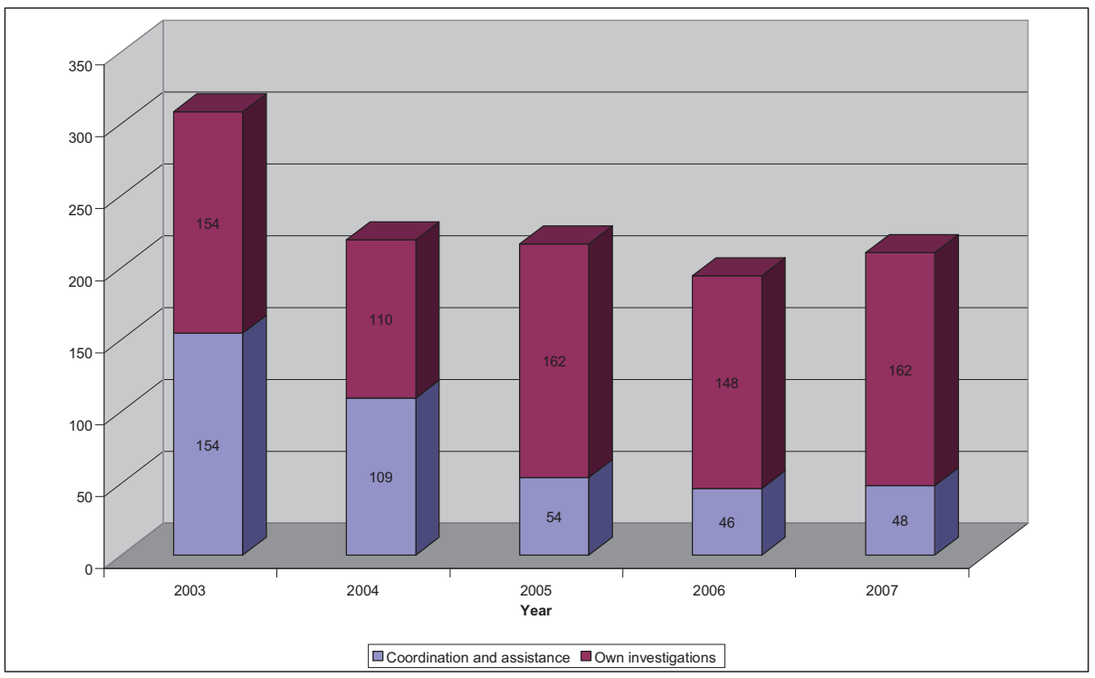
2.1 General trends

The volume of information received by OLAF has risen steadily since 2003. At the same time, the average length of standard evaluations, after a sharp decline, increased again in 2007. Since the introduction of the simplified procedure for "non cases prima facie", the Board is required to assess only information containing allegations falling within the competence of the Office.

Since 2004, the number of OLAF's own investigations has caught up with and overtaken the number of cases in which OLAF assists national authorities (see **Chart 1** below) to the point where 'own investigations' account for 75% of cases opened, compared with 25% for 'coordination and assistance' cases.

Areas in which Member States do not exercise specific responsibilities — '*Direct Expenditure*' and '*External Aid*' cases — represent a growing proportion of the new cases opened by OLAF (up from 30% in 2005 to 36% in 2007).

Chart 1: Number of opening decisions by year and nature of the investigation



The proportion of cases closed with follow-up has continued to increase, and now represents more than 65% of all cases closed, compared with less than 45% before 2004 and 61% in 2006.[9] This confirms that OLAF is increasingly focusing on serious cases. The majority of follow-up work is still financial recovery and judicial follow-up, which accounted for more than 75% of total follow-up

[8] The last five calendar years (2003-2007) have been chosen as a reference period for identifying the main trends in OLAF's operational activity

[9] See **Chart 24.**

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activities undertaken by the Office in 2007. In the same period, the number of administrative follow-up[10] cases remained quite steady and has now consistently represented a share of 15% to 20% of total OLAF follow-up activities for more than four years.

The amount of information sent to OLAF tends to increase over time (up 59% since 2003 and up nearly 8% since 2006). This trend is primarily explained by the fact that more informants are coming forward, as the number of referrals from this source has increased by 20% since 2005. This encouraging development may be interpreted as the result of increased awareness of OLAF among the general public and the Member States.

2.2 Trend analysis

Chart 2 shows the level of incoming information over the past five calendar years.[11]

The volume of information received has steadily increased since 2002 and rose for the fifth consecutive year (by 8%). This growth was supported by a sharp increase in the number of referrals to OLAF from informants, Member States and from the freephone network.

Informants include: witnesses; anonymous sources, media and trade sources; and whistleblowers. In this context, a whistleblower is defined as an EU official or other EU staff member (temporary, auxiliary, local, or contract staff, or special advisers) who comes forward to OLAF with information they have discovered in the course of or in connection with their duties concerning matters which may be within OLAF's competence. Unlike informants, EU officials and other EU staff are under a legal obligation to come forward with such information.

In 2007 OLAF received eight new items of information from whistleblowers who sought protection under the provisions of the Staff Regulations.

These data are further detailed in **Chart 15**.

Chart 2: Number of initial items of information received per year

2003	2004	2005	2006	2007
559	662	802	822	**886**

Each initial item received by OLAF is subject to a thorough evaluation leading to a recommendation as to whether a case should be opened or not and, if opened, into which category it falls.

The evaluation period is calculated from the date of receipt of the information to the date of the recommendation made by the Board to the Director-General. The total number of evaluations increased again in 2007 after a slight decrease in 2006, coming back to previous levels of activity (**Chart 3**).

On the other hand, the steady fall in the average length of standard evaluations, from 10.6 months in 2002 to 5.2 months in 2006, was interrupted in 2007, with a rise to 6.3 months (**Chart 4**). An increase in the average duration of evaluations from 2005 onward was to be expected, as from 2004 onwards a greater proportion of information received was excluded from this calculation with the introduction of the '*non case prima facie*' system. But even though OLAF continues to seek to improve this aspect of its performance, the information passed on to the Office is of an increasingly substantive and serious nature. Delays can also be often caused by translation requirements and by the need to wait for replies

[10] An explanation of administrative follow-up is provided in paragraph 3.4.1.
[11] Data for 2006 has been corrected to avoid duplication.

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from external operational partners. Priority continues to be given to the assessment of information in respect of which OLAF has a clear mandate.

Chart 3: Number of evaluations including and excluding "non case prima facie"

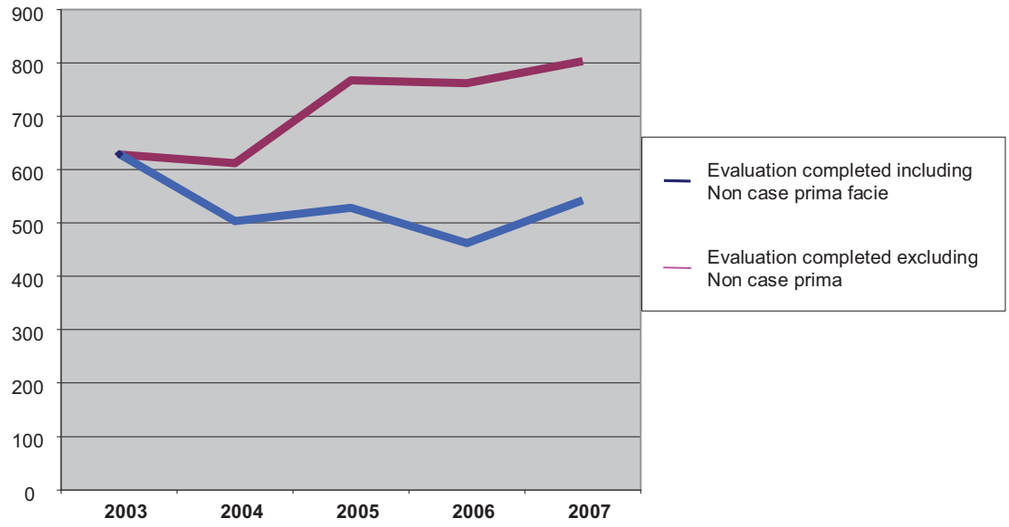


Chart 4: Average duration in months of evaluations excluding 'non case prima Facie' information in each calendar year

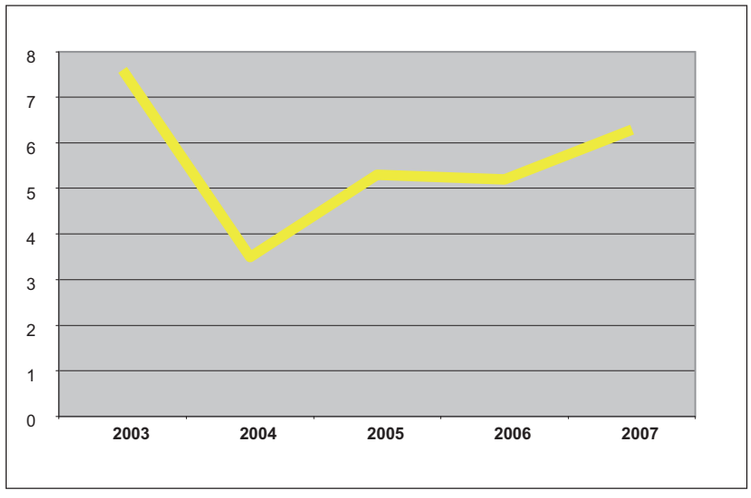


Chart 5 below reflects the type of decisions taken at the end of the evaluation stage. The overall spread between the different types of cases indicates that OLAF tends increasingly to concentrate on its own investigations, rather than simply providing assistance to national authorities. Opening decisions in the latter, represented by '*coordination*' and '*criminal assistance*' cases, are still decreasing over the five year period, accounting in 2007 for less than 23% of opened cases, as compared with 50% in both 2003 and 2004.

Similarly, the rising number of '*monitoring actions'* is an indicator of closer cooperation with the relevant authorities in the Member States.

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Chart 5: Decision taken at the end of the evaluation stage in each calendar year

Type of decisions	2003	2004	2005	2006	2007
Co-ordination case	86	81	37	26	**39**
Criminal assistance case	68	28	17	20	**9**
External investigation case	127	87	121	111	**127**
Internal investigation case	27	23	41	37	**35**
Total cases opened	308	219	216	194	**210**
Non case	261	256	273	209	**266**
Investigation created in Irene	19				
Monitoring case	39	29	40	59	**67**
Total	**627**	**504**	**529**	**462**	**543**

The investigations created in IRENE refer to cases classified in UCLAF's IRENE database.

As shown in **Chart 6**, a significant proportion of new cases opened in 2007 related to '*Direct expenditure*' and '*External Aid*' (75 cases out of 210, i.e. more than one third of total cases opened). This global figure seems once again to confirm that OLAF's activities are moving towards areas in which Member States do not exercise specific responsibilities. For organisational purposes, cases involving funds directly managed by the Commission (or, occasionally, other EU bodies) are divided into two categories: '*direct expenditure*' within Member States and '*external aid*'. Although there was again a sharp increase in the number of cases in the '*external aid'* area, '*direct expenditure'* cases remained at a relatively low level by contrast to previous years.

Chart 6: Number of direct expenditure and external aid cases opened

Area	2003	2004	2005	2006	2007
Direct expenditure	23	23	28	11	11
External aid	56	30	36	54	64

The number of cases completed, which had been declining over time, has reverted to 2005 levels, and the average 'active stage' duration increased slightly from 27 to 28 months in 2007 (**Chart 7**). OLAF will continue to take action to monitor and reduce the duration of its investigations, even though this duration is in large part due to factors which are out of the Office's control. Since the introduction of the 'simplified procedure' in 2004 along with other changes in operational policy the decision to open a case is targeted more and more on the most serious cases, which are often very complex and take a long time to finalise. OLAF remains committed to tackling the issues arising in this domain so as to bring the average duration down below 24 months.

Thanks to renewed efforts in 2007, some indicators already demonstrate positive developments expected in the coming months: e.g. the number of investigations opened for more than three years has decreased from 15% to 10% of the total of opened investigations in that year, while the number of follow-up paths opened for more than three years has decreased from 50% to 47%.

However, the achievement of this long-term target must take account of wide differences between types of investigation and areas concerned.

This record is supported by **Chart 8** and **Chart 9** which both illustrate the difficulties faced by investigators in complex cases and in cases where the assistance or the collaboration of Member States or outside authorities is required.

Chart 8 shows that **internal investigations**, for which no outside coordination is necessary, and **criminal assistance cases**, for which OLAF support is limited in time and scope, do not exceed the 24-months threshold. However, **external investigations**, often the most complex cases, and **coordination cases**, where heavy coordination work is needed, significantly exceeds this limit.

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Chart 7: Cases completed and duration of active stage completed in each calendar year (NB: logarithmic scale)

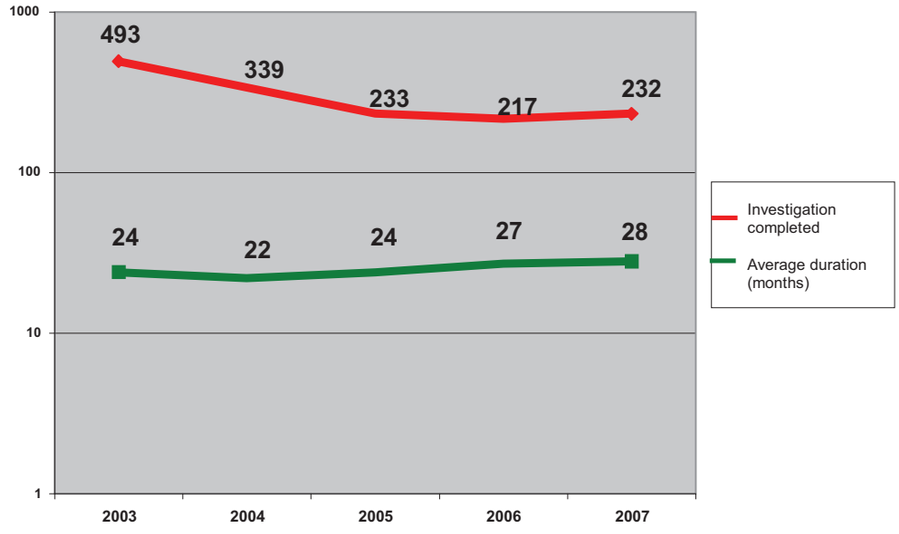


Chart 8: Average duration of active stage completed in 2007 per type of investigation

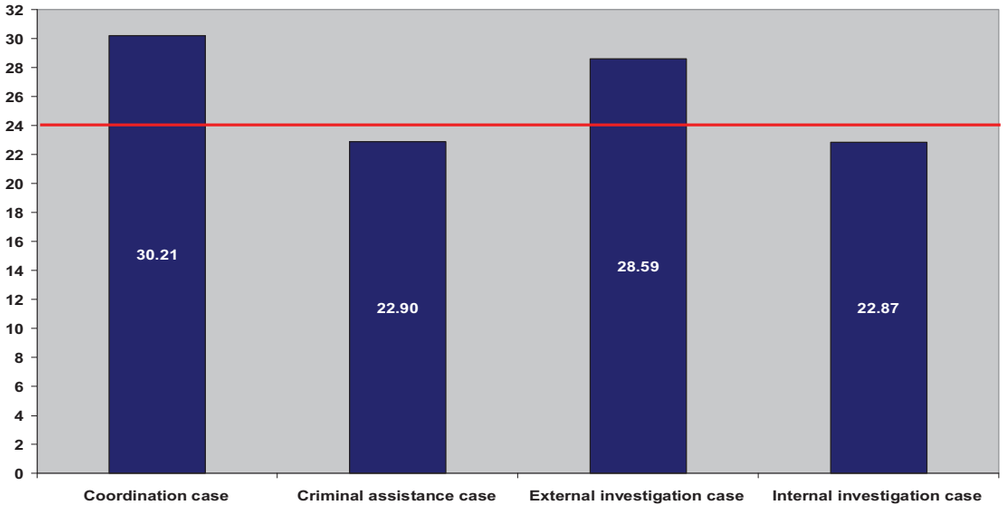
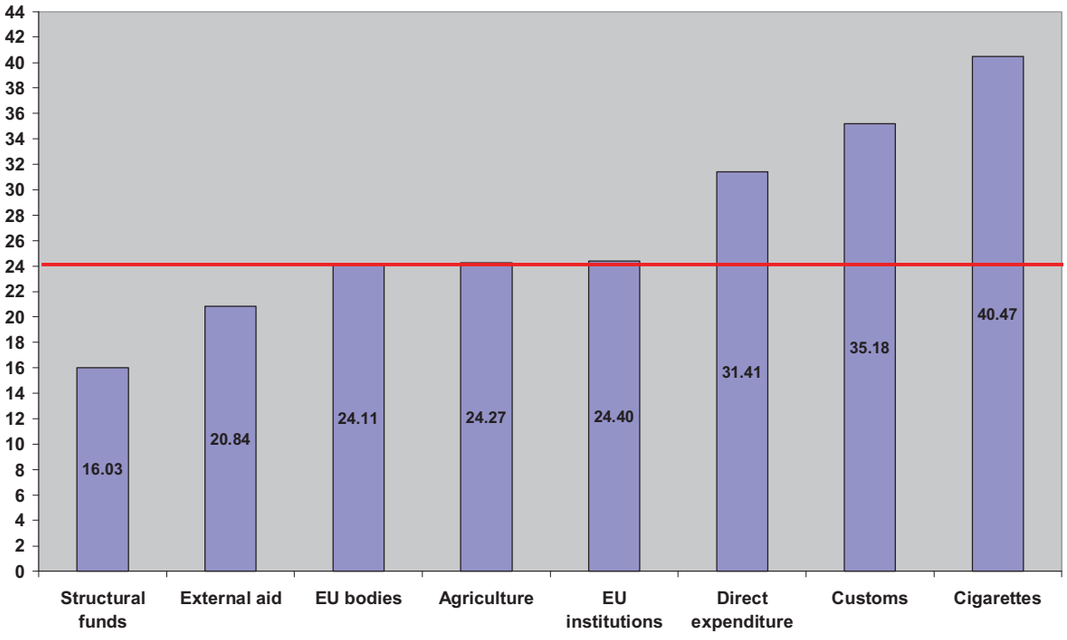


Chart 9 gives more detail on these developments by illustrating the spread in investigation times between different areas of OLAF investigations, which is in large part attributable to the level of complexity of frauds and irregularities, the involvement of outside partners of OLAF and the type of expenditure — direct or shared management — in question.

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Chart 9: Average duration of active stage completed in 2007 per area concerned



As **Chart 10** shows, the proportion of cases closed with follow-up has consistently increased since 2003. Cases closed with follow-up amounted to more than 65% of cases closed in 2007 (compared to 41% only five years earlier). This positive development demonstrates that OLAF's operational and investigative work has been successfully translated into a proportionate increase in significant results.

Chart 10: Cases closed with or without follow-up in each calendar year

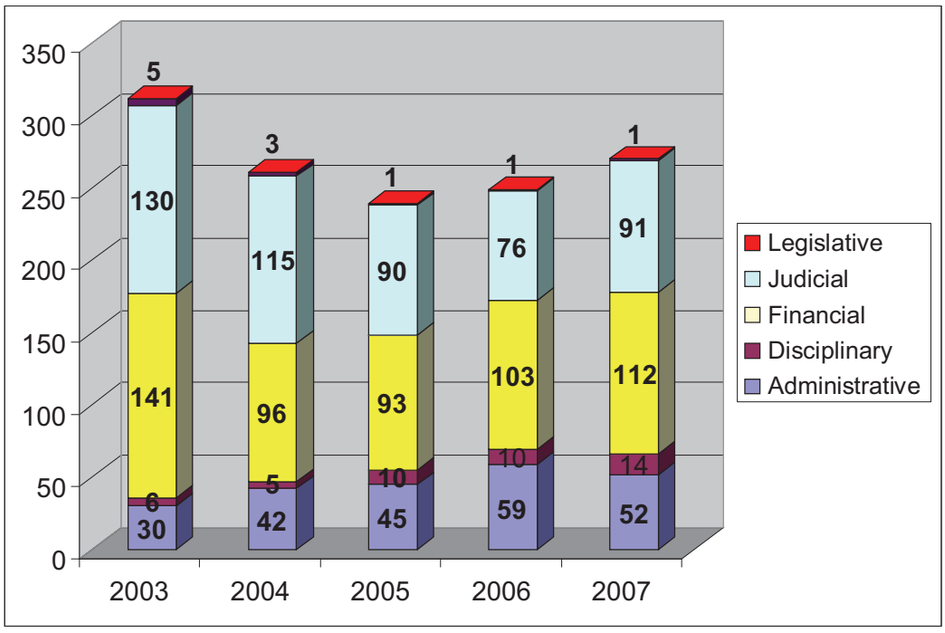
Type of closure	2003	2004	2005	2006	2007
Follow-up	205	157	133	133	153
No follow-up	288	182	100	84	79
Total	**493**	**339**	**233**	**217**	**232**

The result of a case may lead to several types of follow-up activity: administrative, financial, legislative, judicial or disciplinary**.** **Chart 11** illustrates the spread of follow-up activities related to the cases closed in the last five years. For instance, the 153 cases closed with follow-up in 2007 have triggered the start of 249 follow-up proceedings. This is attributable to the fact that there can be more than one follow-up activity for each case.

Chart 11: Cases closed with follow-up and type(s) of follow-up opened

Type of closure	2003	2004	2005	2006	2007
Cases closed with follow-Up	205	157	133	133	153

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NB: One closed case can have several types of follow-up

The bulk of the **follow-up work** concerns financial recovery and judicial activities, which represent respectively 41% and 34% of the follow-up activities undertaken. At the same time, the previous upward trend on a yearly basis in administrative follow-up cases (see paragraph 3.4.2) stopped in 2007, though this work still constitutes some 20% of OLAF's follow-up activities.
It is also worth pointing out the increase in the number of disciplinary follow-up paths, showing OLAF's determination to support the zero tolerance policy applied within the EU institutions and bodies when serious misconduct arises.

As for **monitoring actions**, a similar pattern of activity emerges, as indicated in **Chart 12**.

As mentioned in paragraph 1.4, monitoring actions, introduced in 2002, are those where OLAF has the legal competence to conduct an external investigation, but where a Member State or another authority is in a better position to do so. These cases are passed directly to the relevant authority for completion and no OLAF investigative resources are required. One or more OLAF follow-up units will then monitor progress made. The number of monitoring actions continued to increase in 2007 and has almost doubled since 2005. This trend is a consequence of improved cooperation with the relevant authorities in the Member States.

Chart 12: Monitoring actions opened showing type(s) of follow-up opened

Type of closure		2003	2004	2005	2006	2007	Total
Monitoring cases		39	29	40	59	67	234
Related Follow-up Activity (several possible per case)	Administrative	11	6	7	19	21	64
	Financial	21	10	21	33	35	120
	Judicial	22	21	32	46	55	176
	Legislative		1	1	1		3
Total		54	38	61	99	111	363

The responsibility for follow-up in most cases falls to the relevant national authorities. **Chart 13** illustrates the number of cases and respective follow-up activities **completed**. The follow-up paths are

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closed once the decision taken by the national or disciplinary authorities has become definitive. Therefore, the completion of follow-up depends to a large extent on the input of those authorities. After a one third fall in follow-up completed in 2006, due to major efforts made by OLAF to close long-standing follow-up actions, the number reverted in 2007 to the previous highest levels,

Chart 13: Completion of follow-up showing type(s) of follow-up closed in each calendar year

Type of closure		2003	2004	2005	2006	2007	Total
Cases with follow-up completed		22	82	87	64	86	341
Type of follow-up activity closed	Administrative	2	10	17	14	16	59
	Disciplinary			2	3	2	7
	Financial	18	58	65	39	73	253
	Judicial	7	31	36	30	27	131
	Legislative		2	1	1	1	5
Total		27	101	121	87	119	455

Chart 14 reflects the annual breakdown of financial recovery completed in the last five calendar years: €203 million recovered as a result of follow-up actions closed in 2007; €275.5 million were also recovered in respect of follow-up actions which are still ongoing. The large fluctuations observed from year to year are due to the fact that a few high profile cases accounted for a large share of recoveries in past years.[12] These sums represented only a fraction of the total amounts recovered following fraud or other irregularity, as most of the recoveries are made by Member States with no direct link to OLAF cases.[13]

Chart 14: Breakdown of amounts recovered following OLAF cases in € million ***(data relates to amounts recovered in financial follow-up paths closed in each calendar year by OLAF, except for the last column)***

Major Area	2003	2004	2005	2006	2007	Total	*Additional amounts recovered in respect of follow-up paths still open*
Agriculture	0.00	0.07	14.43	1.18	0.84	**16.52**	*144.77*
Customs	0.03	1.58	63.05	0.13	3.34	**68.13**	*102.47*
Direct expenditure	0.22	1.86	0.18	0.25	0.49	**2.99**	*0.44*
EU institutions + Bodies	0.00	0.04	0.00	2.16	0.13	**2.33**	*1.84*
External aid	0.88	2.01	31.78	92.72	0.90	**128.29**	*3.97*
Structural funds	1.47	192.62	97.96	17.22	197.67	**506.95**	*22.04*
Total	**2.61**	**198.17**	**207.40**	**113.66**	**203.37**	**725.21**	***275.52***

[12] Notably, one monitoring case regarding structural funds led to the recovery of more than €115 million

[13] See the *Commission Report on the Protection of the Communities' financial interests — Fight against Fraud 2007* for more details.

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3 Operational Activities in 2007

3.1 Incoming information

OLAF received 886 new items of information in 2007 (**Chart 2**). Evaluations were completed for 543 of these cases (**Chart 3**). The remainder were either treated under the simplified procedure as '*non-cases prima facie*' (260 cases in 2007) or the information was evaluated as linked to existing cases.

Chart 15: Distribution of initial information received by source

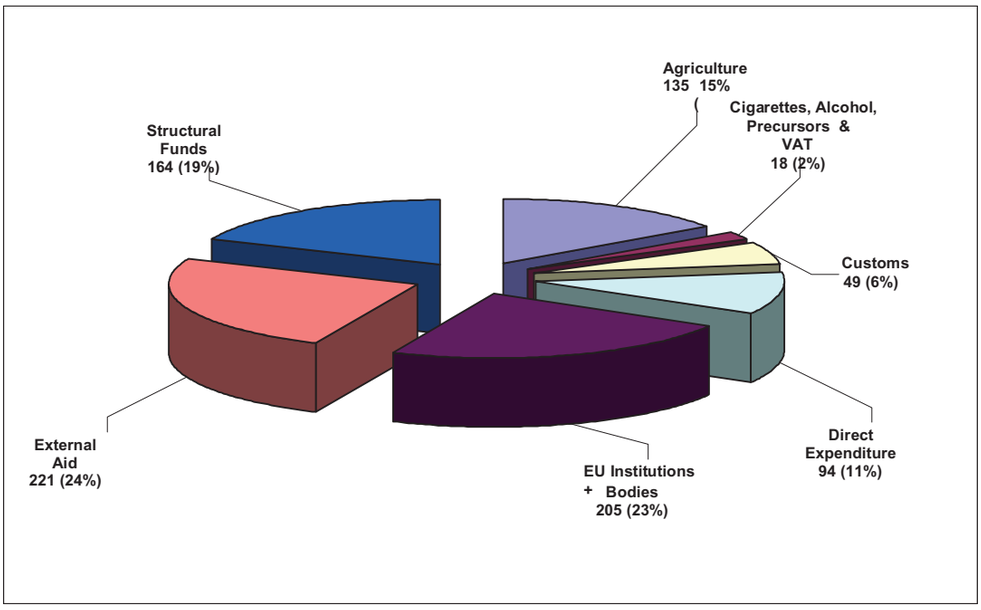
Source	New Information received (net evolution / 2006)	As percent of total
European Commission	259 (+1)	29%
Free phone	43 (+17)	5%
Informants	425 (+28)	48%
Member States	129 (+24)	15%
Other EU Institutions	17 (-2)	2%
Others	13 (-8)	1%
Total	**886**	**100%**

'Informants', representing about half (48%) of the total incoming information, the European Commission, representing about one third (30%), and Member States, representing about 14%, account collectively for more than 90% of the incoming information (**Chart 15**).

As these sources of information had already increased in 2005 and 2006, the latest figures reflect increased public awareness of the Office, confirming and reinforcing OLAF's role as a 'pillar of trust' in the fight against fraud.

Chart 16 below details the initial information received in 2007 by OLAF area. The proportion is roughly the same as in 2006 and 2005. A slight increase in the volume of information received is nonetheless to be noted in the '*External aid*' area, at the expense of the internal investigations area (*EU institutions + bodies*).

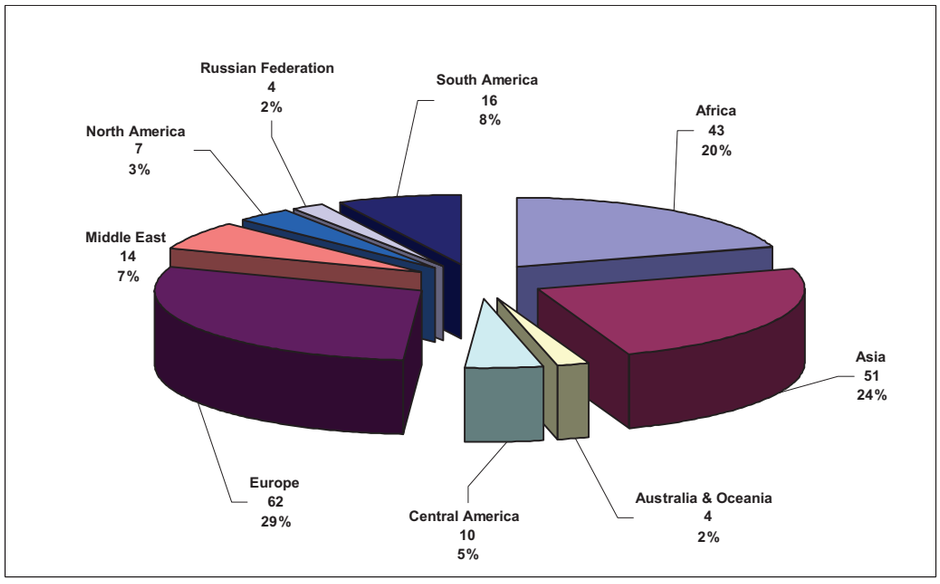
Chart 16: Initial information received in 2007 by area



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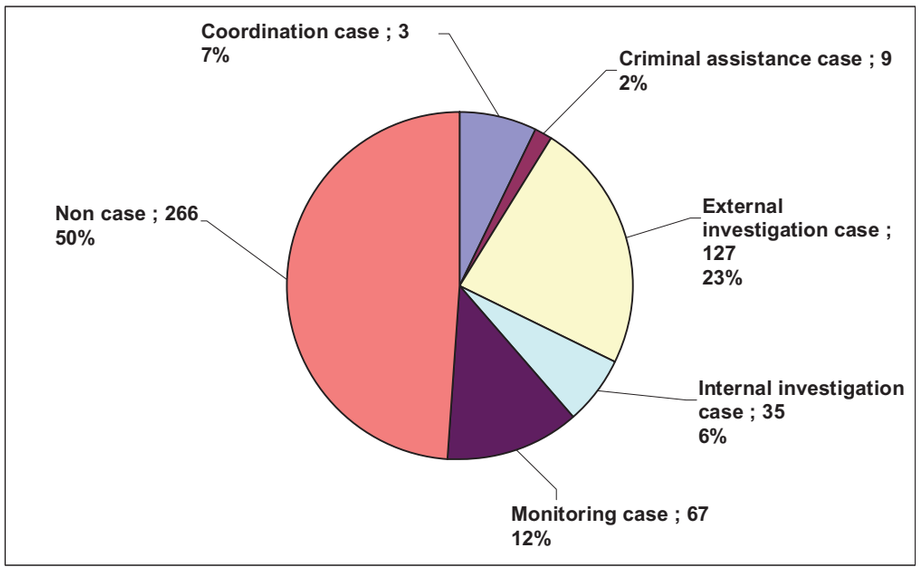
Chart 17 below, showing the distribution of initial information in relation to activities in non-EU countries, demonstrates that the pattern is similar to that in previous years. Africa and Asia still represent about half of all the initial information received, Europe (outside the EU-27) remaining nonetheless the principal source of initial information.

Chart 17: Distribution of initial information received concerning non-EU countries by geographical region



As described earlier, the 'Investigations and Operations Executive Board' analyses the information received by OLAF, in order to make a recommendation to the Director-General on the issue of opening a case. **Chart 18** shows a breakdown of the number of decisions to open and not to open a case in 2007. The proportion is also very similar to that observed in 2006.

Chart 18: Decisions taken during 2007



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The total number of opening decisions rose from 195 in 2006 to 210 in 2007, reverting to its 2005 level **(Chart 19)**. The 2007 figures confirm the distinct trend in new OLAF casework observed last year, away from coordination and assistance work (42% of the total including monitoring cases but excluding non cases) towards OLAF's own investigations (45% for external cases and 13% for internal cases).

This trend is driven by four main factors:

- a decline of more than 50% in the number of agriculture-related cases opened (from 64 in 2004 to only 30 in 2007), particularly due to an increasing shift in agriculture-related opening decisions from coordination and external investigation towards monitoring;
- an increase in cases opened in internal investigations (from 20 in 2004 to 35 in 2007);
- a change in the types of cases opened to do with the Structural Funds (11 external investigations were opened in 2004 and 19 in 2007);
- growth in '*external aid*' investigations (up 70%, from 36 in 2005 to 64 in 2007).

Chart 19: Opening decisions taken in 2007 by area and type of decision

Major Area	Co-ordination Case	Criminal Assistance Case	External Investigation Case	Internal Investigation Case	Total	Monitoring Case	Non Case
Agriculture	15		15		30	15	48
EU institutions + Bodies			12	34	46		45
Cigarettes	5	3			8		2
Customs	18	4	8		30	3	21
Direct expenditure			11		11	7	21
External aid		1	62	1	64	22	62
Precursors					0		6
Structural funds	1	1	19		21	16	58
VAT					0		3
Total	39	9	127	35	210	67	266

The geographical breakdown of new case records is illustrated by **Chart 20**. One case record may relate to more than one country, as cases can have a trans-national dimension. A proportionally higher occurrence of cases is to be expected in Luxemburg and Belgium relative to their size, population and receipts from the EC budget, given that they are the seats of the largest European institutions. The vast majority of the internal investigations are therefore undertaken in these countries.

In proportion to population, and with the exception of Belgium and Luxemburg, the highest occurrence of cases was to be found in Bulgaria, followed by Romania and Greece.
A significant share of OLAF's new case records (666 in total) relates to a small number of countries: approximately 60% of all new case records created in 2007 originated in five member states (Belgium, Bulgaria, Germany, Italy, Romania).

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Chart 20: Distribution of new case records created in 2007 by Member State

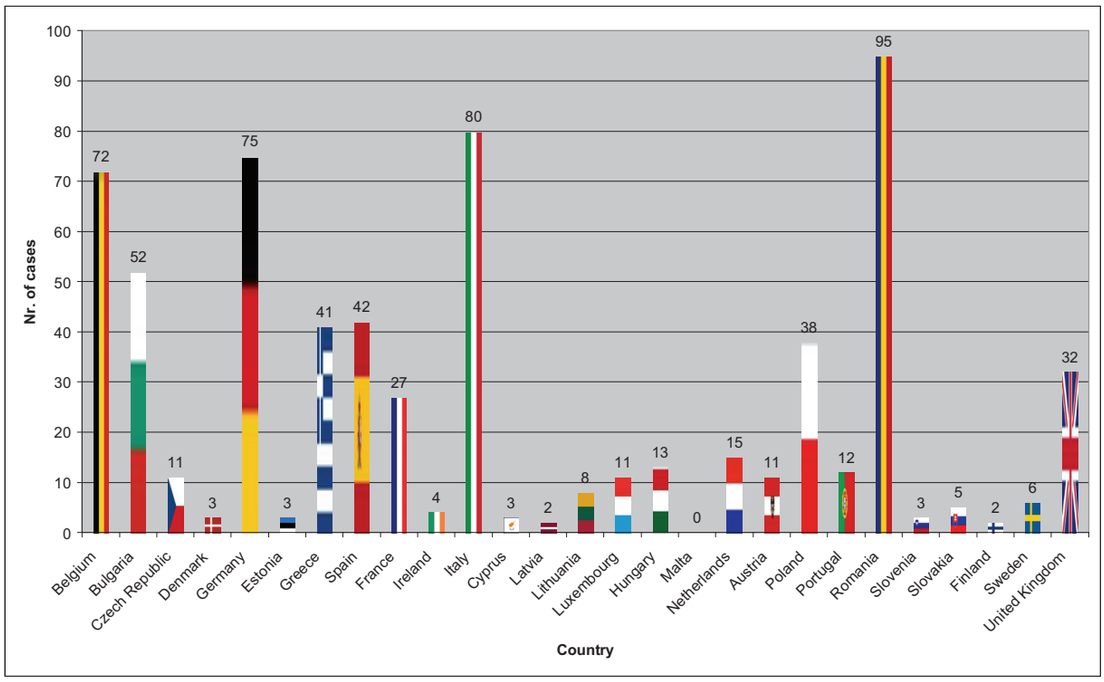
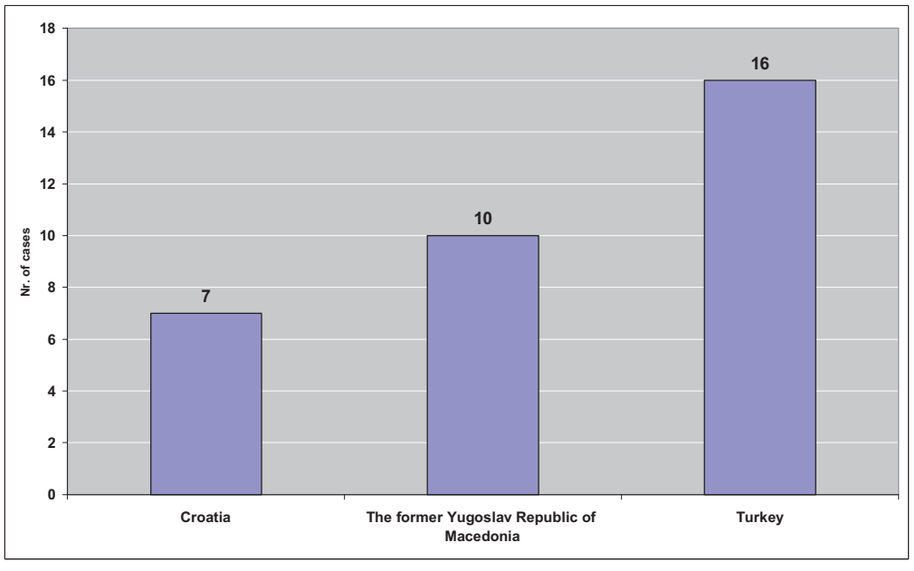


Chart 21 shows the corresponding information for the three candidate countries: Turkey, Croatia and the Former Yugoslav Republic of Macedonia (FYROM). The wide disparity in the number of case records between these countries and the two countries which joined the European Union in 2007 is not only due to the difference in the amounts of financial allocations granted but also to the establishment of Anti-Fraud Coordination Structures in Bulgaria and Romania (AFCOS). Similar structures are expected to be set up in the candidate countries in the coming months (see 5.3).

Chart 21: Distribution of new case records created in 2007 by candidate country



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3.2 General statistics on case records and investigative activity

An overview of the active cases and cases under evaluation by area of activity at the end of 2007 is provided in **Chart 22**. It includes a breakdown of cases under standard evaluation by OLAF area.

The number of active cases decreased by some 10% since 2005, showing clear evidence of the efforts made by OLAF to keep a 'clearance rate'[14] below one, and consequently reduce the backlog of old cases pending.

An increasing proportion of open cases consists of '*external aid*' cases, whereas '*agriculture*', '*VAT*' and '*Customs'* cases are declining, reflecting OLAF's decisions on prioritisation.

Chart 22: Active cases by type and cases under evaluation at the end of 2007

Major area	Co-ordination Case	Criminal Assistance Case	External Investigation Case	Internal Investigation Case	Total	Evaluation
Agriculture	23		27		**50**	50
Cigarettes	17	6	2		**25**	
Customs	21	3	24		**48**	12
Direct expenditure		1	26		**27**	33
EU institutions / bodies		4	21	69	**94**	61
External aid		6	106	1	**113**	102
Precursors						5
Structural funds	2	7	39		**48**	96
VAT	1	2			**3**	
Total	**64**	**29**	**245**	**70**	**408**	**359**

Chart 23 provides a **snapshot** of all active cases at the end of 2007 showing the instances where Member States and acceding or candidate countries are involved. More than one country can be registered per case record.

[14] The clearance rate is the ratio between the number of cases opened and the number of cases closed in a given year.

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Chart 23: Active cases at the end of 2007 by Member State and Candidate Country

Status of Country	Country involved		Agriculture	Cigarettes	Customs	Direct Expenditure	External Aid	Internal Investigations	Precursors	Structural Funds	VAT	Total
Member States	BE	Belgium	1	10	1	5	2	37		2	1	59
	BG	Bulgaria	3	1			10	1				15
	CZ	Czech Rep.	1		1							2
	DK	Denmark	1		1						1	3
	DE	Germany	5	6	7	4	1	1		1	1	26
	EE	Estonia									1	1
	EL	Greece	8	3		3		5		10		29
	ES	Spain	3	1	2	4		1		8	1	20
	FR	France	2	1	1	4	8	2		1	1	20
	IE	Ireland	3	2								5
	IT	Italy	12	4	4	2	6	8		14	1	51
	CY	Cyprus		5		1	1					7
	LV	Latvia		2								2
	LT	Lithuania					1			2		3
	LU	Luxembourg	1				1	4				6
	HU	Hungary			1	1						2
	MT	Malta										0
	NL	Netherlands	1	2	2	1					1	7
	AT	Austria	3	1	1	1						6
	PL	Poland	1	3	1		3			2	2	12
	PT	Portugal	1		1	1				4		7
	RO	Romania	5	1			14					20
	SI	Slovenia		3	1		2					6
	SK	Slovakia	1		1					1		3
	FI	Finland									1	1
	SE	Sweden		2	1						1	4
	UK	United Kingdom	4	5	3	3	3			2	1	21
	Subtotal		56	52	29	30	52	59	0	47	13	338
Candidate Countries	HR	Croatia		1		1	1					3
	MK	FYROM						4				4
	TR	Turkey	3		1		5	1				10
	Subtotal		3	1	1	1	6	5	0	0	0	17
TOTAL			59	53	30	31	58	64	0	47	13	355

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The number of **cases closed** increased slightly from 216 in 2006 to 232 in 2007, reverting to its 2005 level (**Chart 24**). As highlighted earlier, more cases were closed with follow-up recommendations than without for the third consecutive year, with a two-to-one ratio.

Chart 24: Cases closed in 2007 by area

Major Area	Follow-up	No follow-up	Total
Agriculture	26	19	45
Cigarettes	5	9	14
Customs	41	10	51
Direct Expenditure	15	7	22
EU Bodies	7	6	13
EU Institutions	15	14	29
External Aid	25	6	31
Precursors	0	1	1
Structural Funds	14	4	18
VAT	5	3	8
Total	153	79	232

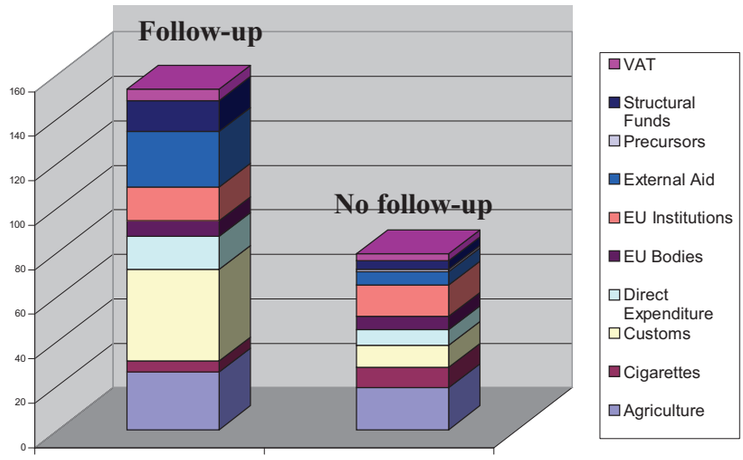


Chart 25 shows the historical estimated financial impact of OLAF cases[15] by area and by stage at the end of 2007. 'Open' denotes those 408 cases which were in their active stage. 'Closed' represents cases in follow-up, including monitoring actions; closed without follow-up and where follow-up has been completed.
The overall estimated financial impact of cases exceeds €1 billion in the '*Structural Funds'*, '*Agriculture'*, '*Customs'* and '*Cigarettes'* areas.

Chart 25: Financial impact of open and closed OLAF cases up to the end of 2007

Area	Open (€ million)	Closed (€ million)	Total (€ million)
Agriculture	108.8	1,363.4	1,472.2
Alcohol	0.0	179.8	179.8
Cigarettes	273.0	1,051.7	1,324.7
Customs	493.3	820.9	1,314.2
Direct expenditure	14.1	269.7	283.8
EU bodies	8.0	108.4	116.4
EU institutions	281.6	263.9	545.5
External aid	192.6	249.6	442.2
Structural funds	172.4	1,478.2	1,650.6
VAT	15.0	712.8	727 8
Total	1,558.8	6,498.4	8,057.2

3.3 Case records and investigative activity by area

3.3.1 Internal investigations

As shown in **Chart 22,** the internal investigations[16] workload totalled 94 open cases and 61 items of information under evaluation at the end of 2007. The number of open cases remained stable.

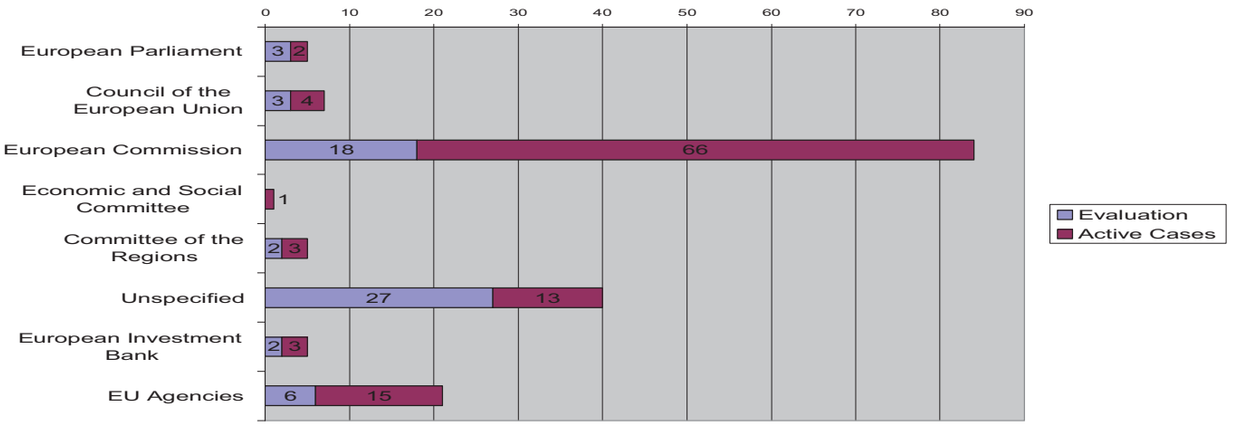
Chart 26 indicates which EU institutions or bodies have been involved in internal investigation cases. As the European Commission manages a far greater part of the budget than the other institutions and accounts for most EU officials and other staff, it is more frequently the subject of investigations. As an internal investigation may involve more than one institution, the total number of cases classified by institution (107) is higher than the number of internal active cases (94).

[15] Data referring to all cases treated by OLAF, including monitoring cases.
[16] 'EU bodies' + 'EU institutions'

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The quality of initial information and the degree of detail of supporting documents have improved over time. Information is received and exchanged faster and more efficiently. Cooperation with the institutions has improved significantly.

Chart 26: Internal investigations under evaluation and active stage at the end of 2007



Case Study: Embezzlement by an agent in an EC Delegation

OLAF was informed by a Director-General of the Commission that irregularities had apparently been committed by an agent employed in a Delegation. As a result of its findings, the concerned DG suspended and subsequently dismissed the agent.

After evaluating the matter and opening an investigation, OLAF investigators clarified the allegations. The involvement of a second local agent was suspected.

OLAF investigators carried out a mission to the Delegation and interviewed several witnesses and two secondary 'interested parties'. The main suspect was subsequently interviewed.

The OLAF investigation was able to confirm a number of apparently illegal acts committed by the former agent. These included theft of money, false accounting and attempted corruption of a third local agent. The losses arising from the agent's misconduct were found to total several tens of thousands of euros, of which half represented losses to the EU budget.

The OLAF investigation established that the second local agent had conspired with the first in the commission of some of the irregularities. Their line manager, on the other hand, had not been aware of the conspiracy, but had been negligent in failing properly to supervise the administration and procurement functions of the Delegation.

OLAF therefore recommended that the file be transmitted to the judicial authorities of the EU Member State. OLAF also recommended that the line manager should not be reappointed to another post with similar responsibilities.

Case Study: Favouritism committed during a tender procedure at a European agency

The Director of an EU agency informed OLAF of allegations of favouritism allegedly committed by two staff members in the course of tender procedures. Given the seriousness of the allegations, OLAF opened an internal investigation and conducted the following operations:

- mission on-the-spot to seize IT material used by the concerned parties
- analysis of the content of hard disks
- interviews with witnesses and interested parties in different places in Europe.

The investigation revealed that the main allegation (favouritism) had not occurred and the contracts had actually been awarded to the best offer. However, OLAF discovered that one of the parties had breached the duty of loyalty in the Staff Regulation in relation to one of the contracts. The official had obtained a favour from one bidder shortly before the evaluation had taken place.

On this basis, OLAF recommended disciplinary proceedings against the staff member and did not rule out the possibility that the facts would have an impact on the continuation of the contractual relationship. The latter decision was left to the Director of the Agency.

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Case Study: Alleged fraudulent pension claim by a retired official

The European Paymaster Office (PMO) referred to OLAF the file of a retired official whom the PMO suspected of making unjustified pension claims. On the basis of annual declarations to the Commission that his main residence was in country A, the retired official, who did not possess country A's nationality, received a weighted increase to his pension to reflect the cost of living in country. This amounted to an increase of nearly 40% of the basic amount of the pension.[17]

OLAF informed the retired official of the opening of its investigation, and invited him to provide proof of his residence in country A. The documents provided were insufficient to demonstrate his place of actual residence.

OLAF interviewed witnesses and gathered information from the national administration. The OLAF investigator in charge visited the address in country A given by the official to the Commission as his main residence. He learned that it belonged to a local man who lived in a third European country, while the retired official had never lived there. The investigator flew to the third European country, where the official was actually found to be living. The owner of the house in country A was interviewed as a witness by OLAF, and stated that he had agreed to sign a rental agreement for his house in country A with the official in order to establish a place of residence.
The case was referred to judicial authorities, and OLAF also recommended disciplinary, financial and administrative follow-up.

3.3.2 Direct expenditure (excluding external aid)

Direct expenditure (excluding external aid) includes all the programmes and actions which are managed by the Commission under the so-called 'centralised management' system pursuant to Article 53 (1) a) of the Financial Regulation. In this area, 11 cases have been opened in 2007 (**Chart 6**), while 27 cases were active and 33 cases were in evaluation at the end of the year (**Chart 22**).

Case study: Plagiarism in research projects

A Directorate-General of the European Commission transmitted information to OLAF on possible irregularities committed by the manager of a research centre in the course of projects subsidised by Community funds. The alleged wrongdoings included falsifications of time management reports and plagiarism of the findings of former projects.

OLAF investigated the case using computer forensics and gathered additional information within the European Commission to strengthen the evidence of irregularities. At the same time, after consultations with OLAF, the DG concerned carried out an audit of research projects, which confirmed that false time management statements had been filed by the interested party. OLAF subsequently carried out on-the-spot administrative checks on several projects subsidised by the EC, together with the national police force which was acting as a representative of the Member State. The police then notified the Director of the research centre of the seizure of all documents related to these projects and of the allegations of forgery and the use of forged documents underpinning the national judicial investigation.

The analysis carried out by OLAF confirmed the allegations of plagiarism through the systematic use of old academic papers.

The results of the investigation were transmitted to the judicial national authorities for the criminal investigation, and to the services of the EU Commission concerned, to recover up to one million euros in unduly paid subsidies.

3.3.3 Pre-accession funds

Chart 27 shows the number of cases opened in the new Member States and the candidate countries. '*Agriculture'* (with SAPARD) and '*External Aid'* (PHARE and ISPA) relate to pre-accession financial assistance. For the 12 'new Member States', all the cases refer to commitments made before their accession to the European Union on 1 May 2004 or 1 January 2007.

The 10 new Member States that joined the EU in 2004 were granted a Transition Facility for 2004-2006. Contracting is envisaged to continue until 2008 and payment of funds until 2009. Bulgaria and Romania were

[17] Note: Pension rights acquired before the entry into force of the Staff Reform are adjusted according to the weighting for each Member State. The weighting reflects the higher or lower cost of living in other European countries compared with Brussels.

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granted a Transition Facility in 2007; implementation is expected to continue until 2010. These Transition Facilities provide continued financial assistance in a number of core areas requiring further reinforcement, as identified in the last Comprehensive Monitoring Reports before accession. Assistance is implemented under the Extended Decentralised Implementation System (EDIS).

It is to be noted again that most cases concern Romania and Bulgaria (10). This is mainly because the majority of pre-accession assistance was granted to Romania and Bulgaria (some 61% of the total in 2006 (€2.9 billion)); and also because of Romania's good cooperation in providing information on the suspected cases of fraud.

***Chart 27: Cases opened in 2007 concerning new Member States (since 2004) and candidate countries** (one case can relate to more than one country)*

Country	Agriculture	Anti-corruption	Cigarettes	Customs	Direct expenditure	External aid	Structural funds	EU institutions & bodies	Total
Bulgaria	2					8			10
Czech Rep.	1			1					2
Cyprus			2		1				3
Estonia									0
FYROM		1						3	4
Croatia					1				1
Latvia									0
Lithuania							2		2
Hungary				1					1
Malta									0
Poland	1		1	1		2	2		7
Romania	3					7			10
Slovenia									0
Slovakia	1			1			1		3
Turkey						4			4
Total	**8**	**1**	**3**	**4**	**2**	**21**	**5**	**3**	**47**

Case Study: Fraud and irregularities concerning projects funded by pre-accession funds

An individual reported possible irregularities in several projects aimed at improving the quality of life of local communities. The allegations sent to OLAF concerned infrastructure (a bridge and a dispensary) subsidised by a pre-accession fund.

OLAF opened an external investigation and involved the national Department responsible for the fight against fraud in the investigation. The joint team investigated the allegations concerning the tender procedures and the execution of the projects.

On examining the files relating to the tender procedures, the investigators found that in some projects, beneficiaries and suppliers did not in fact fulfil the eligibility criteria and should have been excluded from the tenders.

In addition, OLAF and its national partners investigated the implementation of the contracts, with the help of specialists. They concluded that:

- The beneficiary, constructor and designer had conspired to use inferior materials in the construction work, in breach of the terms of the contract implementing the project. As a result, the bridge was sub-standard and already showed signs of damage.
- The construction company had contravened a large number of national law provisions aimed at ensuring the quality and safety of the infrastructure, which was therefore unsafe.

As result of this OLAF investigation, the European Commission started a financial recovery procedure and OLAF informed the local judicial authorities. The financial impact to the EU budget was estimated at more than €300 000.

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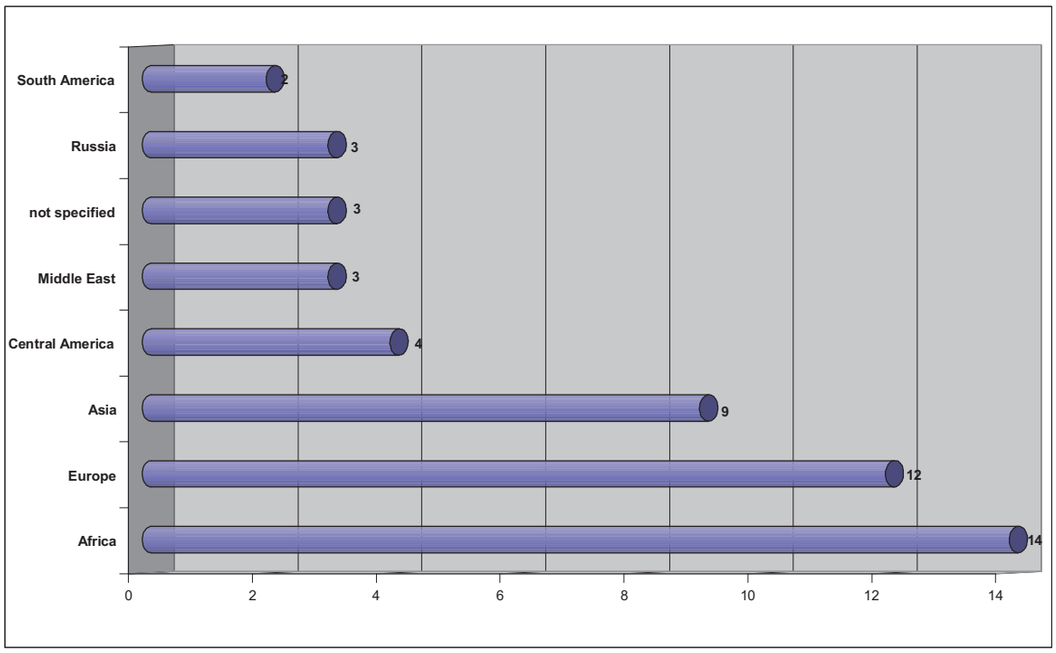
3.3.4 External aid

The European Union is the largest provider of development and humanitarian aid in the world. The combined development aid of the European Community and of its 27 Member-States amounted to €46.1 billion, representing about 70% of all development aid in the world. EC external aid totalled alone €10 billion, or 8% of the Community's budget.[18]

External aid is one of the traditional areas of OLAF's so-called 'own' investigations. OLAF plays a crucial role in preventing and detecting fraud in this field by working in partnership with other Commission departments — notably the Europe Aid Cooperation Office (AIDCO) and the European Community Humanitarian Aid Office (ECHO) — and also with international partners.

Chart 28 shows OLAF cases opened in cooperation with other Commission departments in 2007 by geographical region. Africa remains the most significant region of interest for OLAF casework, accounting for more than 25% of all cases opened, while DG AIDCO is OLAF's partner in 50% of cases.

Chart 28: New external aid cases opened in 2007 by geographical region (Europe outside EU-27)



In the external aid area, OLAF investigators often encounter modus operandi typical of organised fraud. The risks that make such fraud possible include shortcomings in coordination between the different global and international donor organisations. These shortcomings affect the allocation of grant aid, auditing, monitoring, evaluation and the operation of warning systems. The abundance of different projects, programmes, NGOs, organisations and foundations, combined with the fact that many of these operate in different legal environments and financial systems, makes coordinating and supervising the aid a challenging task. Moreover, many organisations look for multiple sources of financing in order to implement their projects. Unfortunately, there is no general information or verification infrastructure which could prevent different cases of double financing of projects.

OLAF investigators encounter various challenges in their daily investigative work in the aid area. These mainly concern obtaining evidence, and exchanging information and cooperation. These challenges have not only caused technical and organisational problems but have adversely influenced the duration and efficiency of operational work. OLAF's cooperation with a number of bodies, particularly national authorities, Commission departments and the departments of the international donor organisations responsible for spending money on aid projects will benefit from further development.

[18] Including humanitarian aid and the European Development Fund

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The Conference of International Investigators is the forum in which the problem of better cooperation with international organisations is discussed. All the main donor organisations — the World Bank, IMF, UN and others, as well as the Commission — are represented (OLAF representing the Commission). This forum has developed and endorsed international standards for investigations which have become the basis of investigative procedures for most of the international organisations. This standardisation is a crucial step towards increasing the exchange of information.

Case Study: Overestimation of costs and false accountancy by an NGO in receipt of EC co-financing subsidies

OLAF opened an external investigation in relation to alleged irregularities in the implementation of a project in Latin America whose objective was to help young people. The beneficiary of the grant was an NGO and the local partner was a national NGO. This project was co-financed by the EC (50%) at a total cost of less than €2 million.

- OLAF investigators found evidence that the real cost of the project was certainly much less than the financial contribution allocated to it. Evidence of irregularities and fraud against the Community budget and various infringements which might be subject to criminal prosecution was found.
- There were indications of false accountancy and of the submission of fictitious bank statements to the European Commission.
- The NGO did not transfer the Community funds entirely to the project and it did not make the required financial contribution from its own resources.
- According to the genuine financial records many expenses were unrelated to the project or were not in fact incurred. The Community funds were used to finance the general structure of the local NGO in projects not related to the grant, expenses which predated the project or ineligible expenses.
- The Community project funds were initially used to reimburse earlier loans at high interest rates. This was an obstacle to the proper implementation of the project for the intended purposes.
- The properties contributed by the NGO were overvalued.

The new accounts showed that in fact the project did not need the monetary contribution of 50% that the NGO had declared to the European Commission. The irregularities amounted to more than €500 000.

3.3.5 Structural actions

Nearly €45.5 billion was available in 2007 to foster prosperity across Europe's regions and boost innovation and competitiveness. Of this total, €35.3 billion financed through the European Regional Development Fund and partly from the Cohesion Fund was allocated under the convergence objective to the least developed regions in the EU-27. Structural policy accounted for more than 35% of the European budget in 2007. It is therefore a crucial area in the protection of EU financial interests. The management of Structural Funds is undertaken under the so-called shared management system under Article 53(1) of the Financial Regulation. This means that the responsibility for management lies in the first instance with the Member State.

The control systems in place for Structural Funds are based on the principle that the Member State is generally responsible for controlling and correcting irregularities. When allegations of serious irregularities or fraud are submitted to OLAF, the Office, upon evaluation, may decide to intervene. In this case, the Member State authorities will be contacted to confirm whether EU funds are at stake.

OLAF's operational activities in the Structural Funds area are conducted under Regulation No 2185/1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities. Close cooperation with Member State authorities is crucial.

In 2007, OLAF received 164 allegations of fraud regarding Structural Funds (**Chart 16**). In the same year, 21 new cases were opened in this area (**Chart 19**), and 14 of the 18 cases closed were closed with follow-up (**Chart 24**). At the end of the reporting period, 48 cases were active in this area (**Chart 22**).

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Chart 29 illustrates the breakdown of cases closed in 2007 by Member State. Understandably, most of the cases relate to the countries receiving the largest assistance through Structural Funds. The estimated financial impact of the cases closed in 2007 related to Structural actions totalled €22 million, resulting from 26 on-the-spot controls carried out under Regulation 2185/96.

***Chart 29: Structural actions cases closed in 2007 by fund and country involved** (a case record can contain more than one country)*

Country involved	Cohesion fund	ERDF	EAGF	ESF	FIFG	Other structural action	Total
Belgium				1			1
Bulgaria							0
Czech Republic	1						1
Denmark							0
Germany							0
Estonia							0
Greece							0
Spain		3		1			4
France		4		1			5
Ireland							0
Italy		1		5			6
Cyprus							0
Latvia							0
Lithuania							0
Luxembourg							0
Hungary							0
Malta							0
Netherlands							0
Austria							0
Poland							0
Portugal							0
Romania							0
Slovenia		1					1
Slovakia							0
Finland				1			1
Sweden							0
United Kingdom				1			1
Total	**1**	**9**	**0**	**10**	**0**	**0**	**20**

Case Study: Double funding claims from several Community sources

In 2006, on the basis of information received about a scientific research facility, OLAF opened an investigation into the alleged double financing of project costs claimed for Community financing for biomedical research.

The specific allegation was that the same items were being submitted as costs under a structural funds measure and also being claimed under the direct Community funding available for certain research and development projects. OLAF's investigation, which was conducted in partnership with the relevant regional government service, on the spot in the EU country concerned, confirmed that the allegations were well founded. The investigation showed that the same staff costs for the project had been presented for funding from different EC budget sources.

In the light of the serious irregularities detected, it was decided to recover the full amount of Community funding already paid out to the beneficiary totalling more than €500 000. The case was also transferred to the relevant police and judicial authorities for appropriate follow-up for alleged breaches of the national penal code.

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3.3.6 *Agriculture and trade*

Agriculture accounted for €46.9 billion in expenditure in the EC budget in 2007: most of the allocations are direct aid and market measures. While the Common Agricultural Policy (CAP) is the most important in expenditure terms, this area is less significant from the revenue point of view as regards 'own resources'. Only around 2% of EU own resources in 2007 came from agricultural duties. Agriculture also accounts for a significant share of EU trade with non-EU countries, both imports and exports.
The EU grants preferential access to its markets to some countries or geographical regions in the world (e.g. to the ACP countries and under the EBA— '*Everything But Arms*' — initiative. As a result origin fraud is a significant phenomenon in agricultural trade, in relation not only to preferential tariff measures but also to GATT tariff quotas. The case study below on fruit and vegetable imports is an example of this type of scheme.

During 2007, OLAF received 135 allegations concerning agriculture and trade (**Chart 16**) and 30 new cases were opened in these areas (**Chart 19**). In more than half the cases closed (45) follow-up was recommended (26) (**Chart 24**). At the end of the reporting period, 50 agriculture and trade cases were still open (a reduction of 25% compared to 2006) (**Chart 22**).

Chart 30 shows the breakdown of active cases by area/market. Direct payments, SAPARD, fruit and vegetables and garlic account for 75% of the current active cases in these areas: for example large quantities of garlic of Chinese origin are declared as originating somewhere else to benefit from preferential tariff measures. SAPARD payments are subject to continuous scrutiny, especially in Bulgaria and Romania.

Chart 30: Breakdown of agricultural cases under evaluation and at an active stage at the end of 2007

Product	Evaluation	Active cases	Total
Alcohol	0	1	1
Cereal products	1	1	2
Direct payments	20	2	22
Fruit & vegetables	3	11	14
Garlic	2	14	16
Live animals	1	1	2
Meat products	1	5	6
Medicines	1	0	1
Milk products	1	1	2
Olive oil	1	3	4
Rice	0	3	3
Rural development	1	0	1
SAPARD[19]	16	6	22
Sugar	2	1	3
Tobacco	0	1	1
Total	50	50	100

The estimated financial impact of agriculture cases closed in 2007 **(Chart 31)** exceeds €100 million. The financial impact of cases in this area increased (€58 million compared to €53 million in 2006) and exceeded the financial impact of cases closed in the Structural Funds and Cohesion Fund area (€22 million, well down on the 2006 figure because of the contribution to the 2006 statistics of a small number of very large cases.

Chart 31: Financial impact of agriculture cases closed in 2007

	Cases closed	Financial impact
EAGF and EARDF with follow-up recommendation	26	58,056,041.00

19 Technically a pre-accession fund, SAPARD is covered by the OLAF 'Agriculture' Unit, and has been included in **Chart 30** for that reason.

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Case Study: Banana production aid

The Common Agricultural Policy (CAP) provides for certain aid payments in order to guarantee a reasonable income for banana producers within the Community and to ensure satisfactory marketing of the bananas produced which compete with other bananas imported into the Community.

OLAF opened an investigation into banana production aid after receiving allegations of serious irregularities. On-the-spot controls revealed that there were indeed various instances of irregular practices relating to the reception, registration, accounting and payments for bananas delivered to and handled by a certain producer organisation. It was established that banana quantities were being overstated and that false producer names had been used. Moreover, these irregular practices had been conducted in an organised and systematic way over a long period of time. The local judicial authorities are now dealing with the matter.

From OLAF's perspective it was not the financial impact of the case (amounting to less than €200 000) which was of primary importance, but the fact that such a producer group could be infiltrated and abused in such a systematic way. Moreover, OLAF has found that this pattern of abuse by some producer organisations was a problem throughout the Community, particularly in the fruit and vegetable and tobacco sectors, and Member States should be more vigilant in their controls to prevent and detect such irregularities and fraud.

Case Study: Import of fruit and vegetables into the EU

In accordance with Community legislation, the importation of particular fruit and vegetables originating in certain Mediterranean countries is subject to additional specific duties that depend on to the declared entry price. An association of exporters in country A complained to OLAF that certain importers in country B were not correctly applying EC legislation determining the customs value of the goods (mainly tomatoes). The *modus operandi* allegedly employed by the importers involved the companies concerned agreeing to state a false (higher) import price. The products were allegedly sold to various companies, thereby allowing the importer to reduce the amount of customs duties to be paid.

OLAF opened a case in 2004. Having informed the customs authorities in country B, where the goods were presented for customs clearance, OLAF carried out a mission to the Mediterranean country of production. The relevant information concerning the exports was gathered and shared with the customs authorities in country B. In addition, the relevant Commission department was asked for technical advice. In parallel, in-depth controls at the importers' premises revealed that the importers had 'speculated' on the customs value of the goods by using the so-called 'deductive method' to avoid the payment of higher complementary customs duties on import.

However, the importers contested this result. This rejection was accepted by an administrative court in country B in June 2007. Subsequently, the matter was brought before the competent Committee at European Commission level by the customs authorities of country B and this Committee agreed, in October 2007, that in this particular case a deductive method had been used to avoid paying specific duties. The evaded duties, for which recovery demands will be issued by country B, amount to several million euros.

3.3.7 Customs, cigarettes, precursors and VAT

Customs duties account for some 13% of EU resources. In addition, VAT resources represent around 15% of EU revenues. During 2007, OLAF received 49 allegations in connexion with customs and 18 in the other areas covered by this chapter (cigarettes, precursors and VAT) (**Chart 16**). Thirty opening decisions were made in connection with customs and eight in connection with cigarettes (**Chart 19**). Most of the cases were closed with follow-up in 2007; in particular 80% of customs cases (**Chart 24**) — the highest proportion of all areas considered. At the end of the reporting period, 48 customs cases were active (a reduction of one third over the previous year), along with 3 VAT cases, and 25 cigarettes-related cases (**Chart 22**).
Chart 32 shows the breakdown of the 38 cases opened in 2007. The large number of coordination and criminal assistance cases — up to 80% of cases — highlights the crucial role played by Member States in this kind of work.

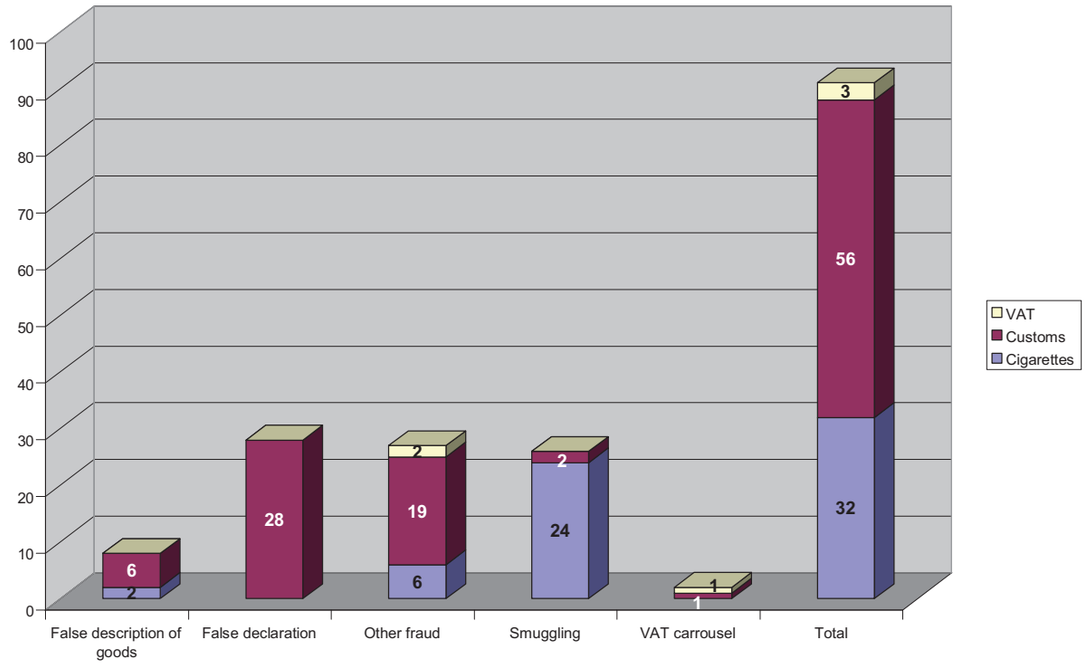
Chart 32: Cases opened in customs, cigarettes, precursors and VAT area in 2007

Major Area	External Investigation Case	Co-ordination Case	Criminal Assistance Case	Total
Cigarettes		5	3	8
Customs	8	18	4	30
VAT				0
Total	8	23	7	38

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Chart 33 shows a breakdown of the type of possible fraud involved in each of the cases open in 2007 (the data relate to 76 cases). False origin declaration is not surprisingly the most frequent method encountered. Smuggling is the other major method of fraud in this group. As each case may involve multiple types of irregularity, the total exceeds the number of actual cases.

Chart 33: Breakdown of types of possible fraud involved in the customs cases open at the end of 2007



In 2007, OLAF provided assistance with five joint customs operations (JCO), during which the customs authorities of the participating Member States brought to light a large number of serious offences which designed to deprive the European budget of revenue. Joint customs operations can significantly improve the effectiveness of the national authorities by targeting checks at European level. The five OLAF-supported JCOs were: DIABOLO, BRIGANTINE, WASABI, PRIMA2, and PRIMA3. A high standard of logistical information support and analyses was provided for each JCO. User satisfaction surveys carried out after each operation demonstrated positive feedback.

These operations, thanks to the permanent technical infrastructure set up in OLAF, demonstrated once again the extra advantages it can offer compared with operations carried out in the Member States, with reductions in costs (three or four times lower) and less time required to mount the operation (three months instead of 18), making it possible to respond to emergency or crisis situations.

Operation 'Diabolo'[20] for example, a joint World Customs Organisation (WCO) and ASEM[21] customs operation which was conducted from OLAF's headquarters in Brussels and involved the customs authorities of the 27 Member States, resulted in the seizure of approximately 135 million counterfeit cigarettes. The operation ensured that the budgets of the Union and the Member States did not incur significant losses in terms of customs duties and tax revenue (estimated to be in excess of €22 million).

20 http://ec.europa.eu/anti_fraud/diabolo/i_en.html

[21] Asia-Europe Meeting: an informal dialogue process initiated in 1996. Now, the 27 EU Member States, the European Commission and 13 Asian countries participate in the process.

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Case Study: Misdescription of preferential origin of textile products from Asia

OLAF was advised by two Member States of serious doubts about the origin of textile products imported into the European Community, which were claimed to have been produced in Asian country A. By that time significant amounts of customs duties were found to have been evaded in both Member States. It was suspected that other Member States were affected by this type of fraud as well. An OLAF investigation was opened.

Textile products originating in country A may be imported into the Community duty free under the Community's Generalised System of Preferences (GSP) scheme. By claiming false origin, the economic operators involved could fraudulently enjoy a 0% preferential rate of duty instead of 12% and evade any possible quotas for Chinese textiles. False declaration of origin on import into the Community of the products in question incurs a customs debt in the Member States concerned, which is recoverable under the customs debt provisions of the Community Customs Code.

The suspected modus operandi was that textiles of Chinese origin were imported into the Community under cover of GSP Forms for country A. In most cases, it was suspected that the goods were shipped directly to the Community and accompanied by false or incorrect GSP 'A' Forms. It was also suspected that in some cases, based on the false information provided by the exporter in country A, genuine GSP Forms were issued in good faith by the authorities in country A for goods not qualifying for the GSP. It was suspected that this fraud had gone on for several years.

An OLAF-led Community administrative cooperation mission to country A took place in March 2007 with the participation of both Member States. With the support and cooperation of the local authorities, the mission identified around 1400 forged or invalid GSP 'A' Forms. The estimated amount of Community own resources (customs duties) evaded on these consignments was in the region of €5 million. The evasion of customs duties is punishable under the criminal laws of the Member States concerned. Importers found to be involved in this fraud would therefore be liable for criminal prosecution in those Member States. During the course of the investigation coordinated by OLAF, several other Member States identified thousands of doubtful 'A' Forms, which are under investigation. It was likely that this exercise would establish a significant number of further forged GSP 'A' Forms in the EU-25 and would result in additional recoveries of several million euros.

Case Study: Major smuggling ring disbanded

OLAF received intelligence from the customs authorities in a Member State about suspected smuggling of cigarettes into the EU on board ships of country A and the imminent arrival of a suspect vessel in an EU port. This information was immediately passed to national Customs who, on searching the vessel, discovered more than one and a half million cigarettes hidden in its forepeak.

Under OLAF coordination, investigations were launched in several EU States as well as in non-EU countries. Assistance was provided by Philip Morris International (PMI) under the terms of the Anti-Contraband and Anti-Counterfeit Agreement between PMI and the European Commission and 26 Member States. It was established that a major criminal organisation was smuggling large quantities of cigarettes into the EU on board vessels docking in several ports, in at least three Member States. The cigarettes were then sold on the black market and the proceeds were transferred back to a non-EU country.

The investigation led to several arrests and the seizure of more than 4 million cigarettes in the EU, as well as the detention of several suspects in Russia. The estimated losses to the Community and national budgets on the cigarettes seized in this case amount to more than half a million euros and would have run into several hundred million if the gang had continued smuggling.

3.4 Follow-up

Follow-up[22] is a monitoring phase which might include various activities undertaken by OLAF and designed to ensure that the competent Community and national authorities have carried out the legislative, administrative, financial or judicial measures recommended by OLAF, usually when a case is closed. The cases then move from the investigation to the follow-up stage. Follow-up may, however, also begin while the case is still open, if this is required for operational support purposes or to secure successful results in due course.

New information may be received or identified during the follow-up stage, giving rise to follow-up actions other than or in addition to those recommended in the final case report or follow-up recommendations report. The

22 Administrative follow-up consists of all measures taken by national administrative authorities or by the Community institutions and bodies in relation to the implementation of Community policies and law

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duration of the follow-up phase includes standby periods in which OLAF must wait for the results of action taken by other parties and varies according to the circumstances and complexity of the case. If court procedures are involved, the follow-up phase can often be very protracted.

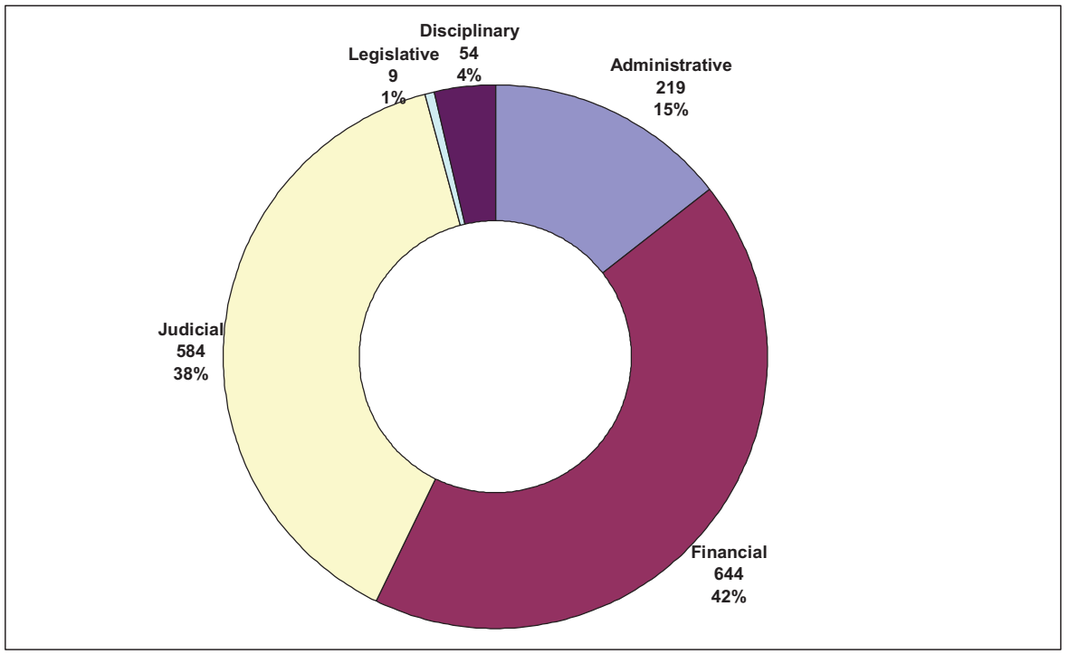
Chart 34 highlights for the third consecutive year an increase in the number of cases in follow-up compared with the previous year. Relative to previous years, a higher number of such cases can be found in all areas except the Structural Funds. As outlined above, this confirms the trend that more cases are being closed with follow-up recommendations and that for Structural Funds, the decline in the number of follow-up paths open at the end of the year is mainly due to the particularly high number of financial follow-up cases completed during 2007, as 53 such paths were closed during that period.

Chart 34: Cases in follow-up by area at the end of each year

Major Area	2005	2006	2007	Change (%)
Agriculture	159	174	196	+ 13%
Cigarettes	26	28	31	+ 11%
Customs	80	97	124	+ 28%
Direct expenditure	84	86	94	+ 9%
EU institutions + bodies	61	73	88	+ 17%
External aid	87	105	124	+ 18%
Structural funds	200	211	190	- 10%
VAT	28	33	36	+ 9%
Total	**697**	**774**	**883**	**+ 14%**

Chart 35 shows follow-up activities related to the 883 closed cases in follow-up at the end of 2007 (since the establishment of OLAF). The general trend which has been observed for several years is an increase in the proportion of administrative and financial follow-up actions, which together amount to more than 55% of all follow-up actions, while judicial and financial follow-up continue to be the actions most often undertaken after a case is closed. As there may be several follow-up actions related to one case, the number of follow-up activities (1 510) is higher than the number of cases in follow-up.

Chart 35: Type of follow-up activities in respect of closed cases at the end of 2007 (Historical: data relates to all 883 closed cases in follow-up recorded since the establishment of OLAF)



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3.4.1 Fraud-proofing

OLAF's operational experience and expertise can be used upstream in the Commission's legislative work.
In 2001, the European Commission decided[23] to set up a preventive 'fraud-proofing' mechanism, the aim of which was to upgrade legislation and contract management in order to increase their 'resilience' to fraud. Since 2002, in cooperation with the relevant Commission services, OLAF has identified all new Commission legislative proposals and legal bases underlying EC financial operations (for example new standard contracts currently being drafted) which involved risk to EC financial interests. They have been analysed and 'fraud-proofed' wherever necessary.[24]

OLAF fraud-proofing activity during the period involved the analysis of numerous draft legislative texts.

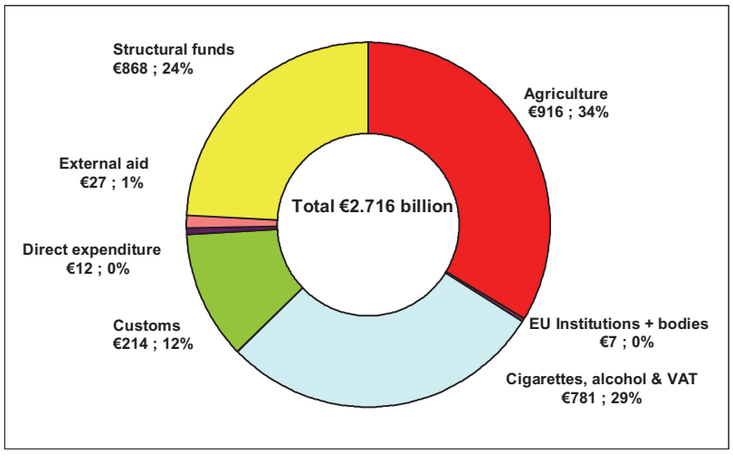
In December 2007, another milestone was reached with the introduction of a new Commission approach to fraud-proofing,[25] based on a core strategy of using OLAF's investigative results. The operational experience accumulated by the Office should be better valued and shared with other Commission departments, and with other EU institutions and bodies. This strategy is first being implemented in relation with '*direct expenditure*'. The achievements of the previous fraud proofing approach (2002-2007) were also presented in a Staff Working Paper annexed to the new Communication.[26]

3.4.2 Financial and administrative follow-up

Administrative follow-up consists of verifying that national administrative authorities or Community institutions and bodies have taken all measures required to implement Community policies and law with respect to the OLAF cases in question.
As for financial follow-up, OLAF monitors and supports Member States and Commission departments to ensure that the necessary action is taken at the right time to maximise the chances of successful financial recovery in respect of OLAF's own investigation and operational activity in all budget areas.

The estimated financial impact of all cases in follow-up at the end of 2007 is shown in **Chart 36**. The global sum exceeded €2.7 billion. Compared to 2006, the respective financial impacts have substantially changed. The spread for 2007 indicates that the impact of '*Structural Funds*' cases has significantly dropped (by 43%), while that of '*Agriculture*' (up 64%), '*Cigarettes & VAT*' (up 90%), and '*Customs*' (up 50%) areas has almost doubled. Although these outline trends appear to be valid, they must nonetheless be treated with caution, given that they rely on estimates made at the early stage of evaluation and do not constitute actual forecasts of recovery. Recovery is not a continuous activity. The situation changes from one year to another due to recovery actions in very different cases in various sectors.

Chart 36: Financial impact of cases in follow-up at the end of 2007 (in € million). **Data relate to 833 cases**



23 Communication from the Commission concerning the fraud-proofing of legislation and contract management, SEC(2001)2029 final.
24 The results of the implementation of the fraud-proofing mechanism (2002-2007) have been detailed in the report SEC(2007)1676 final.
25 COM(2007) 806 final.
26 SEC (2007) 1676 Final

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3.4.2.1 Shared management

Under the shared management of EU funds administered by the Member States (Agriculture and Structural Actions), the Member States are responsible in the first instance for the recovery of unduly paid amounts related to irregularities. It is their responsibility to pursue recovery claims against final beneficiaries and to transfer the sums recovered to the Commission. The Commission for its part is responsible for the implementing the Community budget. Many different authorities in the Member States and in the Commission are involved in recovery. It impossible to quantify the contributions made by the different actors precisely, including the role played in financial follow-up by OLAF relating to its operational activities (external investigations, criminal assistance cases, and monitoring cases).

OLAF's financial follow-up function is to consult the Member State departments and other Commission departments responsible in order to verify that recovery activities have been undertaken and results obtained. An important step forward in restructuring and reallocating financial follow-up responsibilities was taken with the adoption by the Commission on 27/11/2007 of Working Guidelines[27] aimed at further clarifying activities between OLAF and the Authorising Officers by delegation in the Commission, i.e. in the Directorates-General for Agriculture and Rural Development; Regional Policy; Employment, Social Affairs, and Equal Opportunities; and Maritime Affairs and Fisheries. These guidelines **concern the financial follow-up of irregularity cases with regards to Community expenditure under shared management in the Agricultural and Structural Actions areas**. The new division of responsibilities applies from 1 January 2008 onwards and should avoid any overlap between Commission departments in relation to financial follow-up, enabling OLAF to concentrate on its core business activities in line with the recommendation of the European Court of Auditors in its Special Report 1/2005.

3.4.2.1.1 Structural Funds

Case study: The European Social Fund (ESF)

After receiving two control reports prepared by the Authorising Officers in November 1998, OLAF's predecessor, UCLAF, opened an investigation into allegations of serious irregularities and possible fraud against a beneficiary of Community assistance under three different objectives co-financed by the ESF for the programming period 1994-1999.

After reviewing the documents, on-the-spot controls were carried out from March to June 1999 by a team of investigators both from the national authorities and from UCLAF. Information was uncovered that led Commission officials to believe that various irregularities had taken place in the implementation and declaration of expenditure related to ESF co-financed projects.

The level and seriousness of the irregularities was such that the Member State opened a police investigation, and invoked Article 24 of Regulation (EC) No 4253/88, thereby cancelling Community aid. In November 2000 the national authorities reported the case to the Commission and, later on, asked for Article 5(2) of Regulation (EC) No 1681/94 to be applied — i.e. for the amount involved to be borne by the Community budget.

In May 2002, the Commission decided to reduce ESF assistance, and issued recovery orders.

In June 2003, the case reached OLAF for follow-up. The Member State was asked to repay the cancelled assistance. Furthermore, in the course of the follow-up activities, it was discovered that the beneficiary had received more ESF grants from another programme, for which again the Member State asked for the application of Article 5(2).

OLAF decided, together with the Commission department concerned, to deduct the relevant amount from the Member State's final claim. In accordance with the Commission decision, and after rejecting the request to apply Article 5(2), the Commission department issued six recovery orders for a total amount of more than €5 million. Three of the recovery orders were reimbursed by the Member State in 2003, while the remaining three were paid for out of other ESF assistance paid to the Member State.

The national authorities deducted nearly €6 million from amounts due to the beneficiaries, including interest. This demonstrates that in *Structural Actions* cases it takes a long time, and good cooperation with other Commission departments, to finalise all follow-up procedures when they involve both administrative procedures and judicial proceedings at both national and European level.

27 C(2007)5709

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3.4.2.1.2 Agriculture

Case study: Imports into the Community of high sugar content products

In 2005 and 2006, there was an increase in imports of sugar-cocoa mixtures, mainly from certain Balkan countries. Reasonable doubts concerning the originating status of the final products arose, due to the fact that a high quantity of sugar from the EU was combined by simple mixing with a very low quantity of non-EU cocoa and then imported into the Community under preferential tariff measures.

In addition to this origin fraud, some new cases were detected concerning countries outside the Balkan region with which the Community had concluded preferential arrangements. Furthermore, the final products imported into the Community were not only mixtures of sugar and cocoa but also mixtures of sugar with other products. Consequently, a global approach was deemed necessary to counter the various fraud mechanisms, and a 'Notice to Importers' was published. In order to protect the Community's financial interests, this notice warned economic operators declaring and/or presenting documentary evidence of origin for high sugar content products that their release for free circulation might give rise to a customs debt given the reasonable doubts as to the origin of such products.

3.4.2.1.3 Cooperation with other Commission departments

- **Structural Funds: Recoveries relating to irregularities notified**

In fields where the Member States implement the budget (agricultural policy, Structural Funds and pre-accession funds, approximately 80% of the budget) and for the collection of the Community's own resources, Community legislation requires the Member States to report suspicions of fraud and other irregularities. The remaining 20% of the budget is managed according to four different modes: directly by the Commission, indirectly via Community or national agencies, decentralised to non-EU countries, or jointly with other international institutions.
Of the approximately €1.52 billion of the Community contribution affected by irregularities in the 1994-1999 programming period, €630 million was taken into account during final payment, cancelled after closure, or paid back into the Commission budget. The Commission departments, assisted by OLAF, started reconciliation procedures with a view to closing the remaining cases for which administrative and/or judicial procedures were finalised at national level.

Concerning the 2000-2006 programming period, of the approximately €1.79 billion of the Community contribution affected by irregularities, the Member States informed the Commission that some €509 million had been recovered at national level.[28]

- **Agricultural expenditure area: Task Force on Recovery**

In 2006 the joint AGRI/OLAF Task Force on Recovery (TFR) participated in the clearance of accounts procedure for the EAGGF Guarantee Section with the result that final proposals were drafted for Member States to assume financial liability for approximately 400 cases of non-recovery valued at more than €1 billion.

As a result of the TFR's activities, on 3 October 2006 a first formal Commission Decision[29] was taken concerning financial liability for 349 cases of non-recovery (cases of more than €500 000) totalling approximately €895 million. This Decision cleared from the debtors' lists: 41 cases totalling €176 million, which were charged to the Community budget; 164 cases totalling €317 million, which were charged to the Member States concerned, meaning that this amount would be returned to the Community budget in 2007; and 144 cases, totalling approximately €402 million, which were removed from the debtors' list as non-cases or double entries. The joint AGRI/OLAF Task Force on Recovery (TFR) ceased activity on 31 December 2006 after the entry into force of Regulation (EC) No 1290/2005. However, DG AGRI and OLAF continued to cooperate on handling the cases that had previously been examined by the TFR for which final conclusions on the financial responsibility for non-recovery had not been reached.

28 Concerning financial corrections see the Report on the Protection of the Communities' financial interests (Article 280) for 2007 of the European Commission
29 Commission Decision 2006/678/EC of 3 October 2006, OJ L 278, 10.10.2006, p. 24.

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3.4.2.2 Traditional own resources

Administrative follow-up, which accounts for an increased proportion of all follow-up cases, includes monitoring the application of sanctions and the withdrawal of importer privileges where fraud or irregularities have been detected with regard to traditional own resources.
Financial follow-up consists of recovering the sums unduly paid or collecting the duties unpaid for different reasons (for example customs and agricultural levies after corrections arising from false origin declarations).Both kinds of follow-up activity were conducted throughout 2007 in an increasing number of cases.

Front-line financial recovery is the responsibility of the competent authorities in Member States. OLAF supports the national customs administrations by providing data from the operational case file in order to maximise the chances of timely notification of import duty debts and action taken to recover them. This includes advising national authorities when economic operators appeal against duty demands issued in cases investigated by OLAF.

Case study: Evasion of a health prohibition on the importation of fishery products from China

This multiannual fraud case, closed by OLAF in 2007, concerned the evasion of a Community health prohibition on exports of fishery products from China to the EU, which was in force between January 2002 and September 2004.

An OLAF investigation was opened, based on trade allegations and OLAF intelligence and research, which indicated that significant evasion of the health prohibition had taken place, leading to health risks and loss of revenue to the Community.

OLAF led several Community administrative cooperation missions to Asia in June 2004, with the participation of the principal Member States concerned, in the framework of five linked investigations. Evidence obtained demonstrated that significant quantities of Chinese shrimp had been imported into the non-EU (Asian) country concerned and re-exported to the EU with false origin declarations. The Community 'own resources' — customs duties — evaded in these cases were in the region of €6.5 million.

The total estimated Community own resources to be recovered in these five cases was around €15 million. Investigations into the involvement of Community importers in the fraud are currently in hand in the three primary Member States of importation. Where appropriate, breaches of the Community prohibition will lead to prosecution of the companies involved under national criminal law for evasion of health and/or customs legislation.

3.4.2.3 Direct expenditure

In the field of direct expenditure, including 'external aid', follow-up covers expenditure which the Commission implements without the involvement of Member States, or which is delegated by the Commission to non-EU countries. Follow-up activities in this field may also cover the financial and administrative follow-up of internal investigations, where appropriate.

Recovery actions may be avoided with a preventive anti-fraud policy which anticipates problems, or by taking action while a case is still open. For direct expenditure, investigations which have led to criminal proceedings often receive financial follow-up. In order to support recovery, OLAF assesses and supports the possibility of taking civil action as part of criminal proceedings in those jurisdictions where this is possible.

Administrative follow-up in 'direct expenditure' cases concentrates on helping Commission departments to apply the appropriate administrative sanctions (such as the exclusion of tenderers or beneficiaries from contracts or grants financed by the Community budget for a maximum period of five years or the payment of financial penalties) on the basis of OLAF's investigative findings.

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Case study: Important recovery in the area of development projects

A public prosecutor requested assistance from OLAF with an investigation he was conducting into a NGO involved in the implementation of development projects in several countries. The NGO was also a beneficiary of EC funding.

OLAF opened a criminal assistance case: the OLAF investigators assisted, as experts, the national authorities in their investigation. The investigation provided evidence of the misappropriation of financial contributions and of large sums of money being deposited in private bank accounts under the names of some of the directors of the NGO.

Once the prosecutor had informed OLAF that no further assistance was required, he authorised OLAF to transmit the findings to the relevant Directorate-General of the Commission to allow the latter to recover the misappropriated amounts. OLAF also recommended that the Commission take civil action within the criminal proceedings. The Final Case Report listed irregularities relating to 28 projects with a total financial impact of at least €2.5 million, the exact amount to be verified by the Directorate-General concerned.

As no voluntary payment was forthcoming, the Commission's Legal Service was asked to initiate the forced recovery procedure. However, within the criminal proceedings, the prosecutor valued damage to the EC at only €1.5 million. The Commission was accepted as a civil party to the criminal case, but only up to this amount.

Very early on in the criminal proceedings, the lawyers representing the directors of the NGO contacted the Commission in order to reach an amicable settlement which would reduce the possible sentences for these directors. Given that the directors indicated that they were willing to pay an amount higher than the damage accepted in the criminal proceedings but lower than the amount of the recovery orders issued, the Commission decided to accept the settlement. Shortly after the settlement was signed, the agreed amount was paid to the Commission.

3.4.3 Judicial and disciplinary follow-up

Where a case brings to light evidence of possible criminal acts and such information has not been forwarded to national judicial authorities during the course of the investigation, the Office must recommend in its final case report that the case and its file be referred to the competent national judicial authorities for further investigation and prosecution. OLAF ensures judicial follow-up with the competent national judicial authorities.

Once the decision adopted by judicial authorities becomes definitive, OLAF closes its judicial follow-up. Often, this is many years after the case was initiated by OLAF (or its predecessor UCLAF).

Where an internal investigation reveals evidence of serious matters relating to the discharge of professional duties such as to constitute a dereliction of duty on the part of an official or other servant of the Communities liable to result in disciplinary proceedings, OLAF will recommend that the case and its file be referred to the appropriate EU authorities competent for disciplinary matters, for appropriate disciplinary action. OLAF ensures follow-up with the authorities. To this end, the Office maintains contact both with the disciplinary services of the different institutions and with other European bodies and agencies. OLAF is available to assist these departments in disciplinary proceedings, and monitors the outcome of the cases for the same reasons that it monitors judicial proceedings.

Finally, in those situations where the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a consistent approach by liaising with both.

3.4.3.1 Judicial follow-up

Chart 37 shows judgements made in 2007. They are broken down into six different categories of ruling adopted by the judges.
A total of 67 actions corresponding to 20 decisions were undertaken for the protection of the EC's financial interests. A significant proportion of these actions resulted in imprisonments (24). The three other most frequent actions were financial penalties (19), suspended sentences (18) and damages (5). No suspects were acquitted in 2007.

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Chart 37: Summary of judgments received in 2007

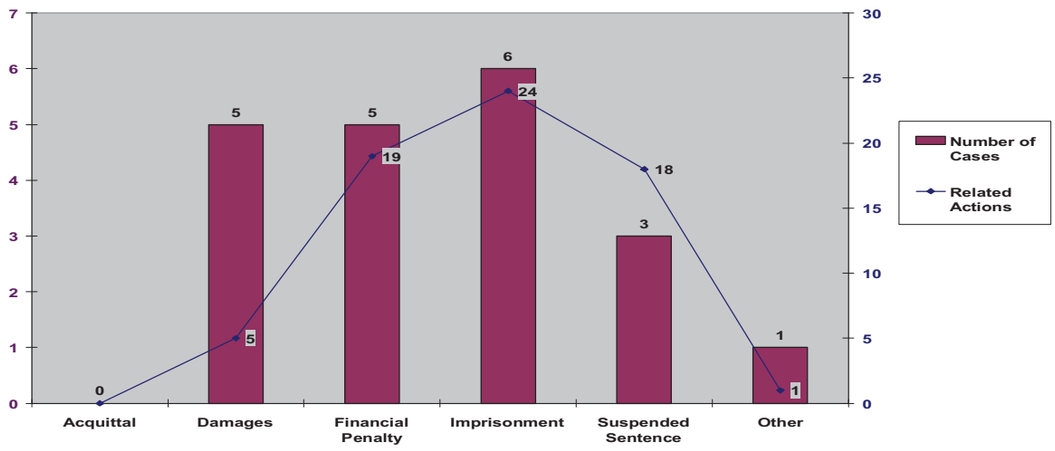


Chart 38 provides a breakdown of the number of cases for which Public Prosecutors decided not to proceed with charges, along with the reasons given by the relevant national authority. Lack of evidence was by far the main reason for dropping cases, occurring in almost one third of dismissals.

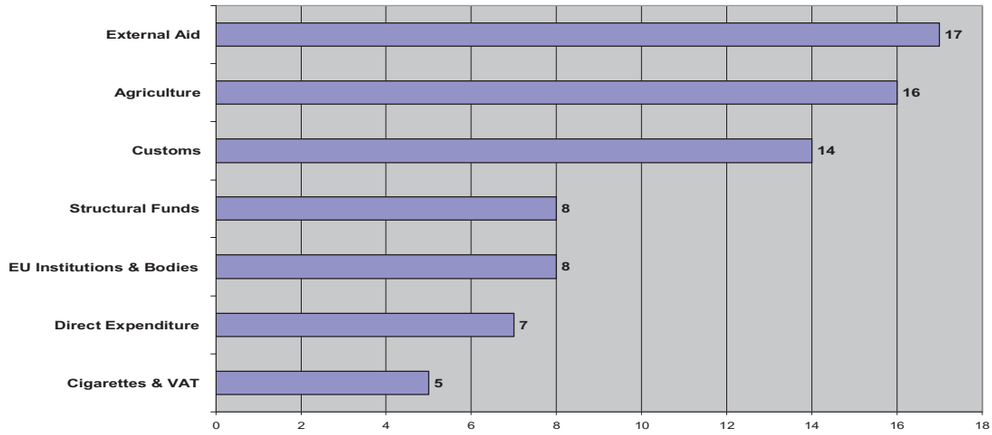
Chart 38: Summary of reasons given by Public Prosecution Offices in cases dropped in 2007

Reason for dismissal	Number of Actions
Prescription	3
Lack of evidence	7
No public interest	2
No legal basis	2
Procedural errors	1
Not specified	8
Other	1
Total	**24**

Data relate to 20 cases

Chart 39 shows a breakdown of 75 judicial follow-up paths[30] opened in 2007. '*External aid'* was again the area with the highest number of judicial follow-up actions opened, followed closely by 'Agriculture' and 'Customs'.

Chart 39: New judicial follow-up paths opened in 2007 by area



30 Where an investigation brings to light evidence of possible criminal acts and this information has not been forwarded to national judicial authorities during the course of the investigation, a recommendation is made that the case be referred to the competent national judicial authorities for further investigation and prosecution. A regular judicial follow-up with the competent national judicial authorities is subsequently made by OLAF.

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3.4.3.2 Disciplinary follow-up

Chart 40 shows that there were 80 cases resulting in disciplinary follow-up at the end of 2007.

Chart 40: Disciplinary Follow-up Summary in 2007 (Data relate to 59 cases)

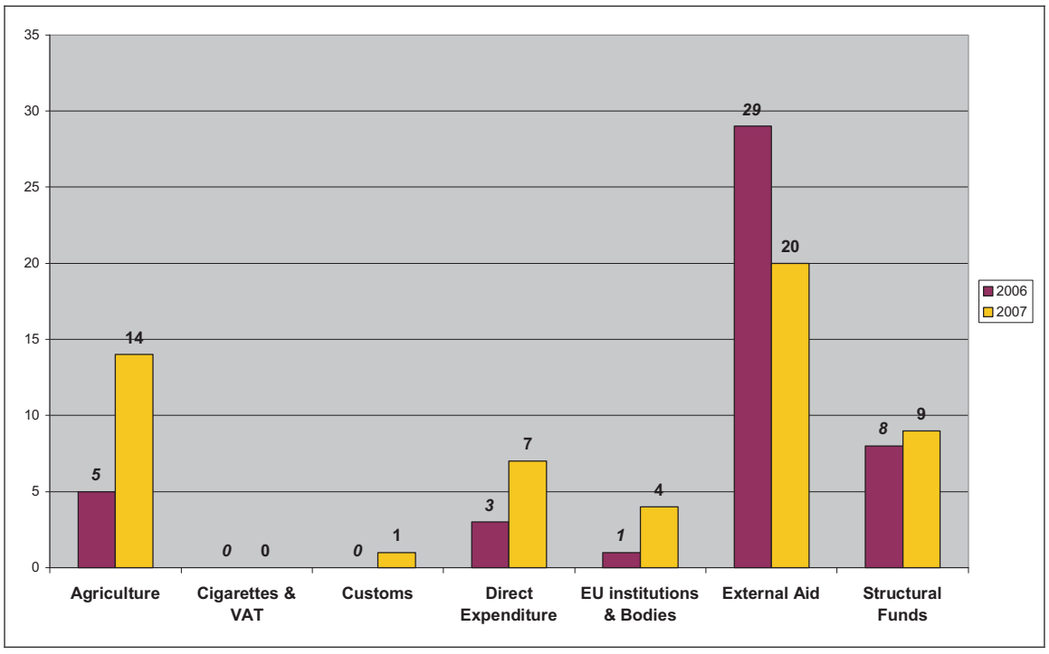
Stages	Total
OLAF Internal Review	4
Report sent to Disciplinary authority	29
Disciplinary Procedure	21
AIPN Decision	7
End of Proceedings	19
Appeal	0
Total	**80**

3.4.4 Monitoring actions

OLAF receives information relating to cases that have been followed by national administrative or judicial authorities. OLAF may decide not to conduct any operational activity but will nevertheless 'monitor' the development of the proceedings conducted in the Member State.

Chart 41 shows the number of monitoring actions opened in 2007. Within a lower total number of such actions in 2007, some 40% still concerned '*external aid*', due to the latter's importance in OLAF's workload. The total number of new actions (55) has increased by 50% since 2005.

Chart 41: New monitoring cases linked to judicial proceedings in 2006 and 2007



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4 Operational support

4.1 Intelligence activity

Intelligence activity consists of providing strategic and operational analysis, case studies and other support to investigators based on information collected prior to and during a case.

Intelligence activity which is intended to provide a source of information for OLAF is called **strategic intelligence**. Strategic intelligence evaluations may lead to the opening of specific cases, or provide more general guidance relevant to policy development and operational strategy.

Conversely, activities aimed at providing specific case-related operational support in the context of an ongoing OLAF evaluation or during the open stage of a case are known as **operational intelligence**.

4.1.1 Strategic intelligence

OLAF's strategic intelligence capability is intended to support operational activities and reinforce OLAF's policy role. A new focus of strategic intelligence capability was agreed in June 2007, balancing the need to support both the Commission's anti-fraud policy objectives and the requirements of OLAF's operational units.

In 2007, activities in the area of strategic intelligence included the following:

- Six projects were agreed with internal and external stakeholders and launched in mid-2007. Results are expected in the course of 2008.

- A number of risk evaluations based on reports of irregularities in the funding of the Common Agricultural Policy and Structural Funds were produced to support the Office in setting priorities for control and case-related policies.

- Analyses of irregularities and frauds were presented to Member States' authorities in order to highlight trends and major weaknesses in the areas of shared management (agriculture and structural actions), notably within the scope of the statistical annex to the Commission's Report on the Protection of the Financial Interests of the Communities — Fight Against Fraud (Article 280 Report).

- Analyses by country have been provided for structural actions in the framework of annual bilateral meetings with Member States.

- Training and support were offered to the new Member States and candidate countries to prepare them for reporting and analysing irregularities in these areas.

- Cooperation with anti-fraud intelligence units in the Member States, candidate countries, non-EU countries and other international institutions was further strengthened.

- Progress was made in developing new tools and techniques to gather and make use of information and to identify new and improve existing sources. A new methodology was developed and adopted to provide a standardised framework for conducting risk assessments.

4.1.2 Operational intelligence

In 2007, operational intelligence activities contributed to the level of accuracy and completeness in OLAF case assessment and investigative stages using specialised skills and tools to make complex information manageable for users. This has resulted in intelligence increasingly becoming an integral part of the investigative process,

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particularly in enhancing initial information highlighting links between people, organisations and their financial interests in EU projects.

Operational intelligence activities include:

- providing hands-on expertise in Commission internal or external commercial databases and open sources, which can entail identifying the total expenditure relative to a particular case, trade statistics, checks on companies and persons worldwide or background information on vessels, ports and containers;

- information platform and logistical support in assisting Member States' customs authorities and for Joint Customs Operations, providing access for 27 Member States to a standard set of databases on the basis of best global coverage and quality of content together with analysis to identify ways of making controls much more risk and intelligence-based;

- assisting with comparative and other more complex analysis; analysing, linking and visualising high volumes of data using I-base environments to produce Analyst Notebook charts, event charts and geographical presentations;

- Operational analyst support (enhancing initial information; offering visualisation, link analysis and text mining capabilities; providing the Member States and Commission operational DG's with Automated Monitoring tools and pattern detection linked to trade alerts) and presenting workshops illustrating a much higher degree of involvement than before;

- forensic computing and scanning support: electronic data are forensically acquired on the spot: all data including encrypted, hidden, deleted or unallocated data are made accessible, readable and searchable — often the data are accessible only to the computer forensic expert using proper forensic tools;

- pre-processing of data with a view to subsequent analysis, which often consists of scanning, processing for optical character recognition and indexing electronic data. Data preparation also requires considerable data cleaning; text mining[31] may help uncover the entities named in a large data set.

In 2007, OLAF expanded its scope in the field of computer forensics by contributing to the strengthening and effectiveness of Community actions and assisting Member State partners with forensic investigations and examinations. OLAF contracted Germany's *Bundeskriminalamt* (BKA) to organise a computer forensics training course at European level for the benefit of OLAF's law enforcement computer forensics partners. The successful outcome led to positive results towards improving: trans-national cooperation between specialists in the Member States and OLAF's Computer Forensic Team; exchanges of information, experience and best practice to support operations in Member States or for OLAF investigations in the Member States; and developing a contact network within EU law enforcement agencies in this highly specialised domain.

After a case has been opened, operational intelligence activities may entail more sophisticated techniques such as advising on and coordinating the use of specialised investigation methods, or drawing on a network of contacts in enforcement agencies in the Member States, in non-EU countries or with international organisations.

4.2 Legal and judicial advice

The Case Management System (CMS) provides for a 'legal and judicial advice module' to provide legal support for operational activities. This tool enables OLAF operational staff to request advice on specific cases from OLAF's legal units. As the legal advisers have access to the case file, this facility brings them directly into the context of the case. It also ensures effective coordination and communication and better organisation and archiving of work in the legal units.

31 Text mining refers generally to the process of extracting interesting and non-trivial information and knowledge from unstructured text.

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During 2007, legal and judicial advice played a significantly increased role in operational cases. In addition, during the active investigation stage, members of the judicial advice unit were nominated members of investigation teams on 143 occasions involving a total of 103 cases.

Since 2006 '*Structural Funds'* has overtaken '*External aid'* and '*EU institutions and Bodies'* as the most prominent area for which legal advice is provided. It accounts for around one in three instances.

Legal and judicial advice includes the following:

- advice on issues that arise in specific cases concerning the interpretation of the Community legal framework governing OLAF's performance of its investigative tasks, as well as other, more general, Community legal requirements such as professional secrecy, the extent of immunity, EC employment law, the territorial scope of application of OLAF investigative powers, the extent and limits of OLAF's independence, and relations with the Commission, the other Community institutions and bodies and Member States;

- advice on problems experienced in OLAF's operation that require solutions to do with the Commission's sphere of competence (e.g. infringements by Member States of their duties to cooperate with OLAF during a case);

- advice on setting up practical arrangements for cooperation with other bodies such as Europol and Eurojust, taking into account the overall legal framework of the European Union.

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5 Cooperation with OLAF's partners in the fight against fraud

5.1 Cooperation with the Member States

OLAF's consultation of Member State experts is organised as set out in the table below:

Chart 42: Structures for consultation

Committees/working-groups where OLAF represents the Commission
• COCOLAF (Advisory Committee for the Coordination of Fraud Prevention):
• Article 280 working group
• Irregularities and Mutual Assistance — Agricultural Products — Group
• Group on risk analysis on fraud and irregularity
• ECEG (Euro Counterfeiting Experts Group)
• CCEG (Counterfeit Coin Experts Group)
• OLAF Anti-Fraud Communicators Network (OAFCN)

In the course of 2007, two COCOLAF meetings, two Article 280 Group meetings, one 'Statistical analyses of irregularities' Group meeting, two meetings of the Agriculture sector[32] group and two Mutual Assistance Committee meetings were held.

The Euro Counterfeiting Experts Group (ECEG) met three times.

The Memorandum of Understanding signed by the General Prosecutor of the Italian Court of Auditors and the Director-General of OLAF in 2006 to establish a system of cooperation with judicial audit authorities in Italy was implemented in 2007.

5.2 Anti-Fraud Information System (AFIS) / Customs Information System (CIS)

5.2.1 AFIS

The IT System AFIS (Anti-fraud Information System), a secure communication system, supports and facilitates the exchange of anti-fraud information among the relevant authorities of the Member States and between them and the Commission. AFIS is primarily used by the Member States and OLAF for mutual administrative assistance in customs and agricultural matters.

The objectives for 2007 were twofold:

- ensuring internal and external quality management of AFIS in OLAF
- ensuring the smooth running of the new AFIS system, comprising new applications using new technologies.

In order to ensure internal and external quality management of the AFIS project in OLAF, calls for tenders were launched to conclude contracts for AFIS production, development, quality assurance and control. The procurement procedure was completed at the end of 2007. The development lot was successfully replaced by an internal team in the absence of an acceptable external bid.

In addition, the permanent Operational Coordination Unit (OCU) provides logistical and technical support for joint customs operations. Virtual-OCU is an application that allows participation in joint customs operations activities

32 'Irregularities and Mutual Assistance — Agricultural Products, Regulations (EEC) N°595/91 and (EC) N°515/97'

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without attending in person. OLAF supported five joint customs operations through the OCU in 2007 (see point 3.3.7).

5.2.2 CIS/FIDE

Customs Information System (CIS)

The Customs Information System (CIS), based on Council Regulation (EC) No 515/97 and the CIS Convention, became fully operational in 2003. The CIS was created to store information on commodities, means of transport, persons and companies in order to assist in preventing, investigating and prosecuting actions which are in breach of Community customs and agricultural legislation ('first pillar') or serious breaches of national laws ('third pillar'). The initial level of use of the CIS by national authorities has been disappointing. From the launch of the system in March 2003 until the end of 2004, only 140 cases were registered in the Customs Information System (CIS) database.

OLAF and the customs services of a number of Member States have adopted a strategy for increasing the use of what is potentially a powerful tool for cooperation between customs administrations. This strategy has begun to produce its first benefits. By the end of 2007, 490 cases were stored in the Customs Information System (CIS) database. These cases are accessible to some 1850 users located in the main ports, airports, border posts, risk analysis units, investigation and intelligence services.

For the CIS first-pillar database, to which (unlike the third-pillar equivalent) the Commission (OLAF) has unlimited access, the active cases are related to the following type of fraud alert:

Chart 43: First pillar alerts to active case (historical)

Type of Alert	Figure 2006	Proportion 2006	Figure 2007	Proportion 2007
Counterfeit goods (including cigarettes)	576	76.0%	313	63.0%
CITES (Endangered species of flora and fauna)	105	13.9%	59	11.0%
Smuggling of genuine cigarettes	21	2.8%	47	10.0%
Safety of the products	-	-	28	6.0%
Misdescription of goods (CN code included)	13	1.7%	8	2.0%
False origin of goods	7	0.9%	3	1.0%
False customs value	2	0.3%	8	2.0%
Precursors (Chemical products for narcotics)	2	0.3%	1	0.0%
Cash control (money)	2	0.3%	4	1.0%
Others (average 1 case each: transit, excise, human beings, dual-use)	30	4.0%	19	4.0%
TOTAL	758	100.0%	490	100.0%

FIDE

Further to the adoption in 2003 of the protocol amending the Convention adopted in 1997 on the use of information technology for customs purposes, OLAF conducted a feasibility study on setting up a database aimed at collecting, for analysis purposes, data commonly used in international trade by the principal suppliers of services relating to the international transportation of goods and, in particular, of the international transportation of goods by container.[33]

33 EU Container Targeting System.

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A Commission proposal[34] to amend the Regulation on mutual assistance on customs and agricultural matters[35] moved through the legislative process in 2007, laying down the legal framework for this European Customs Files Identification Database (FIDE) and providing for the creation of this European data directory.

FIDE should allow national and Community (OLAF) operational services to identify services which have conducted an investigation activity concerning the same person(s) or enterprise(s). Using search and interrogation features, FIDE will be able to provide a customs authority with an overview of current or historical irregular activities by persons or companies in other Member States. If a search is successful, the customs authority will receive from FIDE all necessary information to contact the Member States' customs department(s) dealing with relevant investigations.

The proposal provides a legal basis for the management of a permanent infrastructure for coordinating joint customs surveillance operations, making it possible for representatives or liaison officers from the Member States to be received by OLAF during each surveillance operation.

At the time of reporting, FIDE was expected to be in production by the summer of 2008.

FIDE will bring the following overall benefits:

- simplifying the investigation process for local and Member State customs cases;
- reducing the time spent in searching and collating relevant information for investigating local and Member State customs cases;
- expanding access and the volume of case-relevant data available to customs investigations services;
- boosting efficiency and making effective use of investigation resources due to the larger volume of better quality data.

Anti-fraud Transit Information System

Following the introduction of the New Computerised Transit System (NCTS), OLAF, in agreement with other Commission departments, drafted an administrative arrangement for introducing the Anti-fraud Transit Information System (TIS) intended to provide important information on national and international movements of sensitive goods. The current Customs Early Warning System (EWS-C) will be retained exclusively as a fallback procedure in order to cover any periods of NCTS downtime and thus ensure the uninterrupted provision of pre-arrival information for transit movements of sensitive goods. The proposal was discussed by the EC/EFTA Working Group on Common Transit and has been approved.

5.3 Preparing candidate countries

OLAF's activities in connection with EU enlargement include contributions based on its operational work to the development and implementation of policy on preparing candidate countries and potential candidate countries for accession.

In the course of 2007, OLAF was involved preparing and conducting the screening sessions for Croatia and Turkey on Chapter 32 (Financial Control). No accession negotiations have yet opened with the third candidate country, the Former Yugoslav Republic of Macedonia.

From the beginning of accession negotiations with Croatia and Turkey in October 2005, OLAF worked to set up the necessary administrative structures for the fight against fraud and the protection of the EU's financial interests in each country. Both countries expressed their commitment to setting up such structures. Croatia nominated a unit within the Ministry of Finance as the AFCOS central contact point (Anti-Fraud Coordinating Structure). In the meantime Turkey nominated the Prime Minister's Inspection Board (PMIB) as an interim contact point for OLAF pending the designation of a permanent AFCOS central point and structure.

Initial contact was also made with the relevant authorities in the Former Yugoslav Republic of Macedonia for the same purpose: in September, the Financial Police based in the Ministry of Finance was designated as the AFCOS

34 COM(2006)866.
35 Regulation (EC) No 515/97.

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central contact point in FYROM and in such capacity attended the AFCOS Round Table Meeting in Ljubljana in October.

In a broader perspective, OLAF is also part of the so-called Investigation Task Force established in Kosovo[36] in 2003 by the United Nations Mission in Kosovo (UNMIK) Special Representative of the Secretary General.

The Task Force consists of representatives designated by OLAF, the Office for Internal Oversight Services of the UN and the Financial Investigation Unit of UNMIK. It has the authority to initiate and conduct administrative investigations to identify fraud and corruption in UNMIK, in the Provisional Self-Government in Kosovo and in publicly and socially-owned enterprises.

5.4 Mutual administrative assistance

Implementation of the mechanisms for mutual administrative assistance in customs matters, such as those contained in protocols to EC trade and/or cooperation agreements is essential to the defence of legitimate commercial interests.

During 2007, OLAF was the Commission department responsible for the inclusion and negotiation of Mutual Administrative Assistance (MAA) and, in the case of preferential trade agreements, anti-fraud provisions (protective measures) in a number of trade and/or cooperation agreements with non-EU countries. A Stabilisation and Association Agreement and an Interim Trade Agreement were signed with Montenegro on 15 October 2007 and the interim agreement entered into force on 1 January 2008.[37] An Agreement on Cooperation and Mutual Administrative Assistance in Customs Matters was initialled with Japan on 12 June 2007, signed on 30 January 2008 and entered into force on 1 February 2008.[38] Stabilization and Association Agreements were initialled with Serbia (7 November 2007; signed on 29 April 2008) and Bosnia and Herzegovina on 4 December 2007, and Economic Partnership Agreements were initialled with 35 African, Caribbean and Pacific (ACP) countries, in seven regional groupings, in November and December 2007. Following the adoption by the Council of negotiating directives, negotiations also began in 2007 on free trade/association agreements including MAA and anti-fraud provisions with Central America, the Andean Community, India, Korea, Ukraine and ASEAN countries, and continued with the Arab States of the Gulf.

The Council Regulation on controls on cash entering or leaving the Community came into force in June 2007. This Regulation refers to Regulation (EC) No 515/97 concerning mutual assistance and stipulates that information must be sent to the Commission when there are indications that sums of cash involve the proceeds of fraud or any other illegal activity adversely affecting the financial interests of the Community.

5.5 The Philip Morris International (PMI) and Japan Tobacco International (JTI) Agreements

In 2004, the European Community and 10 Member States[39] concluded an agreement with the cigarette manufacturer Philip Morris International (PMI) to introduce an effective system for combating the smuggling and counterfeiting of cigarettes. Under this agreement, approximately one billion dollars will be paid over a 12-year period to the European Community and to the 10 Member States which were party to the agreement in July 2004. During the period between the signing of the agreement and the end of 2007, PMI paid almost USD 575 million (approximately €364.5 million). Since then, 16 more Member States[40] have signed the agreement.

In December 2007, the European Commission and 26 Member States[41] signed a cooperation agreement with Japan Tobacco International (JTI). The agreement, which runs for 15 years, makes provision for the payment of USD 400

[36] Under United Nations Security Council Resolution 1244/99
37 OJ L 345, 28.12.2007.
38 OJ L 62, 6.3.2008).
39 Belgium, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and Finland.
40 Bulgaria, the Czech Republic, Estonia, Ireland, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Romania, Slovenia, Slovakia and Sweden.
41 The United Kingdom is not a party to this agreement.

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million (approximately €250 million), which could be used to combat the smuggling and counterfeiting of cigarettes. The agreement shares all the main features of the agreement with PMI.

One of the main features of the two agreements is the establishment of a mechanism to prevent the smuggling of PMI and JTI cigarettes over the long term into the European market. In cooperation with OLAF and the Member States, the agreements provide for procedures to monitor and trace products in order to determine the point at which real cigarettes (of the PMI and JTI brand) are diverted from the legal supply chain and fall into the hands of smugglers.

In 2007, the new strand of the Hercule II programme to combat the smuggling and counterfeiting of cigarettes ensured that co-financing was provided for two training courses organised by the Member States and for scanning equipment used to detect smuggled cigarettes; the total estimated amount of co-financing was above €5 million. The programme also provided funding for the purchase by OLAF of specialist technical equipment and technical support for monitoring illegal activity in order to combat cigarette smuggling and counterfeiting (see point 5.9.2).

OLAF's twelfth international conference on cigarette smuggling and counterfeiting, which was organised together with the Hungarian Customs and Finance Guard, was attended by experts representing the 27 Member States, some non-EU countries, Europol, the WCO[42] and OLAF. This annual conference provides a forum for discussion among participants and makes it possible to identify emerging trends in cigarette smuggling and improve operational cooperation.

5.6 WHO framework convention on tobacco control

The Commission (OLAF and DG SANCO) took part in an international conference in Montevideo (Uruguay), which was organised by the World Health Organisation (WHO). It aimed to pave the way for the negotiations, which began in Geneva (Switzerland) in February 2008 on a protocol concerning the WHO framework convention on tobacco control.[43] This protocol will deal specifically with efforts to combat the illicit trade in tobacco products. The Commission played a major role in the original negotiations concerning Article 15 of the framework convention, which relates to illicit trade. The Commission, with OLAF playing an important role, will continue to support the negotiations concerning the protocol, with a view to ensuring that more detailed provisions are adopted.

5.7 Cooperation with bodies in charge of police and judicial cooperation

In continuation of the Eurojust initiative to bring heads of EU organisations working in the EU area of Justice, Freedom and Security together, OLAF participated to the second meeting of 'Heads of EU Justice and Home Affairs agencies' organised by Europol on 26 June 2007.[44] This was despite OLAF not being formally an EU JHA agency. Nonetheless, OLAF participated because of the relevance to the meeting of OLAF's independent investigative role in the protection of EC financial interests.

Based on the preparatory work of the OLAF-chaired technical meeting of the legal and data protection officers of the 'EU JHA agencies', held on 19 and 20 April 2007, the 'Heads of EU JHA agencies' agreed on a conclusion, according to which they noted that the 'EU JHA agencies' — insofar as their legal framework envisaged the processing of personal data for operational purposes — consider each other as providing an adequate level of data protection, including security measures, and as offering the same level of protection as regards the handling of information. They also invited the technical meeting of the legal and data protection officers to continue its work, so as to further increase mutual understanding on the exchange of information.

42 World Customs Organisation.
43 This came into force on 27 February 2005.
44 The 'EU JHA agencies' meeting comprise Eurojust, Europol, OLAF, the EU Joint Situation Centre, Frontex (European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU) and CEPOL (the European Police College), plus Council working groups, such as the Police Chief Tasks Force (PCTF) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).

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5.7.1 Eurojust

In 2007 OLAF continued to work towards making its cooperation with Eurojust more efficient under the Memorandum of Understanding signed in 2004. The Decision establishing Eurojust indicates that Eurojust '*shall establish and maintain close cooperation with OLAF. To that end, OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation*'.

Since the establishment of the joint Liaison Working Group in 2004, cooperation on cases of common interest has increased. These groups met in The Hague in June and in Brussels in September. In 2007 OLAF involved Eurojust in two cases through these joint Liaison Working Groups.

The First OLAF/Eurojust Joint Seminar was held on 26 and 27 March 2007 on fraud and corruption affecting the European Communities' financial interests, with the aim of improving cooperation between Member States and both agencies. The outcome was successful and a second Joint OLAF/Eurojust Seminar is to be held in The Hague in March 2008.

The President of Eurojust and the Director-General of OLAF met in April in Brussels and in June in The Hague to review joint activities and discuss further development of the cooperation.

As part of the OLAF–Eurojust exchange programme, the four Directors of OLAF visited Eurojust in September. During this visit, they attended the Eurojust College Plenary Meeting and discussed possible development of the cooperation system.

OLAF is a permanent observer of the European Judicial Network (EJN) meetings hosted by Eurojust. In 2007, Olaf actively participated in the 27th and 28th Plenary Meetings of the Contact Points of the European Judicial Network in Trier and in Obidos, and in the Eurojust Seminar '*Eurojust — Navigating the Way Forward*' in Lisbon in October.

5.7.2 Europol

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol. In 2007, three technical meetings took place, including a high-level meeting between the Director-General of OLAF, Mr Brüner and the Director of Europol, Mr Ratzel, on 18 July 2007.

OLAF and Europol work together on combating cigarette smuggling. The analytical resources of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid unnecessary duplication of efforts.

5.8 Protection of the euro

OLAF continues to coordinate Member State efforts to protect the euro against counterfeiting in close cooperation with Europol and the European Central Bank (ECB).

In 2007, three meetings of the Euro Counterfeiting Experts Group (ECEG), in the framework of the Anti-Fraud Advisory Committee (COCOLAF), brought together experts from the competent authorities, judiciary, financial authorities and central banks of the Member States and candidate countries, as well as from European institutions and bodies and Interpol.

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In 2007, the Commission took a number of steps to protect the euro with the support and expertise of OLAF. A proposal for a Regulation[45] aiming to improve protection against counterfeiting was sent to the Council. The proposal introduces an obligation for the relevant institutions to check the authenticity of coins and notes before they are put back into circulation. The proposal also aims to authorise the transfer of counterfeit money between the national authorities and the EU institutions and bodies so that the authenticity of money can be checked.
The Commission also took stock of the criminal penalties and other sanctions against counterfeiting adopted by the Member States,[46] following the framework decision adopted by the Council in 2000. The measures introduced would generally appear to be as effective and efficient as they are required to be under the framework decision, given that the requisite charges and penalties have, for the most part, been incorporated into the legislation of the Member States.

Operationally, the Commission (OLAF) has continued, through the measures taken under the Pericles Programme,[47] to promote cooperation between the national, European and international authorities responsible for combating counterfeiting of the euro. Over 80% of the Pericles Budget 2007 — €1 million — was committed: twelve projects were launched, including seven proposed by the Member States and five by the Commission/OLAF.

The majority of these projects, designed for experts from the Member States and candidate countries, had a pedagogic purpose (planning of training sessions and activities aiming at familiarising the experts with counterfeiting techniques, etc.). Pericles also contributed to two large-scale seminars, to bring together representatives of the Member States, Latin America and the Caribbean Countries to strengthen cooperation with non-EU countries on combating counterfeiting of the euro.

Within OLAF, the European Technical and Scientific Centre (ETSC) continued to analyse and classify counterfeit euro coins, the number of which increased by 29% in 2007, to 211 000. To protect euro coins, OLAF continued to coordinate Member States' technical measures, notably through the Counterfeit Coin Experts Group (CCEG), which met three times in 2007.

5.9 External activities and internal training

5.9.1 OLAF conferences

OLAF itself organised 10 conferences and seminars in 2007 for training purposes in priority areas such as cooperation with candidate countries, investigations in cooperation with national services, communication and cooperation with national prosecutors:

- Conference on 'Corruption Affecting the European Communities' Financial Interests', 26-27 March in Brussels in cooperation with Eurojust;
- 8th Conference of International Investigators, Vienna, 9-11 May;
- 1st Conference on the 'protection and optimisation of public funds' in the area of external aid, Rabat, Morocco, 14-16 May;
- 7th Training Seminar of the OLAF Anti-Fraud Communicators Network (OAFCN), Vienna/Bratislava, 23-26 September;
- Anti-Fraud Coordination Service (AFCOS) Conference, Ljubljana, Slovenia, 11-12 October;
- 5th OLAF Conference of Fraud Prosecutors, Brussels, 18-19 October;
- Operational Cooperation within the European Commission, Brussels, 24-25 October;

45 Proposal for a Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the Euro against counterfeiting, COM(2007) 525 final.
46 Third report from the Commission based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the Euro, COM(2007) 524 final.
47 Council Decision of 17 December 2001, OJ L339 of 21 December 2001.

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- International Cooperation against fraud and corruption, Buenos Aires, Argentina, 11-14 November;
- EUROCANET Seminar, Lisbon.

Focus on: The 1st Conference on the "protection and optimisation of public funds", Rabat, Morocco, 14-16 May 2007[48]

The first regional conference on the 'Protection and Optimisation of Public Funds' in the area of external aid was held in Rabat, Morocco, between 14 and 16 May 2007, at the initiative of the European Commission (OLAF/EuropeAid), the European Investment Bank (EIB) and the Inspectorate General of Finances of the Kingdom of Morocco. Bringing together 25 countries, the conference focused on the theme of sound financial management and protection of the financial interests of the European Community, stressing the importance of cooperation between the competent authorities at national and international level to ensure the best protection of public funds.
Participants underlined that the promotion of sound management and efficient control of public funds relies on political commitment and sufficient resources allocated to preventing, fighting and investigating frauds and corruption affecting the European Union development aid, and national budgets.
To achieve these goals, the Conference participants agreed on recommendations to establish appropriate 'cooperation frameworks' between the European Commission and the interested national, regional and international organisations, in the context of the current decentralisation and dispersal of the Community's external aid.
Since this first conference, cooperation arrangements have been signed between the European Commission (OLAF and EuropeAid) and administrative control bodies and law enforcement agencies in six countries, and with an African regional organisation for State Control Bodies (FIGE – Forum des Inspections Générales d'Etat).

5.9.2 Hercule programme

The Hercule programme was set up to promote activities to protect the Communities' financial interests.[49] In 2007 the European Parliament and the Council decided to extend the programme for the period 2007-2013.[50]

The Budget Authority decided to increase the budget for the programme by €44 million (€6 million for 2007) to include within it a new strand to provide financing for training measures and the purchase of equipment to combat cigarette smuggling (also see point 5.5).

The decision to amend the legal base of the Hercule programme was taken only in July. Nevertheless, the procedure for implementing the programme was started without delay and allocation was organised on schedule. This allowed global commitment (level 1) of almost the entire budget for 2007 and more than half of the total budget for the year of €13.574 million has already been employed under the project financing agreements.

This allowed grants to be made, o-financing 14 projects in the education field, 24 projects on technical assistance and 11 legal research actions. Among these projects are several international activities, such as conferences to ease operational exchanges, was well as support for some national authorities, e.g. for the purchase of the equipment to facilitate smuggling detection, or technical assistance.

5.9.3 Internal Training

OLAF put renewed emphasis on internal training, in particular by providing tailor-made courses for investigators and for new staff. On top of the 597 man/days of general training offered by the catalogue of the Personnel and

[48] For more information, see OLAF's Internet website at http://ec.europa.eu/anti_fraud/conf/rabat/i_en.html
[49] http://ec.europa.eu/anti_fraud/programmes/index_en.html.
[50] Decision No 878/2007/EC on the Hercule II programme (OJ L193, 23.7.2007).

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Administration DG, OLAF's Training unit designed and organised more than 474 man/days of anti-fraud training and 99 man/days of specialised language training concentrating on legal and technical terms.

488 staff attended 12 different courses, including interviewing techniques (two sessions), gathering evidence (two sessions), whistleblowing (one session), two seminars on ethics and six specific language courses. For newcomers, welcome sessions (four courses), operational intelligence (two sessions) and document and security management training (five sessions) were organised.

An information seminar on the Independent Commission against Corruption (ICAC) from Hong Kong was also given by Mr Simon Ho, Chief Investigator of ICAC. Two 'away days' for OLAF management were also set up and mentorship for new staff was introduced for the first time. In addition, 36 officials attended specialised anti-fraud seminars in 16 different universities or bodies around the world.

5.10 Information and communication

5.10.1 Data protection officer

Compliance with Regulation (EC) 45/2001 on data protection[51] is a comprehensive and challenging aspect of OLAF's operational work, in particular since the requirements of data protection must be balanced with the fulfilment of OLAF's investigative and operational tasks. OLAF staff must at all times respect the rules on the protection of personal data laid down in Regulation (EC) 45/2001, in particular the requirements on data quality, providing information to the data subject, rights of the data subject regarding access, rectification, blocking, and erasure.

As a data subject, the person concerned has the right of access to his or her personal data contained in the file. However, this right of access may be deferred if access would be harmful to the investigation or operation. This is decided on a case-by-case basis. For OLAF, the most important exemptions and restrictions that may apply in a given case are the need to safeguard 'the prevention, investigation, detection and prosecution of criminal offences' and 'an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters.'

OLAF treats the protection of personal data as an issue of particular priority. The European Data Protection Supervisor (EDPS) has acknowledged OLAF's progress in this area. OLAF has developed its data protection structures and activities and has provided training for its staff. Data processing operations presenting specific risks have been sent for prior checking to the EDPS, and the EDPS has issued opinions on all OLAF prior checking. OLAF is working to incorporate all recommendations of the EDPS into its daily procedures.

5.10.2 Ombudsman

In 2007, most of the new complaints sent directly by the European Ombudsman to OLAF concerned alleged failure to reply to correspondence, alleged failure to inform the complainant about action taken on his complaint, or alleged failure to grant access to documents. OLAF also replied to several letters sent by the Ombudsman, in particular to requests for further information, in relation to complaints previously introduced. In addition, two visits were organised by OLAF at the request of the Ombudsman.

5.10.3 Spokesman, communication and public relations

OLAF and its operational partners are convinced that information and communication must continue to be used as a means of preventing and combating fraud and corruption. Therefore OLAF supports its operational independence with its own information and communication strategy. The latter must be implemented in a manner which respects the Office's obligation to safeguard investigations and operations so as to respect the rights of the individual, in

[51] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. OJ L 8, 12 January 2001

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particular the presumption of innocence, within the framework prescribed by international, Community and national law. During the reporting period, the Office maintained its firm line of balancing these interests.

OLAF launched various information and communication activities to raise the profile of the Office.

In December 2007 OLAF conducted a survey amongst all European Commission staff. More than 4 200 participated, a good response rate for this kind of internal poll. A total of 79% of respondents stated that they trust OLAF, their positive view being encouraging for OLAF as the EU's anti-fraud body as well as for OLAF as the entity in charge of fighting corruption within the institutions themselves. More concretely, well over 80% of staff indicated that they would go to OLAF if they suspected irregularities, fraud or corruption. In this context, OLAF enjoys the highest level of trust of all twelve structures mentioned in the survey. The second most trusted are 'the Commission services' regular controls' and 'the courts and legal systems in the member states'. Among the organisations least trusted by the respondents are 'press and media' and 'local governments'.

OLAF also addressed itself to all Commission staff by distributing a calendar entitled 'Building Europe on Ethics and Integrity' that reminded them of their rights and obligations concerning irregularities as laid down in the Staff Regulations.

In terms of public relations, OLAF organised a seminar of the OLAF Anti-Fraud Communicators' Network (OAFCN) on the '*Fight against Fraud on Vision*' focusing on fraud prevention by means of TV fiction programmes. The seminar was co-chaired and co-hosted by the Austrian Federal Ministry of Finance (BMF) and the Government Office of the Slovak Republic (SRGO) both in Vienna and Bratislava from 23 to 26 September 2007. Other main activities undertaken together with OLAF's operational partners in the framework of the OAFCN were the first joint participation in the European institutions' Open Day in May in Brussels and two OAFCN meetings.

OLAF issued 50 press releases and two press briefings were held, jointly with the Commission, on the OLAF Activity Report and on the joint customs operation Diabolo. Over the year, OLAF recorded more than 500 media requests.

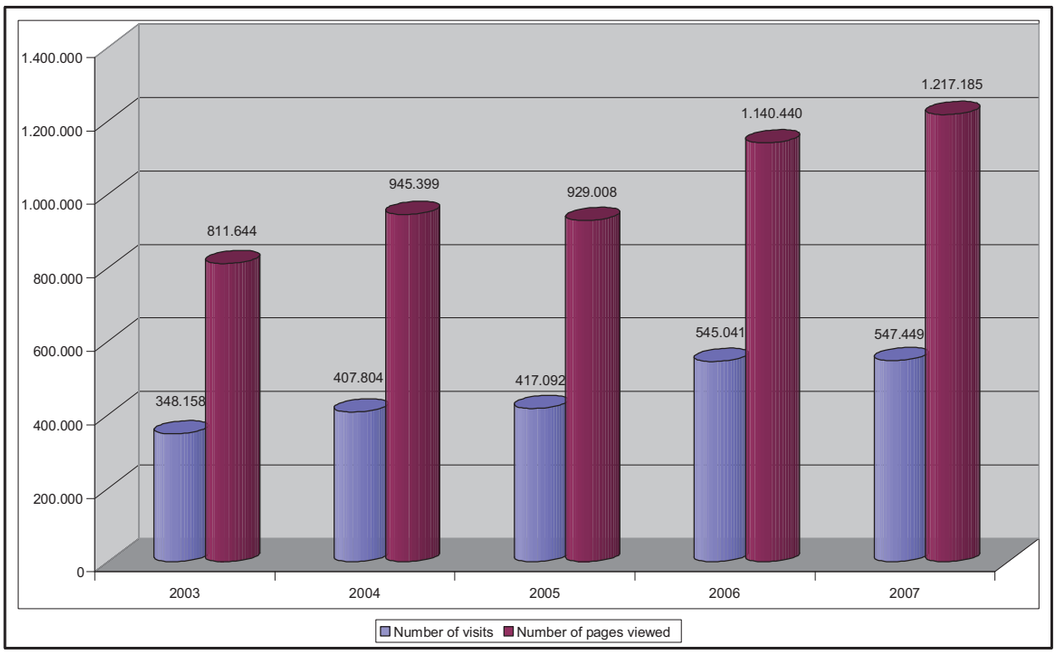
In 2007 a total of 67 visits to the Office were organised, involving 832 persons in total, mainly from customs, investigation services and public prosecutors offices in Member States and other countries. Additionally, delegations were welcomed to OLAF from a variety of public bodies.

The OLAF website continued to be the basic tool of the Office's communication and information policy. The number of hits has constantly risen since it was first set up. The main pages of the OLAF site are available in all official languages. On 31 December 2007, the website moved to the domain '.eu' and now includes updated contributions from OLAF's operational partner services about their cooperation with the Office.

The OLAF website recorded over 547 000 visits in 2007. At the end of the year, the OLAF website comprised 2800 pages and the OLAF Intranet 166 pages. The sections most visited are 'Press Room', 'Mission' and 'Reports'.

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Chart 44: Number of visits to the OLAF website[52]



[52] The number of visits differs from that published in previous reports as the methodology used to calculate the figures has been revised. Visits from search engines and other 'non-significant' visitors have been removed from the statistics.

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6 Budget

Chart 45 outlines the areas of expenditure within this budget. OLAF's administrative budget[53] was over €52 million in 2007. The 'personnel' heading accounted for over 60% of total administrative expenditure.

Chart 45: Development of the OLAF administrative budget, 2003 to 2007

Item	Budget 2003 (€ million)	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)	Budget 2007 (€ million)
Personnel	23.4	26.7	25.2	32.09	32.62
External personnel	4.6	5	6.2	2.6	2.98
Management Expenditure			2.2	2.6	2.92
Furniture/infrastructure	7.7	8.6	10.5	10.9	11.6
Anti-fraud actions	1.9	2	1.2	1.7	1.7
Supervisory Committee	0.2	0.2	0.2	0.2	0.2
Lawyers associations	0.4	n/a	n/a	n/a	n/a
Total	38.2	42.5	43.2	50.09	52.02
Percentage committed	97%	93%	92%	93%	94%

Chart 46 shows OLAF's operational budget for the last five calendar years.[54] It was over €20 million in 2007. The 50% increase over 2006 is mainly due to the entry in force of the Hercule II Programme.

Chart 46: Development of the OLAF operational budget, 2003 to 2007

Budgetary line	Budget 2003 (€ million)	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)	Budget 2007 (€ million)
24.0201 General anti-fraud measures	5.1	3.3	2.4	3.8	13.8
24.0202 Pericles	0.9	1	1	1	1
24.0203 Anti-fraud information system (AFIS)	3.8	4.3	4.8	4.8	5.8
24.0204 Hercule (lawyers associations included from 2004 on)	n/a	3.9	3.9	3.9	n/a
Total	9.8	12.5	12.1	13.5	20.6
Percentage committed	95%	92%	94%	94%	98%

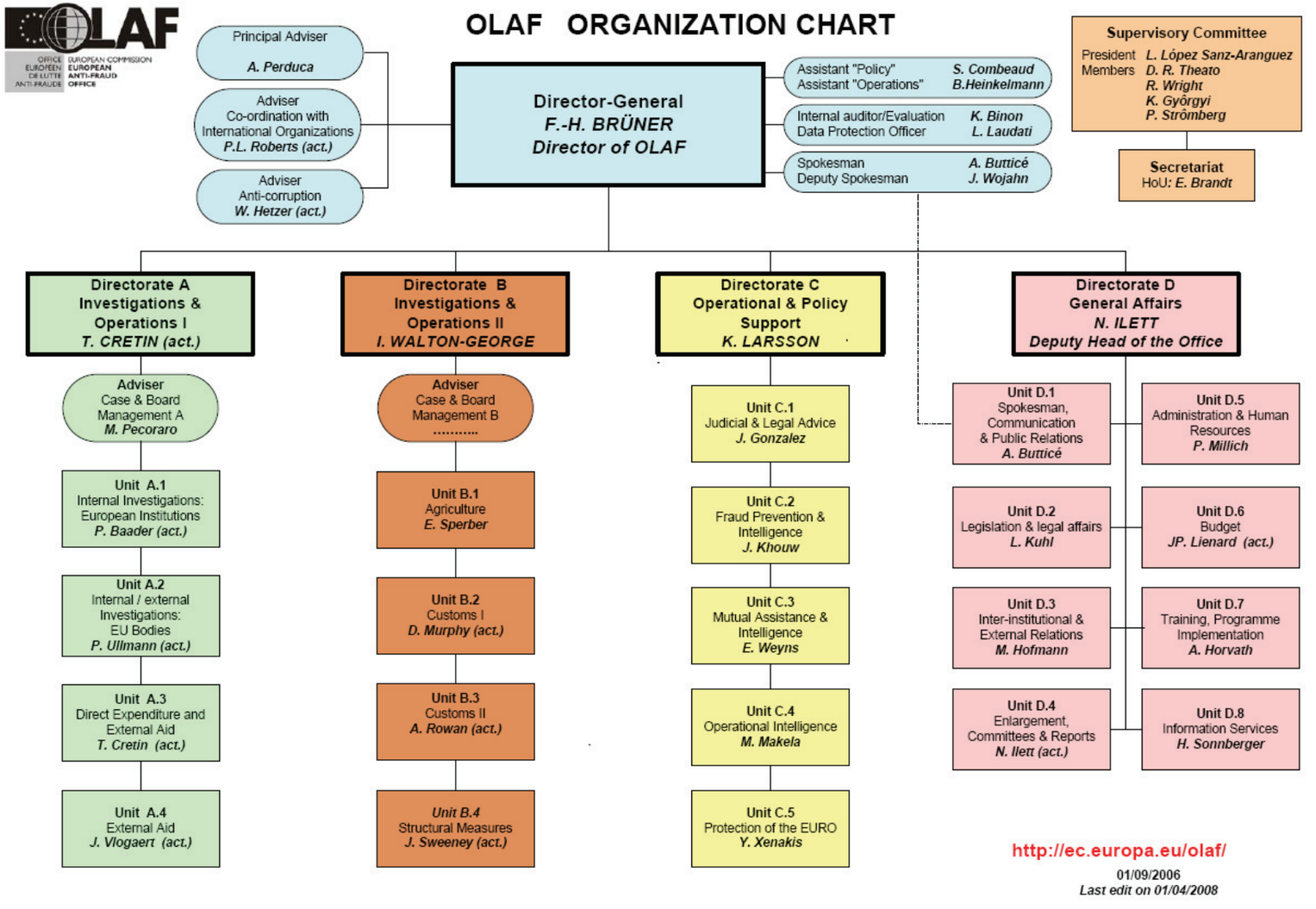
[53] While Title 24 of the European Commission's budget includes OLAF's total Budget, OLAF's administrative budget is set out in Annex COM III to the budget

[54] Since 2004, OLAF's operational budget has been set out in Title 24 of the European Commission's budget.

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OLAF's Organisation chart on 1 April 2008



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Glossary

AFCOS	Anti-Fraud Coordination Service
AFIS	Anti-Fraud Information System
ASEM	Asia-Europe Meeting
CEPOL	European Police College
CIS	Customs Information System
CMS	Case Management System
Cocolaf	Advisory Committee for the Coordination of Fraud Prevention
ECA	European Court of Auditors
ECB	European Central Bank
ECEG	Euro Counterfeiting Experts Group
EFTA	European Free Trade Association
EJN	European Judicial Network
ERDF	European Regional Development Fund
ESF	European Social Fund
FIDE	European Customs File Identification Database
FIFG	Financial Instrument for Fisheries Guidance
FRONTEX	European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU
IMF	International Monetary Fund
ISPA	Instrument for Structural Policies for pre-Accession
JHA	Justice and Home Affairs
JTI	Japan Tobacco International Agreement
NCTS	New Computerised Transit System
OAFCN	OLAF Anti-Fraud Communication Network
OCU	Operational Coordination Unit
OLAF	European Anti-Fraud Office
PCTF	Police Chiefs Task Force
PHARE	Poland and Hungary Action for Restructuring the Economy
PMI	Philip Morris International Agreement
SAPARD	Special Accession Programme for Agricultural and Rural Development
SCIFA	Strategic Committee on Immigration, Frontiers and Asylum
UCLAF	Unit for the Coordination of Fraud Prevention
UNMIK	United Nations Mission in Kosovo
TFR	Task Force on Recovery
VAT	Value Added Tax

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Annual Report 2009

European Anti-Fraud Office

Ninth Activity Report
for the period 1 January 2008 to 31 December 2008



Rue Joseph II 30
1000 Bruxelles
http://ec.europa.eu/olaf

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1 OLAF's mission

1.1 Mission statement



The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, and therefore of its citizens, and the reputation of the European Institutions. OLAF performs its duties with integrity, impartiality and professionalism, respecting individuals' rights and freedoms.

It is the responsibility of the European Institutions to guarantee that the best use is made of taxpayers' money and to fight fraud as effectively as possible. Illegal or improper use of Community financing and evasion of the taxes, duties and levies which fund the Community budget therefore harms European taxpayers and the entire European project.

OLAF achieves its objectives by:

- investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions;
- assisting Community and national authorities in combating fraud;
- promoting means of deterrence and prevention, and strengthening legislation to make it more difficult for fraud and irregularities to occur, thereby contributing to public trust in the European project.
- monitoring how its recommendations for follow-up are implemented by the competent authorities, and providing support whenever necessary.

OLAF's mandate covers in principle all Community expenditure and a part of the revenue side of the budget. It includes the general budget, budgets administered by the Communities or on their behalf and certain funds not covered by the budget, administered by the Community agencies for their own account. It also extends to all measures affecting or liable to affect the Communities' assets.
It also covers other, non-financial interests, and concerns all activities designed to safeguard Community interests against serious irregularities liable to lead to administrative or criminal proceedings.

1.2 OLAF's main powers and responsibilities

OLAF's task is to conduct, in full independence, internal and external administrative investigations as provided for in Articles 3 and 4 of Regulation (EC) No 1073/99.[1] The legal basis for Community action against fraud is Article 280 of the EC Treaty[2].

OLAF's status is of a hybrid nature: being formally part of the Commission, it is able to exercise Commission powers, but it is endowed with budgetary and administrative autonomy, designed to make it **operationally independent when conducting its investigations**, for which the Director General has sole authority and control.

The legal framework encompasses two structures to reinforce OLAF's operational independence: guarantees associated with the **post of Director General** and the **Supervisory Committee**.

[1] OJ L 136, 31.5.1999. Where reference is made to Regulation No 1073/99, this also applies to the equivalent Euratom Regulation.
[2] For more details, see OLAF's Annual Report for 2006 at http://ec.europa.eu/anti_fraud/reports/olaf_en.html

OLAF staff act as agents of the Commission subject to its internal rules and powers as far as activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation are concerned.

1.3 Reform of 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)

European Parliament and Council Regulation (EC) No 1073/1999 and Council Regulation (Euratom) No 1074/1999 confer on OLAF powers to conduct internal and external investigations.

The first evaluation of OLAF in 2003, as well as the Court of Auditors' special report of 2005 showed there was room for improvement concerning the operational efficiency of the Office. In 2006, the Commission prepared legislative proposals[3] that would:

- enhance the procedural rights of persons concerned by investigations: Incorporating these rights in the Regulation itself makes it possible to constitute a uniform body of basic guarantees applicable to all OLAF investigations.

- ensure better control over the course of the investigations, by introducing an Independent Review Adviser, appointed for a five-year term by the Director General, acting on a proposal made by the Supervisory Committee.

- strengthen the cooperation between the Supervisory Committee and the other institutions, by establishing a 'structured dialogue' between the Supervisory Committee and representatives of the European Parliament, the Council and the Commission.

- improve the exchange of information between the Office and the EU Institutions, as well as with the Member States.

The proposal is under examination by the European Parliament and the Council under the co-decision procedure. This revision of OLAF's legal framework should strengthen the legal basis and procedural safeguards for the activities of the Office.

The European Parliament delivered a favourable opinion on the Commission proposal in December 2008, subject to certain amendments being taken into account[4]. OLAF has already taken some practical steps to anticipate some of the improvements contained in the revised Regulation, as reflected in its new shortened Manual of procedures.

[3] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), COM(2006) 244 final.
[4] For more detail, see in particular the article *The Reform of OLAF*, in Eucrim of 3-4/2008, pages 177 and following, available at http://www.mpicc.de/eucrim/archiv/eucrim_08-03.pdf

2 Statistical trends in operational activities

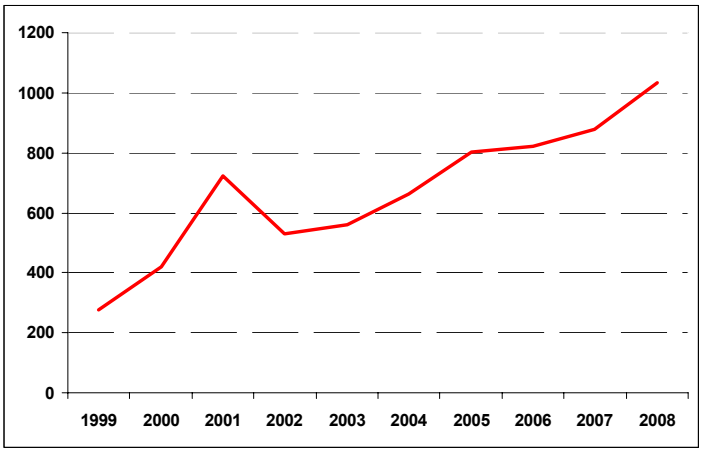
2.1 Evaluation of incoming information

The volume of information received has steadily increased since the creation of OLAF in 1999, and rose for the eighth consecutive year (up by 55% in the last five years), mainly as a result of a sharp increase in the number of referrals to OLAF from sources within the EU Institutions, but also because of an increasing number of informants[5], Member States' referrals and more information forwarded to OLAF through the free phone network.
In 2008, OLAF received five new items of information from whistleblowers who sought protection under the provisions of the Staff Regulations.

Three sources of information account collectively for about 90% of the incoming information (informants 43%, the European Commission 30% and Member States 14%).

The latest figures reflect heightened public awareness of the Office, confirming and reinforcing OLAF's role as a 'pillar of trust' in the fight against fraud.

Chart 1: Number of initial items of information received per year



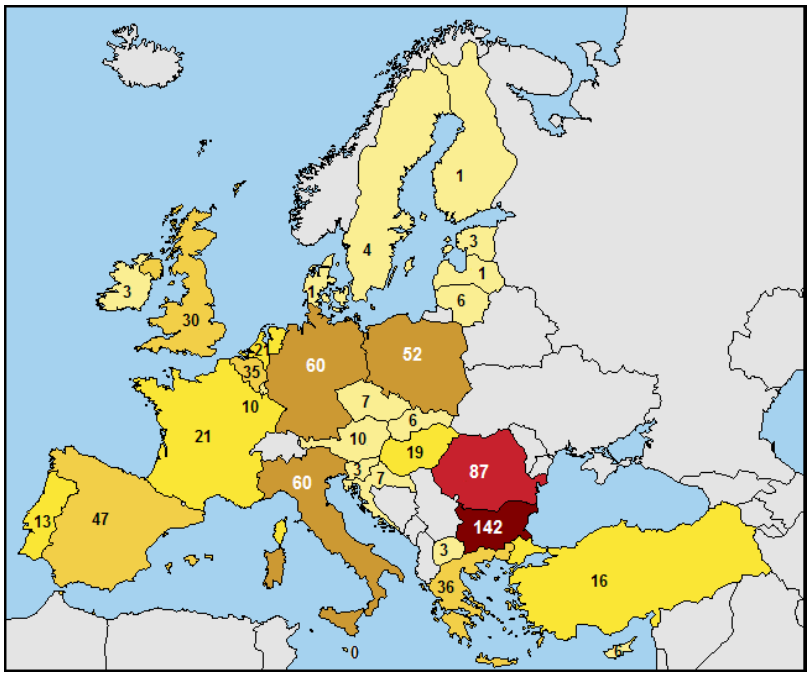
The information received mainly concerned allegations related to the EU Institutions and bodies (nearly 30%) and agriculture (20%), followed by external aid (17%), internal EU policies (15%) and structural measures (13%). This spread is consistent with that observed in the last four years.

The geographical breakdown of incoming information is illustrated by **Chart 2**. A significant share of OLAF's new items of information relates to a small number of countries: in 2008, approximately 65% had to do with suspected fraud in six Member States (Bulgaria, Romania, Germany, Italy, Poland, Spain). **This does not necessarily imply that more fraud is perpetrated in the countries with the highest occurrence of allegations being forwarded to OLAF, as better cooperation can also lead to a higher number of referrals to the Office.**

A proportionally higher occurrence of allegations is to be expected in Luxembourg and Belgium relative to their size, population and receipts from the EC budget, given that they are the seats of the largest European institutions. The vast majority of the allegations regarding the EU Institutions and bodies therefore originate in these countries.

[5] Informants include: witnesses; anonymous sources, media and trade sources, and whistleblowers. A whistleblower is defined as an EU official or other EU staff member who comes forward to OLAF with information they have discovered in the course of or in connection with their duties concerning matters which may be within OLAF's competence. Unlike informants, officials and other EU staff are under a legal obligation to come forward with such information.

Chart 2: Distribution of incoming information by Member State or Candidate Country in 2008



Each initial item received by OLAF is subject to a thorough evaluation leading to a recommendation as to whether a case should be opened or not and, if opened, the type of action required by OLAF and the priority it should be given.

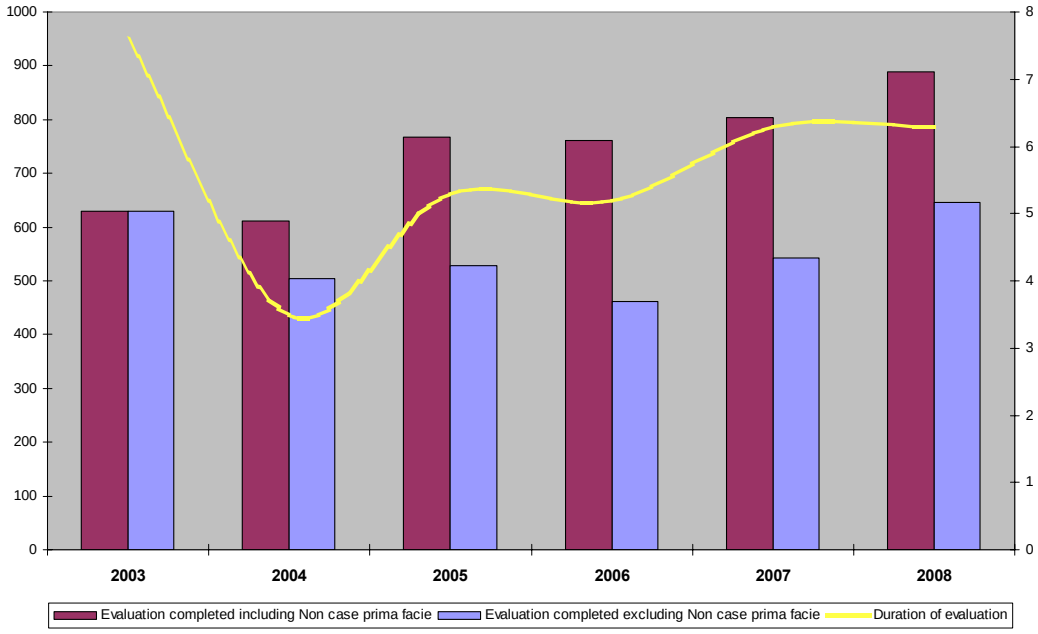
The evaluation period is calculated from the date of receipt of the information to the date of the recommendation made by the Board to the Director-General. The total number of evaluations increased again in 2008 (**Chart 3**).

By contrast, the average length of standard evaluations, which had fallen from 10.6 months in 2002 to 5.2 months in 2006, was stable in 2008 over a year, at 6.3 months. An increase in the average duration of evaluations from 2005 onward was to be expected, as from 2004 onward a greater proportion of information received was excluded from this calculation with the introduction of the '*non case prima facie*' system. As a result of the introduction of this simplified procedure[6], the Board is required to assess only information containing allegations falling within the competence of the Office.

While OLAF continues to seek to improve this aspect of its performance, the information passed on to the Office is of an increasingly substantive and serious nature. Moreover, delays can often be caused by translation requirements and by the need to wait for replies from external operational partners. Priority continues to be given to the thorough assessment of information in respect of which OLAF has a clear mandate.

[6] The information falling outside the competence of OLAF is considered as a prima facie non case, as detailed in the OLAF Manual available at http://ec.europa.eu/dgs/olaf/legal/index_en.html#11

Chart 3: Number of evaluations including and excluding "non case prima facie" *(separate axes)*

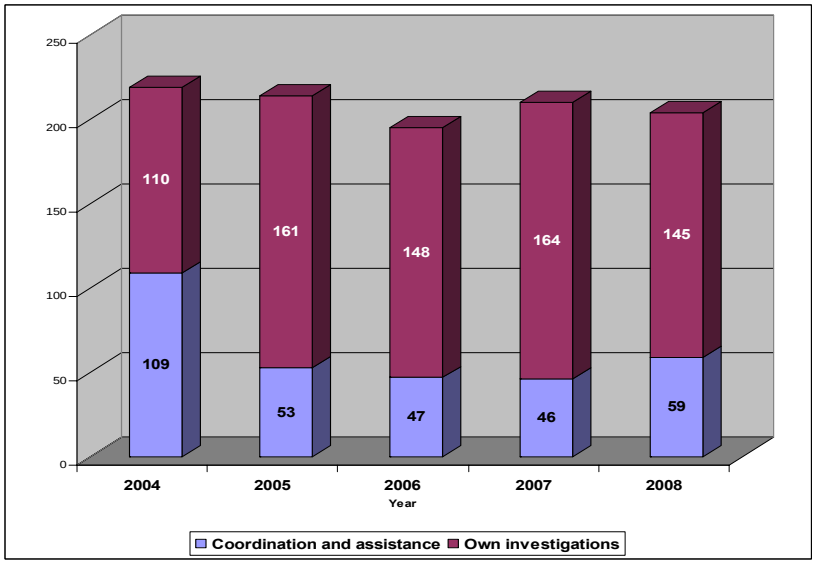


2.2 Active investigations

The overall spread between the different types of cases indicates that OLAF tends to increasingly concentrate on its own investigations, in order to maximise the added-value of its work.

The total number of opening decisions has been quite stable over the past five years. Since 2004, the number of OLAF's own investigations has progressively caught up with and overtaken the number of cases in which OLAF assists national authorities (see **Chart 4** below) to the point where 'own investigations' account for about 75% of cases opened, compared with 25% for 'coordination and assistance' cases.

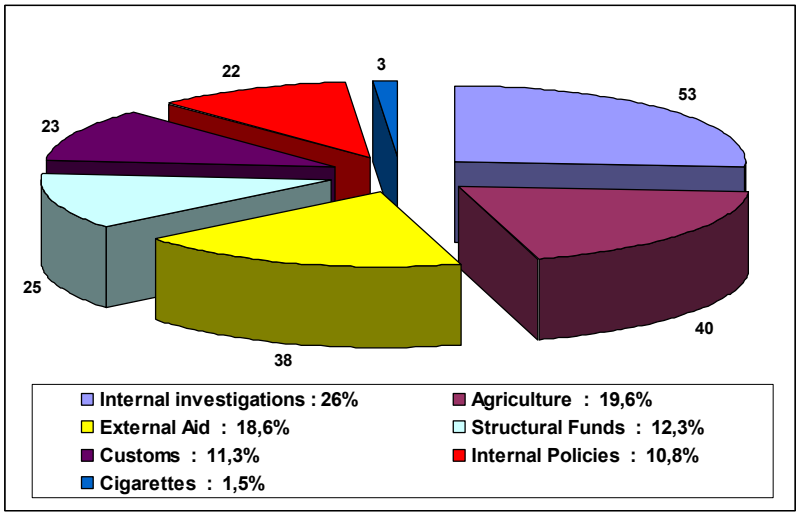
Chart 4: Number of opening decisions by year and nature of the investigation



This trend is driven by three main factors:

- a decline in the number of agriculture-related cases opened (from 64 in 2004 to 40 in 2008), due in particular to an increasing shift in agriculture-related opening decisions from coordination and external investigation towards monitoring;
- an increase in cases opened in internal investigations (from 20 in 2004 to 53 in 2008, a 160% rise);
- a change in the types of cases opened having to do with the Structural Funds (11 external investigations were opened in 2004 compared to 25 in 2008, while fewer monitoring actions are being opened);

Chart 5: Opening decisions taken in 2008 by area



Equally, areas in which Member States do not exercise specific responsibilities — '*Internal EU Policies*' and '*External Aid*' cases — have represented a growing proportion of the new cases opened by OLAF since its creation (around or above 30% since 2005). This evolution is in line with the Office's policy to focus on areas where the added-value of its work is the highest.

The number of cases opened in the '*external aid*' area decreased (from 64 in 2007 to 38 in 2008), while '*internal EU policies*' cases reverted to their level of previous years (22 cases in 2008). This trend was mainly driven by the progressive phasing-out of investigations related to pre-accession aid in the 12 Member States that joined the Union in 2004 and 2007 and became eligible for EU internal programmes centrally managed by the Commission[7].

Chart 6: Number of internal EU policies and external aid cases opened

Area	2004	2005	2006	2007	2008
Internal EU policies	23	28	11	11	22
External aid	30	36	54	64	38

Chart 7 provides a **snapshot** of all active cases at the end of 2008 showing the instances where Member States and acceding or candidate countries are involved. One case record may relate to more than one country, as cases can have a transnational dimension.

[7] See part 3.2 on internal EU policies and 3.3 on external aid for more details.

Chart 7: Active cases at the end of 2008 by Member State and Candidate Country

Status of Country	Country involved		Agriculture	Cigarettes	Customs	Internal EU Policies	External Aid	Internal Investigations	Structural Funds	VAT	Total
Member States	BE	Belgium	4	4	4	6	2	29	2		51
	BG	Bulgaria	23	1		5	11	2			42
	CZ	Czech Rep.	1		1						2
	DK	Denmark			1			1		1	3
	DE	Germany	3	3	8	3	1		3		21
	EE	Estonia								1	1
	EL	Greece	4			4		5	4		17
	ES	Spain	2	1	2	5	1	1	4		16
	FR	France	2	1	1	5	7	1	2		19
	IE	Ireland	1	2	2						5
	IT	Italy	10	5	2	5	1	6	12		41
	CY	Cyprus		4		1					5
	LV	Latvia		1			1	1			3
	LT	Lithuania				1			1		2
	LU	Luxembourg	1			1	1	4			7
	HU	Hungary	1		1	2	1		2		7
	MT	Malta						1			1
	NL	Netherlands	5	1	4	1		1	1		13
	AT	Austria	2	1	3	1			1		8
	PL	Poland	1	4	3	1	1	1	1	1	13
	PT	Portugal	1			1			6		8
	RO	Romania	5	1		1	11	2	1		21
	SI	Slovenia				1					1
	SK	Slovakia	1		1				1		3
	FI	Finland								1	1
	SE	Sweden								1	1
	UK	United Kingdom	2	4	4	4	4	4			22
	Subtotal		69	33	37	48	42	59	41	5	334
Candidate Countries	HR	Croatia		1		1					2
	MK	FYROM						3			3
	TR	Turkey	2	2			6	2			12
	Subtotal		2	3	0	1	6	5	0	0	17
TOTAL			71	36	37	49	48	64	41	5	351

2.3 Investigations closed

The number of cases completed has declined over time, because of a **sharper focus on more complex cases**. In parallel, the **average 'active stage' duration decreased from 28 to 24 months in 2008** (**Chart 8**), while about **60% of OLAF cases were closed in less than 2 years**. OLAF will continue to take action to monitor and limit the duration of its investigations, even though this duration is in large part due to factors which are beyond the Office's control. Since the introduction of the 'simplified procedure' in 2004 along with other changes in operational policy, the decision to open a case is targeted more and more on the most serious cases, which are often multi-faceted and take a long time to finalise.

OLAF remains committed to tackling the issues arising in this domain so as to keep the average duration below 24 months. However, this long-term approach must take account of wide differences between types of investigations and areas concerned. This is evidenced by **Chart 9** and **Chart 10** which illustrate the difficulties faced by investigators in complex cases and where the assistance or collaboration of Member States or outside authorities is required. **Chart 9** shows that **internal** and **external investigations** carried out by OLAF do not exceed the 24-month threshold. However, **coordination cases** as well as **criminal assistance cases carried out by the Member States' authorities** significantly exceed this limit**.**

Chart 8: Cases completed and duration of active stage completed in each calendar year *(separate axis for each indicator)*

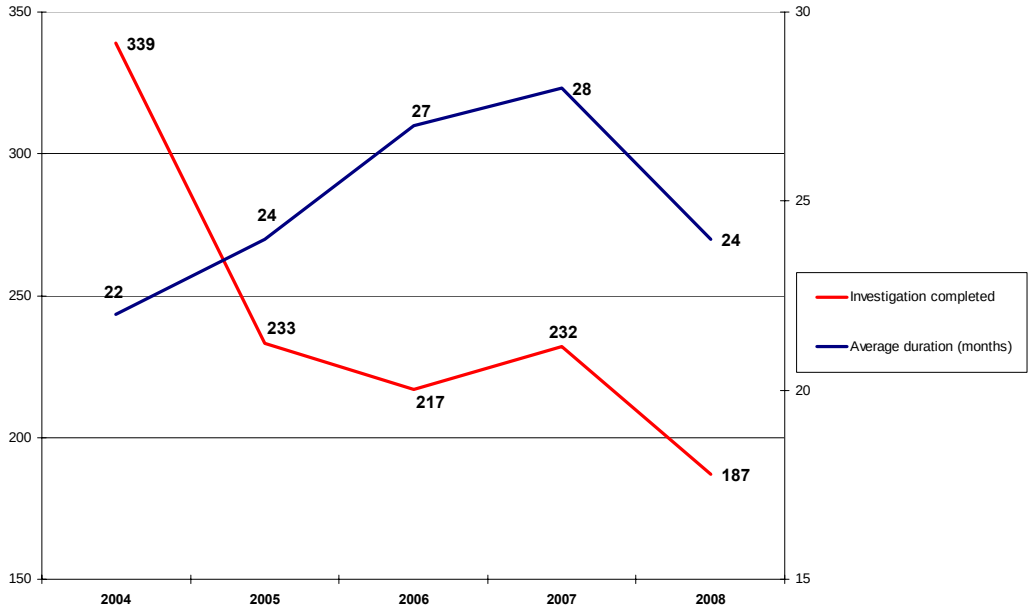


Chart 9: Average duration of active stage completed in 2008 per type of investigation (in months)

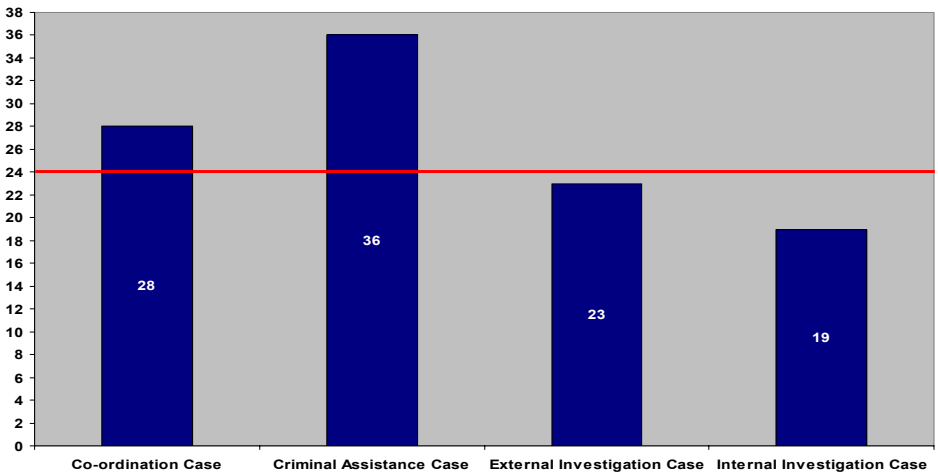
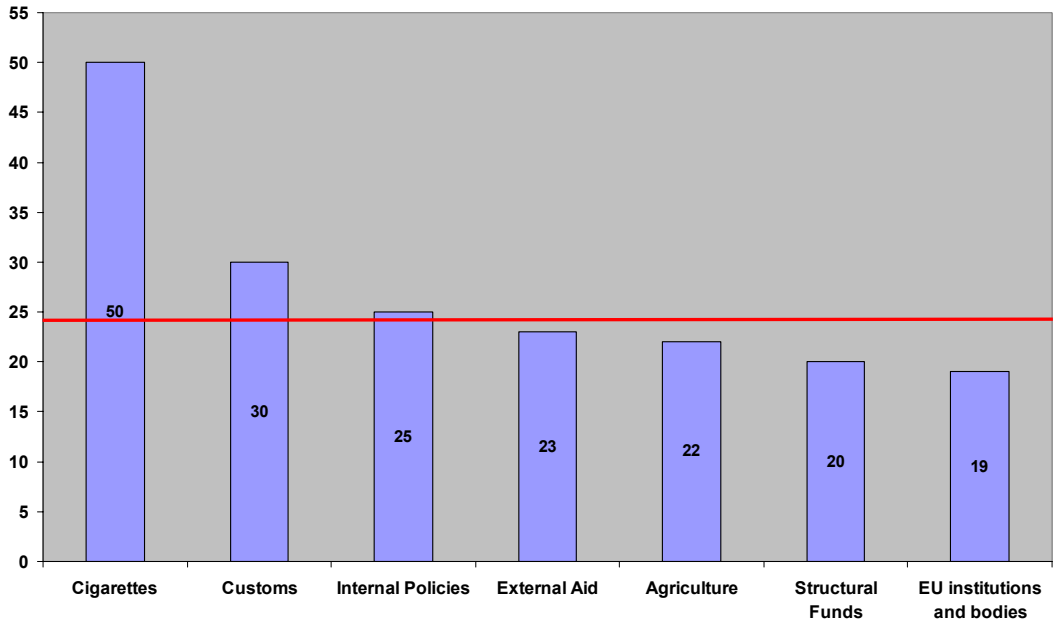


Chart 10 further illustrates these developments by showing the spread in investigation times between different areas of OLAF investigations, which is in large part attributable not only to the level of complexity of frauds and irregularities, but above all to the involvement of external partners and the type of expenditure — direct or shared management — in question.

Chart 10: Average duration of active stage completed in 2008 per area concerned (in months)



2.4 Follow-up of investigations

Follow-up is a monitoring stage which can include various activities undertaken by OLAF designed to verify that the competent Community and national authorities carry out the administrative, disciplinary, financial and/or judicial measures recommended during or more frequently at the end of an OLAF investigation.

The duration of the follow-up stage necessarily includes standby periods in which OLAF must wait for the results of action taken by other parties. If court procedures are involved, the follow-up phase can be very protracted.

- OLAF's **financial follow-up** activity consists mainly in monitoring and supporting Member States and Commission services' efforts to get successful financial recovery.
- **Administrative follow-up** consists in verifying that the necessary measures to implement Community policies and law relating to recommendations arising from OLAF cases are duly taken by the Community institutions, bodies and/or Member States, and that the provisions of agreements with third countries have been respected. It also includes monitoring the application of potential administrative sanctions and the withdrawal of privileges (e.g. for the importer in the traditional own-resources sector), and flagging companies through the Commission's EWS (Early Warning System) at OLAF's request.
- OLAF ensures **judicial follow-up** of its cases with the competent national judicial authorities.
- **Disciplinary follow-up**: Where an internal investigation reveals evidence of serious matters relating to the discharge of professional duties such as to constitute a dereliction of duty on the part of an official or other servant of the Communities, OLAF will recommend that the case and its file be referred to the competent EU authorities, for appropriate disciplinary action. OLAF ensures follow-up with the authorities.

In those situations where the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a consistent approach by liaising with both.

The proportion of cases closed with follow-up has continuously increased since the creation of OLAF, and now represents close to 70% of all cases closed, compared with less than 45% before 2004. The majority of follow-up work is still financial recovery and judicial follow-up, which accounted for about 75% of total follow-up activities undertaken by the Office in 2008. This trend confirms that OLAF is increasingly focusing on serious cases, and on substantial information received. The steady number of disciplinary follow-up paths shows OLAF's determination to support the zero tolerance policy applied within the EU Institutions and bodies when serious misconduct arises.

Chart 11: Cases closed with or without follow-up in each calendar year

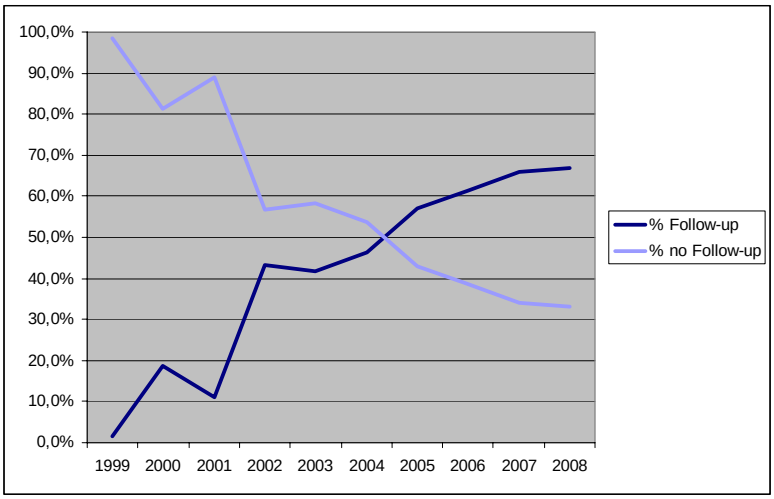
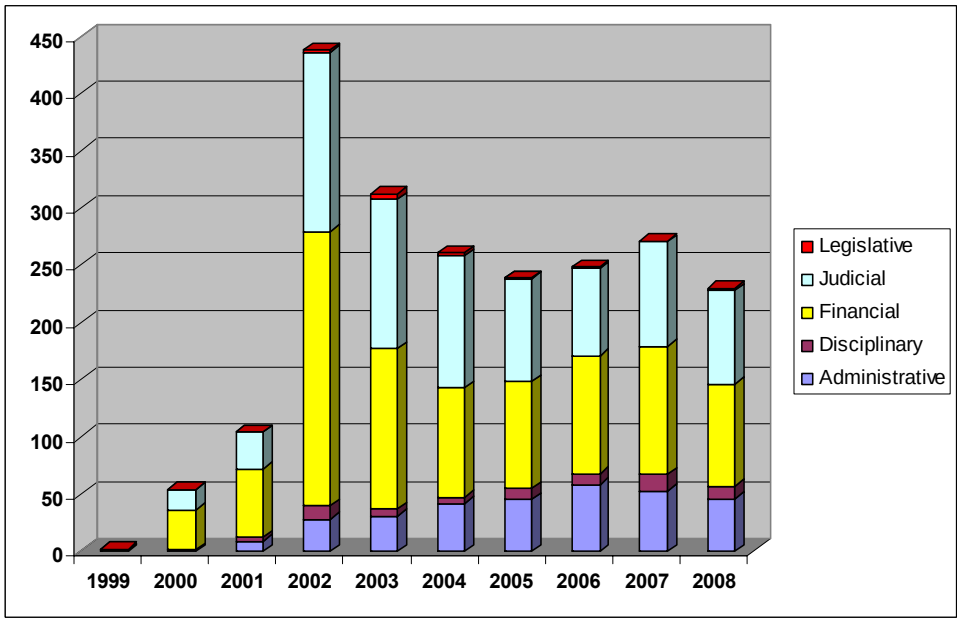


Chart 12 illustrates the spread of follow-up activities related to the cases closed in the last ten years.

An individual case often leads to several follow-up actions. For instance, the 125 cases closed with follow-up in 2008 have triggered 230 follow-up proceedings, including 89 financial, 82 judicial, 46 administrative and 11 disciplinary.

Chart 12: Cases closed with follow-up and type(s) of follow-up opened



NB: One closed case can have several types of follow-up

Definition of new procedures for financial follow-up and possible impact on future statistical reporting

In 2008 OLAF reviewed its financial follow-up procedures. This resulted in the definition of new case handling and acceptance criteria involving *de minimis* thresholds to be applied from 2009. The introduction of these thresholds will enable OLAF to focus on the more significant cases of fraud or irregularity involving larger amounts of money which need to be recovered.

An important new distinction was also created between those financial follow-up cases which OLAF is still actively processing in order to identify debts which need to be established, notified and recovered following the conclusion of OLAF's live operational activity, and cases where this action is already completed thus enabling transfer of the remaining tasks to OLAF's operational partners (e.g. Commission Directorates-General, competent national authorities) for them to take forward in accordance with their assigned legal competences and responsibilities. This latter category of cases will, from 2009 onwards, be transferred into a **new "Pending" stage** during which OLAF will only periodically check to see whether any further recoveries have taken place and, if so, record them in OLAF's CMS for reporting purposes.

It will therefore be possible in the future to separate the financial follow-up cases in which OLAF still has an active ongoing involvement from those where OLAF's operational partners will exclusively be executing all the remaining tasks.
Furthermore, implementation of **new *de minimis* thresholds** for financial follow-up could lead to a greater number of case closures in 2009 and a lower number of cases being transferred to financial follow-up.

Since it was established in 1999, OLAF estimates that the financial impact of the cases it has closed amounts to more than **€6.2 billion**. In 2008 alone, the Office estimates this impact at **€285 million**.

Chart 13 reflects the annual breakdown of financial recovery completed in the last five calendar years: **€147 million** recovered as a result of follow-up actions closed in 2008; **€315 million** also recovered in respect of follow-up actions which are still ongoing. The large fluctuations observed from year to year are due to the fact that a few high-profile cases accounted for the bulk of recoveries in past years.[8] **These sums represented only a fraction of the total amounts recovered following the discovery of fraud or some other irregularity, as most of the recoveries are made by Member States with no direct link to OLAF cases.[9]**

Chart 13: Breakdown of amounts recovered following OLAF cases in € million[10] (data relates to amounts recovered in financial follow-up paths closed in each calendar year by OLAF, except for the last column)

Major Area	2004	2005	2006	2007	2008	Total	*Additional amounts recovered in respect of follow-up paths still open in 2008*
Agriculture	0.07	14.43	1.18	0.84	2.0	**18.4**	*147.2*
Customs	1.58	63.05	0.13	3.34	14.2	**82.2**	*142.8*
Internal EU Policies	1.86	0.18	0.25	0.49	0.5	**3.3**	*1.2*
Internal investigations	0.04	0.00	2.16	0.13	0.2	**2.4**	*1.9*
External Aid	2.01	31.78	92.72	0.90	1.9	**129.3**	*2.5*
Structural Funds	192.62	97.96	17.22	197.67	128.0	**634.1**	*18.7*
Total	**198.17**	**207.40**	**113.66**	**203.37**	**146.8**	**869.7**	***314.3***

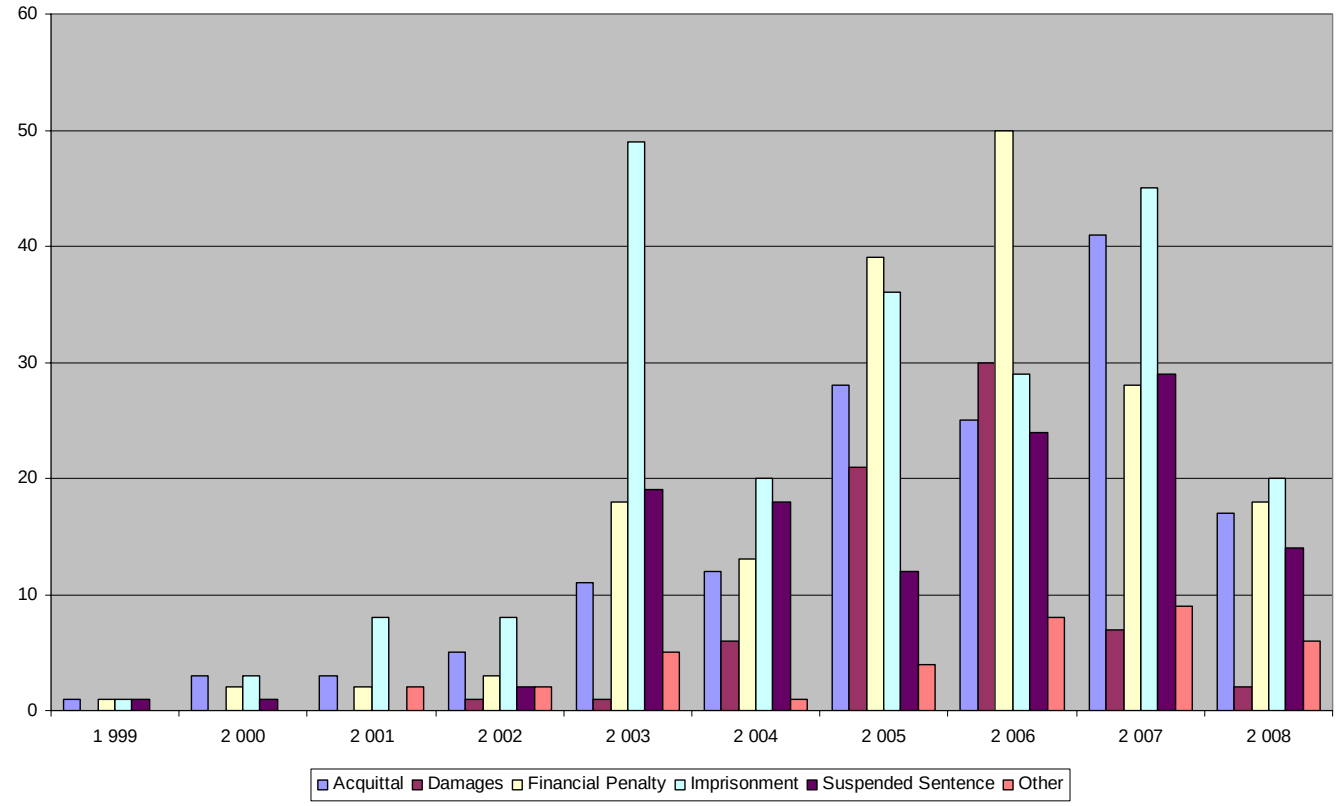
[8] Notably, one monitoring case regarding structural funds led to the recovery of more than €115 million in 2007
[9] See the *Commission Report on the Protection of the Communities' financial interests — Fight against Fraud 2008* for more details.
[10] Figures are subject to exchange rate fluctuation in respect of non-euro area currencies

FOCUS on Judicial follow-up

Where a case brings to light evidence of possible criminal acts, the Office must recommend in its final case report that the case and its file be referred to the competent national judicial authorities for further investigation and prosecution. OLAF ensures judicial follow-up with the competent national judicial authorities. Once the decision adopted by the judicial authorities becomes definitive, OLAF closes its judicial follow-up. Often, this is many years after the case was initiated by OLAF (or its predecessor UCLAF).

Chart 14 shows judgements made from 1999 to 2008 in relation to OLAF cases. They are broken down into six different categories of court rulings.
A total of 764 actions for the protection of the EC's financial interests have been brought since 1999. A significant proportion of the court rulings resulted in imprisonments (30%). The three other most frequent outcomes are financial penalties (22%), suspended sentences (15%) and damages (9%).

Chart 14: Summary of judgments communicated 1999-2008



Since it was established in 1999, OLAF has opened more than 3 000 cases, and over 300 individuals have been sentenced by criminal courts as a result of OLAF's investigations to a combined total of nearly **875 years**, of which 208 were suspended. More than 400 other cases are currently with the competent judicial authorities with recommendations from OLAF to launch criminal prosecutions. OLAF's investigations have led to **more than €1 billion** of European taxpayers' money being recovered.

OLAF has opened close to 800 judicial follow-up paths[11] (**Chart 12**) since 1999.

OLAF's achievements cannot however be measured by statistics alone. Studies have shown increasing public confidence in the European Institutions and a perception that corruption within the Institutions is not in fact higher than at national level. Over the past ten years, trust in OLAF's ability to effectively tackle fraud and corruption has gradually and constantly been increasing among both the general public and civil servants of the Institutions.

OLAF judicial follow-up activities are conducted by a team of experienced personnel, most of whom are former magistrates in national jurisdictions. The Office works in close cooperation with a network of partners in

[11] One case may lead to several follow-up paths

prosecutorial services specialising in financial and economic crime. OLAF's Supervisory Committee is informed of any transmission of information to national judicial authorities. The second protocol to the Convention on the Protection of the European Communities' Financial Interests entered into force on 19 May 2009. It has been ratified by most Member States and provides specifically for direct cooperation between the European Commission and the judicial authorities of the Member States to protect the Community's financial interests.

Member States' authorities are not legally bound by OLAF's recommendations. Criminal law remains a national prerogative, and OLAF can only encourage competent national authorities to cooperate. The Office is therefore not in a position to give an opinion on the quality of the follow-up given by national judicial authorities.

Once a case has been transmitted to the national authorities in a Member State, they act independently to determine what further action should be taken in light of the national legal framework. OLAF's experience demonstrates that in most cases, the transmission of cases to national authorities triggers the opening of an investigation. Some cases however are dismissed without any investigative proceedings, manly because of national *de minimis* rules. Contacts are very frequent between OLAF and the national judicial authorities.

Judicial proceedings often take several years, with national authorities having no legal obligation to report to OLAF on the evolution or the outcome of a case. **Therefore, figures alone must be considered with caution**, as the majority of the cases transmitted to national judicial authorities are still pending before national courts or are still subject to national investigative proceedings.

Chart 15: Summary of reasons for case dismissals by Public Prosecution Services

Reason for dismissal	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Insufficient evidence	3	1	3	4	16	22	25	28	12	60	174
Low priority	0	0	0	0	1	2	4	5	4	3	19
No legal basis	0	2	0	0	2	2	1	1	4	1	13
No public interest	1	0	0	0	1	1	2	0	9	25	39
Time bar	0	0	4	1	2	2	3	14	5	3	34
Procedural errors	0	0	0	0	1	0	0	0	1	0	2
Other	1	0	0	1	2	6	4	18	13	5	50
Total	5	3	7	6	25	35	39	66	48	97	331

Over the last three years (2006-2008)[12], the Office has identified 161 cases which have triggered the opening of one or more national judicial proceedings and are linked to: criminal investigation, trial, judgement, appeal or closure of judicial proceedings. These 161 cases correspond to 311 different judicial proceedings, as one case may lead to several proceedings (at different stages).

In the same period, OLAF identified 77 closed judicial proceedings, of which 46 have already led to decisions by the courts, while 24 have been dismissed. For the 15 cases for which 65 judicial decisions were adopted, 33 countries were identified as having been involved in taking judicial decisions. This also shows the 'internationalisation' of the EU's fight against fraud, both in terms of judicial proceedings and as regards investigative activity.

Chart 15 shows that when a case is dismissed, the main reasons put forward by the national judiciary are insufficient evidence (50%), followed by a lack of public interest (11%) and time barring (10%).

Landmark convictions in adulterated butter case after 10 years of work

The "adulterated butter" case exemplifies the issues at stake in the judicial follow-up of OLAF investigations. The aim was to uncover offences involving the production and distribution of adulterated butter on the European market, which impacted on the Community budget. The facts put before the national courts date back to the end of the 1990s. OLAF provided back-up for the investigations conducted by the national authorities in four Member States over a number of years. The related activities undertaken by OLAF in this case, which had been opened in

[12] These elements were further detailed during a *Workshop on the follow-up of OLAF's administrative investigations in Member States* organised by the European Parliament's Committee on Budgetary Control in February 2009.

1999 shortly after the creation of the Office, resulted in a final judicial outcome only some ten years later in one Member State (France).

The Italian authorities opened an investigation in agreement with the Italian anti-mafia prosecutor, after it was discovered that the company was producing adulterated butter. This investigation also uncovered the fact that the company was importing chemicals from a German company, which it later used in the production of this adulterated butter. OLAF provided back-up, as it was discovered that **16 000 tonnes of adulterated butter had been marketed in Italy, France, Germany and Belgium.**

This led to the subsequent intervention of police services in France and Belgium, who stopped and searched shipments of adulterated butter and interviewed personnel of the French company.



As a result, a second and separate investigation was opened in France by the *Office de Répression de la Grande Délinquance Financière de la Police Judiciaire*. The French company's managers, as well as its owner, were all accused of having prior knowledge of this adulterated butter being delivered. The investigation later established that the operational staff of the company had been aware that the butter had been adulterated.

In Italy, the company's owners were each prosecuted and sentenced to five years in prison for illegal adulterated butter production and marketing, production of adulterated substances and production of false documentation. This successful judicial outcome came as a result of hard work and long-term cooperation between OLAF and the Italian authorities. OLAF had provided major technical assistance at the request of the Naples Prosecutor's Office. This was also a significant factor in bringing these individuals to justice.

In France, the local importing company (its managers, its owner and an intermediary) were charged with allegations of selling products containing adulterated butter. In February 2009, due to the evidence obtained throughout the investigation and the testimony of OLAF staff, the Court of appeal of Paris upheld the ruling of the Court of first instance. The manager and the owner were sentenced to respectively 12 months imprisonment (9 months suspended) and 18 months imprisonment (12 suspended) on counts of swindling. The intermediary between the French and the Italian company who had been acquitted in first instance was sentenced to 15 months imprisonment (9 months suspended) as an accomplice of the fraud. The company itself was also sentenced to a €200 000 fine. **The order of the Court of first instance to pay back €23 million in unlawfully obtained European subsidies to the French Office of Livestock** (subsequently to be reimbursed to the Community budget) was confirmed as well. The matter is still subject to appeal before the *Cour de Cassation*.



In Belgium, a separate investigation has been launched against two Belgian companies which received shipments of adulterated butter from the Italian company: the outcome is not yet known.

In Germany, the authorities decided not to launch criminal proceedings, but have recovered Community subsidies totalling €150 000 from the German customer of the adulterated butter.

This case demonstrations clearly that had it not been for OLAF, such coordination between various authorities of four Member States (France, Germany, Belgium and Italy) would not have been possible, making the successful outcome of the investigation less likely. Moreover, the testimony of OLAF agents before the courts proved to be decisive in that they alone could provide a complete overview of a multi-faceted international case.

This landmark case is a clear demonstration of how OLAF's work cannot always be expected to bring overnight results, as proceedings are still ongoing in Member States, 10 years after the start of the initial investigation.

3 Key achievements in 2008 by area of activity

3.1 Internal investigations

3.1.1 Guaranteeing the smooth operation of the European Institutions and strengthening their reputation

OLAF's internal investigations are administrative procedures within the Community institutions and bodies and their overall purpose is to detect fraud, corruption, and any other illegal activity affecting the financial interests of the European Communities. These investigations can also focus on serious matters such as a breach of the professional duties and obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies, or members of staff, liable to result in disciplinary or criminal proceedings. Internal investigations are therefore a key part of OLAF's daily work.

The consequences of OLAF's actions can be much wider than those concerning an individual investigation, such as:

- **Deterrence against possible impropriety**. Individuals who may be inclined to act improperly are deterred by the fact that such conduct will be subject to effective investigation and they will have to face consequences.
- **Commitment to accountability**. Investigating possible employee misconduct is part of OLAF's duties. As investigations are conducted into other categories of personnel engaged in EU activities, it is important for individuals, beneficiaries and Member States to see that there are consequences for misconduct. This requires a robust capacity to establish facts and clear individual responsibilities if any.

3.1.2 Enforcing the Commission's 'zero tolerance policy' by investigating a wide range of allegations

Although studies have consistently shown that corruption in the EU Institutions is not perceived to be worse than at national or local level, due to the reinforcement of internal audits, control standards and OLAF's work[13], experience shows that no country or institution in the world is safe from cases of corruption or breaches of their responsibilities by their officials, especially where the handling of finances by officials is concerned.

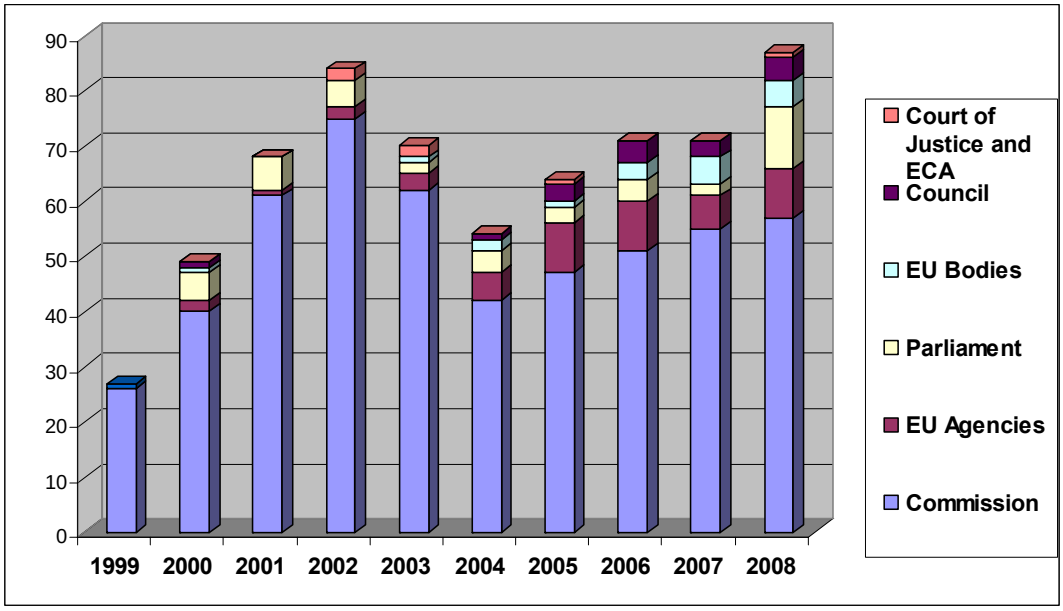
An internal survey was conducted in order to gain a better understanding of OLAF's perception among Commission staff. Overall, the results, published in early 2008, showed good awareness of the Office and a high degree of trust in OLAF's efforts to combat EU budget fraud: 79% of respondents said they trusted OLAF, while 85 % said that they would alert OLAF to cases of suspected irregularities, fraud or corruption. It should be noted that OLAF had the **highest level of trust** of all organisations mentioned in the survey. The Office remains committed to ensuring that its work is more fully understood and to boosting the confidence in OLAF shown by the staff of the EU Institutions.

A zero-tolerance policy underpinning the prevention and prosecution of corrupt practices within the EU bodies and Institutions has been in place for a number of years. To implement this policy, in accordance with Regulation 1073/99 relating to internal investigations, OLAF investigates *'serious matters'*. To ensure zero tolerance, other matters are referred to IDOC or the security office, as appropriate.

Compared to previous years, the number of active internal investigations in 2008 has slightly increased, owing in part to a higher number of opening decisions in that field (53 decisions compared to 46 in 2008). The European Commission still constitutes the source of the vast majority of internal investigations conducted by OLAF, in large part because it employs far more staff than the other EU Institutions and bodies and manages a far greater part of the budget.

[13] E.g. The United Kingdom House of Lords stressed that the 'EU budget is not more exposed to fraud than the UK budget', House of Lords, European Union Committee 50th Report of Session 2005-06, Financial Management and Fraud of the European Union: Perceptions, Facts and Proposals, Volume I.

Chart 16: Cases in active investigation in EU Institutions and Bodies at the end of each year



Allegations forwarded to OLAF may concern a wide range of issues such as embezzlement, favouritism, fraudulent claims by staff (e.g. allowances, retirement benefits, etc.), wrongdoing in tender procedures, conflict of interest, etc. **OLAF's annual report features case studies for illustrative purposes only. The fact that OLAF presents such case studies does not prejudge the outcome of judicial proceedings; nor does it mean that the allegations presented imply that particular individuals are guilty of any wrongdoings.**

In practical terms, the Office has a number of powers (e.g. access to information and the buildings of the Institutions, with the possibility to check accounts and to obtain extracts of documents). In the meantime, it has to take full account of the impact of the evolution of Community case-law, which is further detailed in **section 5.5.4**.
In addition, OLAF can request, from any person concerned, information that it judges useful for its investigation. In accordance with Regulation No. 2185/96, it can carry out on–the-spot checks at the premises of the economic operators concerned, in order to have access to information concerning possible irregularities held by these operators.

OLAF and IDOC

The competences of IDOC, the Investigation and Disciplinary Office of the Commission and those of OLAF are complementary: both Offices are independently tasked with internal investigations within the Commission.

To ensure any such allegation is thoroughly investigated by the best placed service, a distinction is made primarily through assessment of the 'impact' of allegations. In principle, this includes a consideration of both reputational risk and potential financial impact. By contrast, IDOC's competence starts with a breach of the Staff Regulations, which may only amount to 'minor wrongdoing', with or without financial impact.

IDOC also handles for the Commission the disciplinary proceedings, inter alia following-up OLAF's investigations, based on an assessment of its findings and recommendations.

OLAF is currently working closely with IDOC to achieve an ever clearer delineation of responsibilities, which will allow OLAF to concentrate increasingly on serious matters, as its mandate requires. The aim is also to avoid unnecessary overlap and delays. Regular meetings ensure a flow of operational information between IDOC and OLAF and allow for coordination in the allocation of cases.

Case Study: Alleged request for bribes by a staff member of an EC Delegation

In the course of a mission to an EC Delegation carried out in an external investigation, it was alleged to the OLAF team that a former staff member of the Delegation (Person 1) had demanded a bribe (described as a "gentlemen's agreement") from an NGO which had tendered for an EC-funded project. A member of the local staff at the

Delegation (Person 2) was also accused of involvement in this matter. Separately, Person 1 was also accused of demanding bribes from tenderers for a security contract of the Delegation.
OLAF investigators visited the Delegation and interviewed the sources of allegations, Person 2 and other witnesses.

Concerning the NGO contract, no evidence could be found to substantiate the allegations. Concerning the security contract, OLAF examined the documentation and concluded that it showed evidence of serious irregularities. The case however could not be referred to judicial authorities because of the time bar. It was nevertheless transmitted to IDOC for possible disciplinary action.
Access was obtained to the personal files of both interested parties and these were examined. The personal file of the former Delegation member appeared to contain falsified documents. OLAF subjected this aspect of the matter to evaluation and subsequently opened a new internal investigation.

- **Follow-up in the area of internal investigations**

The case study presented below exemplifies the successful administrative follow-up given to an internal investigation (for more details, see **section 2.4**).

Case study: mechanism barring former temporary staff members from being re-employed in the event of disciplinary misconduct

An internal investigation discovered that a temporary staff member had forged documents, including a university diploma, at the time of recruitment. He had been recruited and classified in an incorrect grade.

Given that the contract with the temporary agent had come to an end before the adoption of OLAF's final case report, and had not been renewed, the Commission informed OLAF that there was no possibility to initiate a disciplinary procedure against the former staff member. However, as suggested by OLAF in its final case report, the Commission developed a mechanism whereby a former staff member could be denied future employment with the Commission, in cases where he/she produced false documents at the time of recruitment or was guilty of serious disciplinary misconduct during the period of contractual employment.

The procedure provides for the person concerned to give his/her opinion before the administration decides on possible exclusion from contracts with the Commission for six years. In fact, the Conditions of Employment of Other Servants provide that a member of the temporary or contract staff may be engaged only on conditions that he/she produces the appropriate character references as to their suitability for the performance of the duties involved.

Currently, discussions are being held to find a suitable modus vivendi for the application of this approach across the European institutions.

3.2 Internal EU policies

OLAF plays a leading role in the investigation of cases related to internal EU policies[14], since these mainly concern expenditure directly managed by the Commission and other EU Institutions and bodies, such as EU agencies. This area of activity covers any EU-funded expenditure, project or programme that falls fully and directly within the competence and responsibility of the Commission services. The most substantial feature of the "*internal EU policies*" is that at all stages (publication of call for interest/tender, evaluation-selection, contracting, monitoring of implementation, financial matters and payments, audit) the Commission is fully in charge and solely accountable, and does not share the management of the project or programme with any national or international authority (as it is the case for example with Structural Funds, whose management is shared with various national agencies).

This covers inter alia research projects financed under the Framework Programmes, programmes in the field of education such as Socrates or Erasmus, or communication programmes such as in the case study presented below.

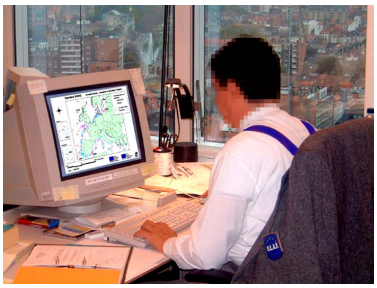
The "*internal EU policies*" area of activity represented some 15% of the incoming information in 2008, and led to the opening of 22 investigations (11% of OLAF's total). Fifteen cases were closed as well during the year, of which two-thirds were followed-up.

[14] Referred to as "direct expenditure" in previous annual reports

Final judgment in the Avignon funds case

A Cour de Cassation order on 22 January 2008 brought to a close the follow-up to an OLAF investigation into a French private-law entity. OLAF had submitted the findings of its investigation to the Avignon Public Prosecution Service in early 2003.

For many years, this entity had been receiving Community funding under the information and communication policy. From 1997 to 2001 the convicted persons had devised 27 fictitious projects in order to deceive the European Commission, involving more than €200 000 of funding. According to the findings of OLAF's investigation, they had planned fictitious training courses, with lists of imaginary participants, false budgets and false invoices.



In a judgment of 20 November 2006, the Avignon Criminal Court had sentenced those responsible for fraud detrimental to the European Commission. They were each given an 18-month suspended prison sentence and three years' probation and ordered to repay the damages caused by the infringement according to their ability to pay and to reimburse the European Commission for damages of **€38 000 and €7 000** in respect of the non-material damage incurred by it. The judgment was upheld by a decision of the Court of Appeal on 11 October 2007. The sentences were made final by an order of the Court of Cassation.

➢ Follow-up in the area of internal EU policies

In the field of internal EU policies, centrally managed by the Commission (as well as for 'external aid'), follow-up covers expenditure which the Commission implements without the involvement of Member States, or which is delegated by the Commission to non-EU countries. Follow-up activities in this field may also cover the financial and administrative follow-up of internal investigations, where appropriate.

Recovery actions may be avoided with a preventive anti-fraud policy which anticipates problems, or by taking action while a case is still open. For direct expenditure, investigations which have led to criminal proceedings often receive financial follow-up. With a view to supporting recovery, OLAF assesses the possibility of taking civil action as part of criminal proceedings in those jurisdictions where this is possible.

Administrative follow-up in 'internal EU policies' cases concentrates in particular on helping Commission departments to apply the appropriate administrative sanctions (such as the exclusion of tenderers or beneficiaries from contracts or grants financed by the Community budget for a maximum period of ten years or the payment of financial penalties) on the basis of OLAF's investigative findings.

The Pluto Project

OLAF has been supporting the European Commission[15] in its drive to further strengthen its audit capability and control. The Office provided powerful analytical tools and knowhow to facilitate and enhance examination of the framework programme research data. The competent external auditor has reported that this collaborative approach is already showing a positive impact in terms of recovery, and provides support to DG INFSO management decision-making as regards continuation or award of contracts.

Commission services, particularly in the Research family, have shown an active interest in receiving similar support from OLAF, to help them develop their audit and control capability. OLAF will, within its limited resources, do its best to respond in a positive manner.

[15] Directorate General for Information Society

3.3 FOCUS on external aid and external relations

OLAF's mission of protecting the financial interests of the European Union **takes its activities well beyond the borders of the EU** responding to the need to safeguard the proper spending of the considerable amounts of EU funds which are granted to third countries and international organisations to advance EU policies. OLAF works together with partner authorities in third countries and with counterpart administrative investigation services in various international organisations. Some of the tools used in this cooperative effort include the holding of regional conferences to build networks amongst operational partners, such as investigative and prosecutorial services, promoting international cooperation, and entering into administrative cooperation arrangements with such partners.

➢ **Background**

The EU is the largest donor of development assistance (ODA), and the European Commission alone manages around 11% of the world's total ODA. In all of these activities, the EU works together not only with its Member States, but with third countries, international organisations, and other operational partners, including non-governmental organisations. OLAF's main mission of protecting the financial interests has wide-ranging external relations implications: its activities may directly concern the Community budget on either the expenditure or the revenue side, and/or affect the budget of the European Development Fund (EDF) and the resources of the European Investment Bank (EIB), with whom OLAF works closely: regular meetings are held between OLAF and the EIB and inter-agency cooperation has been established on a range of cases.

3.3.1 Investigative activities in the area of external aid

OLAF is mandated to conduct external investigations in third countries under the applicable EU legislation, including Regulations (EC) No. 1073/1999 and 2185/1996, specific financing agreements, EDF rules, and in accordance with the cooperation agreements in force.
External aid is one of the traditional areas of OLAF's so-called 'own' investigations. This area of activity has represented about 20% of all the information received since the creation of OLAF in 1999. At the end of 2008, it represented approximately **25% of all OLAF active cases** (102 active cases).

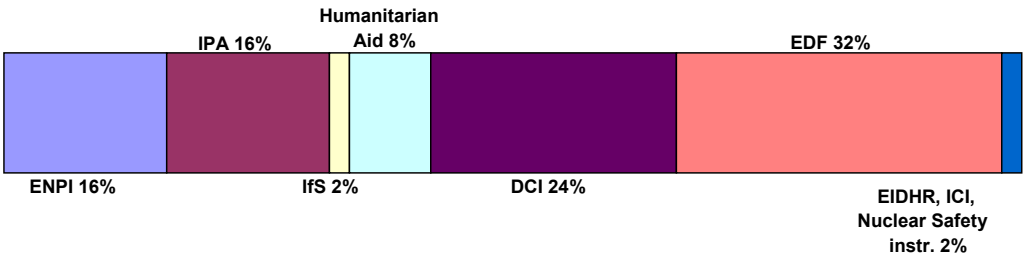
OLAF plays a crucial role in preventing and detecting fraud in this field by working in partnership with other Commission departments — notably the EuropeAid Cooperation Office (AIDCO) and the European Community Humanitarian Aid Office (ECHO) — and also with international partners.

➢ **Operational remit and activities**

Since 2006, 35 financial instruments have been reorganised into ten instruments for external development assistance. The European Development Fund (covering 77 ACP countries) and the Development Cooperation Instrument (mainly covering Asia, Latin America, the Middle East and South Africa) alone represent 56% of EU development aid.

The EU aid is included in the Community budget, with the exception of the EDF. The latter is funded outside the EU budget by direct contributions from the Member States. However, OLAF has powers to investigate matters falling within all the external aid instruments of the EU, including the EDF.

Chart 17: EU development policy instruments 2008-2013



In the external aid area, OLAF investigators often encounter modus operandi typical of organised fraud. The risks that make such fraud possible include shortcomings in coordination between the different global and international donor organisations. These shortcomings affect the allocation of grant aid, auditing, monitoring, evaluation and the operation of warning systems. The abundance of different projects, programmes, NGOs, organisations and foundations, combined with the fact that many of these operate in different legal environments and financial systems, makes coordinating and supervising the aid a challenging task. Moreover, many organisations look for multiple sources of financing in order to implement their projects.

OLAF investigators face various challenges in their daily investigative work in the aid area. These mainly relate to concern obtaining evidence, exchanging information and getting sufficient cooperation. This can cause technical and organisational problems but **may also adversely influence the duration and efficiency of operational work.**

Case study: False declaration of origin in external aid projects

In the framework of a Commission external aid programme, a Commission Delegation signed several contracts with a company for the supply of IT equipment, valued at close to one million euros.

According to the terms of the contract, the supplies were subject to strict rules of origin and should have originated from EU Member States or from a beneficiary of the external aid programme in question.

The relevant Commission Directorate General informed OLAF of serious suspicions that the IT equipment supplied was not originating from the stated countries and that the certificates of origin submitted to the EC Delegation could be false.

OLAF's external investigation confirmed that the certificates of origin were falsified and uncovered evidence that the IT equipment originated from East Asian countries.

Based on the OLAF final report, the Commission imposed a **penalty close to €150 000**. A requirement for a sample check of certificates of origin of goods purchased was also included in the revised 2008 version of the Practical Guide to Contract procedures for EC external action.

3.3.2 Anti-fraud methods and their development: carrying out effective investigations in third countries

- **Cooperation with Third Countries and International Organisations – Cooperation Arrangements**

In recent years, OLAF began to establish closer links to its operational partners in third countries and in international organisations through bilateral or multilateral administrative cooperation arrangements. As far as arrangements with services in third countries are concerned, OLAF usually enters into these arrangements along with EuropeAid, as co-signatory, unless the operational partner in the third country is a judicial/prosecutorial body, in which case OLAF enters into the cooperation arrangement with the intended partner alone as a European Commission service.



Administrative Cooperation arrangements have been signed with authorities in Argentina, Djibouti, Morocco, the Republic of Congo, Senegal, South Africa and the FIGE (*Forum des Inspections Générales d'Etats d'Afrique* – as illustrated on the left). Discussions with other third country authorities are currently underway.

These administrative cooperation arrangements encompass multi-faceted cooperation between OLAF and its operational partners to protect the financial interests of the EU and of the recipient country, which includes administrative support, exchange of information, data protection, mutual training and designation of contact points for close cooperation.

➢ Building a Network of Operational Partners to prevent fraud

With a view to expanding its network of operational partners, OLAF has launched a new initiative in 2007 together with EuropeAid to organise a series of conferences dedicated to the protection and optimisation of public funds in the external aid sector; focusing on the cooperation between national and international authorities.

The first such conference was held in Rabat, Morocco in 2007, while the second conference took place in Cape Town, South Africa in April 2008. The initial focus of the initiative on the African continent is in line with the general external relations policies of the European Commission. The two conferences already held attracted public officials from partner services of more than 40 countries and international organisations. OLAF and EuropeAid are contemplating additional conferences in the coming years.

These conferences contribute to the better understanding of sound financial governance and optimisation of public funds. All of the participants to date have stressed the importance of cooperation between the competent authorities at national and international level to ensure the best level of protection of public/EU funds.

The 2nd Conference on the "protection and optimisation of public funds"

Cape Town, South Africa, 14-17 April 2008



*The second regional conference on the '**Protection and Optimisation of Public Funds – Co-operation between national and international authorities'** in the area of external aid was held in Cape Town, South Africa, from 14 to 17 April 2008, at the initiative of the European Commission (OLAF and EuropeAid), and in cooperation with the National Prosecuting Authority of South Africa, directorate of Special Operations.*

Bringing together representatives from 17 countries[16], the European Commission, EC Delegations in Africa, the European Investment Bank, and the United Nations (UNDP and World Food Programme), the conference focused on the theme of sound financial management and protection of the financial interests of the European Community, stressing the importance of cooperation between the competent authorities at national and international level to ensure the best protection of public funds.



Participants stressed that the promotion of sound management and efficient control of public funds relies on political commitment and sufficient resources allocated to preventing, fighting and investigating frauds and corruption affecting the European Union development aid, and national budgets. To achieve these goals, the Conference participants agreed on recommendations to establish appropriate 'cooperation frameworks' between the European Commission and the relevant national, regional and international organisations, in the context of the current decentralisation and dispersal of the Community's external aid.

➢ OLAF's Cooperation with International Organisations

An ever increasing amount of EU funds are channelled through other donor and implementing international organisations. OLAF therefore needs to cooperate closely with a growing number of international organisations and their administrative investigation services in particular. OLAF actively collaborates with partner administrative investigation services at international organisations in a number of ways.

[16] Angola, Botswana, Comoros, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Morocco, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe.

For OLAF, the main objective of conducting peer reviews of administrative investigation offices of international organisations is to verify that the reviewed office of the institution entrusted with EU funds has the capacity and procedures to investigate allegations of fraud and corruption. Such reviews also aim at raising standards and promoting better collaboration.

The area of primary interest for OLAF in this regard is the United Nations Secretariat and other bodies, agencies, funds and programmes of the UN system. In the UN context, OLAF is paying particular attention to the implementation of the Financial and Administrative Framework Agreement ("FAFA") and its verification clause. It is critical that OLAF possesses all the tools necessary to carry out its mandate and to control the EU funds which are channelled through the UN system. Indeed, the EU contributed in excess of €1 billion to the UN in the last five years – the contribution amounted to €1.4 billion in 2007 (the last available figure), a **700% increase** from 2000.

OLAF is currently preparing to revise its existing cooperation arrangements/memoranda of understanding with the UN Office of Internal Oversight Services and the World Bank, while entering into new arrangements with EULEX and the Global Fund.

3.3.3 Intelligence projects

In line with its legal framework as regards prevention activities, OLAF launched intelligence projects in the fields of agriculture, customs, external aid, own resources, research and the Structural Funds. These projects aim at identifying vulnerabilities in the management systems and external threats which could have an impact on the Community's financial interests.

The **"Double Funding" project**, completed in 2008, identified certain risks in the area of external aid on the basis of an analysis of OLAF's operational casework. OLAF showed that irregularities and (alleged) frauds occur most frequently in the project implementation phase, and that falsified documents constitute modus operandi most frequently observed. It also showed that most cases were initiated as a result of information provided by sources outside the control structure for the implementation of the budget. OLAF underlined the importance of information sharing among donors in order to support the prevention and detection of double funding. In order to improve information sharing for facilitating financial management, the Commission with the support of OLAF is testing a new IT tool (**Transparent Aid – TR-AID**), developed by the Commission's Joint Research Centre.

Further projects are expected to be completed in 2009.

3.4 Structural actions

Some €347 billion has been earmarked to foster prosperity across Europe's regions and boost innovation and competitiveness, representing some 36% of the EU budget for the period 2007-2013. Of this, two thirds will be financed through the European Regional Development Fund (ERDF) and the Cohesion Fund. OLAF has an important role to play in the protection of such funds.

Objectives, Structural Funds and instruments [17]
2007-2013

Objectives	Structural Funds and instruments		
Convergence	ERDF	ESF	Cohesion Fund
Regional Competitiveness and Employment	ERDF	ESF	
European Territorial Cooperation	ERDF		

Additionally, OLAF investigates matters concerning other structural financial instruments such as the **EAGGF** and the **FIFG,** which were in place in the 2000-06 and preceding programming periods, and **w**hich are now, in the

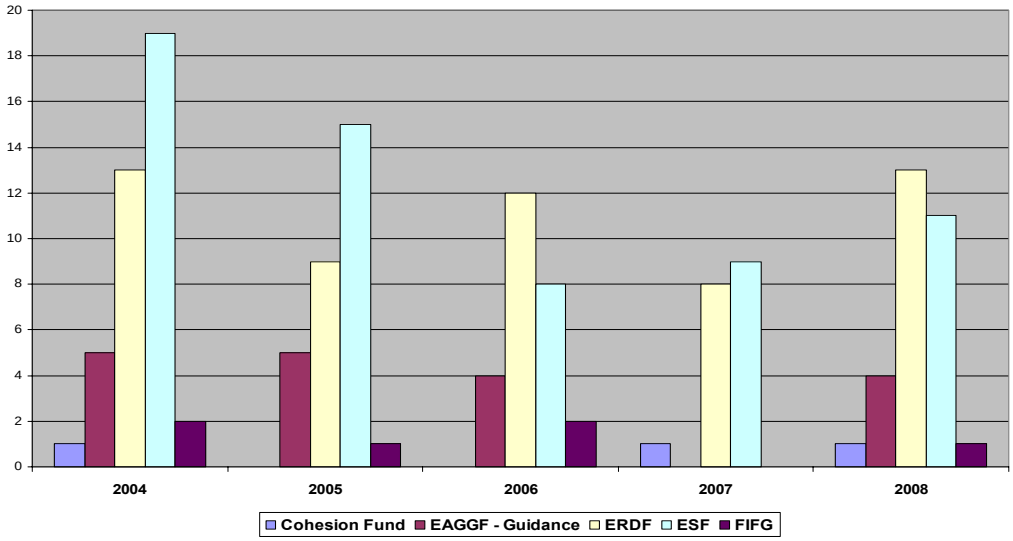
[17] Source: DG REGIO http://ec.europa.eu/regional_policy/policy/object/index_en.htm

current programming period, covered by the European Agricultural Fund for Rural Development (**EAFRD**) and the European Fisheries Fund **(EFF**) respectively.

The control systems in place for Structural Funds are based on the principle that the Member State is primarily responsible for controlling the funds and correcting irregularities that occur. When allegations of serious irregularities or fraud are submitted to OLAF, the Office, following evaluation, may decide to intervene. In such cases, the Member State authorities are contacted to check on the type and level of the EU funds at stake and decisions are then made on the nature of OLAF's intervention. OLAF's operational activities in the Structural Funds area are mainly conducted under Regulation No 2185/1996 concerning on-the-spot checks and inspections carried out in order to protect the European Communities' financial interests against fraud and other irregularities. Close cooperation with Member State authorities is crucial to such activity.

In 2008, OLAF received 136 allegations of fraud regarding Structural Funds. In the same year, 25 new cases were opened in this area, and 18 of the 30 external investigation cases closed entailed financial follow-up. Meanwhile, OLAF undertook 41 on-the-spot checks in the Member States relating to measures co-financed by the Structural Funds. Typical problems identified by OLAF in the course of 2008 included false declarations, false invoicing and failure to abide by public procurement rules.

Chart 18: Structural actions cases closed by Fund in the last five years



Case study: ERDF Financial Aid in Calabria, Italy

An OLAF ERDF investigation in Italy, closed in 2008, was triggered initially by audit information received from the Commission services and Italy itself. OLAF subsequently opened an external investigation into a specific programme involving ERDF financial aid for the development and growth of SMEs in Calabria, Italy. The operations under investigation, which were also financed from the Italian budget, concerned the purchase of equipment used in the construction of buildings and roads.

OLAF's investigation, which was conducted in close cooperation with the Italian authorities, began by examining the applications for support for projects from the local financial institutions (banks). It was established by means of the registration numbers of the machines that, in many instances, funding had been obtained twice for the same equipment, with separate applications having been made at different banks for the same machinery.

Following on-the-spot checks, it became clear that very serious irregularities and possible fraud had been committed involving, inter alia, double invoicing for the same goods with consequent duplication of funding claims and payments, considerable differences between the purchase price and the sale price of the goods, the purchase of machinery previously sold within the framework of the aid programme and the subsequent resale of the same goods. In total OLAF checked more than 40 projects and found serious irregularities in most of them.

OLAF's case findings and recommendations were transmitted to the Commission services and Italy then took further action with higher financial corrections and additional judicial actions being proposed. In financial terms, OLAF

identified irregular funding amounting to more than **€10 million** and sought financial recovery of this amount to the Community budget. Three separate criminal procedures have been opened in Italy against the parties concerned.

Following additional checks on all of the operations funded under this programme, the payment authorities decided to initiate recovery operations in more than 1 700 cases, with a total of close to **€40 million** of public funding being involved. The payment request for these operations has been withdrawn by Italy from the Community budget financing.

This case is a good example of successful investigative interaction and follow-up between OLAF, the Commission and the Member State and demonstrates what is possible under the Community and national legal framework when all parties work well together in protecting of the Structural Funds. It also shows that OLAF investigative results can not be expected to bring results overnight.

The following case study highlights the issues of conflict of interest and procurement manipulation. It is only one of the many similar cases that OLAF is finding throughout the EU. These are instances in which civil or public servants and/or elected officials are found to be in situations of conflict of interest in either being party or central to the decision-making process in relation to the awarding of Community funds and/or the subsequent monitoring/controlling of such Community fund re-allocations. Such issues are, in the first instance, national law matters and have to be addressed foremost by the Member States which have responsibility for the protection of Community funds in accordance with the obligations of article 280 of the EC Treaty. However, if the national authorities are not being seen to act in such cases, OLAF and other Commission services will intervene in defence of the Community budget.

Case study: Conflict of interest in an ESF-funded training programme

OLAF received an anonymous letter about potential irregularities involving conflict of interest and abuse of tendering procedures in a specific ESF-funded training programme in a Member State. Community budget funding of more than €1 million had been provided for this training programme which was being operated in several regions of the country.

OLAF conducted an assessment of the material received in connection with the matter and noted that the results obtained from the checks conducted by the national authorities differed greatly, depending on the geographical region examined. Some further examination revealed additional irregularities which tended to lend credence to the claims made in the anonymous letter received. OLAF decided to conduct checks on the spot under the provisions of Regulation (EC) 2185/96.

In the course of its controls, OLAF found evidence which supported the allegations of conflict of interest and the use of insider knowledge to manipulate the public procurement procedures by a person who was found to have been subsequently involved in approving and checking the operation of the programme in question.

OLAF's final case report recommended recovery of the full amount of ESF assistance from the beneficiary and the relevant OLAF findings were also sent to the national judicial authorities for appropriate follow-up by the Member State against the individual concerned.

- ***Follow-up in Structural Actions***

Financial follow-up is performed by Member States and is subject to the formal supervision of the Commission departments concerned as Authorising Officers by Delegation (AOD) responsible for this sector. In the framework of the specific Regulations, implementing Commission's regulations and implementing guidelines and the Working Guidelines agreed in 2007 between OLAF and the AODs for shared expenditure, these financial follow-up activities are subject to systemic verifications.

The information about the progress of recovery supplied to the DG responsible for Regional Policy, as coordinator service through dedicated information channels by the Member States is subsequently exchanged between the AODs and OLAF.

Concerning OLAF investigations where the final report concludes that certain sums have probably been paid to a beneficiary against the rules or that sums that should have been collected have not been, the relevant authorities

(generally the authorities in the Member States or third countries concerned) must recover the amounts in question. OLAF follows the course of these recovery proceedings. In 2008, **€128 million was recovered** in the field of the Structural Funds, following the closure of 50 cases. This amount appeared in the Commission's accounts for previous financial years. Additional amounts were also recovered in 2008 in connection with cases not yet closed.

Case study: The European Regional Development Fund – Quality problems in construction work

OLAF opened an external investigation following allegations received in 2001 of serious irregularities and possible fraud against a municipality, beneficiary of Community assistance under an operational programme co-financed by the European Regional Development Fund (ERDF).
An on-the-spot check was carried out in order to verify the legality and the regularity of the four road construction projects supported.

The investigation concluded that the construction of a road did not conform to the physical and technical features envisaged in the project (use of inferior material in the construction work), and was in breach of the terms of the contract implementing the project, and that documents carrying a later date than the conclusion of work were issued as proof of costs incurred.

The Member State was informed of the results of the on-the-spot checks and was asked to recover the amount concerned. From 2004 to 2007, the Commission was informed that irregular amounts in excess of €500 000 were recovered at national level.

OLAF was also informed in 2008 – **seven years after the opening of the initial investigation** - that an amount of more than **€1.5 million** was considered as ineligible regarding the other projects.

➢ ***Joint fraud prevention strategy under the structural measures***

The Commission[18] has established a joint fraud prevention strategy for the ERDF, ESF and Cohesion Fund, following an audit recommendation of the Commission's Internal Audit Service. The Commission has already implemented some actions of the strategy:

- Fraud awareness seminars for Member States, in Brussels on 10 June 2008 for managing and paying authorities and in Cardiff on 21 October 2008 for national and Community auditors;
- Dissemination of a draft guidance note on fraud indicators for the Member States through the auditors' technical working group.

3.5 Agriculture and trade

OLAF is involved in investigating allegations related to both EU agricultural expenditure and revenue. Schemes concerning direct payments to farmers, SAPARD[19], support for the fruit and vegetables sector and import duties on garlic account for 75% of the current active cases in this area: for example large quantities of garlic of Chinese origin are declared as originating in other countries to benefit from preferential tariff measures in order to pay a lower rate of import duty. SAPARD payments are subject to continuous scrutiny, especially in Bulgaria and Romania.



During 2008, OLAF received 202 allegations concerning agriculture and trade and 40 new cases were opened in these areas –20% of OLAF new cases -, while 27 monitoring decisions were taken. In more than two thirds of the cases closed, follow-up was recommended. At the end of the reporting period, 68 agriculture and trade cases were still open.

[18] The Directorates General for Regional Development and for Employment and Social Affairs in cooperation with OLAF
[19] Special Accession Programme for Agricultural and Rural Development (a former pre-accession instrument during the period 2000-2006)

3.5.1 Agricultural expenditure

Agriculture has historically represented an important share of the EU budget in terms of expenditure. Following successive reforms, its rural development dimension gained importance, while the overall weight of agriculture in the budget decreased. The Financial Framework for 2007-2013 earmarked about 43% of the expenditure of the EU for the preservation and management of natural resources – or €415 billion.

To tackle frauds and irregularities regarding the SAPARD programme and to safeguard the financial interests of the Community, OLAF has intensified its activities in Romania and Bulgaria. In August 2008, Bulgaria established a "SAPARD" task-force which OLAF is actively advising with a view to enabling established cases of fraud to be brought before the courts. OLAF is working in close co-operation with the local authorities and the competent Commission services, especially the Directorate General for Agriculture, on an ongoing basis (see **section 3** of the summary version).

3.5.2 Agricultural revenue

On the revenue side, the European Community is almost entirely financed through the 'Own-Resources'[20], namely the revenue flowing automatically to the EU budget, pursuant to the treaties and implementing legislation, without the need for any subsequent decision by national authorities. The overall amount of own resources needed to finance the budget is determined by total expenditure less other revenue. The total amount of own resources cannot exceed 1.24 % of the gross national income (GNI) of the EU. Traditional own resources (TOR) however consist of customs duties, **agricultural duties and sugar levies**. These traditional own resources are levied on economic operators and collected by Member States on behalf of the EU.

The EU grants preferential access to its markets to some countries or geographical regions in the world (e.g. to the ACP countries and under the EBA— 'Everything But Arms' — initiative. As a result, origin fraud is a significant phenomenon in agricultural trade, in relation not only to preferential tariff measures but also to GATT tariff quotas.

Misuse of the New Computerised European Transit System (NCTS) - OLAF's proactive role



Since 2007 OLAF has noticed several cases of withdrawal from Community transit, whereby important quantities of mainly highly taxed agricultural products (e.g. frozen Brazilian poultry meat and fresh Chinese garlic) were diverted from their declared destination.

The abuses consisted of irregular clearances of these transit movements in the NCTS which was introduced to replace paper clearances by electronic processing of the transit data. By the irregular clearance of the goods, the fraudsters make it appear that the goods have arrived at the declared destination, whereas in fact, they are diverted and put on the Community market without payment of the applicable customs duties, as any transit operation benefits from a suspension of duties. From the investigations carried out so far, it is clear that significant amounts of customs duties have been evaded over the years.



In 2008, OLAF organised various meetings with all Member States involved. In addition OLAF is co-ordinating the investigations by the Member States, which have established that such irregular clearances have occurred in multiple customs offices in at least four Member States. Moreover, it has been established that once such abuses were detected in one particular customs office, the fraudsters managed to continue their activities by targeting other offices, mostly located in a different Member State.

The investigations into these matters are both difficult and complex. It is very difficult to trace the real itinerary of these movements once carried out, while they very often involve several Member States at the same time (departure, declared destination, real destination, persons and companies involved). OLAF concluded that the

[20] In the past, own resources were divided into 4 categories - "traditional" own resources of import duties on agricultural goods (plus sugar levies) and on non-agricultural goods, VAT-based own resources and GNI-based own resources - which is why the GNI resource is sometimes referred to as the "Fourth resource". However, the distinction between the first two categories is today largely obsolete because the previous differentiation of import duties on agricultural products from those on non-agricultural products has since been removed.

absence of an overall Community risk analysis system (each Member State has only access to data that concern its own territory) and the lack of important data for a high number of transit movements (licence plates, commodity description) make real-time detection of such irregularities virtually impossible. OLAF has consequently put forward proposals to remedy this situation, and is closely working with the competent Commission service, DG Taxation and Customs Union, and the Member States.

- ***Follow-up in the field of agriculture***

Financial follow-up is performed by Member States' Paying Agencies and is subject to the formal supervision of the Directorate General for Agriculture as Authorising Officer by Delegation responsible for this sector. In the framework of the Working Guidelines approved in 2007, information about the progress of recovery is communicated to OLAF for proper monitoring of the financial follow-up.

Case Study: Export of pork meat

OLAF opened an external investigation after information was received about possible irregularities committed by an EU company in the context of exports of pork meat products to a Member State which did not comply with the Community customs legislation in force, resulting in irregular payments of export refunds.

During the investigative stage, the customs authorities of the Member State concerned carried out an "ex ante" check under Reg. (EEC) No 4045/89 with the participation of an OLAF official; detailed documentation with regard to the basic materials, the production process and all the exports concerned was collected. In addition, the local authorities were requested to provide mutual assistance in order to obtain more information on the consignee mentioned in the commercial documents of the exporter. Finally, OLAF distributed a Mutual Assistance communication to Member States with a request to perform physical checks on exports of canned meat products, to take samples for analysis and to notify any discrepancies to OLAF.

On closure of the operational stage, this case was transferred for financial follow-up. After liaison with the Member State concerned, a total amount in excess of **€500 000** was confirmed as having been successfully established, notified and recovered.

3.6 Customs & VAT

The Customs Union is a pillar of the EU and an essential element in the functioning of the single European market. The single market can only function properly when there is a common application of common rules at its external borders. The EU is the world's biggest trader, accounting for 20% of global imports and exports.
During 2008, OLAF received 64 allegations in connection with customs, while 23 opening decisions were made in this area. 80% of customs cases were closed with follow-up in 2008 — the highest proportion of all areas considered. At the end of the reporting period, 47 customs cases were active (a reduction of one third over the year 2006), including one VAT case. The large number of coordination and criminal assistance cases — up to 70% of cases — highlights the crucial role played by Member States in this area of activity.

Customs duties, like agricultural duties, are levied on imports of products coming from third countries, at rates based on the Common Customs Tariff. Several agreements (e.g. tariff reduction agreements, agreement on the abolishment of tariffs) with third countries have led to a substantial reduction in the share of this resource in the total EU budget in past decades. This evolution was fostered by the conclusion of bilateral (e.g. trade agreements or association agreements) or multilateral agreements (in the framework of the World Trade Organisation, but also agreements with ACP countries), and by the accession of new Member States to the EU. In 2008, customs duties represented some 14% of the total EU revenue or €16 billion.

Case study: Complex international cooperation in the fight against organised crime in the Customs field

Traditionally, fraud in the Customs sector has been organised by the commercial parties directly involved in the traffic concerned – importers, producers, transporters, etc. However this case study demonstrates the increasing involvement of Organised Criminal Groups and professional fraud organisations in this lucrative and illegal activity.

In 2007 and 2008, OLAF initiated and coordinated investigations in several Member States into the illegal activities of organised crime groups situated in major European cities (e.g. Rome, Paris and Budapest).

Hundreds of millions of euros in customs duties and VAT were evaded by these groups by using fake and understated invoices reducing the declared value of the goods at importation to less than 10 % of the real value. Missing traders were also used as the final consignees/importers in the process of importation to evade payment of VAT. Huge profit margins were generated due to the evaded customs duties and taxes throughout Europe. After importation of all kinds of products, mainly various types of textiles and shoes, the goods were sold in (street) markets without payment of VAT and national taxes. The profit gained out of these illegal activities was then laundered via various channels back to China from where the goods had originated, and was re-invested again into real estate and business activities. Informed by Member States and third parties OLAF gathered intelligence and inside knowledge of the Organised Criminal Groups' operations which showed the typical modus operandi described above.

OLAF approached the Member States concerned in order to initiate adequate criminal investigations of the perpetrators. Various suspects were identified in Italy, Hungary and Austria. **However, due what were claimed to be local legal constraints, Hungarian judicial authorities and Hungarian Customs were not in a position to contribute to OLAF's coordination activities. Various attempts were made by OLAF, without success, to find a practical solution to this rigid interpretation of national laws which is not in compliance with EU anti-fraud legislation currently in force**. In the circumstances, OLAF relied mainly on the Austrian and Italian Customs to collaborate in this landmark customs fraud case. OLAF also involved EUROJUST to coordinate further judicial activities in this complex case. Links to counterfeited goods, cigarette smuggling and transit fraud were also discovered during the investigation.

Despite the difficulties resulting from the Hungarian position, various customs criminal investigations, mainly in Austria, were successfully supported by OLAF and will hopefully lead to convictions in court. Another positive aspect of the case is that the collection of traditional own resources was raised substantially – to the benefit of the EU taxpayer and to the tune of some €40 million a year - by the fact that these operators could no longer use their "minimum customs value" approach. Duty recovery demands **in excess of €80 million** have already been issued in respect of part of this traffic.

Criminal investigations and successful court convictions could also lead to the seizure of illegal assets generated by this serious fraud and are therefore supported by OLAF in order to recover taxpayers' money from the criminals concerned.

In addition, OLAF coordinated in 2008 the joint customs operations "MUDAN" and "BOOMERANG" and supported two other joint customs operations (JCOs), "CARETTA" and "BELUGA", conducted respectively by Ireland and France. These operations, during which the customs authorities of the participating Member States brought to light a large number of serious offences aiming to deprive the European budget of revenue, are conducted through the permanent technical infrastructure set up in OLAF. JCOs can significantly improve the effectiveness of the national authorities by targeting checks at European level.

Focus on Operation MUDAN

Operation MUDAN was a joint customs operation involving all EU Member States (22 active and 5 observers) whose objective was to tackle the illicit smuggling of counterfeit cigarettes into the EU through targeted actions on national postal service packages sent from China to Europe via air cargo.



The problem with cigarettes in parcels from China was first raised as a growing concern in the UK. Reactions from other Member States to this new modus operandi led to a request to the Mutual Assistance Committee for a joint customs operation, which OLAF coordinated.

By targeting a specific type of mail, the customs investigators were able to seize 1 100 parcels containing counterfeit goods, as well as **1.5 million counterfeit cigarettes**, and close to 2 tons of counterfeit hand-rolling tobacco. The total potential losses to the budgets of the European Community and its Member States (customs duties and taxes) are calculated to be approximately €500 000.

In order to step up the operational character of provisions on mutual administrative assistance matters as covered by the Euro-Mediterranean agreement, a Euro-Mediterranean Conference, co-chaired by OLAF, was held in Tangiers from 2 to 5 November 2008. A joint customs operation could be subsequently organised in 2009.



OLAF also provides IT-based platforms on an EU-wide basis. In particular, the Customs Files Identification Database[21] (**FIDE**) became operational on 15 September 2008. The objective of the FIDE is to help prevent operations in breach of customs legislation and of agricultural legislation applicable to goods entering or leaving the customs territory of the Community and to facilitate and accelerate their detection and the prosecution of the parties responsible. Additional details can be found in **section 4.2.**

In 2008 OLAF has continued to support the EUROpean CArrousel NETwork (**EUROCANET**) a system of fast and selected exchange of information between operational anti-fraud units in several Member States. The network managed by the Belgian tax administration aims to detect new missing intra-Community traders. The representatives of these operational anti-fraud units need to meet each other on a regular basis and OLAF provides them a platform for cooperation. OLAF also financed via the Hercule II programme a seminar on data mining in the field of the fight against intra-Community VAT fraud, organised in Brussels by the Belgian authorities (15 May 2008).

Case study: Typical modus-operandi in the evasion of customs and anti-dumping duties

In 2001 anti-dumping duties of up to 66% of the value of the goods were imposed on importation into the European Community of CFL-i ("energy saving lamps") originating in the China. These measures, which were aimed at protecting the EC industry from unfair competition, remained in force until October 2008.

Immediately after the imposition of the duties, some Chinese producers and exporters started to circumvent these measures in several ways, often in agreement with their EC importers. In 2003, OLAF received well-documented information from European Industry representatives that Chinese CFL-i were being imported into the Community with falsely declared origins from a variety of countries and under different customs tariff codes (CN) by which the anti-dumping duties were avoided.

OLAF opened several investigations and alerted the Member States by a number of Mutual Assistance Communications. These Communications resulted in controls at importation, investigations and post-verification controls by the national Customs authorities. In some cases, the investigations led to the initiation of criminal proceedings against EC importers, who were found to be aware of the true origin or who had actively participated in the frauds.

OLAF has coordinated most of the investigation carried out by the Member States and organised joint investigation missions in Vietnam, Pakistan and Thailand in 2005, Malaysia in 2006, Philippines and the U.A.E. in 2007 and Tunisia in 2008. These investigations were carried out in close cooperation with the EU Member States most affected by the fraud and with the assistance of the third country authorities. As a result of these missions OLAF and the EU Member States' authorities obtained evidence which initiated **recovery proceedings for more than €33 million** of evaded Customs and anti-dumping duties.

OLAF provided support with intelligence analysis, coordination, investigations in third countries and legal advice in follow-up matters. These investigations have required a significant investment in time and resources by OLAF, but they have produced significant results in terms of recoveries and criminal prosecutions (criminal proceedings have been initiated in Denmark, Germany and Italy and are concluded in Sweden where 4 people have been convicted and sentenced to terms of imprisonment).

The close cooperation between OLAF and the national investigation and judicial authorities has contributed to the disruption of certain criminal organisations set up to smuggle of the CFL-i and has limited the scale of the evasion of duties, thus protecting the taxpayers and the financial interests of the Community.

[21] Regulations 766/2008, for more details see the Commission's Report on the Protection of the Communities' financial interest 2008.

➢ *Follow-up in traditional own resources*

Financial follow-up consists in recovering the duties unpaid for various reasons (e.g. customs and agricultural import duties becoming due following the discovery of false origin declarations). Both administrative and financial follow-up activities were conducted throughout 2008 in an increasing number of cases. Although front-line financial recovery is the responsibility of the competent authorities in the Member States, OLAF supports the national customs administrations in this activity by providing data from the operational case file in order to maximise the chances of timely recovery of import duty debts. This includes providing appropriate advice to the competent national authorities when economic operators appeal against duty demands issued in respect of cases investigated by OLAF.

Case Study: Traditional Own Resources financial follow-up

OLAF opened an external investigation after information was received that silicon metal of Chinese origin, subject to anti-dumping duty, was being imported into the Community from Switzerland declared as being of Swiss origin. The consignments were accompanied by movement certificates (subsequently proven to be incorrect) indicating that the commodity was of Swiss origin. Following an initial investigation in Switzerland, and due to the good cooperation with the Swiss authorities, further investigative action in Germany, the Netherlands and the United States was co-ordinated by OLAF. It established the true origin of the imported silicon metal and the names of the companies involved. OLAF consequently issued a Mutual Assistance communication under Regulation 515/97, warning Member States of the fraud risks identified.

On closure of the operational stage this case was transferred for financial follow-up. After liaison with the Member States concerned, a total amount in excess of **€13 million** was confirmed as having been successfully established, notified and recovered. There was also a successful criminal conviction in Germany in this case resulting in the imprisonment of a German national who was a manager of the Swiss supplier company.

3.7 Cigarettes

In 2008, OLAF's role in coordinating and assisting the national authorities in combating international cigarette smuggling continued to deliver tangible results.

In March 2008, 26 members of an international criminal gang responsible for smuggling millions of cigarettes into the EU from former Soviet Union countries and China were arrested in a series of coordinated raids in Poland and Germany. The raids followed months of cooperation between OLAF, the Polish CBS (Central Investigation Bureau of the National Police) and Germany's ZKA (Customs Investigation Office). As well as the arrests, the authorities seized nearly **7 million cigarettes**, a lorry that was in the process of being loaded with contraband cigarettes, nearly €3 million in cash and 9 kilos of gold. The bank accounts of 29 suspects were frozen and personal property, including cars and houses, was seized.

In April 2008, over **one billion contraband cigarettes** were seized at two storage facilities near Liège, Belgium, and nine people were arrested for their part in smuggling cigarettes from Greece to Belgium where they were stored before being forwarded to Germany and the UK for distribution on the black market. Evidence gathered during this operation led to the seizure of a further 75 million cigarettes at a warehouse in Greece and the arrest of four more suspects. Both of these large seizures were made in the framework of an ongoing investigation which has been coordinated by OLAF for over two years involving the authorities in Germany, Belgium and Greece. Prevented losses of duties and taxes from these two seizures amounted to approximately **€44 million**.

On the basis of direct OLAF intelligence over **83 million cigarettes were seized** in 2008, representing prevented losses in taxes and duties of **€20 million**. In addition, OLAF's continuing assistance to the Member States in large-scale international investigations helped them to seize several hundred million cigarettes and dismantle a number of serious international criminal groups.

In 2008, OLAF continued to implement the Agreements concluded in 2004 and 2007 with Philip Morris International (PMI) and Japan Tobacco International (JTI). In cooperation with OLAF and the Member States, the Agreements provide for procedures to monitor and trace products in order to determine the point at which genuine cigarettes (of the PMI and JTI brand) are diverted from the legal supply chain and fall into the hands of smugglers.

The Agreements, which run for 12 and 15 years respectively, provide for the payment of USD 1.6 billion, which can be used to combat the smuggling and counterfeiting of cigarettes. The UK signed both Agreements in 2009, meaning that all 27 Member States are now party to the Agreements. Every year, the budgets of the EU and its Member States lose hundreds of millions of euros in unpaid taxes from contraband and counterfeit cigarettes. Moreover, counterfeit items and other forms of contraband compromise legitimate distribution channels, and compete unfairly with genuine products.

In September 2008, OLAF posted its first overseas liaison officer in Beijing, China. His placement complements the Agreements concluded by the European Commission with cigarette manufacturers. His primary responsibility is to provide intelligence and to facilitate international co-operation with the host authorities in support of the anti-contraband and anti-counterfeit activities of the Office in relation to tobacco products since China is one of the primary sources of counterfeit cigarettes for the EU, and the good cooperation with the Chinese authorities is key to efficiently tackling this problem. In the light of this experience, other countries could be identified for future placements.

Major cigarette seizure in Singapore

OLAF's work in relation to the illicit trade in tobacco products is not confined to the EU but also involves working with law enforcement authorities in many third countries. In November 2008, OLAF passed intelligence to the authorities in Singapore about a number of suspect consignments that were believed to be destined for the contraband market in the EU and would be passing through the Port of Singapore.

Acting on this information, Singapore Customs were able to seize four containers carrying cigarettes fraudulently described in the shipping documents as containing furniture and decorative household items. Two further containers containing almost 19 million illicit cigarettes were seized in Egypt on the basis of information provided by OLAF. Had the cigarettes reached their intended destination, the EU black market, almost €15 million in customs duties and taxes would have been evaded.

In the context of the World Health Organization Framework Convention on Tobacco Control, significant progress was also achieved in negotiating a Protocol on the Illicit Trade in Tobacco Products under Article 15 of the Convention. The aim of the Protocol, which is being negotiated by the Intergovernmental Negotiation Body (INB) to which the European Commission is a party, is to translate the principles for controlling the illicit trade in tobacco contained in Article 15 into more detailed practical measures to prevent tobacco from being unlawfully channelled and to deter fraudsters.

3.8 Fraud prevention

2008 was the first year of implementation of the Commission's new policy entitled *Prevention of fraud by building on operational results: a dynamic approach to fraud-proofing*[22]. The test phase focused on developing a methodology and setting-up a computer tool to extract data from OLAF cases and to describe and analyse fraud patterns and control weaknesses in a structured manner.

OLAF has analysed a sample of cases linked to internal EU policies and external aid, based largely on the results of its investigative activities. Acting as an advisory service on fraud prevention for the EU Institutions, OLAF made a specific recommendation to a specialised office aimed at improving resistance to irregularities and also conducted analyses of the management of research and development policy.

Additional projects implemented by OLAF are detailed in **sections 3.2** and **3.3**:

- Joint fraud prevention strategy under the structural measures
- Intelligence projects (especially TR-Aid and Pluto)

[22] Communication from the Commission to the Council, the European Parliament and the European Court of Auditors — Prevention of fraud by building on operational results: a dynamic approach to fraud-proofing, 17.12.2008, OJ 2008 C 106.

3.9 Protection of the euro:

In less than a decade of circulation, the euro has become one of the strongest currencies worldwide, used daily by 330 million Europeans in 16 EU Member States, Monaco, San Marino and the Vatican City. It is also *de facto* used in a number of countries and territories outside the euro area. Its circulation, at the end of 2008, reached over 780 billion euro in value, corresponding to over 13 billion banknotes and over 82 billion coins.



Its growing importance as a global currency has made the euro particularly attractive for counterfeiters, replacing to a certain extent the US dollar in their criminal preferences. Thanks to its advanced security features and the vigilance of the competent national authorities and the European institutions and bodies, euro banknotes and coins enjoy a high level of protection. As a result, euro **counterfeiting has been successfully contained at very low levels** by international and historical standards. 666 000 counterfeit euro banknotes and 196 000 counterfeit euro coins were removed from circulation in 2008.

Safeguarding the value of the common currency is crucial to ensuring financial and economic stability not only in the countries of the euro area, but in the EU as a whole. The effective protection of the euro against counterfeiting is therefore a high priority for the EU. The **European Commission/OLAF**, the European Central Bank and Europol all have distinct but interlinked responsibilities in this effort.

OLAF's competences include:

- proposal and implementation of the legislation on the protection of euro banknotes and coins;
- training and technical assistance: managing and co-financing of projects for the protection of euro banknotes and coins under the Pericles programme;
- co-ordination of Member States' actions for the technical protection of euro coins through the European Technical & Scientific Centre (ETSC).

Four Regulations[23] initiated by the Commission/OLAF were adopted by the Council of the EU in December 2008 in order to strengthen the protection of the euro against counterfeiting. The new legislation makes it mandatory for financial institutions to ensure that notes and coins are checked for authenticity before they are put back into circulation.

➢ The Pericles Programme

The Pericles programme is designed to support and supplement measures taken by the Member States to protect the euro against counterfeiting. Such measures include information exchanges (seminars, workshops, meetings and conferences), placements and exchanges of staff, as well as technical, scientific and operational support. It has been running since 2002.

In 2008, over 90% of the Pericles budget for the year— €1 million — was committed: eleven projects were launched, including eight of them proposed by the Member States and three by the Commission/OLAF.

The majority of these projects, designed for experts from the Member States and candidate countries, had a pedagogic purpose (training sessions and activities aiming at familiarising the experts with counterfeiting techniques, etc.). Pericles also contributed to four large-scale seminars, bringing together representatives of the Member States and of non-EU countries to strengthen cooperation with external partners on combating counterfeiting of the euro.

[23] For more details, see the Report of the European Commission on the Protection of the Communities' financial interests for 2008

4 Cooperation with OLAF's partners in the fight against fraud

4.1 General cooperation with the Member States

OLAF's consultation of Member State experts is organised as set out in the table below:

Chart 19: Structures for consultation

Committees/working groups where OLAF represents the Commission
• Committee on mutual assistance in customs and agricultural matters
• COCOLAF (Advisory Committee for the Coordination of Fraud Prevention):
• Article 280 working group
• Irregularities and Mutual Assistance — Agricultural Products — Group
• Group on risk analysis on fraud and irregularity
• ECEG (Euro Counterfeiting Experts Group)
• CCEG (Counterfeit Coin Experts Group)
• OLAF Anti-Fraud Communicators Network (OAFCN)

4.2 Technical Support

4.2.1 AFIS

The IT System AFIS (Anti-fraud Information System), a secure communication system, supports and facilitates the exchange of anti-fraud information among the relevant authorities of the Member States and between them and the Commission. AFIS is primarily used by the Member States and OLAF for mutual administrative assistance in customs and agricultural matters. AFIS consists of several applications (databases, communication modules, coordination and intelligence tools, etc) used by different user groups. During 2008, main developments took place:

- the Customs File Identification Database (FIDE) was launched in September;
- the new web-based Mutual Information System (MIS) with the Russian Federation for meat exports was launched for operational use in November;
- the Pre-Irregularities Management System (Pre-IMS) has also saw its operational launch in November (agriculture module);
- the IMS pilot has been running since September 2008: this project is successful proof of the concept through which an AFIS application can be made available via the Internet in a secure and user-friendly way;
- the development of the Anti-fraud Transit Information System (A-TIS) managed by DG TAXUD went according to plan, most of the Members States having started conformance testing of their new National Transit Applications by the end of 2008. The operational launch of the system is planned for July 2009.
- a new version (1.5) of the AFIS Portal and Framework components was developed and put into production.

In addition, the Permanent Operational Coordination Unit (POCU) continues to provide logistical and technical support for joint customs operations. Virtual-OCU is an application that allows participation in JCOs without actually being present (see **section 3.6**).

4.2.2 CIS/FIDE

Customs Information System (CIS)

The Customs Information System (CIS) is based on Council Regulation (EC) No 515/97, as amended by Council Regulation (EC) No 766/08, and the CIS Convention. The CIS was created to store information on commodities, means of transport, persons and companies as well as on goods or cash detained, seized or confiscated[24] in order to

[24] Regulation (EC) No 515/97 as modified by Regulation (EC) No 766/2008 of the European Parliament and of the Council

assist in preventing, investigating and prosecuting actions which are in breach of Community customs and agricultural legislation ('first pillar') or serious breaches of national laws ('third pillar').
The aim of the CIS is to create an alert system in the framework of the fight against fraud and to enable operational and strategic analysis of the data entered.

Since it became operational in 2003, the initial level of use of the CIS by national authorities did not match expectations. OLAF and the customs services of a number of Member States therefore adopted a strategy for increasing the use of this powerful tool for cooperation between customs administrations. During the year 2008 more than 800 cases were stored in the Customs Information System (CIS) database. These cases were accessible to more than 1 600 users located in the main ports, airports, border posts, risk analysis units, and investigation and intelligence services.

Chart 20: Use of CIS in 2008

CIS	1st Pillar	3rd Pillar
Cases created or extended	567	265
Cases deleted	762	549
Cases searched	1702	1442

Customs Files Identification Database (FIDE)

FIDE enables the national authorities responsible for carrying out customs investigations, when opening a file on or investigating one or more persons or businesses, to identify competent authorities of other Member States which are investigating or have investigated those same persons or businesses, in order to coordinate their work. FIDE acts as a registry of persons or companies subject to investigations without revealing details about the investigations. Only basic information on investigations (such as the reference, start date, field and status), investigating authorities (names and contacts) and persons or companies under investigation is stored in the database.

FIDE consists of first and third pillar data which are separated from a logical point of view but which, for their specific spheres of application, are operated by users as if they were a single database. Due to this fact it was decided to launch both databases at the same time after the entry into force of the amendments to Regulation 515/97. The amending Regulation 766/2008 was published on 13 August 2008 and FIDE has been in full operation since 15 September 2008.

4.3 Policy Support: Preparing candidate countries

OLAF's enlargement activities include contributions, based on its operational work, to the development and implementation of policy on candidate countries and potential candidates' preparations for accession.

In the course of 2008, OLAF continued to work with other Directorates General of the European Commission, in particular DG Enlargement, on the screening sessions for Croatia and Turkey regarding Chapter 32 issues (Financial Control). No accession negotiations have yet been opened with the third candidate, the Former Yugoslav Republic of Macedonia.

From the beginning of accession negotiations with Croatia and Turkey in October 2005, OLAF has worked to ensure that appropriate administrative structures to combat fraud and protect the EU's financial interests in each country are established in each country. Both countries are committed to creating such structures. Croatia having nominated an AFCOS central point has worked to ensure that it has the proper institutional and legal basis to function effectively

Meanwhile Turkey has confirmed the nomination of the Prime Minister's Inspection Board (PMIB) as the AFCOS central contact point for OLAF.

Contact was maintained with the relevant authorities in the Former Yugoslav Republic of Macedonia for the same purpose: The Financial Police based in the Ministry of Finance has been designated as the AFCOS central contact point in FYROM.

FYROM, Croatia and Turkey were present at the annual AFCOS Round Table meeting which was held in Malta in November.

4.4 OLAF at the forefront of the fight against corruption

The European Commission, with the support of the European Parliament and the Member States, is promoting good governance internally as well as among its Member States and beyond. The Commission endeavours to eliminate any form of corruption at all levels within the EU Institutions through a 'zero-tolerance policy', but also in EU Member States and outside the EU. The EC has signed the UNCAC and officially approved it on 12 Nov 2008. However, the enforcement of anti-corruption legislation is the primary responsibility of the EU Member States.
As part of its contribution to an anti-corruption working methodology, OLAF advises European Community institutions and bodies on the systemic lessons drawn from its investigations.

The European Commission and OLAF provide the expertise of their staff in the context of prevention of specific corruption risks in multi-agency spending programmes.

- In October 2008, UNODC and Interpol signed an agreement establishing an **International Anti-Corruption Academy (IACA)** in Austria, near Vienna, aimed at tackling the problem of corruption within public services worldwide. OLAF is actively involved in the development of an academic concept.

- OLAF's Director General is the Chairman of **International Investigators Conference** secretariat. This annual conference includes the UN System, the International Monetary Fund (IMF), the World Bank, and other Multilateral Development Banks. In this forum the best practice for investigating corruption and fraud in an international context is discussed and developed further. The ninth such conference was held in Rome, Italy, on 9-11 June 2008.

- **International Group for Anti-Corruption Coordination (IGAC):** This expert group operates under the aegis of UNODC in Vienna and is currently chaired by the Director General of OLAF. Its purpose is to improve the exchange of information between the institutions and bodies on anti-corruption and anti-fraud matters. It contributes to coordinating the efforts for implementation of the UNCAC.

- **Interpol Group of Experts on Corruption (IGEC)[25]:** The group advises Interpol and other relevant bodies on fraud and corruption. It presently has 12 members including the Director General of OLAF. One of its most important results was the adoption by Interpol of Global Standards for the good conduct of officers during investigations and for the personal probity of police officers and investigators.

4.5 Mutual administrative assistance

Implementation of the mechanisms for mutual administrative assistance (MAA) in customs matters, such as those contained in protocols to EC trade and/or cooperation agreements is essential to the defence of legitimate commercial interests. OLAF, which itself applies these provisions as the legal basis for exchanging information in the context of operational enquiries at Community level, seeks to ensure that all preferential trade agreements concluded with third countries contain such provisions, as well as an anti-fraud provision designed to protect the Community's financial interests by providing for suspension of tariff preferences in the event of frauds or irregularities. OLAF negotiates these technical issues with partner countries under the coordination of the Commission which has overall responsibility for the Agreement concerned.

[25] http://www.interpol.int/public/corruption/igec/default.asp

Chart 22: State of play of Agreements containing MAA and/or anti-fraud provisions

	Entered into force	Were signed	Are currently negotiated
Agreements containing MAA provision	Montenegro (01.01.08)	Serbia (29.04.08)	
	Japan (01.02.08)	Ivory Coast (26.11.08)	
	Bosnia & Herz. (01.07.08)		
	Cariforum (except Haiti) (29.12.08)		
EPAs (Economic Partnership Agreements) containing MAA and anti-fraud provisions			Southern African Development Community (SADC)
			Central Africa
			Eastern African Community (EAC)
			Eastern and Southern Africa (ESA)
			West Africa
			the Pacific group (PACP)
Free Trade/association agreements containing MAA and anti-fraud provisions			Central America
			the Andean Community
			India
			Korea
			Ukraine
(non-preferential) Partnership and Cooperation Agreements, providing for possible future conclusion of MAA provisions			Several ASEAN countries

For the record[26], Regulation (EC) No 766/2008 of the European Parliament and of the Council of 9 July 2008 amends Council Regulation (EC) No 515/97 on mutual administrative assistance to ensure the correct application of the law on customs and agricultural matters.

The new Regulation creates a platform of services in the customs sector, namely a legal basis for a European data directory. The aim of this directory is to collect data commonly used in international trade for analysis purposes with a view to detecting operations presenting risks of irregularity in relation to customs and agricultural legislation. The directory will be accessible to the Member States.

In addition, amendments introduced via the Regulation establish analysis activity, both strategic and operational, as a new objective of the Customs Information System. To match the extended functionalities of the system, a new category of available information is also created, relating to goods detained, seized or confiscated. Last but not least, the new Regulation establishes a legal basis for the 1st Pillar FIDE.

4.6 Cooperation with European bodies in charge of police and judicial cooperation

In continuation of the Eurojust initiative to bring heads of EU organisations working in the area of Justice, Freedom and Security together, OLAF organised the third meeting of 'Heads of EU Justice and Home Affairs agencies' (JHA) on 18 June 2008[27]. OLAF participates, in spite of not being formally an EU JHA agency, because of the relevance of this forum for OLAF's independent investigative role in the protection of EC financial interests.

[26] For more details, see the Report of the European Commission on the Protection of the Communities' financial interests for 2008.

27 The 'EU JHA agencies' meeting comprise Eurojust, Europol, OLAF, the EU Joint Situation Centre, Frontex and CEPOL (the European Police College), plus Council working groups, such as the Police Chief Tasks Force and the Strategic Committee on Immigration, Frontiers and Asylum.

Based on the preparatory work of the OLAF-chaired technical meetings of the legal and data protection officers of the 'EU JHA agencies', held on 16 January and 22 May 2008, the 'Heads of EU JHA agencies' noted that the 'EU JHA agencies' consider each other as offering the same level of protection as regards the handling of confidential/classified information.

4.6.1 Eurojust



In 2008 OLAF continued to work towards making its cooperation with Eurojust more efficient under the previous Memorandum of Understanding signed in 2004. The Decision establishing Eurojust (version in force in 2008) indicates that Eurojust '*shall establish and maintain close cooperation with OLAF. To that end, OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities*'.

On 24 September 2008, OLAF and Eurojust concluded a Practical Arrangement on a further improved coordination and cooperation in the fight against financial fraud. For Eurojust and OLAF, it constitutes a further enhancement of their co-operation and collaboration, in accordance with their respective competences and tasks. The Practical Agreement contains in particular provisions for the exchange of general and personal data. The agreement is intended to stimulate more effective cooperation on operational cases of common interest. The opportunity must be taken wherever possible to overcome obstacles to cooperation whether at national or institutional level.

Since the establishment of the joint Liaison Working Group in 2004, cooperation on cases of common interest has increased. In 2008, OLAF was involved in five Eurojust cases and three coordination meetings were held.

Eurojust and OLAF also organised a joint conference on the international dimension of fraud and corruption that took place in The Hague on 3 and 4 March 2008. Participants included prosecutors, judges and high-level officials from competent national authorities of all Member States as well as liaison prosecutors from the USA and Norway.

OLAF is also permanent observer of the European Judicial Network (EJN) meetings hosted by Eurojust. In 2008, Olaf actively participated in one Presidency meeting held in Brussels and in the 29th and 30th Plenary Sessions of the Contact Points held in Ljubljana and in Paris.

4.6.2 Europol

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF intelligence units and their counterparts in the economic crime section of Europol. Bilateral relations with Europol have been strengthened, which is reflected in part by the initiation of negotiations for an administrative arrangement similar to that concluded with Eurojust.



Both OLAF and Europol work on combating cigarette smuggling and on the protection of the euro. The analytical resources of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid unnecessary duplication of efforts.

5 Corporate Governance

5.1 OLAF's organisational structure

Directorates A and B both deal with investigations and operations. Directorate C provides support functions for investigations and operations, such as intelligence, legal and technical advice, and follow-up on cases. It also draws on the Office's increasing operational experience to improve fraud prevention and other anti-fraud actions. A fourth Directorate (D) groups OLAF's general management and policy functions, but also contributes directly to operations by maintaining a dedicated database (the CMS) and other record systems.

Most of the resources are deployed in OLAF's core remit: investigations and operational activity. Three-quarters of OLAF staff[28] are occupied with tasks related to the Office's operational activity including administrative support for this activity. On 31 December 2008 there were 475 persons working in OLAF of whom 355 were statutory staff (officials and temporary agents)[29]. Twenty posts were vacant at the time.

OLAF's organisation chart as at 29 April 2009 can be found in Annex I.

➢ *OLAF's Supervisory Committee*



A Supervisory Committee[30] composed of five outside experts provides independent oversight of OLAF's operational activities, so as to guarantee OLAF's independence in the conduct of investigations. The Committee monitors the implementation of OLAF's investigative function without intervening in operational activity. OLAF cooperates with the Committee under the authority of the Director-General.

On 5 September 2008, the Supervisory Committee delivered its Activity Report covering the period from June 2007 to May 2008. The Director-General of OLAF emphasised in his reply to the Report that he appreciated the constructive approach pursued by the Committee.

In addition, the Committee issued four Opinions on specific issues in 2008, one on 'Prima Facie Non-Cases', one on the OLAF Annual Management Plan, one on 'OLAF's Preliminary Draft Budget for 2009' and one on the OLAF *'De Minimis* Policy', for which OLAF provided a follow-up .

The Opinion on "Prima Facie Non-Cases" confirmed OLAF's practice of handling these cases as correct. OLAF implemented the majority of the recommendations made in the Opinion on the OLAF Annual Management Plan for its new AMP 2009.

5.2 The Investigations and Operations Executive Board

The Investigations and Operations Executive Board ('the Board') assists the Director-General by giving advice on the handling of cases. Board members include representatives of the relevant units.

The Board considers and advises the Director General on each major stage in the lifecycle of cases: opening of new cases; decisions on "non-cases"; changing case types; closing; opening new follow-up paths; and closing follow-up. The Director-General or one of the Directors acting on his behalf decides whether to accept the recommendation.

[28] Approximate figure based on an estimate of the time devoted by each member of staff to a task which contributes to the achievement of the Office's operational activity. Some OLAF staff carry out both operational tasks and tasks which are related to OLAF's other activities.
[29] General remark: the above data rely on the snapshot of Commission personnel actually employed in OLAF as of 31/12/2008. These data do not constitute full-time-equivalent units throughout the year.
[30] http://ec.europa.eu/dgs/olaf/sup_comm/index_en.html

Once the operational activity has been completed in an open case in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage[31] where this is necessary.

Where information is received which clearly and unequivocally does not fall within the competence of OLAF, then the relevant Head of Unit may propose not to refer the information for evaluation. This information does not reach the Board and is classified as a "**non case prima facie**". This is what is known as the **simplified procedure**.

5.3 The Case Management System (CMS)

The CMS is used by operational staff to manage operational cases and related activities. The system contains information relating to OLAF's new, ongoing and closed operational cases. It is the primary source of operational information within the Office; this information is also used for intelligence and management purposes. Monthly management reports are provided to the management team.

Access to the data contained within the CMS is strictly controlled on a need-to-know basis: staff may only have access to CMS data if there is a compelling business need (**see also point 5.5.1**).

5.4 External activities and internal training

5.4.1 OLAF conferences

OLAF itself organised six conferences and seminars in 2008 for external training purposes in priority areas such as cooperation with candidate countries, investigations in cooperation with national services of countries in Africa and the Middle-East, communication and cooperation with national prosecutors:

- 2nd Regional Conference on Fraud and Aid Funds: "*The protection and optimisation of public funds: co-operation between national and international authorities*", 14-17 April 2008, Cape Town, South Africa
- 6th EU Conference of Fraud Prosecutors, 24-26 September, Madrid, Spain
- 8th Training Seminar of the OLAF Anti-Fraud Communicators Network (OAFCN), 13-15 October, Nicosia, Cyprus
- 2008 Anti-Fraud Coordination Service (AFCOS) Conference , 13-14 November, Malta
- Conference on '*Mutual administrative assistance in customs matters within the framework of the Euro-Mediterranean partnership'*, 3-5 November, Tangiers, Morocco
- EUROCANET (European Network on VAT Carousel Fraud) Seminars, 16-17 June, Vilnius, Lithuania and 25-26 November, Vienna, Austria.

5.4.2 Hercule programme

The Hercule programme was set up to promote activities to protect the Communities' financial interests.[32] In 2007 the European Parliament and the Council decided to extend the programme for the period 2007-2013[33], with a budget of €44 million (€13.8 million for 2008). It includes a new strand to provide financing for training measures and the purchase of equipment to combat cigarette smuggling (see also **section 3.7**).

The entire budget for 2008 was committed under the project financing agreements, along three main lines:

- **IT and databases**: €2.7 million (procurement)

[31] In some circumstances follow-up activities may take place before the formal closure of the investigation stage.
[32] http://ec.europa.eu/anti_fraud/programmes
[33] Decision No 878/2007/EC on the Hercule II programme (OJ L193, 23.7.2007).

- **Technical Assistance for law enforcement agencies**: €7.1 million (grants). The aim was to provide necessary technical support and expertise to the competent law enforcement authorities such as police and customs services in the Member States and to assist them in their anti-fraud activities, e.g. one call for proposals launched in 2008 concerned the purchase of X-ray scanning equipment for detecting illicit consignments of tobacco products.
More intensive training directly linked to these activities was also included, as well as computer-forensics. For example, the OLAF Computer Forensic team training hosted an internationally recognised forensic computer training course for 70 participants from 45 law-enforcement agencies in 27 Member States.

- **Training**: €4 million (grants and procurement) - including €0.6 million for the European Lawyers Associations. The majority of the training projects had a pedagogic purpose. Ten large training events, which had been selected in 2007, were carried out in 2008, helping to raise awareness of the fight against EU fraud and enhancing cooperation. In 2008, only nine proposals fulfilled the selection and award criteria.

5.4.3 Internal Training

In 2008, OLAF put renewed emphasis on internal training, in particular by providing tailor-made courses for investigators and for new staff. More than nine training days per person were spent by OLAF staff in training for all categories: general, language, informatics both at local and central level. This is seen as an important success, as the total number of days represented an increase of 23% from 2007.

Specialised investigative training sessions focused on interviewing techniques, on the spot checks, specific language courses, and improvement of drafting skills.

In the framework of equal opportunities, a session on 'Best practices for selection interviewing for managers' was organised as well as 'Equal opportunities for women and men''. All staff attended the introduction to data protection training and two ‘Away days’ for OLAF management were also set up.

5.5 Protecting citizens' rights and communication

5.5.1 Data protection and privacy

Compliance with Regulation (EC) 45/2001 on data protection[34] is a comprehensive and challenging aspect of OLAF’s operational work, in particular since the requirements of data protection must be balanced with the fulfilment of OLAF’s investigative and operational tasks. With the support of OLAF's Data Protection Officer, staff are instructed to comply with the rules on the protection of personal data laid down in Regulation (EC) 45/2001, in particular the requirements on data quality, providing information to the data subject, rights of the data subject regarding access, rectification, blocking, and erasure.



As a data subject, the person concerned has the right of access to his or her personal data contained in the file. However, this right of access may be deferred if access would be harmful to the investigation or operation. This is decided on a case-by-case basis. For OLAF, the most important exemptions and restrictions that may apply in a given case are the need to safeguard ‘the prevention, investigation, detection and prosecution of criminal offences’ and ‘an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters.’

OLAF treats the protection of personal data as an issue of particular priority. The European Data Protection Supervisor (EDPS) has acknowledged OLAF’s progress in this area. OLAF has developed its data protection support tools and activities and has provided training for its staff. Data processing operations presenting specific risks have been sent for prior checking to the EDPS, and the EDPS has issued opinions on all OLAF prior checking. OLAF is working to incorporate all recommendations of the EDPS into its daily procedures.

[34] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. OJ L 8, 12 January 2001

5.5.2 OLAF's cooperation with the Ombudsman

OLAF is committed to respect for ethics and to prevention of maladministration. In April 2008, a meeting was organised to discuss at the level of the Director-General of OLAF and the European Ombudsman the specific steps which should be taken to establish an improved relationship based on mutual trust.
Most of the new complaints sent directly by the Ombudsman to OLAF concerned alleged failure to reply to correspondence and were dealt with through the informal upstream inquiry procedure agreed during that high-level meeting.
One complaint concerned the scope of OLAF's powers and another raised the issue of the scope of the mandate of the Ombudsman. OLAF also replied to further requests from the Ombudsman in relation to complaints previously introduced. In total, the Office replied to ten requests in 2008.

5.5.3 Communication and public relations: reaching out to the citizens

OLAF and its operational partners are convinced that information and communication must continue to be used as a means of preventing and combating fraud and corruption. Therefore OLAF supports its operational independence with its own information and communication strategy. The latter must be implemented in a manner which respects the Office's obligation to safeguard investigations and operations so as to respect the rights of the individual, in particular the presumption of innocence, within the framework prescribed by international, Community and national law. During the reporting period, the Office maintained its firm line of balancing these interests.

OLAF launched various information and communication activities in order to inform about the Office's fight against fraud and corruption.

An EU-wide Flash Eurobarometer survey on "*Citizens' perceptions of fraud and the fight against fraud in the EU27*" was carried out in June 2008. Its objective was to study EU citizens' attitudes and perceptions about the issues of fraud and corruption in the EU. Asked how they perceive the occurrence of fraud and corruption in their own Member State and at EU-level respectively, seven out of 10 respondents thought that state budget fraud happened quite frequently within their own country and 63% of all EU respondents believed that corruption occurred within their national government. The corresponding percentages concerning the perceptions of EU budget fraud and corruption in the EU Institutions were significantly lower: 54% and 44% respectively.



On the public relations front, OLAF organised a seminar of the OLAF Anti-Fraud Communicators' Network (OAFCN) focusing on the use of the new generation internet, co-hosted by the Ministry of Finance of Cyprus in Nicosia from 13 to 15 October 2008. Other main activities undertaken together with OLAF's operational partners in the framework of the OAFCN were the second joint participation in the European institutions' Open Day in June in Brussels as well as two OAFCN meetings.

Over the year, OLAF replied to more than 600 media requests and issued 16 press releases. Another 26 additional press releases mentioning the Office were published by OLAF's operational partners. Press conferences were organised in Brussels with the UNODC to mark International Anti-Corruption Day on 8 December, and with EUROJUST on the occasion of the signing of a Practical Agreement on further improved co-ordination and co-operation in the fight against financial fraud, on 24 September. OLAF participated in the joint press conference of the Procurator's Office of the Republic of Bulgaria and the Bulgarian Club of Journalists Against Corruption on the project "*Adopting the OLAF Communicators' Network Experience and the Newest European Models for Partnership with the Court Authority*", in Sofia on 27 October.

In 2008 more than 70 visits to OLAF were organised, involving over 900 persons in total, mainly from customs, investigation services and public prosecutors' offices in Member States and other countries. Additionally, delegations were welcomed to OLAF from a variety of public bodies, including Europol and Eurojust.

The OLAF website continued to be the basic tool of the Office's communication and information policy. The main pages of the OLAF site are available in all official languages. The OLAF website recorded over 1 million visits in 2008.

5.6 FOCUS on Recent Case Law regarding OLAF activities[35]



Some judgments by the European Court of Justice and the Court of First Instance have a direct or indirect bearing on combating fraud, corruption and other illegal activities affecting the financial interests of the Communities.
The salient points of the courts' interpretation of the law on the components of EU fraud-prevention measures can be identified in the text of these judgments, and can be grouped under the following headings: institutional framework; investigative activity; follow-up on investigations.

➢ *Institutional framework*

In institutional terms, Community case law in many respects confirms the validity of the legal framework in place since 1999.
It recognises the protection of the Communities' financial interests as an autonomous objective of the Treaties. As such, it is central to the provisions introduced by the Community legislator and legitimates the body created for this purpose (OLAF), which is integrated in the Commission's administrative and budgetary structures and independently exercises autonomous investigative functions.

This specific investigative function is what distinguishes the anti-fraud system. In marked contrast to general monitoring activities such as financial control, OLAF's investigative function focuses on checking serious suspicions of fraud, corruption or other illegal activities affecting the Communities' financial interests.
Such investigations must comply with general and specific rules, identified in the case law. They must fully comply with Community rules, including those on human rights and fundamental freedoms, those applicable to the functions of members of the Institutions and those set out in the Staff Regulations of EC officials.
Issues concerning the situation of members of the Institutions have given the Community courts occasion to set out certain requirements and interpret the obligations arising from those members' positions as imposing on them the most rigorous standards of behaviour.

➢ *Investigative activity*

For both internal and external investigations, Community case law places fundamental emphasis on honouring the guarantees attached to the exercise of OLAF's powers of investigation.
Among these guarantees, it highlights:

- procedural guarantees for those under internal/external investigation; the courts consider that these are an essential procedural requirement for investigations, and that failure to honour them undermines the legality of the final decision[36].
  E.g. during an internal investigation OLAF must generally invite the persons concerned to express their views about the facts. Further, OLAF must take measures to ensure that no information concerning its investigations is leaked;
- impartiality in the conduct of the investigation, which requires in particular that the investigators should not be involved in any conflict of interest;
- rigour in seeking to ascertain the truth, failing which the Community may be subject to non-contractual liability;
- observance of the presumption of innocence in the context of an OLAF investigation when transmitting information to third parties and communicating with the public;
- protection of whistleblowers, who are covered by the guarantees contained in the Staff Regulations and continue to be covered by them even after the investigation launched on the basis of the information they provided is closed.

[35] The purpose of this section is only informative. It does not intend to provide any legal interpretation.
[36] See in particular: Judgment of the Court of First Instance of 12 September 2007 in Case T-259/03 *Nikolaou v Commission* and Judgment of the Court of First Instance of 8 July 2008 in case T-48/05 *Franchet & Byk v Commission*.

Beyond the emphasis on procedural guarantees, the case law also covers the final phase of the investigation. The Community courts deem the final report drawn up at the end of an (internal/external) investigation and sent to the competent authorities/institutions to be no more than a set of recommendations or opinions without mandatory legal effect on the persons concerned. However, in the light of the recent judgment of the Civil Service Tribunal (F-5/05 and F-7/05 *Violetti and others v. Commission* of 28 April 2009), a decision by OLAF to send information obtained in an internal investigation within the Commission to national judicial authorities could constitute an act adversely affecting an official. At the time of press, this decision was still subject to an appeal.

The extra-contractual liability of the Commission towards a person concerned by an OLAF investigation may derive from an act which results in a serious violation of legal principles and statutory rules that have as their effect to protect the rights of the individual, like the presumption of innocence and the right to be heard.

- ***Follow-up on investigations***

The Community courts have set out a number of principles governing Community powers in this field and the system of penalties guaranteeing real and effective protection of the EC's financial interests.
Thus case law has enhanced the Community's traditional powers to impose administrative penalties to prevent and combat irregularities damaging to the Community's finances by recognising that the Community legislator is, by way of exception, entitled to take measures that relate to the criminal law of the Member States where this is indispensable to guarantee that the rules laid down for a specific Community policy are fully applied.

6 Budget

Chart 23 outlines the areas of expenditure within this budget. OLAF's administrative budget[37] was over €53 million in 2008. The 'personnel' heading accounted for over 60% of total administrative expenditure.

Chart 23: Development of the OLAF administrative budget, 2004 to 2008

Item	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)	Budget 2007 (€ million)	Budget 2008 (€ million)
Personnel	26.7	25.2	32.09	32.62	**33.44**
External personnel	5	6.2	2.6	2.98	**2.77**
Management Expenditure		2.2	2.6	2.92	**3.17**
Furniture/infrastructure	8.6	10.5	10.9	11.6	**11.98**
Anti-fraud actions	2	1.2	1.7	1.7	**1.7**
Supervisory Committee	0.2	0.2	0.2	0.2	**0.2**
Total	**42.5**	**43.2**	**50.09**	**52.02**	**53.27**
Percentage committed	93%	92%	93%	94%	**98%**

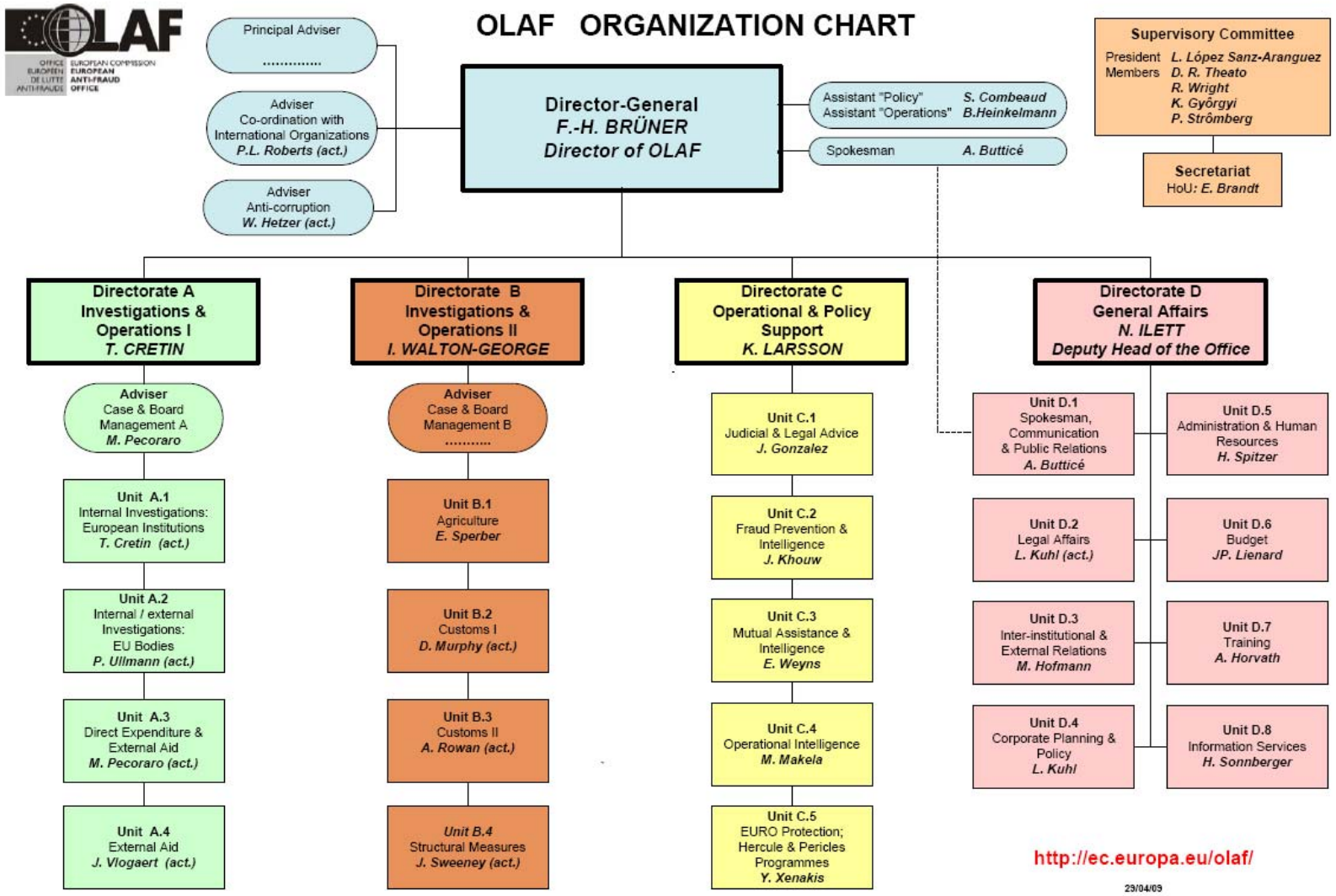
Chart 24 shows OLAF's operational budget for the last five calendar years. It was over €21 million in 2008. The 50% increase from 2006 to 2007 was mainly due to the entry into force of the Hercule II Programme.

Chart 24: Development of the OLAF operational budget, 2004 to 2008

Budget line	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)	Budget 2007 (€ million)	Budget 2008 (€ million)
24.0201 General anti-fraud measures	3.3	2.4	3.8	13.8	**13.8**
24.0202 Pericles	1	1	1	1	**1**
24.0203 Anti-fraud information system (AFIS)	4.3	4.8	4.8	5.8	**6.5**
24.0204 Hercule	3.9	3.9	3.9	n/a	**n/a**
Total	**12.5**	**12.1**	**13.5**	**20.6**	**21.3**
Percentage committed	92%	94%	94%	98%	**95%**

[37] While Title 24 of the European Commission's budget includes OLAF's total budget, OLAF's administrative budget is set out in Annex COM III to the budget

OLAF's Organisation chart on 29 April 2009



Glossary

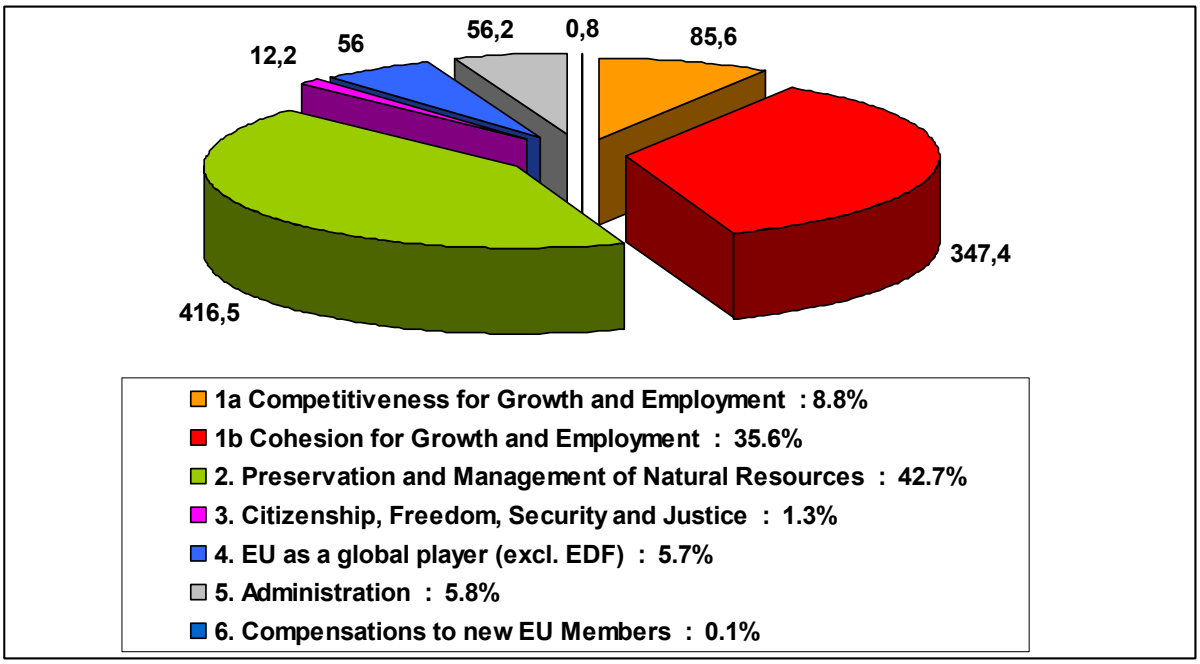
ACP	African, Caribbean and Pacific Group of States
AFCOS	Anti-Fraud Coordination Service
AFIS	Anti-Fraud Information System
CEPOL	European Police College
CIS	Customs Information System
CMS	Case Management System
DCI	Development Cooperation Instrument
ECA	European Court of Auditors
ECB	European Central Bank
EDPS	European Data Protection Supervisor
EIDHR	European Instrument for Democracy and Human Rights
ENPI	European Neighbourhood Policy Instrument
ERDF	European Regional Development Fund
ESF	European Social Fund
EUROCANET	Group of experts on VAT carousel fraud
FIDE	European Customs Files Identification Database
ICI	Industrialised Countries Instrument
IfS	Instrument for Stability
IMF	International Monetary Fund
IPA	Instrument for Pre-Accession Assistance
JHA	Justice and Home Affairs
JTI	Japan Tobacco International Agreement
OAFCN	OLAF Anti-Fraud Communicators' Network
OLAF	European Anti-Fraud Office
PMI	Philip Morris International Agreement
SAPARD	Special Accession Programme for Agricultural and Rural Development
UCLAF	Unit for the Coordination of Fraud Prevention
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office for Drugs and Crime
UN OIOS	United Nations Office of Internal Oversight Services
UNRWA	UN Relief and Works Agency for Palestine Refugees in the Near East
VAT	Value Added Tax
WHO	World Health Organisation

Map of the European Union

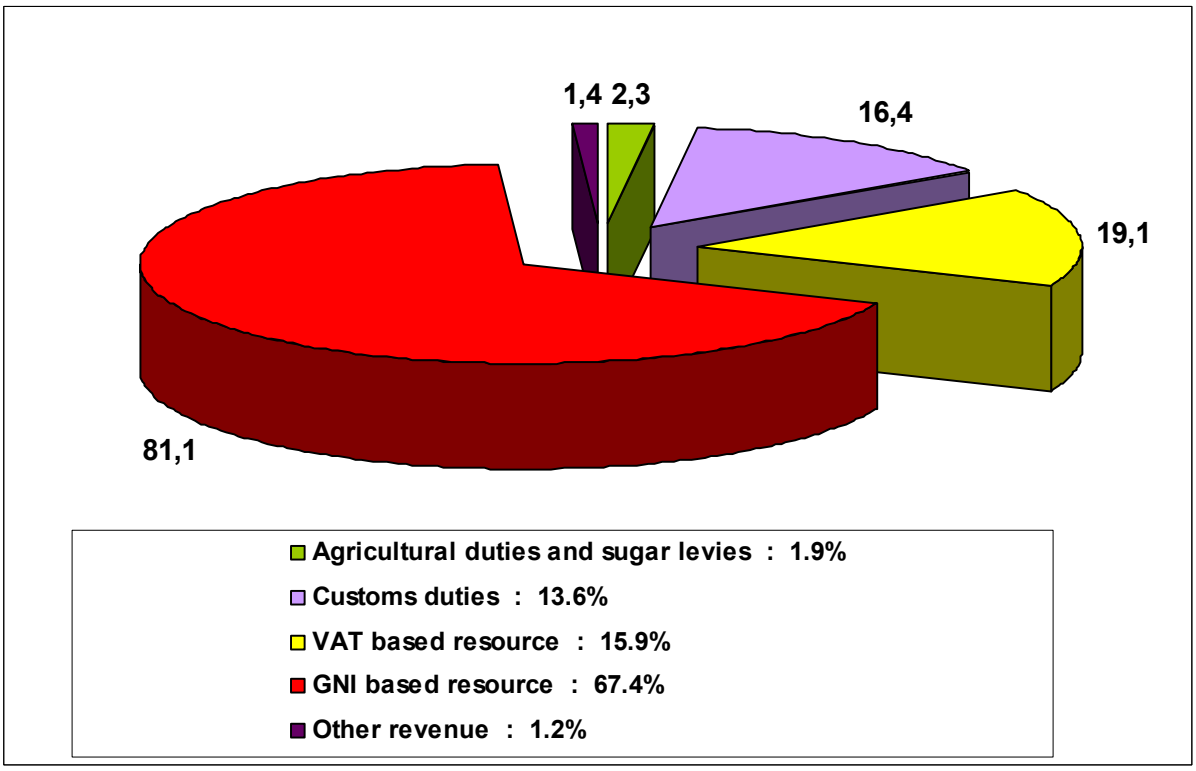


Structure of the EU Budget

The European Union financial framework for 2007-2013
(commitment appropriations – EUR billion adjusted for 2010)



The EU revenue structure in 2008 (EUR billion)



Annual Report 2010

European Anti-Fraud Office

Summary

Tenth Activity Report
1 January to 31 December 2009

Rue Joseph II 30
1000 Bruxelles
http://ec.europa.eu/olaf

Disclaimer:

OLAF's annual report features case studies for illustrative purposes only. The fact that OLAF presents such case studies does not prejudge the outcome of judicial proceedings; nor does it mean that the allegations presented imply that particular individuals are guilty of any wrongdoings

Note to the reader: The Summary version of the Tenth Activity Report of the European Anti-Fraud Office, which is available in all official languages of the European Union, is an abridged version of the full Report, which is available in English, French and German.

In Memoriam
Franz-Hermann Brüner
14 September 1945 – 9 January 2010

Mr Brüner was appointed OLAF's founding Director-General on 1 March 2000.

His aim from the start was to establish the Office as a credible, efficient and respected actor in the fight against fraud. Through the recruitment of experienced and specialist staff from a wide range of backgrounds, and the introduction of new procedures and work practices, supported by new tools and IT systems, he oversaw the creation of the sound base on which OLAF's successes were subsequently achieved.

Mr Brüner saw from the very beginning that OLAF could not achieve its goals by working alone. Cooperation was needed with a wide range of partners within the EU institutions and bodies, with the law enforcement, judicial and administrative authorities of the Member States and with international partners. This cooperation was essential not only to enable OLAF to conduct its operational activities but more widely so the fight against fraud and corruption could be tackled effectively wherever it occurred.

Most importantly Mr Brüner recognised that OLAF's success was only possible thanks to the hard work, commitment and professionalism of all its staff. It was fitting therefore that his last official engagement was to celebrate with his staff the 10th Anniversary of the creation of OLAF.



Foreword

For the whole of the period covered by this Report, OLAF was led by Franz-Hermann Brüner. Sadly, Mr Brüner died in January 2010, a year before the end of his second mandate. He is remembered elsewhere in this Report and in the many other tributes which have been published. Born amid the chaos of 1945, he devoted his life to improving the structures of justice in Europe, following German reunification, in Bosnia and Herzegovina, and at the heart of the EU project, as the first Director General of OLAF.

In 1999, the legislator gave OLAF three main tasks: to investigate in full independence fraud against the EU Budget inside and outside the Institutions, to foster cooperation among the Member States and to coordinate their anti-fraud activities, and to contribute to the development of anti-fraud policies and legislative initiatives. OLAF has developed into a structured, multi-disciplinary administration in pursuit of this remit. This Report records the results achieved, in particular in relation to OLAF's independent operational work.

The challenges which OLAF is now facing are largely the challenges of success.

Over a decade of expansion, OLAF has implemented its mandate by developing its activities in a whole range of areas: internal investigations within EU Institutions, agencies and bodies; substantial and complex investigations, increasingly analysis-based, in sectors of the Budget which were previously scarcely covered; coordination of Customs operations; suppression of illegal trafficking of cigarettes in a wide sense; major efforts in the new Member States before and after enlargement, and in neighbourhood countries; a leading role among the international organisations active in fighting fraud in aid and development projects as well as on the ground in Africa and elsewhere; a massive investment in specialist IT for investigation support, analysis, and secure international communication and coordination, to mention only some. Solid and reliable OLAF procedures have been developed within a complex and evolving legal framework.

OLAF is not, however, immune from the pressures which apply to the public service as a whole. Resource pressures mean that it is necessary to refocus and to reassess priorities so as to respond to the key threats as they develop and to ensure that OLAF staff are deployed so as to maximise the multiplier effect of our contribution to the joint efforts of partner services.

Also, necessary reform of OLAF is on the political agenda, partly to take account of lessons learnt in the past, partly to exploit the opportunities created for the future by the Lisbon Treaty. OLAF staff understand the need for change and welcome greater clarity and the perspective of a more significant role. Nevertheless, it is important that the political process takes due account of the need to maintain both the independence and the effectiveness of an operational service and the morale and commitment of its workforce.



Finally, on behalf of the senior management team, I would like to thank OLAF staff at all levels for their hard work and commitment, often in difficult and demanding circumstances.

N.J. Ilett
Acting Director-General,
July 2010

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S.1. OLAF's role and responsibilities

S.1.1. Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, to fight fraud, corruption and any other irregular activity, including misconduct within the European Institutions. In pursuing this mission in an accountable, transparent and cost-effective manner, OLAF aims to provide a quality service to the citizens of Europe.

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OLAF performs its duties with integrity, impartiality and professionalism, respecting individuals' rights and freedoms and in full respect of the Law. ~

OLAF's mandate covers all EU expenditure and part of the revenue side of the budget. It includes the general budget, budgets administered by the Union or on its behalf, certain funds not covered by the budget but administered by EU agencies; and extends to all measures affecting the Union's assets.

S.1.2. OLAF's main powers and resources

OLAF's status is hybrid in nature. It is part of the Commission, responsible for developing and monitoring the implementation of the EU's anti-fraud policies. However it has a measure of budgetary and administrative autonomy, which reinforces the total independence with which OLAF conducts investigations.

OLAF staff of nearly 500 civil servants and other staff act as agents of the Commission subject to its internal rules. As far as activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation are concerned OLAF staff are subject to the policies and powers of the Commission.

OLAF's administrative budget for 2009 was €57 million. A further €20 million was allocated to providing support to Member States and some third countries through the Hercule II and Pericles programmes.

A proposal is under examination by the European Parliament and the Council under the co-decision procedure; the European Parliament has already adopted a Resolution in favour to the Commission proposal, subject to an important number of amendments. In order to take further the legislative process, the Commission has affirmed its intention to produce a reflection paper which would identify the convergent and divergent points in the positions of the institutions expressed so far and the possible options for the main issues at stake.

OLAF is supporting the Commission in this reflection which represents an opportunity to strengthen its operational procedures and increase the efficiency of its investigations, including the information exchange with its partners.

These proposals do not put into question OLAF's operational independence. Reform will take into account the 11- year accumulated experience and achievements of the Office and should comply with the principle of better regulation, therefore focusing on the main issues at stake and leaving the practical aspects to be dealt with by implementing rules, such as the OLAF Manual of Procedures.

S.1.3. Oversight and Corporate Governance

OLAF's operational activities are carried out in total independence; the Director General has sole authority and control over the investigative process. OLAF's Executive Board is chaired by the responsible Directors and made up of representatives from across the Office. This ensure compliance with relevant policies and legislation. Day-to-day responsibility for the conduct of investigations is carried out by the heads of the operational units. They are supported by Quality Management tools and reports which provide them with timely information on compliance with internal targets and external responsibilities.

Oversight of the operational independence of the Office is performed by an independent Supervisory Committee. OLAF's activities as the Commission service responsible for anti-fraud measures are overseen by the Commissioner responsible for the fight against fraud.

S.2. OLAF's added value: a few case studies

Internal Investigations

Misuse of Parliamentary expenses by an ex-MEP

A Member of the European Parliament (MEP) defrauded the EU budget by falsely claiming expenses in excess of €40000 a year. Following press coverage of the allegations, the MEP repaid the expenses falsely claimed. The OLAF investigation concluded, however, that there was sufficient evidence that the MEP was aware that his acts were illegal. OLAF therefore referred the case to the relevant national authorities.

At his trial the now ex-MEP, who had not contested his seat in the 2009 European elections, pleaded guilty to false accounting and was sentenced to two years' imprisonment.

Internal EU Policies

Embezzlement by the Director of an NGO

The Director of a non-governmental organisation funded by the EU to provide training services has been charged with forgery and embezzlement.

Acting in close cooperation with the national police forces, OLAF established that a substantial proportion of the activities declared had not taken place at all. Those that had were found to have failed to comply with the terms of the grant agreement. The activity reports also contained false information and forged signatures. Sufficient evidence was gathered to demonstrate a criminal offence and judicial proceedings before the national authorities are in progress.

In the course of the investigation, the Commission rejected the final payment claimed by the NGO, terminated the grant agreement and issued an order for recovery of the full advance payment.

External Aid

Widespread fraud and corruption in an international programme

In 2005, the Global Fund suspended its operations in Uganda after allegations of widespread corruption and fraud and started to work closely with the new independent commission set up by the Ugandan government to investigate the allegations. It soon became clear, however, that neither the Global Fund nor the Ugandan government had the expertise or resources to investigate such a complex set of cases fully and so they asked OLAF for assistance, as the EU is one of the biggest contributors to the Global Fund.

OLAF focused on enabling local law enforcement bodies to manage, investigate and prosecute such a large number of complex economic crimes effectively. Besides focusing on the cases under investigation, this assistance also served to build up the capacity of the Ugandan authorities to tackle such crimes in the future.

In the first half of 2009, the first-ever convictions were secured before the newly created Anti-Corruption Division of the Ugandan High Court, resulting in prison sentences ranging from five to ten years in addition to criminal restitution. A further 45 cases are at different stages of investigation or currently before the Court.

Structural Actions

Factory fraud

The European Regional Development Fund (ERDF) provided aid for a factory which was supposed to provide more than a hundred jobs in a socially deprived area.

OLAF found that factory equipment, bought at inflated prices in Austria and sourced from Luxembourg, was delivered by means of a complex chain of financial transactions designed to create the impression that the promoters of the factory had put up investment financing when, in fact, they had invested nothing.

Only a few of the jobs promised ever materialised and the Austrian trader concerned promptly went into liquidation. Also, a large part of the financing has disappeared into an off-shore account. OLAF recommended that the €2 million of ERDF funding should be recovered and judicial proceedings have started in Italy and Austria.

This case is a good example of how OLAF can move quickly and effectively to defend the EU budget by conducting a series of coordinated checks on operators in different Member States involved in a transnational organised fraud.

Agricultural Expenditure

OLAF coordinates investigation into possible systemic fraud in the SAPARD programme

SAPARD (the Special Accession Programme for Agriculture and Rural Development) was designed to prepare the Central and Eastern European applicant countries to participate in the common agricultural policy and the single market.

OLAF is currently investigating allegations of widespread fraud in the funding of meat-processing plants in Bulgaria. In another ongoing investigation, OLAF requested the customs authorities in a number of Member States to verify the authenticity of invoices for purchases made.

The German customs authorities informed OLAF that they have evidence of systematic overpricing of purchases funded from SAPARD for plants in Bulgaria. OLAF is working closely with the authorities in five Member States and has conducted on-the-spot checks in another seven to determine the full extent of this fraud.

Agricultural Trade

Kaliningrad

Export refunds enable the EU to sell surplus agricultural products at prices which are competitive on the world market. After examining shipping records, the customs authorities spotted regular large shipments of sugar from the EU to Croatia, all via the Russian port of Kaliningrad. The exporters declared that Russia was the final destination of the sugar, which was therefore eligible for export refunds totalling several million euros.

At the request of OLAF, the Russian authorities carried out investigations into the company in Kaliningrad and were able to confirm that the sugar did not remain in Russia, but was re-exported to Croatia and was therefore not eligible for export refunds. OLAF carried out a control visit in cooperation with the Croatian customs authorities and found that over 3 400 tonnes of sugar had been imported into Croatia under this scheme.

Based on OLAF's findings, the Belgian paying agency proceeded to recover unduly paid export refunds totalling €1.2 million. A further €1.5 million was blocked by the paying agency and not released.

Customs

Chinese textiles

In 2004 the EU lifted quotas on textile imports from China. By mid-2005, however, the EU market was flooded with cheap Chinese imports and quotas were re-introduced. Exporters began circumventing them by falsely claiming that their textiles originated from Bangladesh.

OLAF focused on checking with the Bangladesh authorities the authenticity of hundreds of thousands of certificates provided to customs authorities in the EU. It soon became clear that not only were most of the certificates not genuine, but also the scale of the problem was much larger than thought, involving hundreds of importers across most EU Member States.

Following OLAF´s investigations, the customs authorities in almost every EU Member State were able to start proceedings to recover around €30 million in customs duties.

Cigarettes

Miami case

In 2003, the Irish Customs and Revenue Service requested OLAF's support following the seizure of 30 million cigarettes about to enter Ireland from the port of Miami. OLAF's coordination investigation soon uncovered fraud on a scale far greater than the six containers originally identified in Ireland. Over the next six years OLAF coordinated a complex investigation stretching across nine EU Member States and several countries in Central and South America.

OLAF's role was essential for ensuring a coordinated approach by the various customs authorities across the EU, in particular by providing a central contact point for cooperation with the US authorities. OLAF's investigation is still under way, but has already led to the seizure of over 43 million cigarettes and 11 arrests.

The prime suspect, responsible for coordinating the operation in Miami, was sentenced to two years in jail and ordered to pay €1.2 million in compensation to the EU.

S.3. Special Focus of the 2010 Report

In this year's report, four areas of OLAF's activities have been highlighted to which OLAF has devoted particular attention.

Improving Operational Procedures

Improving Operational Procedures has been a major focus of OLAF's activities in 2009. Given the ever increasing amount of incoming information and the increased complexity of the frauds to be investigated; OLAF has implemented new policies to ensure the optimal use of its limited resources. In 2009 OLAF progressively introduced a de minimis policy, which introduced indicative thresholds under which OLAF would not automatically open an investigation but would pass the information to another competent authority. Whilst the possible financial impact of a fraud is an important factor, exceptions to these thresholds remain if the fraud represents a systemic problem or the reputation of the EU is jeopardised.

Fraud Prevention and Intelligence

OLAF has always believed that investigations alone are not sufficient to fulfil its mandate of protecting the financial interests of the EU. The lessons learnt from this operational activity are systematically and effectively exploited to prevent and deter future frauds. OLAF's fraud prevention and intelligence activities aim at ensuring that the fraud types, trends, threats and risks posed to the EU budget are better understood among those responsible for managing EU funds so that if such frauds happen again they will be more easily and more quickly identified and stopped.

EU Agencies

The move by the EU towards delegating the responsibility for a number of its activities to a wide range of Agencies across the scope of the activities of the Union poses new and different risks in terms of fraud and corruption. OLAF's operational experience has identified a number of issues particularly in the period immediately after the creation of new agencies. These risks are now being managed through continuous and in-depth cooperation with all relevant stakeholders.

Joint Customs Operations & DIABOLO II

OLAF plays a leading role in ensuring close cooperation between Member States authorities in the common fight to protect the borders of the EU against illegal and illicit imports and the evasion of import levies and duties. OLAF provides the infrastructure, IT and communications tools and intelligence and administrative support which allow Member States and relevant third countries to conduct joint operations to coordinate actions across the EU.

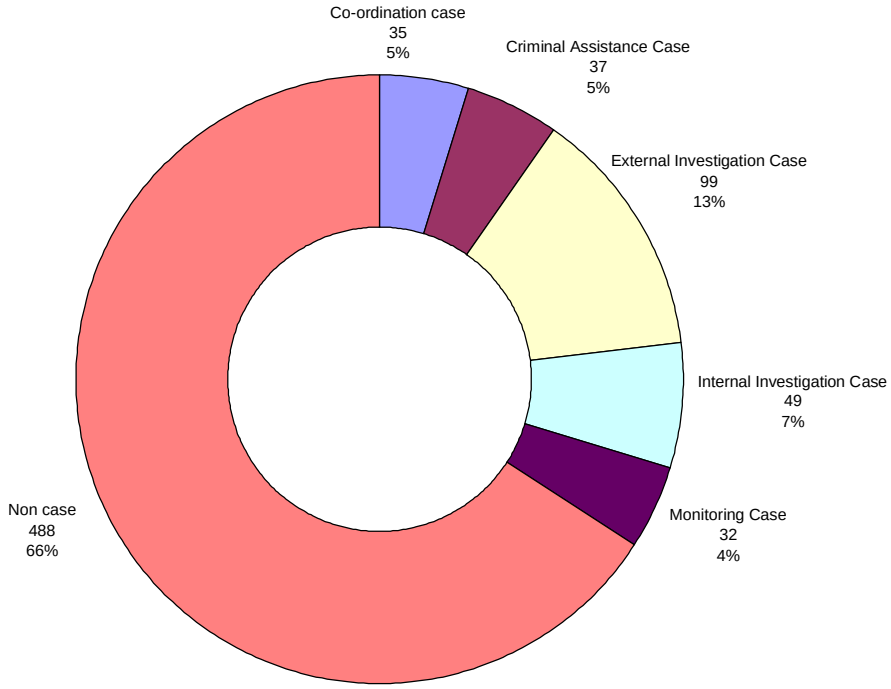
In 2009 a successful Joint Customs Operation Diabolo II was coordinated by OLAF which brought together all 45 Member of the ASEM partnership (EU Member States and most Asian Countries) to combat the global trade in counterfeit goods. During the operation over 65 million counterfeit cigarettes and hundreds of thousands of other counterfeit goods were seized.

S.4. OLAF's Workload

S.4.1 Public confidence in OLAF

OLAF is known and trusted to make effective use of the information it receives. The volume has risen from 802 new items of information in 2005 to 969 in 2009. In 2009, a total of 740 decisions were taken in response to new incoming information. A detailed breakdown by type of case is set out in Chart A.

Chart A: Decisions taken in 2009



S.4.2 Operational activities: prioritising and focusing on core business

Out of 740 decisions taken, 220 resulted in opening of a case, a slight increase compared with 2008 (when 204 cases were opened). OLAF's policy is to use its resources to investigate the most serious cases. It also continues to give priority to assessing information on cases for which OLAF has a clear mandate.

Since 2004 the number of OLAF's own investigations has first caught up with and now overtaken the number of cases in which OLAF assists national authorities (see Chart B). OLAF's activities have gradually moved towards about two thirds 'own investigations', with only about one third 'coordination and assistance cases'.

Chart B: Number of opening decisions per year and by type of investigation

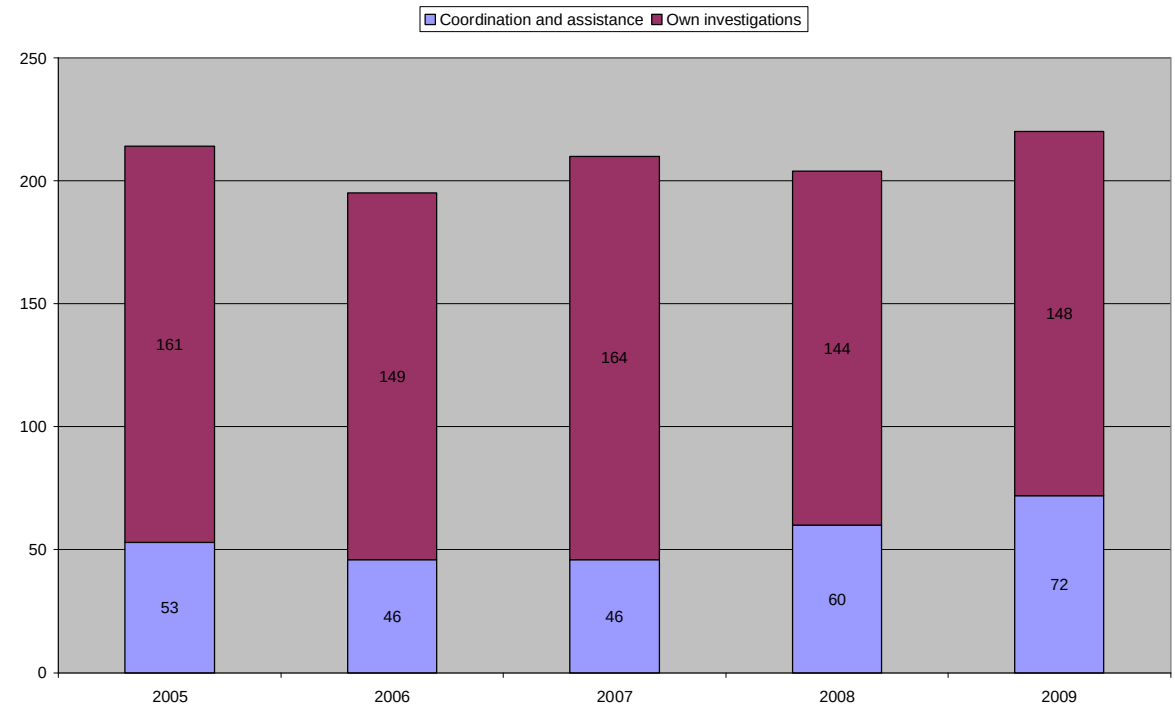


Chart C gives a breakdown of the 220 opening decisions adopted in 2009. Internal and external investigation cases, where OLAF bears sole responsibility for the preliminary administrative investigation, account for 148 of the 220 cases opened. The full version of this report provides a detailed analysis of operational activities, domain by domain.

Chart C: Opening decisions taken in 2009 by area and type of decision

Major sector	Co-ordination Case	Criminal Assistance Case	External Investigation Case	Internal Investigation Case	Total
Agriculture	7	25	7	0	39
Cigarettes	10	2	0	0	12
Customs	17	0	5	0	22
Direct Expenditure	0	0	23	1	24
EU Institutions + EU Bodies	0	8	17	48	73
External Aid	0	2	27	0	29
Structural Funds	1	0	20	0	21
Total	35	37	99	49	220

At the end of 2009, 369 OLAF investigations were active, of which 354 in the EU and 15 in candidate countries. A significant share of the investigations in the EU concern a limited number of countries: Belgium, Bulgaria, Italy, Germany, France and Romania (see Chart D).

This does not necessarily imply that more frauds occur in the countries with the highest number of OLAF investigations, as closer cooperation with local authorities can also lead to a higher number of referrals to the Office. A higher incidence is to be expected in Luxembourg and Belgium in proportion to their size, population and receipts from the EC budget, given that they are the seats of the largest European institutions. The vast majority of the allegations regarding the EU institutions and bodies are therefore followed up in these countries.

Chart D: Active investigations at the end of 2009 in Member States and candidate countries

Status of Country	Country involved	Total
Member State	Austria	11
	Belgium	48
	Bulgaria	68
	Cyprus	7
	Czech Republic	3
	Denmark	0
	Estonia	1
	Finland	0
	France	22
	Germany	22
	Greece	14
	Hungary	5
	Ireland	5
	Italy	36
	Latvia	3
	Lithuania	4
	Luxembourg	10
	Malta	2
	Netherlands	15
	Poland	12
	Portugal	7
	Romania	18
	Slovakia	4
	Slovenia	2
	Spain	17
	Sweden	2
	United Kingdom	16
	Sub-Total	354
Candidate Country	Croatia	1
	Former Yugoslav Republic of Macedonia	2
	Turkey	12
	Sub-Total	15

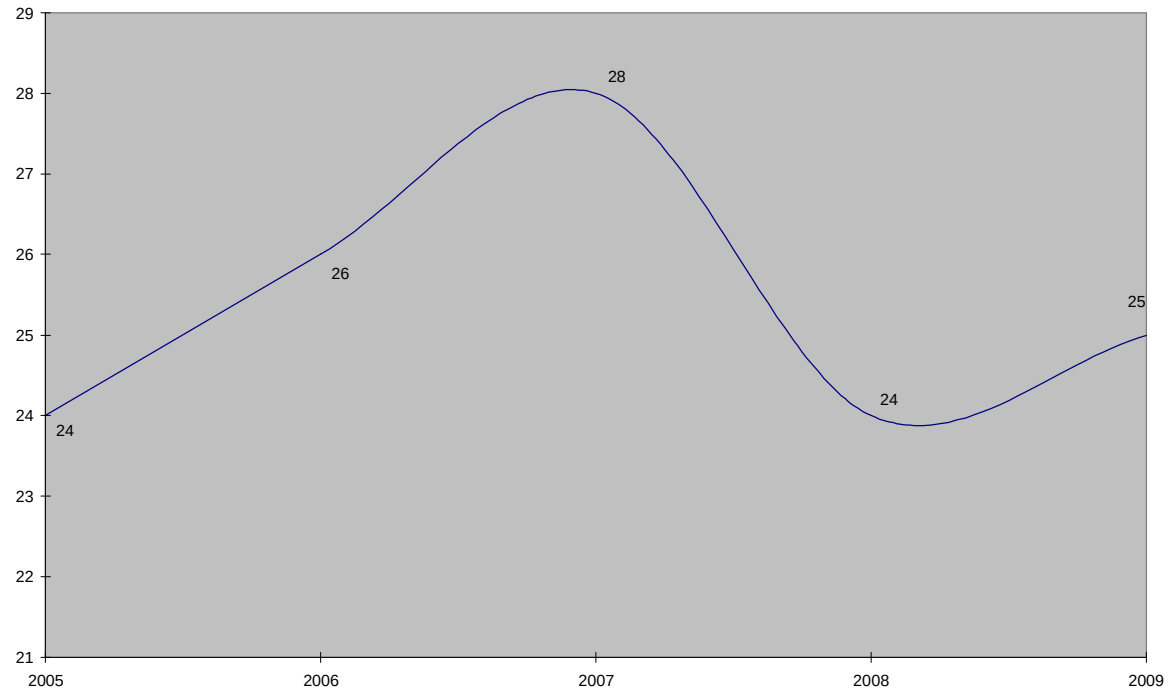
Chart E shows the number of cases opened and closed each year in the period 2005-2009. As can be seen, the clearance rate — the ratio between the numbers of cases opened and closed — has been kept close to 1 over the years. A clearance rate of 1 has been set as a medium-term target in order to adapt the workload to the resources available and to avoid an excessive backlog of cases.

Chart E: Opening, closing decisions and clearance rate (2005 - 2009)

	2005	2006	2007	2008	2009
Total cases opened	214	195	210	204	220
Total cases closed	233	217	232	187	188
Clearance rate	0.92	0.90	0.91	1.09	1.17

Chart F shows that the average duration of cases has been relatively stable over time. OLAF keeps this indicator under close scrutiny, since reducing the average duration of cases is a key concern for the Office. About 60% of all OLAF cases are closed in less than two years. The decrease in the average duration (compared with 2007) confirms the progress made by the Office with tackling this important issue, in spite of the difficulties faced by investigators in complex cases and in cases where the involvement of Member States or outside partners is required.

Chart F: Duration in months of the active stage of investigations completed in each calendar year



S.4.3 Follow-up activity

OLAF is now striving to increase its focus on 'serious cases' even more through the adoption of more stringent criteria for opening follow-up paths. These de minimis rules were applied from the beginning of 2009 and restrict follow-up to cases where the financial, reputational or systemic risk is highest. The remaining cases will be referred to other competent bodies whenever necessary.

Chart G: Cases closed with and without follow-up in each calendar year

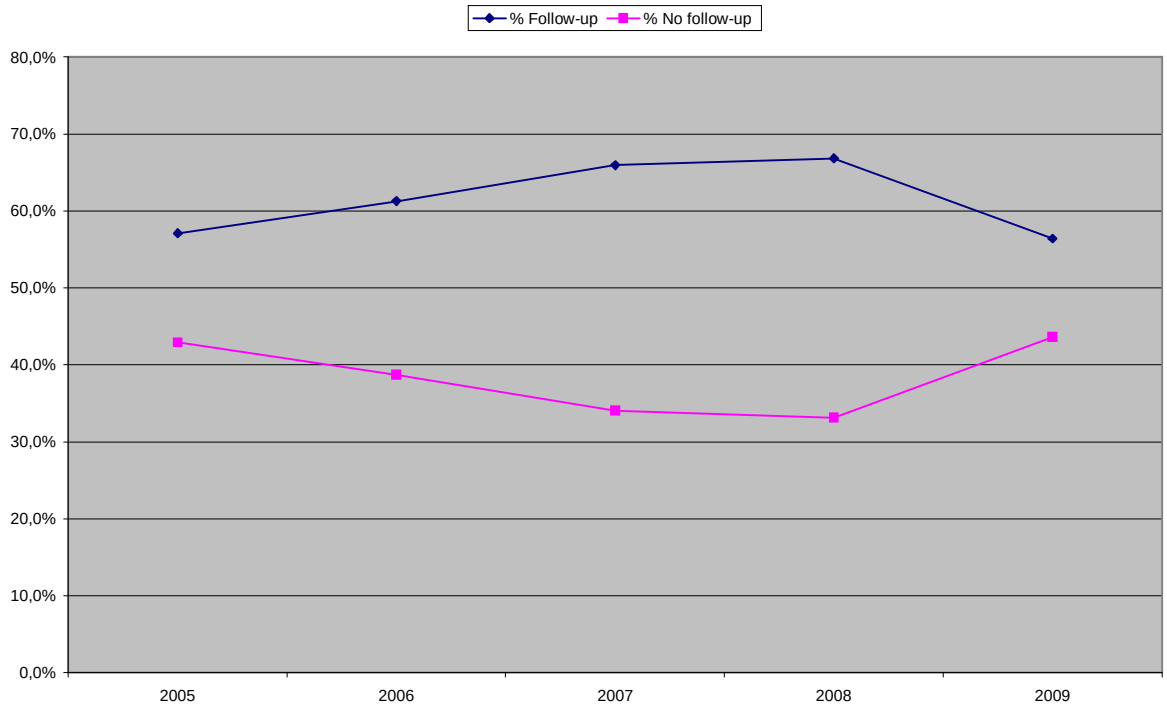
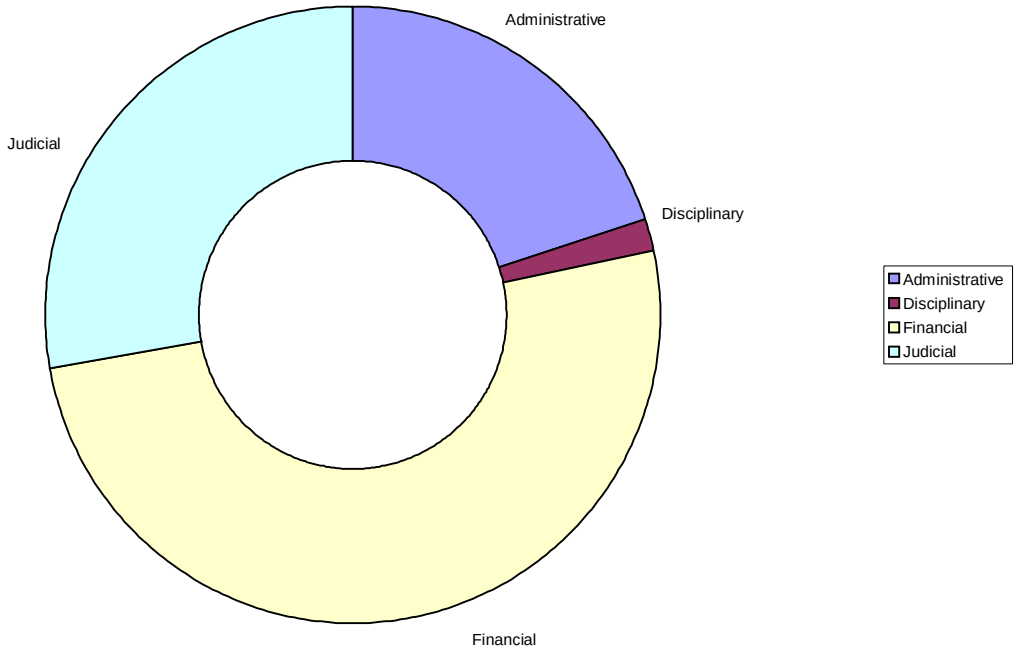


Chart H classifies the follow-up activities related to the closed cases for which at least one follow-up path was still open at the end of 2009. More than 75% take the form of judicial or financial follow-up.

Chart H: Type of follow-up activities in respect of closed cases at the end of 2009



S.4.4 Recovery

Chart I shows the annual breakdown of financial recovery operations completed in the last five years in OLAF cases, plus recoveries to date in financial follow-up cases which are still open. However, these sums are only a small fraction of the total amount recovered following detection of fraud or other irregularities, as most of the recovery operations are performed by Member States autonomously without any direct link to OLAF operations (for further details, see the Commission Report on the Protection of the Communities' financial interests - Fight against Fraud 2009 for more details).

Chart I: Breakdown of amounts recovered in million euros by calendar year in respect of financial follow-up paths

Major Sector	2005	2006	2007	2008	2009	Open
Agriculture	14.2	1.2	0.9	2.0	148.2	23.0
Customs	63.0	0.1	3.3	14.2	43.4	144.9
Direct Expenditure	0.2	0.2	0.5	0.5	0.9	0.8
EU Institutions + EU Bodies	0.0	2.2	0.1	0.2	0.2	1.7
External Aid	31.8	3.7	0.9	2.3	7.4	1.5
Structural Funds	98.1	17.2	197.7	128.0	49.1	16.9
Total	**207.3**	**24.6**	**203.4**	**147.2**	**249.2**	**188.8**

Financial results can fluctuate significantly from year to year, because of the impact of recoveries from occasional very big cases. This happened in the 2009 reporting year when, for example, one case in the agricultural sector retrieved over €113 million. Cyclical management aspects in certain sectors (e.g. the periodic closure of multi-annual expenditure programmes) also contribute to such year-on-year fluctuations.

Annual Report 2010

European Anti-Fraud Office

Tenth Activity Report
1 January to 31 December 2009

Rue Joseph II 30
1000 Bruxelles
http://ec.europa.eu/olaf

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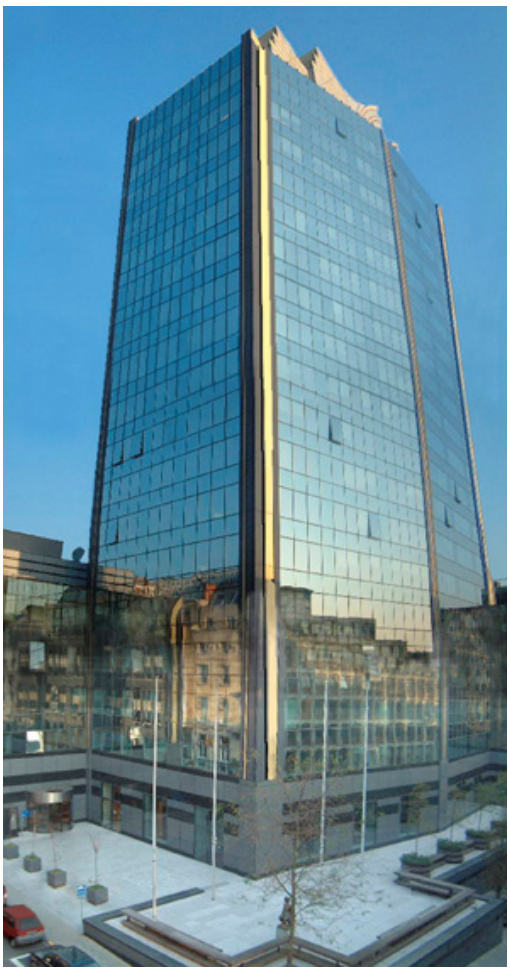
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1. OLAF's Role and Responsibilities

1.1. Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, to fight fraud, corruption and any other irregular activity, including misconduct within the European Institutions. In pursuing this mission in an accountable, transparent and cost-effective manner, OLAF aims to provide a quality service to the citizens of Europe.



OLAF achieves its mission by conducting, in full independence, internal and external investigations. It ensures close and regular cooperation between the competent authorities of the Member States in order to coordinate their activities, providing them with the necessary support and technical know-how to help them in their anti-fraud activities. OLAF contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to ensure that anti-fraud measures are systematically included in relevant legislation.

} Our values:
OLAF performs its duties with integrity, impartiality and professionalism, respecting individuals' rights and freedoms and in full respect of the Law. ~

OLAF's mandate covers all Union expenditure and part of the revenue side of the budget. It includes the general budget, budgets administered by the Union or on its behalf, certain funds not covered by the budget but administered by Union agencies; and extends to all measures affecting the Union's assets.

1.2. OLAF's main powers and resources

OLAF's task is to conduct internal and external administrative investigations as provided for in Articles 3 and 4 of Regulation (EC) No 1073/99. The legal basis for Union action against fraud is Article 325 of the Lisbon Treaty. OLAF also has a number of other powers at its disposal such as the right to perform on-the-spot checks and controls.

OLAF's status is hybrid in nature. It is part of the Commission, responsible for developing and monitoring the implementation of the EU's anti-fraud policies. However it has a measure of budgetary and administrative autonomy, which reinforces the total independence with which OLAF conducts investigations.



OLAF staff of nearly 500 civil servants and other staff act as agents of the Commission subject to its internal rules. As far as activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation are concerned OLAF staff are subject to the policies and powers of the Commission.

OLAF's administrative budget for 2009 was €57 million. A further €20 million was allocated to providing support to Member States and some third countries through the Hercule II and Pericles programmes.

In 2006, the Commission adopted proposals to modify Regulation (EC) No 1073/99 in order to enhance the procedural rights of persons under investigations, to ensure better control over the duration of investigation, to improve the efficiency of investigations and the information exchange between OLAF and the EU institutions and bodies, as well as with the Member States' competent authorities. In order to strengthen the cooperation between the Supervisory Committee of OLAF and the EU Institutions, the proposal also establishes a "structured dialogue" between the Committee and representatives of the Council, the European Parliament and the Commission.

The proposal is under examination by the European Parliament and the Council under the co-decision procedure; the European Parliament has already adopted a Resolution in favour to the Commission proposal, subject to an important number of amendments. In order to take further the legislative process, the Commission has affirmed its intention to produce a reflection paper which would identify the convergent and divergent points in the positions of the institutions expressed so far and the possible options for the main issues at stake.

OLAF is supporting the Commission in this reflection which represents an opportunity to strengthen its operational procedures and increase the efficiency of its investigations, including the information exchange with its partners.

These proposals do not put into question OLAF's operational independence. Reform will take into account the 11- year accumulated experience and achievements of the Office and should comply with the principle of better regulation, therefore focusing on the main issues at stake and leaving the practical aspects to be dealt with by implementing rules, such as the OLAF Manual of Procedures.

1.3. Oversight and Corporate Governance

Relevant developments in 2009 have strengthened the corporate governance of OLAF.

1.3.1. Operational Management

OLAF's operational activities are carried out in total independence; the Director-General has sole authority and control over the investigative process. Some functions are in practice exercised by the Directors responsible, notably the chairing of the different formations of the Executive Board. This board is composed of representatives from across the Office to ensure consistency and compliance with relevant policies and legislation at the key points in an investigation. Day-to-day responsibility for the conduct of investigations lies with the heads of the operational units; they are supported by quality management tools and reports which provide them with timely information on compliance with internal targets and external responsibilities.

1.3.2. Supervisory Committee

OLAF's Supervisory Committee monitors investigative activities of the Office. It is composed of five outside experts and provides independent oversight of OLAF's operational activities, so as to guarantee OLAF's independence in the conduct of investigations. The Committee monitors the implementation of OLAF's investigative functions without intervening in its operational activity. This principle also governs the way in which relevant information duties are implemented in practice. OLAF cooperates with the Committee under the authority of its Director-General.

In 2009 the Supervisory Committee, in addition to its annual report covering the period June 2008–May 2009, provided three Opinions, one on the OLAF Annual Management Plan, one on 'OLAF's Preliminary Draft Budget for 2009' and a detailed Opinion following its examination of "9-month" reports.

1.3.3. European Legal Oversight

Judgments by the European Court of Justice and the Court of First Instance may have a direct impact on the way in which OLAF performs its duties. When such decisions are received by OLAF their impact is immediately assessed and implemented by instructions from the Director-General to his staff. Key judgments in recent years, notably regarding procedural guarantees for the subjects under investigation, have been incorporated into the new OLAF Manual, including those relating to information duties on transmission to judicial authorities.

1.4. Focus on Improving Operational Procedures

In accordance with the objectives to improve the working procedures of OLAF, a coherent set of concrete measures were taken to make OLAF more efficient. This helps to increase further the quality of the work and to achieve better output from operational activities.

1.4.1. Implementing a de minimis policy

OLAF has implemented a de minimis policy in its operational activities with an emphasis on efficiency and effective use of the resources available. It applies to the opening of OLAF investigations, to the forwarding of information to the judicial authorities of the Member States and to conducting financial follow-up. OLAF must target more serious matters to enable the Office to focus its limited resources where they are most needed and leave other cases to be dealt with by more appropriate bodies.

The de minimis policy includes the adoption of indicative monetary thresholds for the opening of OLAF investigations in different areas (e.g. customs, agriculture, structural funds and internal investigation) as a part of the annual management planning. Except where there is evidence of systemic or systematic fraud, cases under this threshold are referred to other services with more appropriate competences to deal with the issues in question (e.g. other Commission services and/or the Member States in respect of certain external matters and IDOC, the disciplinary body of the Commission in respect of certain internal matters). The setting of indicative thresholds, therefore, remains fully in line with the zero tolerance policy of the EU Institutions.

1.4.2. New Follow-up procedures

Modified procedures were introduced at the beginning of 2009 to create an important new distinction between those financial follow-up cases in which OLAF is still actively engaged in order to identify debts to be established, notified and recovered following the conclusion of OLAF's operational activity, and other cases where this action has already been completed thus enabling the remaining tasks to be transferred to OLAF's operational partners. De minimis thresholds were also introduced to focus financial follow-up action on the more important cases.

In the course of 2009 OLAF also introduced changes to the way in which it records and reports financial "recoveries" in order to provide a clearer picture of the true financial impact of its activities. The term "recovery" is now used only for the revenue aspect of the budget, namely the traditional own resources sector (essentially customs and agricultural import duties). For all expenditure sectors, however, the term "retrieval" is used. Retrieval covers not only the actual recovery of funds from final beneficiaries or Member States but also has a wider scope in that it extends to other important financial adjustment mechanisms such as the re-allocation and de-commitment of funds, clearance of accounts, etc. OLAF is also now recording for the first time data relating to financial losses to the EU budget prevented as a direct result of OLAF's actions.

1.4.3. New OLAF manual

The new OLAF Manual on Operational Procedures, implemented on 1 December 2009, sets out OLAF's main procedures, describing the processes to be followed at all stages of a case, based on the instructions issued by the Director-General.



The new Manual is designed to guide the investigators in the conduct of their duties whilst observing the correct procedures at every stage of an investigation.

The Manual recalls the set of general principles of the rule of law, such as impartiality and the presumption of innocence, which are to be strictly observed by investigators during the performance of their duties. Particular focus is placed on the concrete handling of rights and fundamental freedoms of individuals such as the right of the individual concerned to express his views on all of the facts which concern him, before conclusions relating to a particular individual by name are drawn.

1.4.4. Data protection and privacy

Compliance with the Data Protection Regulation is a challenging aspect of OLAF's human rights compliance in its operational work, since the requirements of data protection must be met without reducing the effective delivery of OLAF's investigative and operational tasks. Staff are instructed to comply with the rules on the protection of personal data, in particular the requirements on data quality, providing information to the data subject, and the rights of the data subject relating to access, rectification, blocking and erasure.

Data subjects have the right of access to their personal data contained in the file. However, under certain conditions, this right may be deferred if access would be harmful to the investigation or operation. This is decided on a case-by-case basis. For OLAF, the most important exemptions and restrictions that may apply in a given case are the need to safeguard 'the prevention, investigation, detection and prosecution of criminal offences' and 'an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters.'

OLAF treats the protection of personal data as an issue of particular priority. The European Data Protection Supervisor (EDPS) has acknowledged OLAF's progress in this area. OLAF has developed its data protection support tools and activities and has provided training for its staff. The EDPS has checked those data-processing operations presenting specific and has issued a number of recommendations. OLAF has implemented most of these recommendations and continues to work with the EDPS to find solutions to outstanding issues.

1.4.5. Training

Another aspect of OLAF quality management is internal training. During 2009, OLAF implemented a new Training Action Plan as a follow-up to the internal audit on training conducted in 2008 and to an internal needs analysis. OLAF organised internal training sessions to meet the specific needs of OLAF staff on topics such as interviewing techniques, administrative writing and on-the-spot checks in addition to general training such as welcome sessions for newcomers, 'Fight the Fog' (improved drafting skills) and language training targeted on OLAF-specific needs.

During 2009, training sessions were also organised for other parts of the European Commission on subjects like fraud prevention in the field of the Structural Funds. For the first time, OLAF also organised lunchtime debates in order to raise awareness of a number of key operational issues. OLAF and EUROPOL also organised a second staff exchange programme.

In addition, OLAF organises training events for acceding countries and Member States, including four events in Romania and Bulgaria on various aspects of anti-fraud activity. During 2009 eleven international conferences were held in Member States and non-EU countries, drawing more than 1 500 participants.

1.4.6. Communication and public relations: reaching out to the citizens

OLAF is committed to transparency in its relations with the public. Information and communication is a key tool in preventing and combating fraud and corruption. OLAF's information and communication strategy is implemented in a manner which respects the Office's obligation to safeguard investigations and operations, within the framework prescribed by international, EU and national law. OLAF launched various information and communication activities in 2009 in order to raise awareness of the Office's role in the fight against fraud and corruption.

1.5. Focus on Fraud Prevention and Intelligence

In 2009, further emphasis was placed on increased fraud prevention. This is important to OLAF stakeholders as they may receive input from OLAF which allows them to target their own activities better.

1.5.1. Fraud Prevention Initiatives

OLAF continues to implement the Commission's policy of ensuring that all relevant legislation and measures are "fraud-proofed". This dynamic approach is aimed at improving the prevention of fraud and corruption by drawing on the lessons learnt from OLAF's operational experience.

OLAF has developed, within its Case Management System, a fraud prevention module allowing OLAF to analyse operational results in a structured manner. Based on this analysis, OLAF presented a first Compendium of Anonymised OLAF Cases focused on the research sector to the Commission Directorates-General concerned. This comprised a short description of identified fraud patterns and vulnerabilities and was linked, where possible, to OLAF recommendations, identified best practice and fraud indicators ('red flags').

In 2009, OLAF addressed three fraud proofing recommendations to other Commission Services:

- to the Information Society and Media Directorate-General concerning several aspects of the management of funding of research projects (inflation of personnel cost, plagiarism, fraudulent use of company names to receive grants);
- to the Taxation and Customs Union Directorate-General concerning transit procedures;
- to the Office for Infrastructure and Logistics in Brussels concerning verification of exclusion criteria and obligations stemming from the Belgian social security and fiscal rules.

In line with OLAF's focus on assisting EU agencies in the fight against fraud, OLAF increased its activities on exchange of best practices in the field of fraud prevention. OLAF presented its fraud prevention policy to the relevant inter-agency networks and has shared with the agencies operational experience stemming both from current and past cases. In turn, certain agencies have provided information on their current anti-fraud measures.

1.5.2. Joint fraud prevention strategy under the Structural Measures

The "Joint Fraud Prevention Strategy (JFPS) for the European Regional Development Fund (ERDF), European Social Fund (ESF) and Cohesion Fund (CF) was adopted as a response to the Commission's Internal Audit Service (IAS) report on fraud prevention and detection in Structural Funds. OLAF, in close cooperation with the Directorates-General (DG) for Employment, Social Affairs and Equal Opportunities and for Regional Policy, led a number of initiatives aimed at raising awareness of fraud prevention measures among auditors and desk officers in the Commission DGs and with partners in the Member States.

Whilst the JFPS expired at the end of 2009, OLAF believes that there is a real need for continued fraud prevention action which can be met best through a rolling programme of concrete fraud prevention activities.

1.5.3 Intelligence support to OLAF investigators, other Commission Services and Member States

Intelligence support was provided at strategic, tactical and operational level to OLAF investigators, other Commission services and Member States. OLAF finalised several intelligence reports in 2009 which identified sectors and stages in the financial management cycle of the European Union's budget that are at risk.

The reports were based on a systematic analysis of OLAF's operational casework. One of the results that emerge in practically all the reports is the need to raise awareness amongst financial staff of the most common irregularities and ways to identify these irregularities successfully ('red flags'). Improved awareness not only contributes to the earlier detection of irregularities; it also helps prevent further irregularities from occurring.

An interesting finding in the assessments of the research and external assistance sectors was the fact that almost half of OLAF's investigations are opened on the basis of information provided by sources outside the traditional "chain of control", such as auditors or financial staff. External sources provide useful information that can lead to successful investigations; one of OLAF's recommendations was therefore further to facilitate such communications. OLAF already has several reporting channels, such as the free-phone in the Member States and has recently introduced an on-line Fraud Notification System. These intelligence-based findings clearly underline the need to continue the efforts in this area.

In the area of shared management, a regional risk assessment was developed in close cooperation with the Guardia di Finanza, the Italian economic and financial police. This regional risk assessment and a situation report on Bulgaria allowed OLAF to identify specific fraud risk indicators based on measurable weaknesses in management and control systems, within identified geographic areas and economic sectors. These reports were in the first instance intended to support OLAF investigators; ad hoc versions for external stakeholders are to be released in 2010.

In the area of traditional own resources, risk assessments were performed for and in close cooperation with OLAF investigators and operational staff of Member States. Starting points for these risk assessments were working groups, organised under Regulation 515/97, in which Member States and OLAF together identified risk sectors. These were then analysed by specialist working groups consisting of analysts from OLAF and the Member States. The findings of working groups have directly led to the opening of investigations. The intelligence reports provided an in-depth assessment of the threat, scale and impact of irregularities and are a valuable source of information for customs officers as well as OLAF investigators who are seeking to improve their knowledge of a specific sector.

1.5.4. Developing the "Pluto" approach for fraud detection and prevention.

The Pluto project was set up to help the Commission's Directorate-General for the Information Society to improve its audit capabilities and control functions through the provision of powerful analytical tools and information on fraud indicators based on OLAF's operational experience. Given the success of the project, notably in terms of the timely detection of cases of fraud and irregularity, there has been wide interest from other operational Directorates-General in implementing such an approach. Indeed the approach has been recognised by the European Court of Auditors as best practice for applying the audit standard on evaluating the potential for the occurrence of fraud and how fraud risks are managed.

Whilst the responsibility for introducing such an approach clearly lies with the EU services responsible for programme management, OLAF is able to provide valuable support. Following initial training on the analytical tools, OLAF is able to provide on-going support in the form of training for project officers and financial managers on how to identify risk indicators better. This approach is in line with and complementary to the wider priorities of the Office on fraud prevention.

1.5.5. OLAF at the forefront in the fight against corruption



As part of its aim of promoting good governance, the European Commission, with the support of the European Parliament and the Member States, endeavours to eliminate any form of corruption at all levels within the EU institutions by applying a 'zero-tolerance policy' and to fight corruption more widely in EU Member States and around the world. As a signatory to the United Nations Convention against Corruption (UNCAC), in 2009 the Commission started to prepare its self-assessment and participated in the 3rd Conference of the States Parties, which adopted the fundamental features of the review mechanism. The responsibility for enforcement of anti-corruption legislation lies primarily with the EU Member States.

As part of its contribution to working methods against corruption, OLAF advises European Union Institutions and bodies on the systemic lessons drawn from its investigations. OLAF deploys the expertise of its staff with a view to preventing specific corruption risks in multi-agency spending programmes.

2. Key achievements in 2009 by area of activity

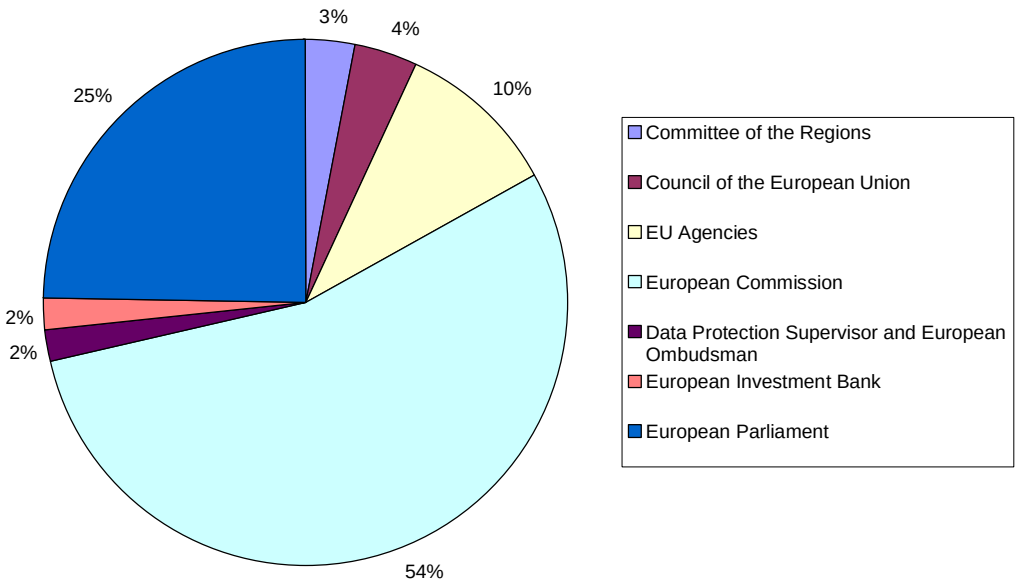
2.1. Internal investigations

2.1.1. Supporting the enforcement of a zero tolerance policy towards misconduct inside the EU bodies and Institutions.

OLAF carries out administrative investigations within the EU institutions and bodies. The purpose is to detect fraud, corruption and any other illegal activity affecting the financial interests of the EU and to gather relevant evidence. These investigations can also focus on serious breaches of professional duties and obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies or members of staff, liable to result in disciplinary or criminal proceedings.

A zero-tolerance policy underpinning the prevention and prosecution of any wrongdoings or corrupt practices within the EU bodies and institutions has been in place for a number of years. In supporting this policy, OLAF focuses on the most serious allegations. To ensure zero tolerance, less serious allegations are referred to the competent disciplinary authority of the EU body or institution concerned.

Chart 1: Internal cases under active investigation in EU institutions and bodies at the end of 2009



Allegations forwarded to OLAF cover a wide range of wrongdoings from embezzlement, favouritism, fraudulent claims by staff and wrongdoing in tender procedures to conflicts of interest.

Case study: Forgery of documents by a Commission official

In the context of an administrative procedure, a newly recruited official at the European Commission used falsified documents as evidence to support a request for re-grading. Doubts as to the authenticity of the documents were raised during an OLAF investigation relating to the official's previous post. A separate internal investigation was opened with a view to verifying the authenticity of the documents.

The OLAF investigation substantiated the initial allegations. Upon being confronted with the evidence, the official admitted to having forged the documents. The results were forwarded to the competent judicial authorities with a recommendation for criminal proceedings and to IDOC for further assessment in relation to possible disciplinary measures.

The judicial authorities decided not to prosecute, given the time limit for such offences. This was due to the fact that OLAF had only received the relevant information four years after the facts occurred. However, the Commission imposed severe disciplinary sanctions: the official was permanently downgraded.

It is crucial for the outcome of an investigation that OLAF is informed of the suspicions as early as possible. However, this case also shows that OLAF's policy of zero tolerance is the right way to protect the EU against irregularities and professional misconduct. Despite the considerable time which had elapsed since the irregularity was committed, the OLAF investigation resulted in an appropriate disciplinary sanction.

The Office has a number of powers to investigate these kinds of allegations such as access to information and the buildings of the institutions, with the possibility to check e-mail accounts and to obtain extracts of documents. OLAF can request, from any official including those involved in the alleged fraud, information that it believes to be useful for its investigation. In accordance with Regulation No 2185/96, it can carry out on–the-spot checks on the premises of the economic operators involved, to gain access to information concerning possible irregularities. In doing so OLAF takes fully into account the safeguards imposed by EU case law, ensuring that its actions are both reasonable and proportionate.

Case study: Misuse of Parliamentary expenses by ex-MEP

A Member of the European Parliament (MEP) dishonestly obtained parliamentary funds and used them to finance his party's political activities and his personal lifestyle.

In one year the MEP was paid close to €50 000 to reimburse the costs of employing a parliamentary assistant. The assistant, however, received less than 1/6th of the money; the rest was put into a private bank account over which the MEP had sole control.

Notwithstanding the fact that, following press coverage of the allegation, the MEP repaid the expenses falsely claimed the OLAF investigation concluded that there was sufficient evidence to demonstrate the MEP had been aware his actions were illegal. The case was therefore referred to the relevant national authorities.

At trial the now ex-MEP, who did not contest his seat in the 2009 European elections, pleaded guilty to the charge of false accounting and was sentenced to two years' imprisonment.

This is the first time a Member of the European Parliament has been convicted for misuse of EU funds in the exercise of his mandate. It shows the importance of the role of OLAF as an inter-institutional investigative body.

2.1.2. FOCUS ON – EU Agencies

Over the past ten years, a number of specialised and decentralised EU agencies have been established to support the EU Member States and citizens in carrying out specific Union missions that may require technical or executive expertise. The EU's agencies may be grouped, in accordance with their legal basis, into five different categories:

- Union agencies
  A Union agency is a body governed by European public law; it is distinct from the Union institutions (Council, Parliament, Commission, etc.) and has its own legal personality. It is set up by an act of secondary legislation in order to accomplish a specific technical, scientific or managerial task.
- Common Security and Defence Policy agencies
  Agencies have been set up to carry out specific technical, scientific and management tasks within the framework of the European Union's Common Security and Defence Policy.
- Police and judicial cooperation in criminal matters agencies
  Another group of agencies has been set up to help the EU Member States cooperate in the fight against organised international crime.
- Executive agencies
  Executive agencies are organisations established with a view to being entrusted with certain tasks relating to the management of one or more Community programmes. These agencies are set up for a fixed period. Their location has to be at the seat of the European Commission (Brussels or Luxembourg).

- EURATOM agencies and bodies
  These bodies are created to support the aims of the European Atomic Energy Community Treaty (EURATOM). The purpose of the Treaty is to coordinate the Member States' research programmes for the peaceful use of nuclear energy, to provide knowledge, infrastructure and funding of nuclear energy and to ensure sufficient and secure atomic energy supplies.

OLAF's operational experience has demonstrated that there is a heightened risk of fraud and irregularity in the period following the creation of a new agency. OLAF is working closely with the Commission departments responsible and directly with the agencies to ensure, through proper training and awareness-raising, that the lessons learnt from OLAF's experience are used to prevent further cases of fraud and to detect irregularities as soon as they occur.

Case study: Systemic weakness found in new agency

A Commission department detected a number of serious irregularities during an audit in a newly created European agency. The separation between professional and private activities was not respected, use of corporate credit cards was unregulated, staff members were unduly benefiting from residential accommodation, the equipment and furniture of the private homes of staff were financed by the agency, official cars were used by the staff not only for professional but also for private purposes, travel orders did not exist, mission expenses were paid without justification, etc. There was uncontrolled use of mobile phones for professional and private purposes and also abuse of taxi expenses for private purposes.

Given the serious and systematic nature of the irregularities (breach of the Financial Regulation, negligence, non-respect of the basic requirements of sound financial management), OLAF was immediately informed and opened an investigation.

The situation that OLAF faced in the agency is exceptional; in the rush to set up the agency key elements of financial management and control had not been implemented. The situation quickly improved, as a result of the combined efforts of the Court of Auditors, the Internal Audit Service and OLAF. The officials responsible resigned from their posts and fundamental changes were made to the internal procedures of the agency, introducing strict separation between professional and private activities. OLAF's investigation contributed to general awareness-raising about specific risks that may occur in the agencies.

2.2. Internal EU policies

This area of activity covers any EU-funded expenditure, project or programme that falls fully and directly within the competence and responsibility of the Commission services, with the exception of external aid. The most substantial feature of the "internal EU policies" is that at all stages (publication of call for interest/tender, evaluation-selection, contracting, monitoring of implementation, financial matters and payments, audit) the Commission is fully in charge and solely accountable.

Case study: Embezzlement by the Director of an NGO

The Commission provided funding for a project aiming at training experts. The Director of the non-governmental organisation which was the recipient of the grant to provide the training services was suspected of forgery and embezzlement.

The investigation established that a large part of the declared project activities did not take place at all. The activities that actually took place were neither organised by the grant beneficiary nor in line with the obligations stemming from the grant agreement. The project reports submitted by the NGO contained false information and forged signatures.

OLAF opened an external investigation after being informed of serious irregularities and possible misconduct in the management of the project and after having considered operational cooperation with the relevant national police service.

The principal investigation activities were performed by the national police, while OLAF carried out all necessary investigation and coordination activities outside the Member State concerned (including interviews, collection of documents and analysis of financial reports).

The evidence gathered was sufficient to demonstrate that a criminal offence of subsidy fraud had taken place. The judicial proceedings by the national judicial authorities are currently at the pre-trial stage; OLAF is closely following developments in the case.

In the course of the investigation, the Commission rejected the final payment claimed by the NGO, terminated the grant agreement and issued a recovery order for the full amount of the advance payment.

2.3. External aid

OLAF's main mission of protecting the financial interests of the EU has wide-ranging external relations implications. OLAF's activities may directly concern the EU budget on either the expenditure or the revenue side. They may also affect the budget of the European Development Fund (EDF) and the resources of the European Investment Bank (EIB), with whom OLAF works closely. Regular meetings are held between OLAF and the EIB and inter-agency cooperation has been established on a range of cases.

Case study: Widespread fraud and corruption in international programme

The Global Fund to Fight AIDS, Tuberculosis and Malaria was created in order dramatically to increase resources to fight three of the world's most devastating diseases, and to direct those resources to areas of greatest need. The Global Fund is supported by a wide range of international donors, including the EU.

In 2005, the Global Fund suspended its operations in Uganda due to allegations of widespread corruption and fraud. The Global Fund worked closely with an Independent Commission set up by the Ugandan Government to investigate the allegations. It became clear, however, that neither the Global Fund nor the Ugandan Government had the expertise or resources to investigate fully such a complex set of cases.

In 2008, the Ugandan Director of Public Prosecution requested assistance from key donors to the Global Fund. Given that the EU is one of the major contributors to the Global Fund, OLAF decided it was appropriate to provide help and opened a criminal assistance case.



OLAF, along with the Office of the Inspector-General of the Global Fund and the UK Serious Fraud Office, carried out a number of joint missions to Uganda. The focus of the assistance was to enable local law enforcement effectively to manage, investigate and prosecute a large number of complex economic crimes. Whilst focussed on the cases under investigation, this assistance also served to develop the capacity of the Ugandan authorities to tackle such crimes in the future.

In the first half of 2009, the first-ever convictions were secured before the newly created Anti-Corruption division of the Ugandan High Court, resulting in prison sentences ranging from five to ten years in addition to criminal restitution. A further 45 cases are at different stages of investigation or currently before the Court.

OLAF plays a crucial role in preventing and detecting fraud in this field by working in partnership with other Commission departments — notably the EuropeAid Cooperation Office (AIDCO) and the European Union Humanitarian Aid Office (ECHO) — and also with international partners.

Case study: Manipulation of tender procedure and corruption in infrastructure project

The EU provided financing for a project in Nicaragua which aimed to improve the living conditions and health of underprivileged people though improvements to infrastructure and the provision of drinking water. The EU delegation in Nicaragua was contacted by an individual involved in the implementation of the project, who claimed that there had been serious irregularities in the tender procedures for the project with a value of over €10 million.

OLAF investigators contacted the informant and were able to obtain further evidence from him about the nature of the irregularities. It appeared that there had been collusion between the winning bidder in the main infrastructure project and an expert working on the tender procedure. Further evidence came to light during an on-the-spot check on the premises of the winning bidder. It was clear that the company had received privileged information during the tender process which allowed it to provide the lowest bid, in return for a "commission" of 5% of the cost of the project or around €500 000.



OLAF has forwarded its findings to the relevant judicial authorities with a recommendation for criminal prosecution. It has also recommended that the Commission impose a fine of 10% of the total value of the contract, in line with provisions of the contract, and that the company concerned should be flagged in the Commission's Early Warning System to exclude it from future contracts for the maximum time allowed.

In order to provide an additional level of protection for the EU budget, the European Commission has introduced an "Early Warning System" (EWS). This computerised information system lists companies, NGOs, associations or other parties which are deemed to pose a threat to the financial interests of the European Union. Depending on the circumstances, entities may be "flagged" at different levels, from "warnings" that there may be some concerns as a result of an audit or ongoing investigation to exclusion from eligibility for EU funding as a result of a conviction for fraud or breach of contract.

Case study: Corrupt consultant

At the end of 2004, the Commission EuropeAid Cooperation Office informed OLAF about suspicions of irregularities concerning two grants awarded to public authorities of an Asian country within the framework of a Union programme that co-financed technology and communication projects proposed by EU organisations and participating Asian countries.

OLAF's investigation established that the government bodies had been approached by a consultant who had convinced them that he would arrange things so they could request and obtain a grant from the European Commission that his consulting firm would manage and implement on their behalf. The grant applications were indeed successful and the Commission made first payments to the authorities who, in turn, transferred the funds to the consultant. In breach of their contractual obligations, according to which they had to implement the projects primarily by their own means, the authorities conferred responsibility for managing the funds and implementing the project on the consultant.

During the investigation OLAF found out that the same fraud pattern also appeared in three other grant contracts involving the same consultant and consequently opened two further investigations.

In April 2006, OLAF submitted the final case reports to EuropeAid and decided to monitor the administrative and financial measures taken. OLAF also flagged the consulting firm in the Commission's Early Warning System.

The Commission decided to recover the funds. In all, approximately €450 000 was recovered from the third country. One grant that had been awarded to a foundation proved to be irrecoverable. Despite the Commission's efforts, it was not possible to trace the entity, which had disappeared.

Following the closure of the follow-up, OLAF requested EuropeAid to continue flagging the entity as long as it is considered a threat to EU interests.

2.4. Structural actions



With a projected EU budget spend of some € 347 billion on cohesion policy over the period 2007-2013 covering a vast range of programmes and projects in the 27 Member States it is inevitable that such funding is the subject of attack by fraud and irregularities. Such attacks take many forms. OLAF's experience in recent years shows that the main attacks on the Structural Funds are:

i. Attempted subversion of tendering processes through false or exaggerated bids, cartel bids, illegal or irregular sub-contracting, etc.
ii. False or exaggerated, even double/triple cost claims for inputs or services.
iii. Fraud and irregularities resulting from situations of conflict of interest which there are either no or insufficient administrative structures to combat.

These issues continue to create significant problems for the legal and effective use of Structural Funds in all Member States, but particularly in Italy, Greece and Spain and in Bulgaria and Slovakia. OLAF's case load in Structural Funds matters over the course of 2009 reflects these various types of fraud. Whilst there is undoubtedly some fraud with Structural Funds in practically all the Member States, OLAF's experience is that the majority of cases arising are in the five Member States mentioned.

Case study: False claims

In the course of 2009 OLAF finalised an investigation into a large building materials company in Spain which had received millions of euros in EU aid from both the ERDF and the European Social Fund. The case had been opened on the basis of information communicated directly to OLAF in 2006 and required that OLAF conduct a series of controls in Spain and in another Member State.

The company was found to have claimed aid for non-existent services, over-claimed aid for other services and also claimed aid for old equipment which was bought second-hand from another Member State and declared to be new.

Thanks to OLAF's intervention, some €14 million has been saved for the EU budget and the file has been referred to the Spanish judicial authorities for possible judicial proceedings.

This case also demonstrates the value-added of OLAF's capacity to investigate complex EU-funded projects. In this instance OLAF did this using its administrative legal framework to conduct checks in two Member States on the same possible fraud(s).

OLAF has found growing evidence that in many cases the frauds in the Structural Funds are organised and planned and have not resulted from simple opportunity. Confronted with these realities and again mindful of the huge funding that is available under the Structural Funds, it is important for all stakeholders in the Member States and in the EU institutions to work together closely in dealing with this phenomenon.

Case study: Factory fraud

The European Regional Development Fund (ERDF) provided aid for a factory which was supposed to provide more than a hundred jobs in a socially disadvantaged area. The factory received public funding of more than €4 million from EU and national funds. The factory promoters were supposed to invest €3.4 million.

Acting on information communicated directly to OLAF that a serious fraud was being perpetrated with the funding allocated, it was decided an investigation should be opened and controls conducted on economic operators in the several Member States connected with the project.

From these controls OLAF found that the factory equipment, which was bought at inflated prices in Austria and sourced in Luxembourg, was delivered through a complex series of financial transactions designed to give the impression that the factory promoters had put up investment financing when in fact they had invested nothing.

Only a few of the promised jobs ever materialised and the Austrian trader concerned went promptly into liquidation. Moreover, a large part of the financing has disappeared to an off-shore account. OLAF has recommended that the €2 million in ERDF funding be recovered and judicial proceedings have started in Italy and Austria.

This case is a good example of how OLAF, using its administrative powers and conducting a series of controls on economic operators in several Member States in relation to a trans-nationally organised fraud, can move quickly and effectively in defence of the EU budget.

2.5. Agriculture and Trade

Agriculture has historically accounted for a substantial share of the EU budget in terms of expenditure. Following successive reforms, its rural development dimension gained importance, while the relative weight of agriculture in the budget decreased. The Financial Framework for 2007-2013 earmarked about 43% of EU expenditure for preservation and management of natural resources – or €415 billion.



Case study: OLAF coordinates investigation into possible systemic fraud in SAPARD programme

SAPARD (the Special Accession Programme for Agriculture and Rural Development) was designed to prepare the Central and Eastern European applicant countries in the pre-accession period for their participation in the common agricultural policy (CAP) and the single market.

OLAF is currently investigating allegations of widespread fraud in the funding of meat-processing plants in Bulgaria. In another ongoing investigation, OLAF asked the customs authorities in a number of Member States to verify the authenticity of invoices for material purchased.

The German customs authorities informed OLAF that they had evidence of the systematic overpricing of material funded under SAPARD for plants in Bulgaria. OLAF is working closely with the authorities in five Member States and has conducted on-the-spot controls in another seven in order to determine the full extent of this fraud.

2.5.1. Agricultural Trade

Export refunds enable the EU to sell surplus agricultural products at prices which are competitive on the world market.

Case study: Kaliningrad



The Belgian customs authorities informed OLAF of a suspected fraud involving the systematic exploitation of export refunds in the sugar sector. Through examination of shipping records, the customs authorities identified regular large shipments of sugar between the EU and Croatia, all of which were shipped via the Russian port of Kaliningrad. The exporters declared that Russia was the final destination of the sugar, which was therefore eligible for export refunds amounting to several million euros.

At the request of OLAF, the Russian authorities carried out investigations into the company in Kaliningrad and were able to confirm that the sugar did not remain in the Russian Federation but was re-exported to Croatia and therefore not eligible for export refunds. OLAF carried out a control visit in cooperation with the Croatian Customs authority in which it was established that in excess of 3400 tonnes of sugar had been imported to Croatia using this scheme.

Based on OLAF's findings, the Belgian paying agency proceeded to recover unduly paid export refunds amounting to €1.2 million. A further €1.5 million which had been blocked by the paying agency was not released.

2.6. Revenue

On the revenue side, the European Union is almost entirely financed through the 'own-resources', Traditional own resources (TOR) consist of customs duties, agricultural duties and sugar levies. These traditional own resources are levied on economic operators and collected by Member States on behalf of the EU.

2.6.2. Customs

The Customs Union is a pillar of the EU and an essential element in the functioning of the single European market. The single market can only function properly when there is a common application of common rules at its external borders. The EU is the world's biggest trader, accounting for 20% of global imports and exports.

Case study: Chinese textiles

In 2004 the EU lifted quotas on the importation of textile products from China. By the middle of 2005, however they were re-introduced as the EU market was flooded with cheap Chinese imports. Trade flows following the reintroduction of the quotas highlighted a sharp drop in imports from China but a corresponding spike in imports from Bangladesh. As a "least developed country" Bangladesh benefits from a preferential trade regime with the EU. However the scale of the imports did not match the manufacturing capacity of the country.



OLAF's investigation focused on checking with the Bangladeshi authorities the authenticity of the hundreds of thousands of certificates provided to the customs authorities in the EU. It soon became clear that not only were most of the certificates not genuine, but also the scale of the problem was much larger than expected involving hundreds of import companies across most EU Member States.

Following OLAF´s investigations in Bangladesh the relevant customs authorities in almost all EU Member States were able to start recovery proceedings for around € 30 million in customs duties. OLAF's investigators also provided evidence during the lengthy appeals processes.

Case study: Hand pallet trucks

Anti-dumping duties are trade policy measures imposed by the European Union on specific products originating in specific source countries to protect the market against imports of goods at artificially low prices, thereby ensuring a level playing field for all commercial operators.

Following the introduction of anti-dumping duties on hand pallet trucks (HPT) from China, OLAF was informed by trade sources that Chinese manufacturers were evading the duties by using Thailand to disguise the origin of their products.



OLAF saw from trade statistics that there was an apparent correlation between imports from China to Thailand of parts for HPT and the subsequent export of HPT from Thailand to the EU. In the course of investigations in Thailand, OLAF also uncovered evidence that companies in Thailand were working together, each independently importing parts from the same Chinese manufacture for subsequent assembly in Thailand by the subsidiary of the Chinese parent company. Imported parts could be matched to exports of finished HPT by matching purchase orders, deliveries, invoices and certificates. As the trucks were only assembled in Thailand from Chinese parts they were still liable to anti-dumping duties.

OLAF's evidence showed that this fraud had been going on for over two years with in excess of €6 million in evaded duties. On the basis of the evidence obtained by the OLAF investigation, evaded duties are being recovered in 12 Member States.

2.7. Cigarettes

Illicit trade in contraband and counterfeit tobacco products results in annual losses of approximately €10 billion to the budgets of the EU and the Member States and undermines public health initiatives aimed at curbing smoking.



OLAF coordinates and supports complex, transnational investigations which each year lead to the seizure of several hundred million cigarettes and the dismantling of organised criminal groups responsible for smuggling. In 2009, OLAF coordinated some 35 cigarette-related fraud cases. The global nature of the illicit trade in tobacco means that these operational activities are not confined to the EU but also involve working with authorities in many third countries.

Case study: Miami case

In 2003, the Irish Customs and Revenue Service requested OLAF's support following the seizure of 30 million cigarettes about to enter Ireland from the port of Miami (USA). OLAF's coordination investigation soon uncovered that the scale of the fraud was far greater than the six containers originally spotted in Ireland. Over the next six years, OLAF coordinated a complex investigation covering nine EU Member States and several countries in Central and South America.

OLAF's role was essential in ensuring a coordinated approach from the various customs services across the EU and in particular by providing a central contact point for cooperation with the US authorities. OLAF's investigation is still on-going, but has already led to the seizure of over 43 million cigarettes and 11 arrests.

The prime suspect, responsible for coordination of the operation in Miami, was sentenced to two years in jail and ordered to pay €1.2 million in restitution to the EU.

This result is a milestone in the EU's fight against the illegal and illicit trade in cigarettes; it is the first time a person outside the EU has been sent to jail for smuggling cigarettes into the EU and also the first time that a person sentenced for a fraud against the financial interests of the EU has been ordered by a court outside the EU to pay back lost taxes and duties to the EU.

2.8 FOCUS on Joint Customs Operations & DIABOLO II

The Diabolo II Joint Customs Operation (JCO) organised in 2009 by OLAF brought together all 45 members of the ASEM partnership to combat the global trade in counterfeit goods and to protect legitimate trade in genuine products. The operation led to the seizure of more than 65 million counterfeit cigarettes and 369 000 other counterfeit items (shoes, toys, cameras, headphones, hats, caps, gloves, handbags, etc.) representing over 20 different trademarks.

The key to the success of this type of joint operation is that it can focus the efforts of many countries on the highest risk areas at the same time. Each JCO is planned in advance with all stakeholders and based on threat assessments carried out by a wide range of partners such as the World Customs Organisation, Member States' customs authorities and Europol.

OLAF plays a flexible role in supporting JCOs, depending on the individual requirements and scope of the operation. In many cases, such as with Diabolo II, OLAF plays a leading role as coordinator. In other operations OLAF's activities may be limited to providing logistical and administrative support.

Two key elements of OLAF's support are the provision of an IT communications platform which allows real-time secure exchange of intelligence during the operation and, second, the provision of the facilities to conduct the operation in the form of a permanent operations control unit, which is a secure 24-hour facility for Member States and other partners to use during JCOs.

2.9. Protecting the euro against counterfeiting



The euro is the official currency of the Eurozone which currently comprises 16 of the 27 Member States. The currency is also used in five other European countries, with and without formal agreements, and is consequently used daily by some 327 million Europeans.

Effective protection of the euro against counterfeiting is a high priority for the EU. The European Commission/OLAF, the European Central Bank and Europol all have distinct but interlinked responsibilities for this effort.

OLAF's activities in this area include:

- proposal and implementation of legislation on the protection of euro banknotes and coins;
- training and technical assistance: managing and co-financing of projects for the protection of euro banknotes and coins under the Pericles programme;
- coordination of Member States' action for the technical protection of euro coins through the European Technical & Scientific Centre (ETSC).

2009 also saw the formal adoption of a Commission initiative aimed at ensuring that euro notes and coins distributed by financial institutions are genuine. From 2012 on, banks will have to take responsibility to verify that the euros they distribute are genuine. OLAF is helping financial institutions to take on their new responsibility notably with testing verification machines.

3. Statistical trends in operational activities

3.1. Evaluation of incoming information

Each initial item of information received by OLAF is subject to a thorough evaluation leading to a recommendation whether a case should be opened or not and, if opened, the type of action required by OLAF and the priority it should be given. Where OLAF considers that it does not have the power to investigate or that it would be more appropriate for another service to deal with the allegation, the information is forwarded to the relevant competent authority.

The evaluation period is calculated from the date of receipt of the information to the date of the recommendation made by the OLAF Executive Board to the Director-General. Where an evaluation lasts two months a decision is taken whether to extend this period by an additional six months. The total number of evaluations increased again in 2009 (see Chart 1).

The continued high volume of incoming information reflects heightened public awareness of the Office, confirming and reinforcing OLAF's role as a 'pillar of trust' in the fight against fraud. A significant amount (27%) of the information the Office receives, however, consists of allegations outside the competence of the Office and is forwarded when necessary to other competent authorities.

Three sources of information account, collectively, for about 90% of the incoming information (informants 46%, the European Commission 30% and Member States 14%). Informants cover a wide range of sources. In the majority of cases they are businesses or individuals connected in some way to the alleged fraud.

Figure 1: Distribution of new information received by source and sector

Source	2005	2006	2007	2008	2009	Total	Percentage
European Commission	246	251	251	305	305	1358	30%
Free-phone	40	26	42	48	58	214	5%
Informants	345	398	419	431	456	2049	46%
Member States	119	107	132	147	111	616	14%
Other EU institutions	23	20	20	73	33	169	4%
Others	29	20	14	25	6	94	2%
Total	802	822	878	1029	969	4500	100%

Major sector	2005	2006	2007	2008	2009	Total	Percentage
Agriculture	100	107	136	201	173	**717**	**18%**
Cigarettes	9	9	10	13	10	**51**	**1%**
Customs	60	65	56	54	36	**271**	**4%**
Direct expenditure	73	50	102	152	109	**486**	**11%**
EU institutions and EU bodies	235	232	207	293	305	**1272**	**31%**
External aid	168	205	206	179	140	**898**	**14%**
Structural Funds	157	154	161	137	196	**805**	**20%**
Total	**802**	**822**	**878**	**1029**	**969**	**4500**	**100%**

Three sources of information account, collectively, for about 90% of the incoming information (informants 46%, the European Commission 30% and Member States 14%). Informants cover a wide range of sources. In the majority of cases they are businesses or individuals connected in some way to the alleged fraud.

Figure 2: Distribution of new information received in 2009 by Member States and candidate countries

Member State	Number	Member State	Number
Austria	17	Netherlands	16
Belgium	57	Poland	45
Bulgaria	94	Portugal	7
Cyprus	2	Romania	59
Czech Republic	15	Slovakia	20
Denmark	1	Slovenia	5
Estonia	3	Spain	53
Finland	4	Sweden	8
France	21	United Kingdom	30
Germany	67	Subtotal	666
Greece	34		
Hungary	18		
Ireland	11	Candidate country	Number
Italy	52	Croatia	11
Latvia	4	Former Yugoslav Republic of Macedonia	1
Lithuania	6	Turkey	17
Luxembourg	12	Subtotal	29
Malta	5	TOTAL	695

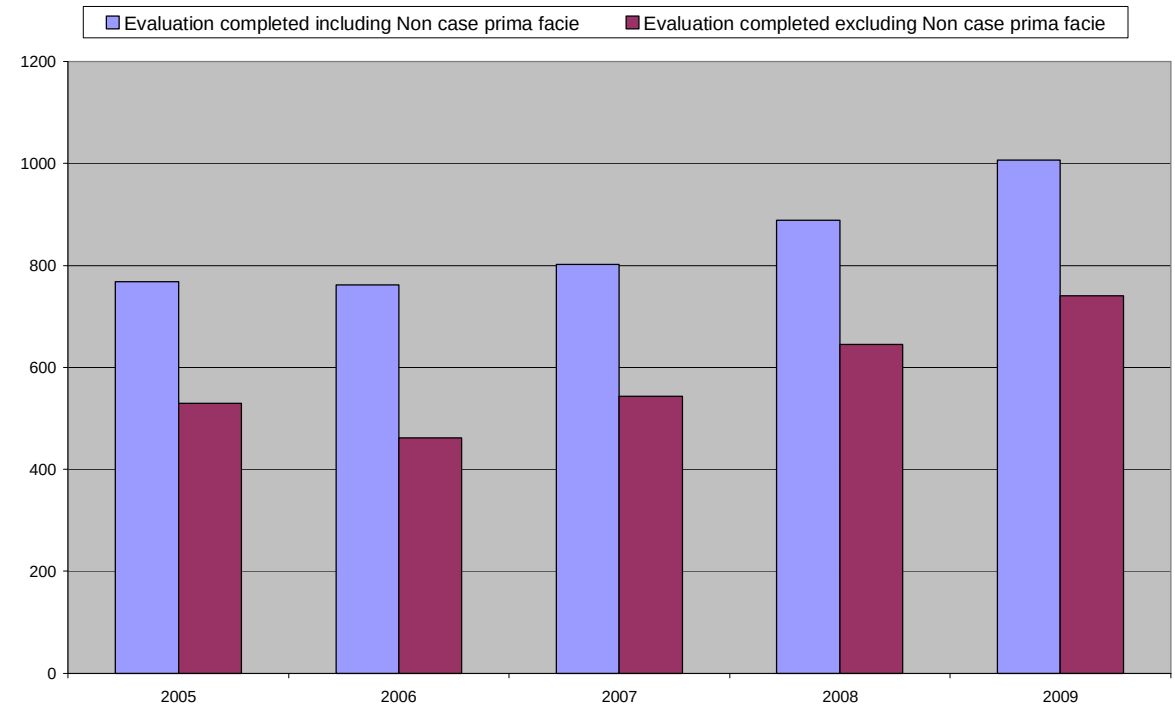
The geographical breakdown of incoming information is illustrated by Figure 2. A significant share of new information relates to a small number of countries: in 2009, approximately 65% concerned suspected fraud in six Member States (Bulgaria, Romania, Germany, Italy, Poland and Spain). This does not necessarily imply that more fraud is perpetrated in the countries with the highest occurrence of allegations forwarded to OLAF, as better cooperation can also lead to a higher number of referrals to the Office.

A proportionately higher incidence of allegations is to be expected in Luxembourg and Belgium relative to their size, population and receipts from the EC budget, given that they are the seats of the largest European institutions. The vast majority of the allegations regarding the EU institutions and bodies originate in these countries.

The average length of standard evaluations, which had fallen from 10.6 months in 2002 to 5.2 months in 2006, was stable in 2009 over a year, at 6.5 months. The increase in the average duration of evaluations from 2004 onward was due to the fact that a greater proportion of information received was excluded from this calculation with the introduction of the 'non-case prima facie' system. As a result of the introduction of this simplified procedure, the Executive Board is required to assess only information containing allegations falling within the competence of the Office.

While OLAF continues to seek to improve this aspect of its performance, the information passed on to the Office is of an increasingly substantive and serious nature. Moreover, delays can often be caused by translation requirements and by the need to wait for replies from external operational partners. Priority continues to be given to the thorough assessment of information in respect of which OLAF has a clear mandate.

Chart 1: Number of evaluations including and excluding "non-case prima facie" (separate column)



3.2. Active cases

The active period of a case extends from the time a decision on the opening of investigations or assistance by OLAF has been taken until the time of closure of its operational activity and adoption of a final case report.

OLAF aims to ensure the long-term sustainability of its case load by ensuring that the number of cases it opens each year is closely matched by the number of cases closed (clearance rate close to one). For the second year running, however, the trend has not been fully in line with this objective. In 2009, OLAF opened a total of 220 cases and closed only 187, bringing the clearance rate to 1.17 compared with 1.09 in 2008. This can largely be explained by the policy of the Office to focus on more complex fraud cases which take more time to close.

At the end of 2009, OLAF had a total of 457 active investigations and 261 monitoring cases, with a further 462 cases under evaluation. The overall spread between the different types of cases indicates that OLAF is tending increasingly to concentrate on its own investigations, in order to maximise the added-value of its work.

Chart 2: Number of opening decisions by year and nature of the investigation

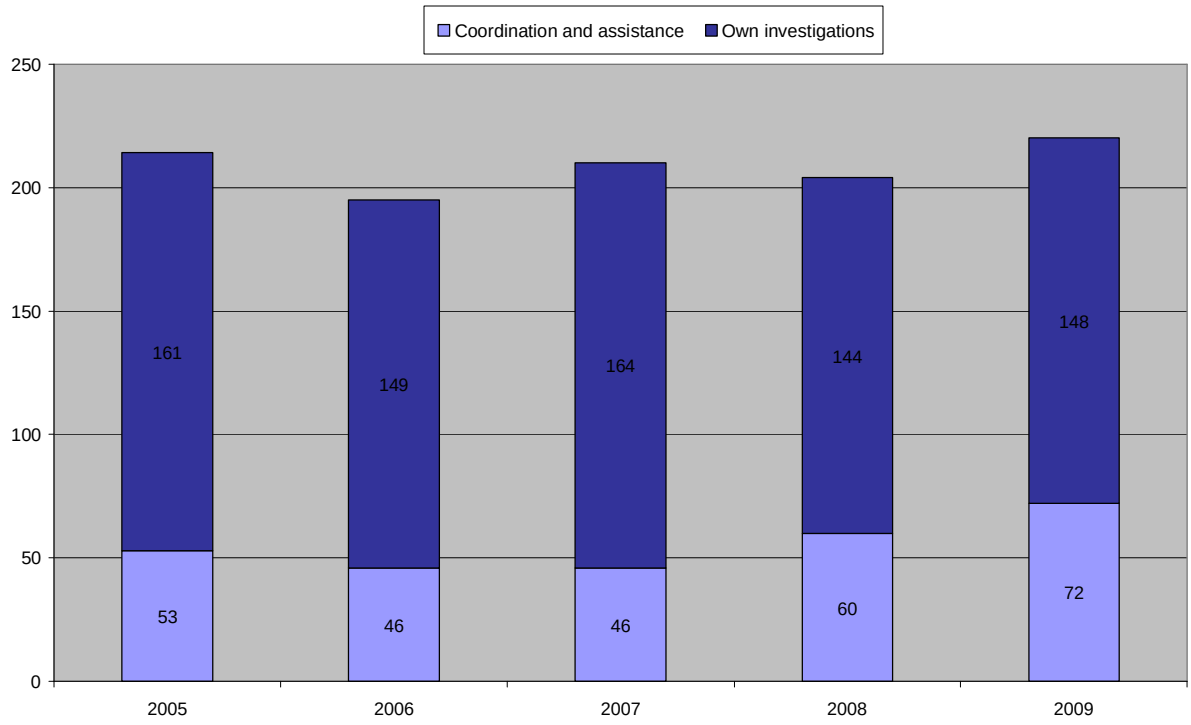
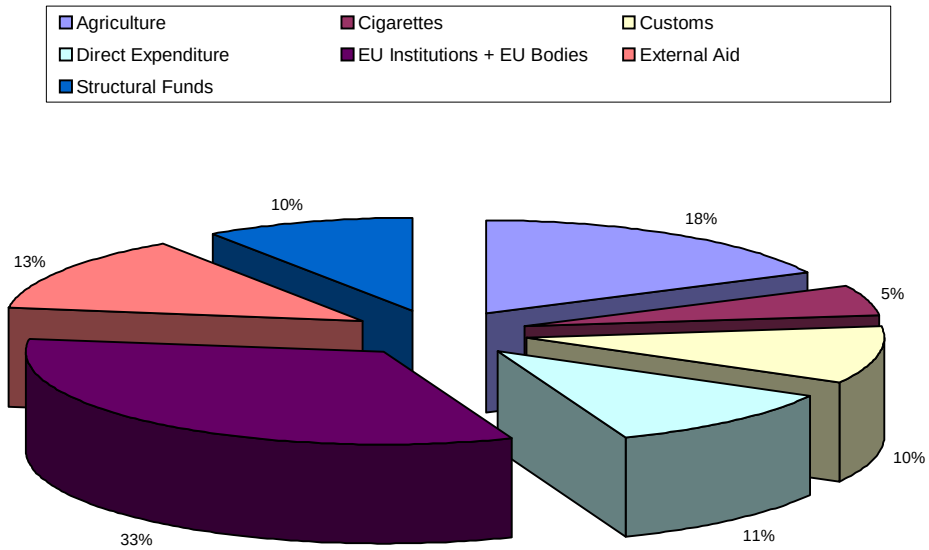


Chart 3: Opening decisions taken in 2009 by area



The number of cases opened in the 'external aid' area decreased (from 64 in 2007 to 29 in 2009), while 'internal EU policies' cases reverted to their level of previous years (24 cases in 2009). This trend was mainly driven by the progressive phasing-out of investigations related to pre-accession aid in the 12 Member States that joined the Union in 2004 and 2007 and became eligible for EU internal programmes centrally managed by the Commission.

Figure 3: New information received in respect of the external aid sector in 2009 by geographical region

Region	2005	2006	2007	2008	2009	Total
Africa	18	26	35	38	44	161
Asia	10	14	11	16	13	64
Australia & Oceania	1	1	3	0	2	7
Europe	61	94	29	22	25	231
Latin America	10	9	12	9	8	48
Middle East	5	3	7	7	6	28
North America	0	0	1	2	0	3
Russian Federation	6	6	1	0	2	15
Total	111	153	99	94	100	557

Data relate to multiple cases.
In Europe, excluding EU Member States.

Figure 4: Active investigation cases opened in 2009 concerning Member States and candidate countries

Status of Country	Code	Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	EU Bodies	EU Institutions	External Aid	Precursors	Structural Funds	Total
Member State	AT	Austria	0	2	1	2	1	0	0	0	0	6
	BE	Belgium	0	0	3	3	1	9	0	1	1	18
	BG	Bulgaria	26	0	0	5	1	0	1	0	8	41
	CY	Cyprus	0	0	1	1	0	0	0	0	0	2
	CZ	Czech Republic	0	0	0	1	1	0	0	0	1	3
	DE	Germany	1	2	1	1	0	2	0	2	2	11
	DK	Denmark	0	0	0	0	0	0	0	0	0	0
	EE	Estonia	0	0	1	0	0	0	0	0	0	1
	ES	Spain	0	2	3	3	0	0	1	0	0	9
	FI	Finland	0	0	0	0	0	0	0	0	0	0
	FR	France	0	1	2	1	0	3	1	1	0	9
	GR	Greece	1	0	0	1	0	0	0	0	2	4
	HU	Hungary	0	0	0	0	0	0	0	0	0	0
	IE	Ireland	0	2	1	0	0	0	0	0	0	3
	IT	Italy	1	2	3	0	2	0	0	0	2	10
	LT	Lithuania	0	1	1	0	0	0	0	0	1	3
	LU	Luxembourg	0	0	0	0	3	2	1	0	0	6
	LV	Latvia	0	0	0	0	0	0	0	0	0	0
	MT	Malta	0	1	0	0	0	0	0	0	0	1
	NL	Netherlands	1	0	1	0	1	0	0	1	0	4
	PL	Poland	1	2	0	2	0	1	0	0	1	7
	PT	Portugal	0	0	0	0	0	0	0	0	1	1
	RO	Romania	1	0	0	1	1	0	1	0	0	4
	SE	Sweden	0	0	2	0	0	0	0	0	0	2
	SI	Slovenia	0	0	0	0	0	0	0	0	0	0
	SK	Slovakia	0	0	0	0	0	0	0	0	1	1
	UK	United Kingdom	0	0	0	1	0	2	1	1	1	6
		Sub-Total	32	15	20	22	11	19	6	6	21	152
Candidate Country	HR	Croatia	1	0	0	0	0	0	0	0	0	1
	MK	FYROM	0	0	0	0	0	0	0	0	0	0
	TR	Turkey	0	0	0	0	0	0	2	1	0	3
		Sub-Total	1	0	0	0	0	0	2	1	0	4
		Grand Total	33	15	20	22	11	19	8	7	21	156

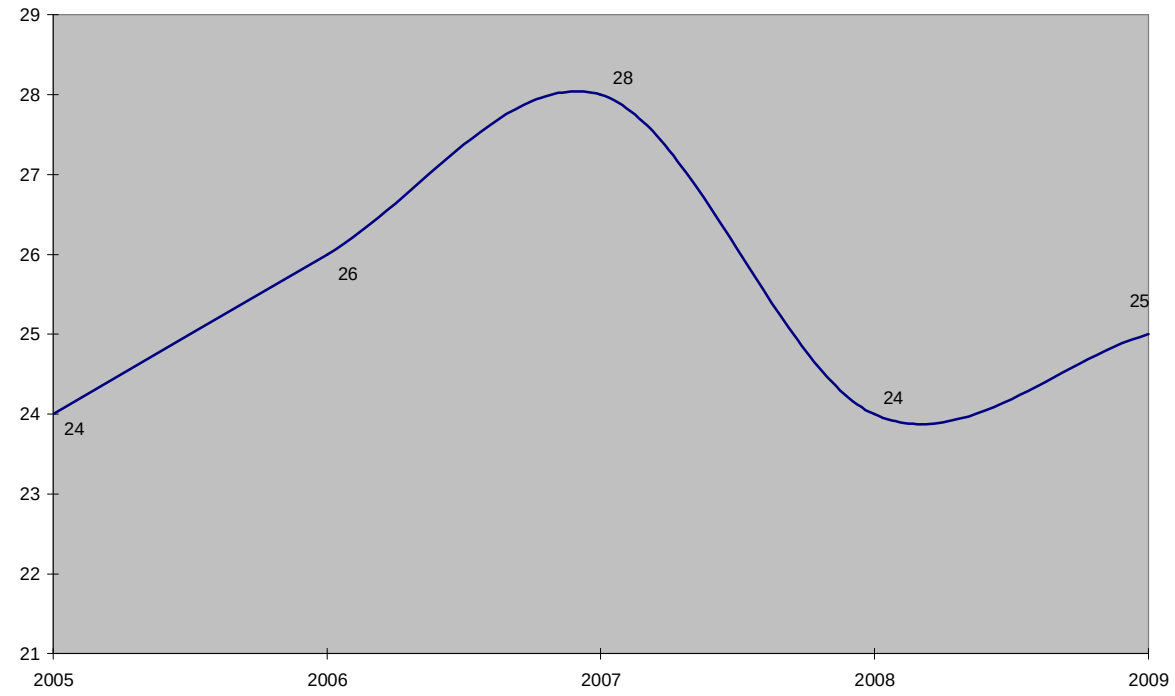
Figure 4 provides a snapshot of all active cases at the end of 2009 showing the instances where Member States and acceding or candidate countries are involved. One case record may relate to more than one country, as cases can have a transnational dimension.

3.3. Cases closed

OLAF investigations are concluded by adopting a final case report. In 2009, OLAF closed a total of 188 cases. In contrast to previous years in which there was a steady increase in the percentage of cases closed with follow-up recommendations, only 56% of cases closed in 2009 were closed with follow-up compared with 66.8% in 2008.

The number of cases completed has declined over time, because of a greater focus on more complex cases. In parallel, the average duration of the 'active stage' decreased from 28 to 25 months in 2009 in comparison with 2007 (see Chart 4), while about 60% of OLAF cases were closed in less than two years. OLAF will continue to take action to monitor and limit the duration of its investigations, even though this duration is often due to factors which are beyond the Office's control. Since the introduction of the 'simplified procedure' in 2004, along with other changes in operational policy, the decision to open a case is targeted more and more on the most serious cases, which are often multi-faceted and take longer to finalise.

Chart 4: Average duration of active stage completed in 2009 (in months)



3.4. Follow-up of investigations

OLAF's role in the follow-up of investigations is limited. It aims to verify that the competent Union and national authorities carry out the administrative, disciplinary, financial and/or judicial measures recommended during or, more frequently, at the end of an OLAF investigation and, if necessary, to support the process.

- OLAF's financial follow-up activity concentrates on monitoring and supporting Member States' and EU institutions' efforts to secure successful financial recovery.
- Administrative follow-up consists of verifying that the necessary measures to implement Union policies and law relating to recommendations arising from OLAF cases are duly taken by the Union institutions, bodies and/or Member States, and that the provisions of agreements with third countries have been observed. It also includes monitoring the application of potential administrative sanctions and the withdrawal of privileges (e.g. for the importer in the traditional own-resources sector) and flagging companies in the Commission's EWS (Early Warning System).
- Judicial follow-up consists of following and assisting the progress of cases with the competent national judicial authorities.
- Disciplinary follow-up: Where an internal investigation reveals evidence of serious matters relating to the discharge of professional duties such as to constitute a dereliction of duty on the part of an official or other servant of the Communities, OLAF recommends that the case be referred to the competent EU authorities, for appropriate disciplinary action. OLAF ensures follow-up with the authorities.

The duration of the follow-up stage necessarily includes standby periods in which it is indispensable to await the results of action taken by other parties. If judicial court procedures are involved, the follow-up phase can be very protracted. If the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a consistent approach by liaising with both.

Chart 5: Cases closed with or without follow-up in each calendar year

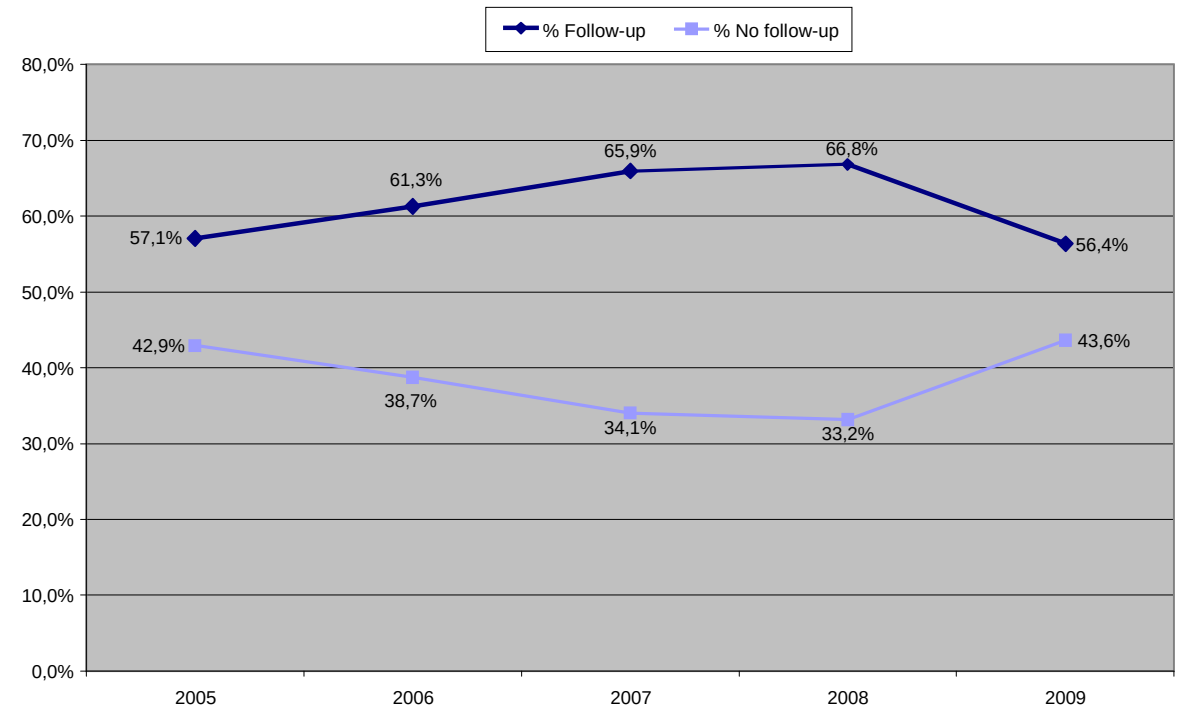


Chart 5 illustrates the spread of follow-up activities related to the cases closed in the last four years.

An individual case often leads to several follow-up actions. For instance, the 106 cases closed with follow-up in 2009 have triggered 193 follow-up proceedings, including 75 financial, 62 judicial, 39 administrative and 17 disciplinary.

Figure 5: Cases at the follow-up stage at the end of the year

Major Sector	2005	2006	2007	2008	2009
Agriculture	82	101	124	130	135
Alcohol	4	4	4	4	4
Cigarettes	26	28	30	33	33
Customs	80	97	124	139	135
Direct Expenditure	83	86	92	92	81
EU - Bodies and Agencies	4	7	11	16	19
EU - Institutions	57	66	77	75	95
External Aid	87	103	123	138	138
Structural Funds	200	211	185	164	148
Trade	73	71	67	61	49
VAT	28	33	35	36	30
Total	724	807	872	888	867

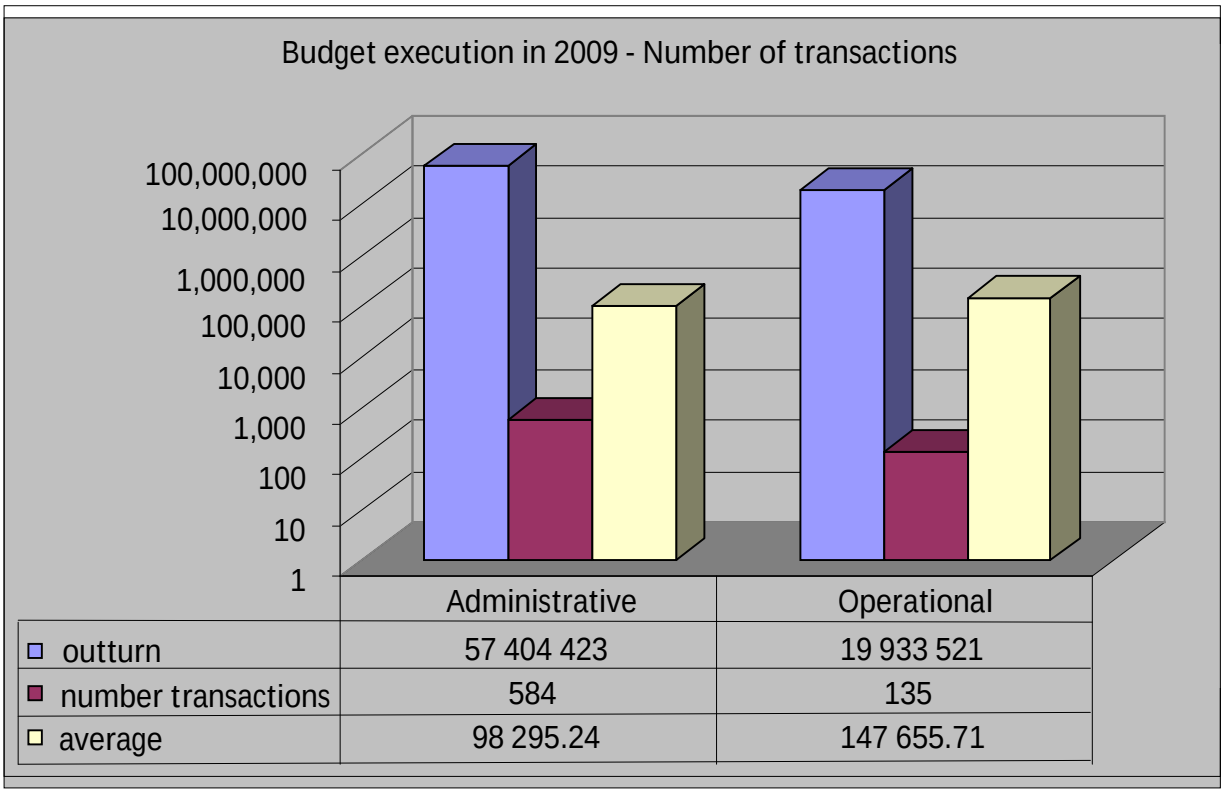
Figure 6 reflects the annual breakdown of financial recovery completed in the last five calendar years: €249.2 million were recovered as a result of follow-up actions closed in 2009. The large fluctuations observed from year to year are due to the fact that a few high-profile cases accounted for the bulk of recoveries in past years.

Figure 6: Breakdown of amounts recovered/retrieved from closed financial follow ups in € million in each calendar year

Major Sector	2005	2006	2007	2008	2009
Agriculture	14.2	1.2	0.9	2.0	148.2
Customs	63.0	0.1	3.3	14.4	43.4
Direct Expenditure	0.2	0.2	0.5	0.5	0.9
EU – Institution and Bodies	0.0	2.2	0.1	0.2	0.2
External Aid	31.8	3.7	0.9	2.3	7.4
Structural Funds	98.1	17.2	197.7	128.0	49.1
Total	207.3	24.6	203.4	147.4	249.2

In the External Aid sector for 2006, the amount has been corrected for a Monitoring Case for which the recoveries made did not correspond to irregularities initially assessed by OLAF but to loans regularly paid back. Therefore the figure has been reduced by € 89 million compared to the figure reported previously. Reported figures are subject to exchange rate movements in respect of non-euro area currencies.

4. Resource Management



Management mode and key figures: OLAF had a total budget of €78.351 million (€57.851 million administrative and €20.500 million operational), which is under direct management, i.e. without any involvement of Member States or non-member countries in which the recipients of the expenditure reside. The chart 6 shows the outturn (budget execution) in 2009. More than 99% of the budget was allocated.

Figure 7: Human resources

		Establishment plan posts	External personnel	
OLAF	Fight against fraud – (Investigations and Operations)	309	46	355
	Administrative support for the European Anti-fraud Office	39	17	56
	Policy strategy and coordination for the European Anti-fraud Office	48	9	57
OLAF		396	72	468

In the past, OLAF had particular difficulty in recruiting operational staff with an appropriate mix of qualifications and experience. OLAF remains under significant staffing constraints, as it is confronted with an ever-increasing workload. Nevertheless, the situation has improved. The difficulties OLAF was facing in recruiting and retaining the expert staff required to fulfil its mission were largely resolved in 2009 with 33 new recruitments. The vacancy rate was quite low at 6.5% in 2009.

Furthermore, three dedicated external competitions in the field of fraud prevention were completed in 2009. This allowed OLAF to launch the recruitment procedure for filling a significant number of posts ensuring continuity of OLAF's staffing and at the same time reducing the ratio of temporary to permanent staff. These recruitments, however, became effective only on 1 January 2010. Two internal competitions were launched in spring 2009 with a view to further reduce the ratio of temporary to permanent staff.

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Cataloguing data can be found at the end of this publication.

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Executive Summary

- The European Anti-fraud Office, OLAF, completed 691 assessments in 2010. As a result of these assessments 225 new investigative and operational cases were opened: 150 internal and external investigations and 75 coordination and assistance cases([1]). 189 investigative and operational cases were closed during the year.
- At the end of 2010, OLAF was handling a total of 493 live investigative and operational cases, of which 139 concerned the EU institutions and bodies and 117 related to expenditure and revenue in the agricultural sector.
- The average total duration of investigations and operations, including the assessment phase, was 27.9 months, a five-year low, in 2010.
- The average duration of OLAF investigations and operations, excluding the assessment phase, was lower than in recent years; below 23 months in 2010 compared with 25 months in 2009.
- During 2010, OLAF received 46 % of its incoming information from the public sector (at EU and Member State level). 52 % came from citizens and the private sector.
- Following up on OLAF's findings, national courts sentenced fraudsters to a cumulative 125 years' imprisonment during 2010 and imposed financial penalties totalling nearly € 1.47 billion.
- In 2010, € 67.9 million was recovered in respect of OLAF's investigative and operational cases. The highest amounts were recovered in the structural funds sector (€ 32.9 million), followed by agriculture (€ 11.9 million) and direct expenditure (€ 10.6 million). A further € 351.2 million has also been recovered to date in respect of financial follow-up cases which are still ongoing.
- OLAF welcomed its new Director General, Mr. Giovanni Kessler, in February 2011.
- A number of ongoing developments, including a new proposal to improve the legislative framework of OLAF and an internal review within OLAF, will have a major impact on the work of the Office in the years to come.

([1]) The rest of the cases assessed (466) did not necessitate further active intervention by OLAF.

Foreword



It is with great pleasure that I present to you the Eleventh OLAF Annual Operational Report.

The results reflected in this report relate to a period during which Mr. Nicholas Ilett was acting Director-General of OLAF (from 9 January 2010 until 13 February 2011). I would like to thank him for his commitment to ensuring continuity in the work of OLAF and for the management of current affairs during this period.

2010 was a year of transition, yet it brought many positive results for OLAF in the investigative as well as in the policy sphere.

OLAF handled around 500 cases simultaneously in 2010, among them several highly complex external investigations, a number of sensitive internal investigations, as well as many high-profile multinational cases where OLAF assumed the role of coordinator or could offer its operational and financial tools.

During 2010, more than half of all incoming information items received by OLAF came from citizens and the private sector. Increasingly more information arrives at OLAF via the Internet-based Fraud Notification System, launched in 2010.

OLAF's work relies on good cooperation with our partners, including law enforcement, customs, administrative services and the judiciary. We must continue to build ever-stronger ties with our operational counterparts within the European Union and beyond to ensure a speedy information exchange and swift follow-up actions.

The average duration of investigations and operations has been relatively stable since 2006. It will remain a major challenge, however, for the coming years to keep the duration in check while increasingly focusing on the most serious cases.

OLAF is the public face of the fight against fraud and irregularities affecting the financial interests of the EU and has an important role in the fight against fraud and corruption within the EU and its institutions. Although the number of allegations of serious misconduct in EU institutions has gone down in recent years, a number of high profile cases were revealed in 2010.

In the policy sphere, the Commission presented a reflection paper in 2010 on the reform of OLAF which developed into a revised proposal amending Regulation 1073/1999 in 2011. As the Commission service in charge of the coordination of anti-fraud policies, OLAF supported Commission services in the development and implementation of such strategies, and in the fraud-proofing of legislation.

OLAF must prepare to face new challenges while our resources are unlikely to increase in the upcoming period. We must therefore allocate tasks and resources wisely.

A simplification of the investigative life cycle could contribute to a better focus on OLAF's core investigative activities. Centralising the assessment of incoming information could lead to a shorter selection phase and a coherent assessment policy.

OLAF currently devotes a significant amount of resources to following up on the recovery of misused funds by the Member States and EU institutions and bodies, as well as judicial follow-up performed by the Member States. Devising a more efficient feedback system could help OLAF free some of its resources to be used in other areas.

With all this in mind, I embark on my mandate as Director-General with the objective of making OLAF more efficient and effective and more focused on its core tasks. I count on the support of all our stakeholders but most importantly, my colleagues at OLAF, along the way. Together we will prepare OLAF for the challenges of the future and take the Office further along the path to continued success.



Giovanni Kessler
Director-General of OLAF

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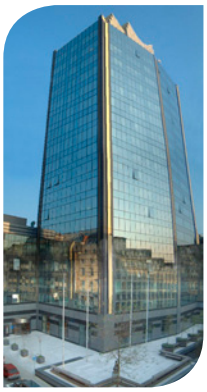
1. OLAF's **Role** and **Responsibilities**

1.1. Mission Statement

The mission of the European Anti-Fraud Office (OLAF[2]), also referred to as "the Office" in this report) is threefold:

- it protects the financial interests of the European Union by combating fraud, corruption and any other illegal activities;
- it protects the reputation of the European Institutions by investigating serious misconduct by their Members and staff that could result in disciplinary proceedings;
- it supports the European Commission in the development and implementation of fraud prevention and detection policies.

By performing its mission as effectively as possible OLAF contributes to the efforts made by the EU Institutions to guarantee that the best use is made of taxpayers' money.



OLAF: Key facts and figures

Director-General: Giovanni Kessler (since February 2011)
Established in 1999
Homepage: http://ec.europa.eu/anti_fraud/index_en.html
Staff (2010): 466
Budget (2010): € 57 million (administration)
Total cases completed by 31/12/2010:
Cases concluded at the end of the assessment phase: 2890
Investigation cases: 1447
Assistance and coordination cases: 812
Average duration of assessments (2010): 7.4 months
Average duration of an investigation (2010): 22.6 months
Total amounts recommended by OLAF for recovery by 31/12/2010: € 1.922 bn
Total amounts recovered by 31/12/2010: € 1.089 bn
New information items received per year: +/ -1000

"My ambition is to further strengthen the performance of OLAF, ensuring that we, as an organisation, are associated with professionalism, transparency and results within the Commission and beyond, and that we continue to attract dedicated staff in the future."
Giovanni Kessler, Director-General of OLAF

(2) "OLAF" is the acronym of its title in French, *Office européen de Lutte Antifraude*

1.2. OLAF's Mandate

OLAF investigates cases of fraud, assists Union bodies and national authorities in their fight against fraud and contributes to the design of anti-fraud legislation and policies in the EU. OLAF is part of the European Commission but is independent in its investigative functions.

OLAF derives its mandate principally from Regulation (EC) No 1073/99. The legal basis for Union action against fraud is Article 325 of the Lisbon Treaty.

For investigations concerning members and staff of EU institutions, OLAF derives its powers also from the inter-institutional agreement between the European Parliament, the Council and the Commission([3]).

OLAF has a number of powers at its disposal such as the right to perform on-the-spot checks and controls in the context of its administrative investigations.

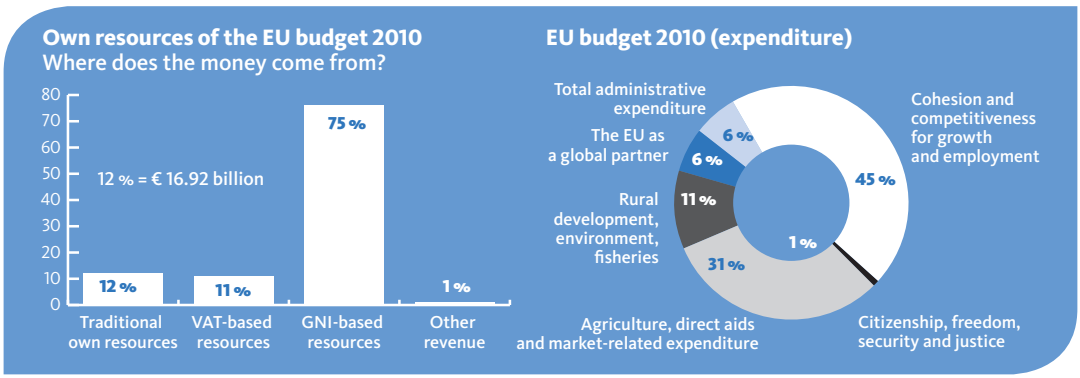
OLAF conducts, in full independence, internal investigations (inside any EU institution or body funded by the EU budget) and external investigations (outside the EU institutions and bodies) in Member States and third countries.

Furthermore, OLAF contributes to investigations carried out by national authorities by facilitating the gathering and exchange of information and contacts. The Office assists the competent authorities of a Member State or third country in conducting criminal investigations.

As part of the Commission, OLAF also contributes to the development, monitoring and implementation of the anti-fraud policies of the European Union and takes the necessary initiatives to ensure that anti-fraud measures are systematically included in relevant legislation.

OLAF's mandate covers, in principle, all expenditure of the Union and a part of the revenue side of the budget where OLAF focuses particularly on "traditional own resources", including customs duties. It comprises the general budget, budgets administered by the Union or on its behalf and certain funds not covered by the budget but administered by Union agencies. This mandate also extends to all measures affecting or liable to affect the Union's assets.

Chart 1: EU budget commitments - own resources and expenditure



([3]) OJ L 136, 31/5/1999, p. 15–19

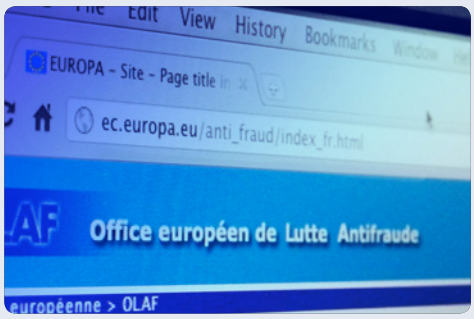
2. Focus on **Incoming Information**

OLAF receives a large quantity of information about suspected cases of fraud and irregularities. The information received varies in quality, significance and relevance and comes from a wide variety of sources. Apart from EU bodies and other institutional sources, private individuals and trade associations often provide OLAF with information. The huge quantity and variety of information received requires clear procedures to reinforce a consistent policy and criteria on the opening of investigations which fall within OLAF's investigative priorities.

OLAF continually aims to increase the volume of relevant quality information that can be acted upon from its stakeholders and the general public.

2.1. Communicating Fraud via the Internet

The Fraud Notification System (FNS) is a new, web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud. It was launched in March 2010 to complement other reporting methods using e-mail, regular mail or phone. An internal and external awareness-raising campaign, including press releases, interviews and leaflets, accompanied the launch. The system is available in English, French, German and Dutch, but reports can be entered online in any EU language.



Report Fraud: http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm

Steps to take:

- Submit an initial questionnaire.
- Attach documents if possible.
- Create a password-protected account.
- Communicate with an investigator via a "blind" mailbox via which both parties can 'post' messages.

All the information received by OLAF is carefully examined before it is decided whether or not to initiate an investigation. This system has the advantage of helping OLAF better to assess the credibility of anonymous reports of corruption and fraud. It also makes abuse of the system more difficult.

At the same time, the system enables potential informants who have so far not dared to contact OLAF to enter into a genuine dialogue with experienced investigators. Although Articles 22a and 22b of the Staff Regulations provide rules for the protection of whistleblow-

ers, some EU staff may be unsure about how allegations of corruption or fraud are assessed and may therefore hesitate to contact OLAF. The new system makes it easier to initiate contact. Whistleblower protection can, however, only be granted to EU staff who are willing to disclose their identity.

For many years OLAF operated a "free phone", allowing individuals in each Member State to contact OLAF using a toll-free number. Although many messages were left, the system provided no possibility of a dialogue with the caller to request the further information that would be necessary to evaluate the complaint. In many instances the free phone number was abused. No investigations were opened as a result of information arriving via the free phone during the reporting period; consequently it has been decided to abolish it.

2.2. Sources and Scope of Information

In statistical terms, three sources of information (the general public, the European Commission and Member State authorities) account, collectively, for 88% of the incoming information. Informants cover a wide range of sources. In the majority of cases they are individuals connected in some way to the alleged fraud. They also include whistleblowers in the EU Institutions and bodies although there are only very few of these. OLAF also receives information from anonymous sources.

Information sources are classified here between source types: during 2010, OLAF received 46% of incoming information from official EU and Member State authority sources and 52% from the general public and private sector sources.

Table 1: Distribution of new information received by source

Source	2006	2007	2008	2009	2010	Total	As percentage
PUBLIC SECTOR SOURCES							
European Commission services	251	251	286	297	262	**1347**	29%
Other EU Institutions and bodies	20	20	72	31	43	**186**	4%
Member States authorities	108	133	167	109	80	**597**	13%
Subtotal	379	404	525	437	385	**2130**	46%
OTHER SOURCES CLASSED AS INFORMANTS/WITNESSES							
Individuals/private sector sources	397	419	433	456	441	**2146**	46%
Via Fraud Notification System	0	0	0	0	90	**90**	2%
Via Free phone	26	42	48	57	53	**226**	4%
Subtotal	423	461	481	513	584	**2462**	52%
OTHERS	20	13	22	9	14	**78**	2%
Total	**822**	**878**	**1028**	**959**	**983**	**4670**	**100%**

Looking at the distribution in terms of OLAF's sectors of activity, around two-thirds of the

incoming information relates to the expenditure side of the budget (external aid, structural funds, direct expenditure and agriculture). Information concerning the EU institutions represents the biggest sector by number of received input, but it is at its lowest for three years. Many of the information items received subsequently turn out to be prima facie non-cases.([4])

Table 2: Distribution of new information received by OLAF sector

Major Sector	2006	2007	2008	2009	2010	Total	As percentage
Agriculture	107	136	201	174	186	804	17%
Cigarettes	9	10	13	12	16	60	1%
Customs	65	56	54	32	57	264	6%
Direct Expenditure	50	102	150	98	106	506	11%
EU Institutions + EU Bodies	231	208	294	305	232	1270	27%
External Aid	204	205	179	145	156	889	19%
Structural Funds	156	161	137	193	230	877	19%
Total	**822**	**878**	**1028**	**959**	**983**	**4670**	**100%**

The geographical breakdown of incoming information, focusing on EU Member States and candidate countries, shows that a significant share of new information continues to relate to a small number of countries. In 2010, as in 2009, more than 60% of the incoming information concerned suspected fraud and other illegal activities in six Member States (Bulgaria, Germany, Italy, Poland, Romania, and Spain). The trend is consistent in most countries with marked increases in 2010 in Romania, Italy and the Czech Republic and marked decreases in Belgium, Austria and Luxembourg.

It would be wrong to assume that there is more fraud in those countries with the highest occurrence of allegations forwarded to OLAF, as better cooperation can also lead to a higher number of referrals to the Office. The majority of allegations relating to the EU institutions and bodies originate in Belgium and Luxembourg, since they are the seats of the largest European institutions. In 2010, incoming information listed as coming from these two countries dropped by nearly half.

([4]) Please refer to section 3.2.1. for further explanation.

Table 3: Distribution of new information received by EU Member State and candidate country authorities

Country	2006	2007	2008	2009	2010
Austria	9	11	14	15	8
Belgium	72	72	35	54	28
Bulgaria	0	55	141	94	93
Cyprus	4	3	8	2	6
Czech Republic	13	12	8	16	33
Denmark	11	3	1	1	7
Estonia	5	3	4	3	3
Finland	5	2	1	4	3
France	47	29	24	26	17
Germany	69	74	65	69	59
Greece	42	40	36	38	37
Hungary	6	14	21	18	20
Ireland	2	4	3	10	4
Italy	73	81	61	57	75
Latvia	2	2	1	4	5
Lithuania	10	9	6	7	2
Luxembourg	3	12	7	9	5
Malta	1	1	0	5	5
Netherlands	15	16	22	16	14
Poland	30	39	52	46	59
Portugal	13	14	13	9	9
Romania	0	95	87	60	83
Slovakia	10	5	8	20	28
Slovenia	7	4	4	6	4
Spain	50	44	52	55	60
Sweden	6	7	4	6	7
United Kingdom	52	34	30	31	31
SUBTOTAL FOR MS	557	685	708	681	705
Croatia	5	7	7	11	16
Iceland	0	0	0	0	2
Montenegro	0	0	0	1	2
The former Yugoslav Republic of Macedonia	2	12	2	1	2
Turkey	16	16	16	17	10
SUBTOTAL FOR CC	23	35	25	30	32
Grand total	**580**	**720**	**733**	**711**	**737**

2.3. Protecting Whistleblowers

Whistleblowing has a specific meaning within the EU institutions and bodies as defined by Article 22a/22b of the Staff Regulations for EU officials. Whistleblowers in this context are EU staff disclosing information in relation to possible illegal activity or professional misconduct of an official.

In order to qualify for protection as a whistleblower, EU staff must satisfy conditions concerning the type of disclosure, the timeliness of disclosure and the channels for disclosure. The person disclosing the information is under an obligation to reveal their identity and job function.

The concept of 'whistleblower' is sometimes misunderstood. Sometimes OLAF receives information that in essence amounts to no more than disagreements over policy, personal disagreements with colleagues or information already in the public domain. These are examples of disclosure that do not qualify for whistleblower status.

According to the rules, whistleblowers enjoy protection if they acted reasonably and honestly. The protection typically extends to the person's career reports, mobility and identity although the latter may become known if the case is pursued further during penal or judicial proceedings.

Within OLAF there is an initial contact point and helpdesk in place, with a dedicated telephone line, to provide whistleblowers with advice on their rights and obligations. The general procedure is that when OLAF is contacted by a whistleblower it replies to the official concerned setting out their rights and obligations and explaining that within a two-month period OLAF will decide whether to open an investigation based on the allegation.

OLAF's WHISTLEBLOWER CONTACT: Telephone: 67732

Although OLAF receives only a few contacts from whistleblowers, around 5-10 a year, most of these complaints originate in EU Agencies and EU Delegations and refer to matters which may otherwise not come to light. Allegations mainly relate to unjustified expenses, favouritism and conflicts of interest.

Whistleblowing and the protection of whistleblowers were discussed during a seminar in 2010 between OLAF and other Commission Directorates-General.

Persons who are not EU staff members and who wish to report possible illegal activity are considered by OLAF as informants, not as whistleblowers.



3. **Investigations** and **Operations**: Key Achievements in 2010

In 2010, OLAF successfully handled a number of significant investigations. The efficient conduct of complex investigations requires multidisciplinary expertise, including specialist investigative skills and analytical, IT forensic and legal / judicial support.

3.1. Key Achievements based on OLAF's involvement – Case Studies

Allegations forwarded to OLAF cover a wide range of wrongdoings from embezzlement, favouritism, fraudulent claims and misconduct in public procurement procedures, to conflicts of interest. The Office can exercise its powers to investigate these allegations, including its right of access to information held by and at the premises of the institution. Furthermore, OLAF is legally entitled to carry out on-the-spot checks on the premises of the economic operators concerned, in order to gain access to information concerning possible irregularities. In exercising these powers, OLAF takes fully into account the safeguards imposed by EU case law, ensuring that its actions are both reasonable and proportionate.

This section provides case examples grouped by the type of involvement of OLAF. These cover: (1) external investigations; (2) internal investigations; (3) coordination of investigations; (4) Joint Customs Operations; and (5) technical and operational support.

3.1.1. External Investigations

External investigations are administrative investigations outside the Union institutions and bodies for the purpose of detecting fraud or other irregular conduct by natural or legal persons. In such cases, OLAF provides most of the investigative input.

In 2010, most external investigation cases were conducted in the sectors of external aid, structural funds and direct expenditure. The examples below illustrate OLAF's work in these sectors.

External Aid

The EU's spending under the heading of the 'EU as a global player' amounts to 5.7 % or € 55.9 billion of the EU budget for the 2007-13 period. The role of OLAF is paramount in preventing and detecting fraud in the field of external aid by working in partnership with other Commission departments – notably EuropeAid and the European Community Humanitarian Aid Office (ECHO) – and with partners in other international institutions and national authorities in third countries.

Case study A:
OLAF exposes fraudulent hidden consultants

Background

The European Commission concludes a very large number of contracts for the delivery of goods, works and services within and beyond the EU. Both the procedures for conducting this procurement and the provisions of the individual contracts are designed to protect the financial interests of the European Union.

Companies wishing to participate in these tender procedures often rely on external consultants to help prepare their bids. Consultants have an important and generally beneficial role in these procedures as they help ensure that the proposals comply with the formal requirements and they also contribute to improving the quality of the submitted proposals.



OLAF's findings and role

In 2007 and 2008, OLAF identified a fraud scheme involving consultants who acquired inside information by illegitimate means and then sold this to clients who then bid for contracts. The consultants themselves had no contractual relationship with the Commission so their company information was not recorded in the Commission's contract databases. The "hidden consultant" had influenced the preparation of the projects and the terms of reference within the Commission, had identified experts of interest to their clients' companies, prepared the clients' bids, and influenced the awarding of contracts, in return for a "success fee". The scheme relied on the complicity of staff involved in the preparation and implementation of EU projects.

After some time, it became clear that this was a systemic phenomenon of corruption spread over many cases already known to OLAF which had up to then been handled separately.

OLAF set up a task group in 2008 to analyse the large volume of information and to process the complex casework. This group brought together the expertise of investigators, analysts and computer forensic examiners, together with a judicial adviser whose task was to facilitate close cooperation between OLAF and the prosecuting authorities in a number of Member States. The deployment of state-of-the-art analytical tools such as text mining and computer forensic expertise made it possible to identify the EU staff members concerned, to link the hidden consultants to specific contracts, and to examine and analyse large volumes of information in a targeted manner. Subsequently OLAF staff members acting as expert witnesses

assisted national authorities in the related judicial proceedings. The group concluded its activities in 2010 once the bulk of the cases had been closed and after discussing the conclusions from these investigations with internal stakeholders within the Commission.

To date, OLAF has investigated some 30 cases with a similar fraud pattern.

Follow-up

Altogether four companies, two lobbyists, two directors of consulting companies, and three members of EU staff have been subject to judicial examination. In the case of one other staff member associated with this scheme, an administrative solution was found. Payments of € 2.1 million were stopped on three EU projects but it was too late to prevent the payment of € 4.8 million in respect of two large projects. This sum has still to be recovered.

Judicial follow-up on these cases continues in two Member States.

Lessons learnt

The information that led to the opening of the first investigation in this group of cases originated from a company that had not won a contract and which suspected a leak of confidential information to the benefit of its competitor. This suggests that the means by which communication can be made to OLAF, including the Fraud Notification System (FNS), should be publicised more so that potential informants know where to turn if they have information to share. The FNS allows informants to forward information to OLAF and to receive feedback from OLAF, while preserving the anonymity of informants if they so wish. Potential "whistleblowers" should equally be made aware of the protection to which they are entitled.

OLAF's operational experience has revealed the need for improved enforcement of the existing administrative and legal framework, rather than for its further extension. This could be achieved by improved controls and mandatory financial training before staff are allowed to handle financial files. Ethical training for staff now covers the risks of this type of fraud and the indicators that hint at its existence ("Red Flags"). Specific, compulsory training for participants in evaluation committees is needed to increase their awareness of these risks.

To prevent further fraud of this kind, the Commission services have introduced new measures addressing the collective problem of cascading contracts and unidentified sub-contractors and other third parties. A register of lobbyists has already been set up within the framework of the European Transparency Initiative. The extension of this register to include consultants who provide advice to third parties competing for EU-funded contracts will substantially reduce this risk.

To avoid a distortion of competition and pricing, proposals have been made to ensure identification in the Commission procurement system of all layers of sub-contractors and of their geographical location.

Structural Actions

Funding for regional and cohesion policy amounts to € 347 billion for the period 2007-13, which is roughly 36 % of the EU budget. It is therefore not surprising that a large number of OLAF investigations concern this sector.

Case study B:
Misuse of European Regional Development Funds (ERDF) in Calabria, Italy

Background

In 2010 OLAF adopted its case report into the alleged irregular use of the EU funds provided for 48 environmental projects operated under the Regional Operational Programme for Calabria 2000-2006. These projects, which were supposed to deal with particular aspects of what was termed an "environmental emergency ", were approved and operated under the auspices of the "Provisional Administrator of Environmental Emergency Measures" in Calabria. OLAF's investigation had been launched following an analysis of information received in connection with ongoing judicial investigations by the office of the Public Prosecutor in Catanzaro, Italy into environmental funding matters.

OLAF's findings

In the course of its investigation OLAF discovered serious irregularities and possible fraud in all phases of the implementation of the projects concerned.

In particular OLAF noted the following breaches of EU and national law:

- public procurement rules and procedures were not fully respected;
- insufficiencies in the accounting system, notably in the case of projects generating resources and financed by a variety of funding sources;
- failure to comply with the rules on publicising EU projects and considerable delays in completing the work and testing the works when finished;
- failure to transfer powers relating to the waste-water treatment to the bodies normally responsible for their management;
- lack of proper checks by the national and regional authorities; and
- failure to separate the functions of the controlled and controlling bodies.

Follow-Up

In its report, OLAF recommended to the European Commission the recovery of the full amount of €57 million in funding awarded from the ERDF for the 48 projects investigated.

In addition, acting on OLAF's report, the regional authorities of Calabria then withdrew a further 21 such environmental projects from EU funding and also recovered certain other ineligible expenditure to a total additional value of €49 million. The judicial and financial follow-up of all of the cases concerned by OLAF and national enquiries into the matter are ongoing in Italy.

Lessons learnt

This case shows the important results that can be achieved through good cooperation between national control and enforcement authorities, the European Commission and OLAF. The case also underlines the need for Member States to have in place good quality control, detection and law enforcement systems to deal with such irregularities and fraud. It also reflects the principle that Member States are primarily responsible for such functions in protecting the EU Budget and that the resources available to the Member States very greatly exceed those available at EU level.

Direct Expenditure: EU-Funded Research Projects

The EU uses funding under the Seventh Framework Programme to boost its research and innovation policies. Over the 2007-13 period, the research budget amounts to € 50.5 billion. OLAF cooperates closely with the Directorates-General which disburse research funds, in order to detect fraud as early as possible.

Case study C:
Complex fraud scheme leads to OLAF improvements in its investigative practices

Background

In 2007 OLAF launched investigations into allegations of fraud concerning networks of firms participating in EU-funded research projects.

OLAF combined information collected by means of its investigations with elements gathered by the Commission's Directorate-General for Information Society and Media in the course of its audit work([5]).

The suspected modus operandi of the fraud scheme is that networks of inter-related companies operating in several Member States claim reimbursements of non-existent expenses in an organised manner, using fictitious companies as partners or sub-contractors of research project consortia.

([5]) There is a case pending at the European Court of Justice concerning evidence gathered in the course of an on-the-spot control (Order President, General Court, T-435/09R, GL 2006. Europe Ltd v. Commission 15 March 2010).

In the course of the investigations, OLAF has conducted on-the-spot checks on companies in the United Kingdom, Sweden, Austria, Italy, Cyprus, France and Switzerland.

OLAF's investigations are still ongoing and further developments are expected during 2011.

Evaluation

The key characteristic of these cases is their high degree of complexity. The suspected fraudulent activities have been organised in a very sophisticated manner with the intention of deceiving the Commission's control mechanisms. The organisational structures created were deliberately opaque and spanned several countries. Traditional detection approaches and standard control programmes used by the Commission services have proved inadequate to deal with such an elaborate scheme. This partially explains why the modus operandi went unnoticed for years.

The cases are particularly complex because:

- a considerable number of projects were affected;
- large amounts were unduly claimed;
- a high number of legal entities were involved;
- different legal frameworks and contractual rules for the projects were concerned;
- clean audit reports were already (being) finalised by other services of the Commission.

The individual instances of fraud were detected through the use of sophisticated control methods and close coordination between OLAF, the Directorate-General for Information Society and Media and Member State authorities.

Follow-up

The Commission has taken prompt action to protect the EU's financial interests, including the termination of the suspected fraudsters' participation in ongoing projects, recovery of unduly paid amounts, and the exclusion of the companies under investigation from new projects.

OLAF continues to investigate possible links with other cases of fraud in other Member States.

Lessons learnt

Although the investigations are still ongoing certain conclusions can already be drawn from these cases. In general terms, the lesson to be learnt is that an adequate level of ex-ante expenditure control is vital for the prevention of abuse and fraud, using risk analysis which draws on the results of previous fraud investigations. These cases have also proven that cooperation is a prerequisite for the efficient combating of fraud.

The experience gained in connection with these cases has led to a new form of cooperation between OLAF and the Commission Services which fund research projects.

Key elements in the new cooperation and investigative approach are the following:

- The Commission service concerned implements a system to make information accessible and immediately usable for their own ex-ante and ex-post control purposes and for possible investigations;
- OLAF asks for the continuous support of the staff of the Commission service concerned to carry out activities, benefitting from their specific technical competences;
- OLAF transmits information on its findings already during the investigative phase to the extent necessary to give the Commission service concerned the opportunity to take, if appropriate, administrative and financial measures (including recovery of funds, termination of projects, suspension of payments and exclusions) as soon as possible.

Cooperation with the auditors of the Directorate-General for Information Society and Media using sophisticated audit methods tailored to identified risks was crucial to the successful realisation of these investigations. Auditors provided immediate technical support to the investigations, while respecting the different roles and mandates of audit and investigation.

The lessons learnt from these cases have been transposed into training and awareness-raising sessions for officers managing research projects throughout the Commission. The guidelines for evaluation, negotiation and payments have also been updated. OLAF's advanced data-mining tools were adapted to the audit environment of the Directorate-General for Information Society and Media where they are now routinely used.

3.1.2. Internal Investigations

OLAF carries out administrative investigations within the EU institutions and bodies. The purpose is to detect fraud, corruption and other serious breaches of professional duties and obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies or members of staff, which are liable to result in disciplinary or criminal proceedings.

OLAF supports the enforcement of a zero tolerance policy towards misconduct inside the EU bodies and institutions. To ensure zero tolerance, less serious allegations are referred to the competent disciplinary authority of the EU body or institution concerned. One such body is IDOC (the Disciplinary Unit of the European Commission). In 2010, OLAF and IDOC worked closely together and their respective, complementary competences were better defined. OLAF and IDOC aim to continue their cooperation in the operational and policy spheres.

The Office has also been involved in building a working relationship with the recently established European External Action Service.

Case study D:
Financial recovery decision concerning an MEP confirmed by the Court

Background

An investigation by OLAF revealed that an MEP had misused parts of his parliamentary assistance allowance (PAA). The PAA is intended to employ assistants and to pay for service providers who support the parliamentary work of the Member. It was administered by an accountant under the instruction and responsibility of the Member.

OLAF's final case report was passed to the national judicial authorities to consider possible criminal investigation and to the European Parliament with a recommendation to recover the misused sums from the MEP. The Secretary General of the European Parliament decided to recover over €163,000 plus interest. The national judicial authorities, however, decided that there was insufficient evidence for a criminal prosecution.

Evaluation

Contrary to the rules, the MEP had transferred amounts from one budget year to another instead of returning the funds to Parliament. He also failed to report the names of his employees, which is a prerequisite for granting the allowance. Furthermore, he had cancelled the contracts of three assistants without informing the EP, which had continued paying the allowance to the account of the Member's accountant.

The MEP publicly described his failures as "formalities". OLAF and the EP considered the matter as a substantial infringement of the rules which had been put in place by Parliament in order to avoid fraud and to ensure transparency towards the taxpayer.

Follow-up

The MEP contested the recovery order in the General Court. However, in the court hearing the MEP did not challenge the amounts and findings established by OLAF. In its ruling of 16 December 2010, the Court upheld the recovery decision of the Secretary General of the European Parliament and underlined that the Member had infringed the regulation in force.

Lessons learnt

This case was a demonstration of the need for OLAF and the European Parliament to further reinforce their cooperation in combating serious wrongdoing.

In the meantime the rules on the employment of parliamentary assistants have been changed.

3.1.3. Coordination of investigations into cigarette smuggling

In certain cases, the main investigative input is provided by other authorities. OLAF's role is then to facilitate the collection and exchange of information and ensure operational synergy among the relevant national and Union departments.

Illegal Tobacco Trade



The illegal tobacco trade has been growing in Europe since the global economic crisis hit in 2008. Smugglers have been quick to exploit the demand for cheap tobacco products. The European Commission has concluded cooperation agreements with four of the world's largest tobacco manufacturers in order to tackle this trade. OLAF is reinforcing its cooperation with national and international authorities to counteract activities which cost European taxpayers an estimated € 10 billion each year and flood the market with illicit tobacco products which generates vast profits for serious organised crime groups.

Case study E:
OLAF supports Spanish Customs in dismantling the largest ever counterfeit cigarette network uncovered in the EU

Background

OLAF had received requests for assistance from the Member States involved to coordinate their investigations in a series of cigarette smuggling cases with significant impact on the EU and Member State budgets, and with complex international links.

Evaluation

Spanish Customs launched Operation "BALMAN" in February 2010 when specific intelligence about suspicious imports of cigarettes from China was received by OLAF and the Customs Service of the Czech Republic. Fast and accurate exchanges of information between OLAF and national authorities allowed investigators to track containers of counterfeit cigarettes from

China to ports on the east coast of Spain, where they were diverted onto the illegal market. OLAF's involvement contributed to the seizure of six containers with more than 40 million cigarettes in Spain and Portugal, preventing financial losses to the EU budget and Member States of more than € 6 million.

Follow-up

Further investigations, including searches in private companies and properties in Alicante, Valencia, Barcelona and Badajoz, led to the arrest in October 2010 of six suspects in connection with the case. Chinese, Polish, and Spanish nationals were among those arrested and charged with smuggling. They may also face charges relating to money-laundering and infringement of intellectual property rights. The case is currently ongoing as investigators analyse documents and computers confiscated during the raids. OLAF will continue to make information and resources available to assist the Spanish authorities in their enquiries.

Lessons learnt

This case shows the importance of international cooperation and coordination between different law enforcement agencies. Cigarette smuggling is a global phenomenon that can only be tackled with a common approach. The case highlights how organised crime groups are using different ports in different EU countries to illegally import cigarettes.

3.1.4. Joint Customs Operations

Joint Customs Operations (JCOs) are carried out with the aim of specifically targeting smuggling and fraud in certain risk areas and/or on identified trade routes. JCOs help a real-time exchange of information required to improve the practical cooperation in customs between the countries involved in tackling smuggling and fraud. They also help to develop greater insight into where the risks lie on specific trade routes. JCOs not only safeguard the EU's financial interests, but also protect citizens and legitimate businesses by intercepting illegal products trying to enter or leave the EU.

Case study F:
OLAF coordinates large-scale international customs action

Background

In June 2010 the joint customs operation "SIROCCO" focused on deep-sea containers loaded in China or the United Arab Emirates and arriving in the Mediterranean area. The objective was to identify consignments suspected of containing counterfeit or smuggled genuine cigarettes, as well as other counterfeit and illegal goods. It is estimated that the seizure of cigarettes alone prevented a potential loss of approximately € 8 million in customs duties and taxes in the EU.

The Operation was launched in the framework of the Union for the Mediterranean (also known as the Barcelona Process), a partnership including all 27 Member States of the European Union, along with 16 partners across the Southern Mediterranean and the Middle East (Albania, Algeria, Bosnia and Herzegovina, Croatia, Egypt, Jordan, Israel, Lebanon, Libya, the Palestinian Authority, Mauritania, Montenegro, Morocco, Syria, Tunisia and Turkey).

The European Commission, OLAF and the Commission's Directorate-General for Taxation and Customs Union, volunteered to organize the JCO with the support of the World Customs Organization, EUROPOL and INTERPOL.



Evaluation

Around 40 million cigarettes, 1.2 tonnes of hand-rolled tobacco, 7,000 litres of alcohol and 8 million other counterfeit items including clothing, shoes, toys and electronics, were seized during the JCO. Three suspected cigarette traffickers were arrested.

OLAF provided logistical and technical support throughout the operation. It coordinated the operation from a Permanent Operational Coordination Unit based within OLAF's premises in Brussels. The unit was staffed by customs liaison officers from nine EU Member States (Belgium, Denmark, Germany, Italy, the Netherlands, Poland, Portugal, Spain and Romania), Egypt, Morocco and Turkey, as well as a liaison officer from Europol.

Follow-up

The national authorities deal with seized counterfeit goods. These are usually destroyed, for example by burning (cigarettes) or recycling (- counterfeit sport shoes might be recycled into synthetic surfaces for football pitches).

Penalties for smugglers and traffickers are determined at national level, and so depend on the Member State in which the suspect was caught.

Lessons learnt

Operation SIROCCO shows the results OLAF can achieve by working in cooperation with its international partners to combat smuggling and fraud. The outcome of this operation highlights the importance of strengthening mutual administrative assistance and operational customs co-operation of the partner countries involved in the framework of the Union for the Mediterranean.

3.1.5. Technical and operational support related to agricultural imports

The evasion of customs duties by importers Is detrimental to the EU budget and can also negatively impact on smaller-scale EU producers. To help uphold the applicable customs regulations OLAF places its operational and financial tools as well as EU-wide and international contacts at the disposal of Member States in need. In certain cases, OLAF's actions lead to improvements to applicable EU legislation.

Importing garlic into the EU

Importers of fresh garlic of the species *Allium Sativum* must pay 9.4% in ad valorem customs duty plus a specific duty of € 1200 per ton. *Allium Sativum* is the species that the general public commonly considers "garlic". The fresh version of other garlic-like species, for instance *Allium Ampeloprasum*, only attracts a 10.4% ad valorem customs duty, with no specific duty in addition. Subsequently, by misdescribing fresh garlic, the importer can avoid paying nearly €1200 per ton or € 30 000 per container.

Case study G: OLAF helps to identify misdeclared garlic

Background

OLAF received information from Austrian Customs that fresh garlic of the species *Allium Sativum* was suspected to have been misdeclared as *Allium Ampeloprasum*, which implied the evasion of about € 1.20 in customs duties per kilo.

The garlic in question was described as single-bulb garlic, as opposed to the commonly-known garlic with many cloves.

Evaluation

The Austrian customs authorities provided samples of the imported garlic. OLAF arranged for two independent DNA laboratory tests in an Italian and a German laboratory. Both analyses confirmed that the garlic had been falsely declared.

At the time of import, only three laboratories in Europe were identified as able to undertake the DNA testing necessary to determine the species of the garlic. Suspecting that the misdeclaration of garlic could have also occurred elsewhere, OLAF made a call for interest to enable additional analysis. This resulted in an agreement with a German laboratory to analyse a total of 30 garlic samples.

OLAF then informed all Member States that it could arrange for and finance the testing of garlic samples in other instances.

In cooperation with the Directorate-General for Agriculture and Rural Development, OLAF monitors applications to import garlic coming from Member States. Based on this monitoring, and in close cooperation with the Member States, Finland, Germany, Slovenia, Belgium and the Netherlands were requested to send samples of garlic declared as single-bulb garlic for testing to the German laboratory.

All the samples analysed were confirmed to be *Allium Sativum* which had been misclassified as *Allium Ampeloprasum* in order to evade customs duties.

Follow-up

As a result of the analyses carried out on OLAF's initiative, it was established that more than 1,200 tons of fresh garlic had been misdeclared using this modus operandi at an estimated cost of € 1.6 million to the EU budget. Recovery of the evaded customs duties in the Member States concerned is in progress.

Separately, the Italian authorities informed OLAF that they had established that a total of 160 tons of fresh garlic had been misclassified in Italy and that the evaded customs duties had been recovered.

On the basis of this experience, OLAF recommended to the Commission's Directorate-General for Taxation and Customs Union a change to the Explanatory Notes to the Combined (Customs) Nomenclature. The amendment clarifies notably that *Allium Sativum* can come in a single-bulb variety; explains that *Allium Ampeloprasum* falls under another sub-heading; and confirms that there are differences in the gene pools between the two species. This amendment was agreed and came into effect in July 2010.

Lessons learnt

The case demonstrates the importance of OLAF's assistance in making available specific technical investigative devices and actively monitoring of products sensitive to irregularities, as well as the importance of a network which ensures the rapid and efficient flow of information. This case has also shown that effective cooperation between Commission services can pave the way for rapid improvements to EU legislation.

3.1.6. Summary

The case studies highlight the primary importance of cooperation with a broad range of internal and external operational partners in the area of OLAF's activities including partners responsible for fraud prevention and detection at the level of management of funds and audit capabilities.

OLAF's operational activities sometimes reveal loopholes in existing legislation and can subsequently lead to improvements in the rules and regulations.

At other times, OLAF's investigations reveal weaknesses in the enforcement of legislation. In such instances, OLAF recommends improved training for concerned staff to enhance fraud prevention and detection.

Member States need to have in place better quality control, detection and enforcement systems to deal with irregularities and fraud to protect the EU budget.

OLAF must make a marked effort to publicise its contact information for potential informants and whistleblowers.

OLAF is an organisation that is 'learning by doing'. Practical experience with specific investigations needs to be systematically analysed for adopting improvements in general investigative practices.

3.2. Statistical analysis

3.2.1. Opening of investigative and operational cases

Incoming information is assessed with a view to opening a limited number of cases in respect of which OLAF can add real value through its mandate, powers and expertise.

Once a new information item is received by OLAF it goes through a preliminary review to verify whether it is a matter that OLAF can and should handle. If the information clearly does not fall within the competence of OLAF, or if it obviously does not justify the use of OLAF resources, it is classified as a prima facie non-case.

If the information item passes the first check, it then proceeds to the assessment stage. Within a period of two months the evaluator assesses whether the information received appears to be reliable and whether the suspicions are sufficiently serious to recommend to the Director General that a case be opened. At this point, as a case has not yet been opened, the evaluator has only limited means to conduct the assessment because investigative actions, such as interviewing witnesses, cannot be undertaken at this stage. The initial two-month assessment period can be extended to six months and beyond where justified.

As table 4 below shows, nearly a quarter of the information items the Office receives consist of allegations which the Office does not process further. OLAF forwards such information to other EU departments or national or international authorities, as appropriate.

The average length of standard assessments fell from 10.6 months in 2002 to 5.2 months by 2006 thanks to the introduction of the non-case prima facie system in 2004, but has shown a steady increase since then, to reach 7.4 months in 2010.

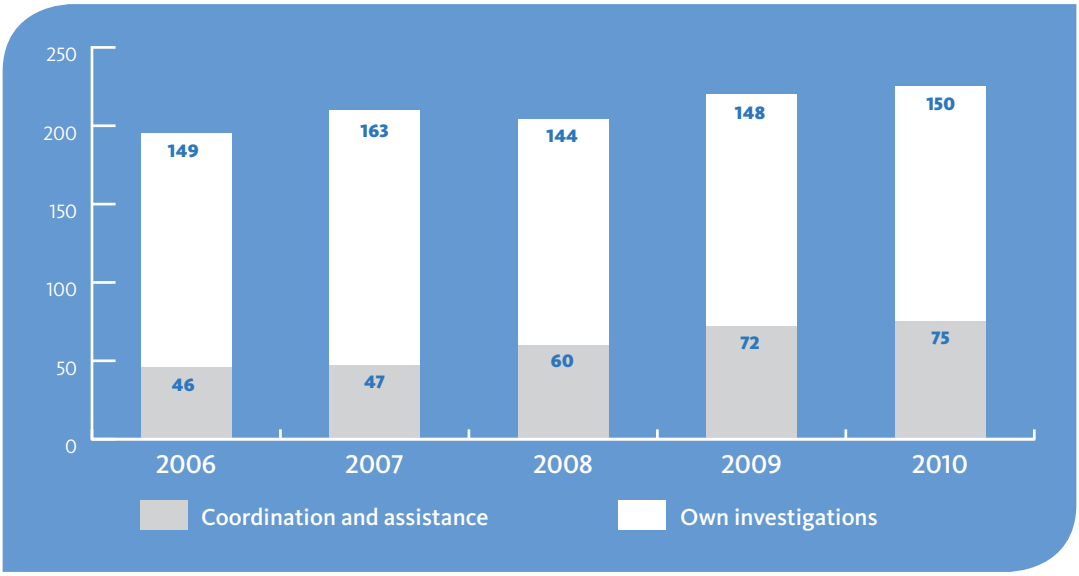
Table 4: Duration of assessments and instances of assessments and preliminary review completed in each calendar year

	2006	2007	2008	2009	2010
Assessments completed	462	543	645	740	691*
Average duration (months)	5.2	6.2	6.2	7.1	7.4
Prima facie non-case after preliminary review	300	259	243	267	197
Total (assessments + preliminary review)	**762**	**802**	**888**	**1007**	**888**

* A further 548 cases were in the process of being assessed at the end of 2010.

While it remains a priority to assess incoming information thoroughly to ascertain whether OLAF has the mandate to act and to determine whether the potential case justifies the commitment of OLAF resources, OLAF intends to take steps to reduce the duration of this selection period.

Chart.2: Number of opening decisions by year and nature of the case



During the course of 2010, 225 new investigative and operational cases were opened: 150 internal and external investigations and 75 coordination and assistance cases. 39 monitoring actions were also launched. OLAF initiates a monitoring action without active involvement in the investigation where it would be competent to carry out an external investigation but another authority is in a better position to conduct this. On 427 occasions, assessment resulted in a decision not to pursue the case further; these are recorded as "non-cases".

Table 5: Decisions taken at the end of the assessment stage in each calendar year

Type of decisions	2006	2007	2008	2009	2010
Co-ordination case	26	37	29	35	44
Criminal Assistance Case	20	10	31	37	17
External Investigation Case	112	128	102	101	98
Internal Investigation Case	37	35	42	47	52
Mutual Assistance Case	0	0	0	0	14
Total cases opened	**195**	**210**	**204**	**220**	**225**
Monitoring Action	58	66	67	32	39
Non case	209	267	374	488	427
Total decisions	**462**	**543**	**645**	**740**	**691**

3.2.2. Investigative and operational cases

OLAF was handling a total of 493 investigative and operational cases at the end of 2010. The overall spread between the different types of case indicates that two-thirds of the active cases were OLAF's own investigations in which the Office may exercise its special powers, notably conducting interviews and on-the-spot checks.

At the end of 2010, the number of active external investigation cases was the highest in the external aid sector, followed by structural funds and direct expenditure. The internal investigations, by definition, took place within the EU Institutions and bodies. In the agricultural sector, where Member State authorities collect funds (agricultural duties and sugar levies) and disburse funds (for example, direct payments or export refunds), OLAF was mainly involved in providing assistance to criminal investigations and facilitating operational synergy among the relevant national and Union departments.

Table 6: Investigations and operations by sector and type, and cases under assessment at the end of 2010

Major sector	Co-ordination Case	Criminal Assistance Case	External Investigation Case	Internal Investigation Case	Mutual Assistance Case	Total	Assessment
Agriculture (expenditure + revenue)	37	44	29	0	7	117	101
Cigarettes	16	9	0	0	0	25	4
Customs	17	1	13	0	6	37	8
Direct Expenditure	0	2	43	0	0	45	58
EU Institutions + EU Bodies	0	7	24	108	0	139	94
External Aid	0	3	74	0	0	77	82
Structural Funds	2	5	46	0	0	53	201
Total	**72**	**71**	**229**	**108**	**13**	**493**	**548**

Table 7 provides a snapshot of the involvement of the different Member States and candidate countries in investigative and operational cases ongoing at the end of 2010. One case record may relate to more than one country, as cases can have a transnational dimension. It is important to note that the totals for Belgium, and to a lesser extent Luxembourg, are disproportionate because of the presence of EU Institutions on their territory.

Table 7: Investigations and operations at the end of 2010 in Member States and candidate countries

Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	EU Bodies	EU Institutions	External Aid	Precursors	Structural Funds	Trade	Total
Austria	0	0	1	3	0	0	0	0	0	2	6
Belgium	0	1	4	6	1	19	1	1	2	2	37
Bulgaria	61	3	0	0	0	1	9	0	6	1	81
Cyprus	0	1	0	2	0	0	0	0	0	0	3
Czech Republic	0	1	2	1	0	1	0	0	3	2	10
Denmark	0	0	0	0	0	0	0	0	0	0	0
Estonia	0	0	0	0	0	0	0	0	1	0	1
Finland	0	1	0	0	0	0	0	0	0	0	1
France	0	0	4	7	0	3	1	1	1	3	20
Germany	1	11	2	5	1	0	2	1	6	5	34
Greece	2	2	0	9	1	4	0	0	4	1	23
Hungary	1	2	1	1	0	0	0	0	1	1	7
Ireland	0	3	1	0	0	0	1	0	0	0	5
Italy	4	7	4	7	2	5	1	0	7	4	41
Latvia	0	0	0	0	0	1	1	0	0	0	2
Lithuania	0	1	0	1	0	0	0	0	1	2	5
Luxembourg	0	0	0	3	0	4	0	0	0	0	7
Malta	0	0	1	2	0	1	1	0	0	0	5
Netherlands	0	0	3	1	3	1	0	1	1	3	13
Poland	2	4	1	1	0	1	0	0	5	3	17
Portugal	1	0	1	2	0	0	0	0	3	1	8
Romania	17	1	0	2	3	0	9	0	2	2	36
Slovakia	0	0	0	0	0	0	0	0	5	1	6
Slovenia	0	1	1	1	0	0	0	0	0	0	3
Spain	1	3	2	8	1	0	0	0	5	2	22
Sweden	0	0	2	1	0	0	0	0	0	0	3
United Kingdom	0	0	4	4	1	3	3	1	1	6	23
SUB TOTAL MS	90	42	34	67	13	44	29	5	54	41	419
Croatia	0	0	0	1	0	0	0	0	0	0	1
Iceland	0	0	0	0	0	0	0	0	0	0	0
Montenegro	0	0	0	0	1	0	1	0	0	0	2
FYRO Macedonia	0	0	0	0	2	0	1	0	0	0	3
Turkey	0	0	0	0	0	4	2	0	0	2	8
SUB TOTAL CC	0	0	0	1	3	4	4	0	0	2	14
Grand Total	**90**	**42**	**34**	**68**	**16**	**48**	**33**	**5**	**54**	**43**	**433**

3.2.3. Closing of investigative and operational cases

OLAF cases are concluded by adopting a final report. In 2010, OLAF closed a total of 189 cases, which is almost identical to the figures for 2009 and 2008.

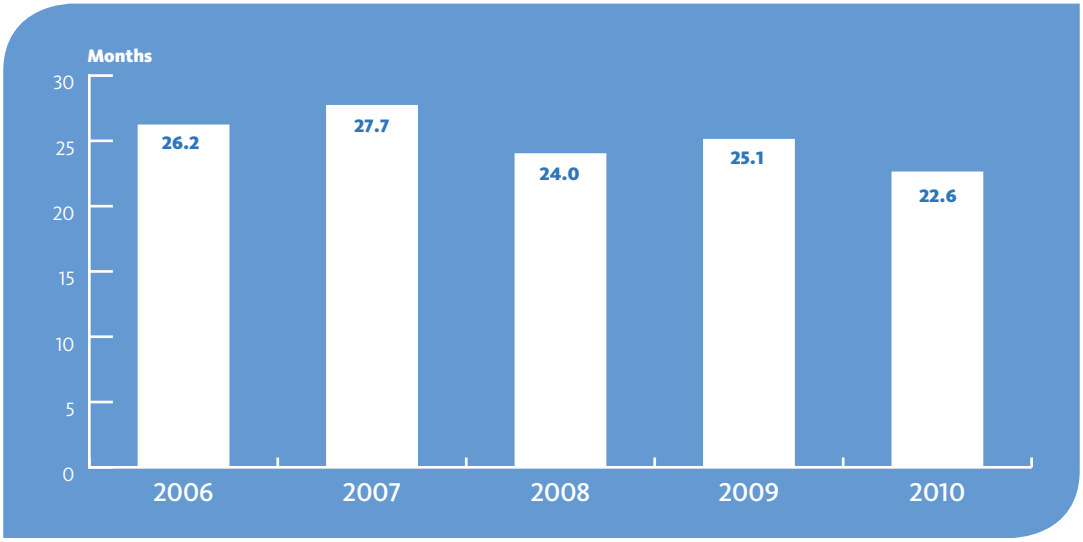
Table 8: Clearance rate

	2006	2007	2008	2009	2010
Total cases opened	195	210	204	220	225
Total cases closed	217	232	187	188	189
CLEARANCE RATE	0.90	0.91	1.09	1.17	1.19

OLAF aims to secure the long-term sustainability of its case-load by ensuring that the number of cases it opens each year is closely matched by the number of cases closed (clearance rate close to one). For the third year running the gap between the number of cases opened and those closed has been on the increase. In 2010, OLAF opened a total of 225 cases and closed 189, bringing the clearance rate to 1.19 compared with 1.17 in 2009.

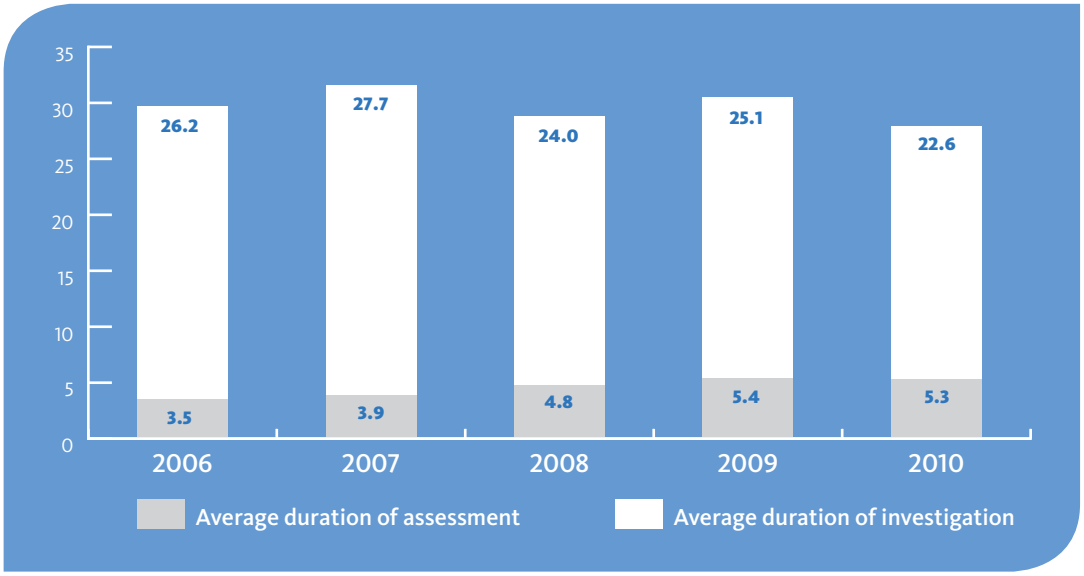
As the chart below shows, the average duration of investigations and operations is lower than in rrecent years: below 23 months in 2010 compared to just above 25 months in 2009.

Chart 3: Average duration of investigative and operational cases completed in 2010 (in months; measured at closure of investigation)



Adding the assessment phase we find that the total average length of investigations and operations has remained relatively stable with values between 27.9 months and 31.6 months since 2006. The average total duration of investigative and operational cases including the assessment phase was the lowest in 2010 in the last five years.

Chart 4: Average duration of investigations and operations including the assessment phase in 2010 (in months, measured at the closure of a case)



4. Focus on **Follow-Up** to OLAF's **Investigations**

Once a case has been concluded OLAF may issue recommendations for administrative, disciplinary, financial and/or judicial measures to be taken by the competent EU and national authorities. The time it takes to implement follow-up recommendations varies from one case to another. It can be longer if financial recovery or judicial actions are involved. This is particularly so when investigations relate to serious fraud cases involving organised crime groups which use methods such as planned bankruptcies and intelligent disposal of criminally obtained assets in order to prevent recovery.

The Member States have primary responsibility for implementing around 80% of the European Union budget as well as for the collection of traditional own resources. In other instances, it is the Commission's authorising DGs rather than OLAF that have responsibility for recovering misused funds.

If follow-up is required after the closure of a case, OLAF verifies that the competent EU institution and/or Member State authorities have taken into account the measures recommended by OLAF and supports them in this process if necessary. OLAF works closely with national authorities (including law enforcement, customs, administrative services and courts) and other EU institutions and bodies in the follow-up phase.

Table 9: Investigations and operations closed with or without follow-up by OLAF in each calendar year

	2006	2007	2008	2009	2010
Follow-up	133	153	125	106	98
No Follow-up	84	79	62	82	91
Total	**217**	**232**	**187**	**188**	**189**

Nearly half of all cases closed by OLAF investigators were closed without follow-up during 2010. This can partially be explained by the fact that OLAF adopted certain minimum monetary thresholds for referrals to financial follow-up. However, this does not at all exclude successful recovery actually taking place in respect of the cases concerned because Member States and Commission Authorising Services have responsibility for pursuing the appropriate recovery action in respect of the established debts.

One individual case often leads to several follow-up actions. For instance, the 98 cases closed with follow-up in 2010 have triggered 172 follow-up proceedings, of which 62 were financial, 67 judicial, 33 administrative and 10 disciplinary.

In verifying whether the competent EU or national authorities have implemented OLAF's recommendations, OLAF carries out four types of follow-up actions/

- *Administrative* follow-up means that OLAF verifies whether all necessary case-specific and / or more general measures have been taken by national authorities or EU institutions and bodies in relation to the implementation of EU legal and policy requirements.
- *Financial* follow-up means that OLAF helps to optimise the conditions and define the appropriate approach for the successful recovery of unduly paid amounts or evaded own resources from the EU budget or the European Development Fund.-Judicial follow-up means that OLAF verifies whether the competent national authorities have acted on the recommendations of OLAF to open criminal proceedings. OLAF then monitors these proceedings and collects the final results.
- *Disciplinary* follow-up means that OLAF checks whether the relevant EU authorities have acted on the recommendations of OLAF to open disciplinary proceedings. OLAF then monitors these proceedings and collects the final results of these cases.

Table 10: Investigative and operational cases closed with follow-up in 2010 showing type(s) of follow-up opened

Type of closure	2006	2007	2008	2009	2010	Total
Active investigations Closed with Follow-Up	133	153	125	106	98	615
Related Follow-up Activity						
Administrative	55	52	46	39	33	225
Disciplinary	10	14	11	18	10	63
Financial	103	113	90	76	62	444
Judicial	76	91	84	62	67	380
Total	**244**	**270**	**231**	**195**	**172**	**1112**

The follow-up phase can sometimes be protracted due to periods of standby in which OLAF has to wait for the results of action taken by other parties. This is especially true for court or administrative tribunal procedures. Sometimes the same case is sent to more than one body (for instance, both to judicial and disciplinary authorities).

Table 11: Cases at the follow-up stage at the end of the year

Major Sector	2006	2007	2008	2009	2010
Agriculture	172	192	191	185	177
Cigarettes	31	33	33	34	36
Customs	140	167	183	173	159
Direct Expenditure	94	91	90	78	70
EU Institutions + EU Bodies	79	91	93	112	123
External Aid	109	126	140	135	129
Structural Funds	214	189	167	150	143
Total	**839**	**889**	**897**	**867**	**837**

Some sectors have a higher number of follow-up actions opened than others but this alone is not a sufficient indicator for concluding that these sectors are actually subject to a higher level of fraud. A single case concerning, for instance, agricultural import duty or customs could in theory require the creation of up to 27 financial follow-up actions, depending on the number of Member States involved.

4.1. Financial Follow-Up

OLAF does not carry out any recovery of funds itself. This is done exclusively by Member States and by EU Institutions and bodies.

Table 12 shows the annual breakdown of financial recovery cases completed in the last five calendar years. € 67.9 million was recovered in respect of financial follow-up cases closed in 2010. A further € 351.2 million has also been recovered to date in respect of financial follow-up cases which were still ongoing as at the end of 2010. The recovery amounts constituting this latter figure will be definitively allocated to the respective future year(s) in which the cases concerned are actually closed. The large fluctuations from year to year are due to the fact that a few high-profile, high value cases account for the bulk of recoveries in certain years.

Table 12: Amounts recovered from closed financial follow-up in € million in each calendar year

Major Sector	2006	2007	2008	2009	2010	Open FU
Agriculture	1.2	0.9	2.0	148.2	11.9	58.4
Customs	0.1	3.3	14.7	43.1	7.1	186.9
Direct Expenditure	0.2	0.5	0.5	0.9	10.6	0.9
EU Institutions + EU Bodies	2.2	0.1	0.2	0.2	0.1	2.5
External Aid	3.7	0.9	2.3	7.5	5.3	15.8
Structural Funds	17.2	197.7	128.0	51.4	32.9	86.7
Total	**24.6**	**203.4**	**147.7**	**251.3**	**67.9**	**351.2**

Analysis of the period 1999-2010 period suggests an overall average recovery rate approaching 40% of the amounts due, with substantial variations between sectors.

In general terms, recovery rates appear higher on the expenditure side of the budget than on the revenue side. This reflects, in part, differing circumstances in the respective budget sectors. It is generally very difficult to recover more than a tiny proportion, if any, of the customs duty due on smuggled cigarettes (sector recovery rate 0.6%). In contrast, the recovery of misspent external aid funds is much less difficult (sector recovery rate 55%). This also partly reflects differences in control and recovery mechanisms.

On the expenditure side of the EU Budget, in particular, financial recovery mechanisms vary between sectors. A key distinction is whether the responsibility for recovery is the exclusive competence of the Commission (and agencies), or a shared competence between Member States and the Commission. On the revenue side of the budget, recovery is normally the exclusive competence of Member States.

Whilst the data is not complete, it appears that, on average, the greater the degree of control by the Commission, with its wider range of financial recovery and correction options, the better the chances are of successful financial recovery. Concretely, it is in the sectors where the Commission has exclusive competence, such as external aid, that the recovery rate is the highest. The lowest recovery rates for OLAF cases tend to occur in those sectors (e.g. agricultural import duty) where front-line responsibility rests with Member States alone.

In areas where the responsibility for recovery is shared between Member States and the Commission, the specific mechanisms by which recovery may be carried out are of major importance. For example, in the structural actions sector, the responsibility for recovery lies with the Member States but financial corrections, following the establishment of irregularities, can be performed either by the Member State concerned or by the Commission directly, and by a variety of technical means. This breadth of options may in part explain the relatively high rate of recovery in the structural actions sector.

4.2. Judicial Follow-Up

The judicial follow-up to OLAF cases is carried out by the national judiciary according to the national criminal legal framework of each Member State. It can therefore differ significantly between Member States.

Table 13 provides an overview of the recorded court decisions since 2006. The values covering court decisions concerning the length of suspended sentence and imprisonment, as well as financial penalty issued were the highest in 2010. National courts sentenced fraudsters to a cumulative 125 years' imprisonment during 2010 and imposed financial penalties totalling nearly € 1.5 billion.

Table 13: Judicial operational results by year (in months or € million)

Recorded Court Decisions	2006		2007		2008		2009		2010	
	Cases	Values	Cases	Values	Cases	Values	Cases	Values	Cases	Values
Suspended Sentence (months)	2	20	12	246	10	380	9	331	15	1201
Imprisonment (months)	5	326	8	316	14	748	13	1210	22	1503
Financial Penalty (€ million)	41	1.0	53	1.8	96	175.0	76	17.3	133	1467.7

4.2.1. Overview of judicial action by Member States

Table 14 provides an overview of progress, at national level, of judicial actions in the Member States concerning OLAF cases and monitoring actions. The figures relate to a period of nearly 12 years, since OLAF commenced active cooperation with national judicial authorities.

An action represents a criminal action pursued against a single natural or legal person in one country's jurisdiction. Each case may contain multiple actions in a number of countries.

The total number of actions by Member State varies greatly. The statistics are influenced by the size of Member States and the length of time they have been in the EU. The figures also show a wide variation regarding the percentages recorded at different stages. This is partly due to different national practices in opening criminal investigations. Some national judicial authorities open proceedings more extensively, while others do so more restrictively. The figures show very substantial differences between countries with respect to their capacity to bring EU budget-related judicial investigations and prosecutions to a conviction within a reasonable time. It may be that some results are less representative because they are based on a very small number of actions: nine of the Member States have ten or fewer actions recorded. However, even excluding those small Members States which have dismissed either all or none of the small number of proceedings in their jurisdictions, the proportion of actions that are dismissed before trial varies between 10% and 89%.

The general level of activities suggests that the number of actions in which no judicial decision has yet been taken is relatively high and represents about 34% of the actions in the Member States. In about 66% of the actions a judicial decision has been taken. But the figures differ widely from one Member State to another. This gives an indication of the speed of judicial proceedings in different Member States.

At the trial phase, the results at national level also differ greatly, ranging from an acquittal rate of zero to one of 50%. The average conviction rate is 41 % for all cases in which concrete judicial action was taken (that is, some form of action other than the simple closing of the case). But the conviction rate once again varies greatly from one Member State to another with rates of between 14% and 80%.

Table 14: Overview of progress on judicial actions concerning cases forwarded to Member States by OLAF(6)

	All actions			Actions with judicial decisions					
Country	Actions transferred to MS	Actions pending judicial decision	Actions with judicial decision	Dismissed before trial	Dismissals as % of results	Acquittal	Acquittal as % of results	Convictions	Convictions as % of results
Austria	34	6	28	7	25.0%	5	17.9%	16	57.1%
Belgium	157	54	103	32	31.1%	32	31.1%	39	37.9%
Bulgaria	10	8	2	0	0.0%	0	0.0%	2	100.0%
Cyprus	0	0	0	0	NA	0	NA	0	NA
Czech Republic	27	13	14	8	57.1%	1	7.1%	5	35.7%
Denmark	16	1	15	8	53.3%	4	26.7%	3	20.0%
Estonia	4	2	2	1	50.0%	0	0.0%	1	50.0%
Finland	21	1	20	2	10.0%	2	10.0%	16	80.0%
France	98	27	71	23	32.4%	6	8.5%	42	59.2%
Germany	392	37	355	152	42.8%	17	4.8%	186	52.4%
Greece	174	75	99	45	45.5%	40	40.4%	14	14.1%
Hungary	8	6	2	1	50.0%	0	0.0%	1	50.0%
Ireland	4	0	4	3	75.0%	0	0.0%	1	25.0%
Italy	392	185	207	116	56.0%	49	23.7%	42	20.3%
Latvia	7	4	3	3	100.0%	0	0.0%	0	0.0%
Lithuania	17	3	14	3	21.4%	0	0.0%	11	78.6%
Luxembourg	8	4	4	1	25.0%	2	50.0%	1	25.0%
Malta	5	5	0	0	NA	0	NA	0	NA
Netherlands	83	25	58	32	55.2%	1	1.7%	25	43.1%
Poland	32	11	21	11	52.4%	2	9.5%	8	38.1%
Portugal	113	40	73	13	17.8%	17	23.3%	43	58.9%
Romania	256	107	149	115	77.2%	4	2.7%	30	20.1%
Slovakia	12	3	9	8	88.9%	1	11.1%	0	0.0%
Slovenia	0	0	0	0	NA	0	NA	0	NA
Spain	296	125	171	43	25.1%	30	17.5%	98	57.3%
Sweden	22	1	21	6	28.6%	2	9.5%	13	61.9%
United Kingdom	44	16	28	14	50.0%	1	3.6%	13	46.4%
Total	**2232**	**759**	**1473**	**647**	**43.9%**	**216**	**14.7%**	**610**	**41.4%**

Note: Actions are included from follow-up in active investigations, closed cases (in follow-up stage) and monitoring actions.

(6) Date of extraction: 1st February 2011.

It is difficult to draw far-reaching conclusions since the available data does not allow precise comparisons between the judicial results of OLAF cases concerning crimes against the EU budget and the judicial results of purely "national" cases concerning crimes affecting national budgets. Many Member States do not maintain central national statistics in relation to criminal offences or do not distinguish between various types of criminal activity. Any comparison is further complicated by the fact that all the OLAF cases are grouped together. They therefore include such diverse types of offences as customs offences, trade offences, forgery, fraud, theft and corruption which is not the case with statistics relating to offences against the finances of Member States. In addition, as already discussed, there are differences in the criteria used by Member States when deciding whether an offence should be investigated or prosecuted.

However, OLAF judicial follow-up records shows that there remain important differences and further efforts are needed before a level of protection which maybe considered effective proportionate, dissuasive and last but not least equivalent, is achieved.

5. Supervisory Committee

OLAF's Supervisory Committee monitors the investigative activities of the Office with the objective of reinforcing OLAF's independence. It is composed of five outside experts, appointed by the common agreement of the European Parliament, the Council and the Commission, who take no instructions from any government, institution, body, office or agency.



In 2010, the members of the Committee were the following (starting from the left in the picture): Mr. Kálmán Györgyi, Ms. Rosalind Wright, Mr. Peter Strömberg, Ms. Diemut Theato and Mr. Luis López Sanz - Aranguez.

The Director-General keeps the Committee regularly informed of the Office's activities, investigations and their results, as well as of the follow-up actions performed.

The Committee monitors the implementation of OLAF's investigative functions without however interfering with the conduct of investigations in progress. The Committee delivers opinions to the Director-General and submits reports to the EU institutions.

In 2010, the Supervisory Committee, in addition to its annual report covering the period June 2009 - May 2010, provided several opinions, notably concerning Investigation Planning and the Respect for Fundamental Rights and Procedural Guarantees in Investigations by OLAF. The Committee's Opinion on the Reflection Paper on the Reform of the European Anti-Fraud Office was taken into consideration for the amended Commission proposal for the revision of Regulation 1073/1999([7]).

OLAF provided detailed replies to the Supervisory Committee on how OLAF would implement the Opinions on Investigation Planning and on the Respect for Fundamental Rights and Procedural Guarantees.

In order to implement some of the Supervisory Committee's recommendations, OLAF revised its Operational Procedures on a number of points in 2010. For example a set of modifications to the OLAF Manual will reinforce the work planning, requiring the objectives of the investigation to be outlined in initial work plans.

Furthermore, in response to improvements recommended by the Supervisory Committee, OLAF initiated changes to the Case Management System, updated working practices and, in certain respects, postponed action until the entry into force of the revised Regulation 1073/1999.

([7]) COM (2011) 135

6. Policy for **Fraud Prevention** and **Detection**

OLAF channels its experience from investigations and other operational activities into fraud prevention and fraud-proofing initiatives and into the preparation of the Commission's legislative proposals.

6.1. Outreach Activities – a contribution to anti-fraud training and awareness-raising

OLAF launched a number of information and communication activities in 2010 in order to raise awareness of the Office's role in the fight against fraud and corruption.



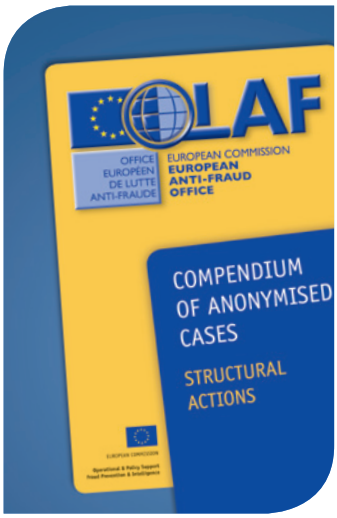
Eleven international conferences were held in Member States and non-EU countries, drawing more than a thousand participants. The objective of these events was to reinforce international partnerships and to strengthen the fight against fraud.

The tenth seminar of OLAF's Anti-Fraud Communicators' Network, gathering press officers and journalists in Budapest, focused on the theme of "Proactive media strategies to promote EU-wide anti-fraud messages" (October 2010).

The eighth OLAF fraud prosecutors' conference, hosted by OLAF in Paris in collaboration with the French Court of Cassation and the French Ministry of Justice, dealt with administrative investigations and fundamental rights (November 2010).

A three-day international conference on mutual administrative assistance in customs matters was hosted by OLAF and French Customs in Marseille, focusing on the fight against international trade in contraband and counterfeit cigarettes (October 2010). A three-day regional conference for potential Latin-American partners in Panama (October 2010) and a three-week traineeship for African partners in Brussels (November-December 2010) both concentrated on promoting good financial governance and fighting fraud and corruption affecting public funds.

6.2. Compendium of Anonymised cases – A contribution to Risk Analysis



When the Commission introduced a new approach to fraud-proofing legislation, contracts, and management and control systems in 2007, it made a commitment to make more use of the lessons learnt from OLAF's investigative and other operational activities

As part of these efforts OLAF has produced compendia of anonymised cases, based on the results of investigations and on intelligence analysis. One such Compendium covers structural actions as part of the Joint fraud Prevention Strategy in this field. A description of fraud and irregularity patterns, the modus operandi, vulnerabilities detected and red flags have been compiled based on actual but anonymised cases.

The following "clusters" of irregular conduct are covered by this Compendium: 'False declaration – False or falsified documents', 'Double Funding', Conflict of interest', 'Infringement of public procurement rules', 'Action not implemented or not completed' and ' Infringement with regard to the co-financing system'.

The Compendium will be taken into account when drafting new legislation under the Multiannual Financial Framework covering the area of structural actions. The Compendium is used in internal and external training and awareness-raising activities.

6.3. OLAF contributes to EU-wide efforts to improve the protection of the euro against counterfeiting through training and legislation

A coherent framework of rules and measures has ensured efficient protection of the euro against counterfeiting. Repressive action enables a continuous flow of arrests and the dismantling of illegal criminal groups. Consequently, the number of counterfeit euro banknotes and coins remains at low levels. In 2010, 751,000 counterfeit euro banknotes were removed from circulation, down from 860,000 the year before. In the same year, 186,000 counterfeit euro coins were discovered, a total below 200,000 for the third consecutive year.

Table 15: Counterfeit euro coins detected in circulation, 2007 – 2010

Year	50-cent	1-euro	2-euro	Total
2010	24 900	30 800	130 300	186 000
2009	18 100	26 500	127 500	172 100
2008	16 600	24 500	154 800	195 900
2007	13 000	16 200	181 900	211 100

OLAF contributes to the efficient protection of the euro banknotes and coins with proposals for improvements to the legal framework and structure, training and assistance to competent authorities in the EU and other priority areas throughout the world, as well as in the specific area of analysis of euro coins.

In 2010, the Commission/OLAF carried out 17 projects for the protection of euro banknotes and coins against counterfeiting, including conferences and seminars organised by either the Member States or the Commission/OLAF under the Pericles programme, in collaboration with Europol and the ECB.

Since 2001 the Pericles programme has provided training and technical assistance to national authorities for the protection of euro banknotes and coins against counterfeiting.

In December 2010, the Council adopted a Commission proposal concerning the authentication of euro coins and the handling of euro coins unfit for circulation([8]). This is a decisive step in guaranteeing the authenticity of euro coins in circulation.

OLAF maintains continuous cooperation with the competent national authorities for the protection of currency, as well as Europol, Interpol and the European Central Bank. In 2010, OLAF organised and chaired three meetings of the Euro Counterfeiting Experts Group and two meetings of the Counterfeit Coin Experts Group.

([8]) Regulation 1210/2010, OJ L 339/1, 22/12/2010

7. Resource Management

7.1. Budget

OLAF had in 2010 a total budget of € 77.645 million. It consisted of two parts: administration (€ 57.145 million) and operational (€ 20.500 million). The operational parts finance the Hercule II, Pericles, and Anti-Fraud Information System (AFIS) programmes.

The OLAF budget is under direct management, that is to say there is no involvement of Member States or non-member countries in which the recipients of the expenditure reside. More that 98% of the 2010 budget was deployed.

7.2. Human Resources

Table 16: Overview of OLAF personnel on 31 December 2010

	Permanent and Temporary Personnel	External Personnel	Total
Fight against fraud	311	37	**348**
Administrative support for the European Anti-fraud Office	40	15	**55**
Policy strategy and coordination for the European Anti-fraud Office	55	8	**63**
Total	**406***	**60**	**466**

* This figure includes 20 temporary (empty) posts exchanged for permanent posts which are also included and 2 borrowed posts that OLAF had to return as of 1/1/2011.

OLAF continues to have difficulty in recruiting operational staff with an appropriate mix of qualifications and experience and remains under significant staffing constraints as it is confronted with an ever-increasing workload. Nevertheless, the situation has improved due to dedicated external and internal competitions in 2008 and 2009. In 2010 OLAF further stabilised and retained the staff required to fulfil its mission and increased this with 51 new recruits, including a significant number of temporary agents taking up permanent posts and ensuring continuity of OLAF's experienced staff. The vacancy rate was quite low at 7.0% in 2010.

7.3. Training

An important aspect of OLAF quality management is training. The training budget for 2010 was €200,000. This budget covers all internal and external training activities for OLAF staff, specialist training for analysts, and training provided by OLAF for its operational partners and for other Directorates-General, Member States and EU Bodies.

OLAF organises internal training sessions in order to meet the specific needs of its staff's core activities on topics such as interviewing techniques, administrative writing, and the conducting of on-the-spot checks.

Training sessions were also organised for other parts of the European Commission, for example on fraud prevention in the field of Structural Funds. In 2010 the following courses were organised:

- *"Operational Cooperation between OLAF and other Directorates General"* with officials from all Directorates-General;
- *"OLAF-Irregularity Management system training for Structural Funds DGs"* for officials from Directorates-General Regional Policy, Agriculture and Rural Development, Employment, Social Affairs and Inclusion and Maritime Affairs and Fisheries;
- *"AFIS and MAB MAIL training"* with representatives from Europol and Eurojust;
- *"OLAF training on Fraud Prevention and detection for research area – Passing the grey zone» for* representatives from Directorate-General Research and Innovation.

OLAF experts have participated on an ad-hoc basis in training events initiated by external organisers.

8. Outlook: 2011 and Beyond

A number of significant events in 2011 will have an impact on the work of the Office for many years to come.

Further to a reflection process carried out during 2010, the Commission has forwarded an amended proposal to improve the legislative framework governing the work of OLAF([9]) to the co-legislators, the European Parliament and the Council. The proposed amended Regulation envisages significant changes affecting investigative procedures and procedural guarantees and requires the establishment of Investigation Policy Priorities.

As part of its policy mandate, OLAF plays a key role in the development of comprehensive anti-fraud policies. The Commission has proposed a new Anti-Fraud Strategy([10]) which is directed primarily at the Commission Services and provides for the development of sectoral strategies in each policy area. In this context, OLAF has been mandated to set up a Fraud Prevention and Detection Network involving all Commission services and executive agencies to provide support and advice on anti-fraud matters, including fraud risk management.

The Commission has issued a Communication on the protection of the financial interests of the European Union by criminal law and by administrative investigations([11]). The Communication envisages the possibility of new legislative measures in the light of the Lisbon Treaty. These initiatives could concern improvements to criminal and administrative procedures, development of the substantive criminal legal framework and enhancement of institutional arrangements.

As a follow-up to its *Special Report No 1/2005, the* European Court of Auditors published on 2 May 2011 its Special Report No 2/2011 *concerning the management of the European Anti-Fraud Office* in which the Court makes nine key recommendations. OLAF will draw up an action plan in response to the Court's recommendations

Taking into account the ongoing legislative and policy developments as well as the recommendations of the Court of Auditors, in March 2011, the Director-General launched an internal review to improve the performance of the Office. This review is also necessary in the light of the budgetary constraints that the Commission is currently facing.

As a result, changes are planned in the handling of incoming information, the selection of cases and their review, as well as in the follow-up activities by OLAF.

([9]) COM (2011) 135 of 17 March 2011

([10]) COM (2011) 376 of 24 June 2011

([11]) COM (2011) 293 of 26 May 2011

The key objectives of the review are to

- Simplify the procedures for investigations;
- Shorten the duration of investigations;
- Reduce the administrative burden and make better use of resources;
- Review the internal structure of OLAF to clarify responsibilities.

These changes, to be introduced in 2012, will also require a reorganisation of the Office.

Further information on the above items will be included in the 2012 OLAF Operational Report which will be published during the first half of 2012.

European Commission
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1 January to 31 December 2010

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The **OLAF** report **2011**

EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE

The Fraud Notification System (FNS) is a web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud.
http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm

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The **OLAF** report **2011**

Twelfth report of the European Anti-Fraud Office, 1 January to 31 December 2011

EUROPEAN COMMISSION
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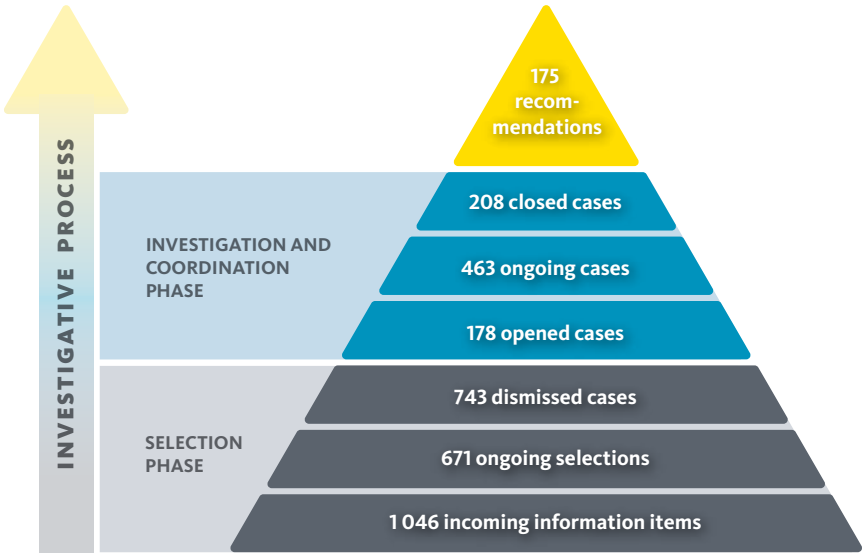
Disclaimer:

OLAF's annual report features case studies for illustrative purposes only. In particular, the fact that OLAF presents such case studies does not prejudge the outcome of any judicial proceedings; nor does it imply that any particular individuals are guilty of any wrongdoings.

Executive summary

- 2011 was a year of change for OLAF, the European Anti-Fraud Office. An internal review highlighted a number of areas where the efficiency of the Office could be improved. As a result, decisions were taken on changes to the organisation and on a new set of investigative procedures. The changes took effect on 1 February 2012.
- In 2011, OLAF received 1 046 incoming information items, three quarters of which came from private sources.
- One in five completed selections resulted in an investigation or coordination case. Out of the 178 cases opened, 144 were investigations.
- At the end of 2011, OLAF had 463 ongoing investigations and coordination cases. During the year, OLAF closed 208 cases.
- In order to improve the efficiency of the investigative activities the Office focused on the closing of old cases, and fewer new cases were opened in 2011 than in previous years. This resulted in an improved clearance rate and an increase in the average age of investigation and coordination cases.
- In more than half of all cases closed in 2011, recommendations were made by OLAF for action to be taken by EU institutions, bodies, offices, agencies or competent authorities of the Member States concerned. OLAF mainly recommended judicial action and financial recoveries.
- OLAF's investigations and coordination cases led to the recovery of EUR 691.4 million, as recorded in 2011. Member State courts issued a cumulative 511 years of prison sentences in 2011, acting upon conclusions and recommendations from OLAF investigations.
- OLAF has a key role in the Commission-wide effort to combat cigarette smuggling along the EU's eastern border. OLAF has deployed its investigative, policy and technical assistance tools for this purpose.
- OLAF coordinates the implementation of the Commission's anti-fraud strategy, adopted in June 2011.
- In 2011, OLAF had at its disposal a budget of EUR 23.5 million to provide financial support in order to fight fraud and corruption affecting the financial interests of the EU, to improve cooperation with partners, to measure the costs of corruption in public procurement and to strengthen the protection of euro banknotes and coins.

Chart 1: 2011 caseload





Foreword

I am pleased to present to you the 12th OLAF report highlighting the activities of the European Anti-Fraud Office in 2011.

The achievements presented in this report are a reflection of a busy year at OLAF, during which a major reorganisation took place. Extensive internal consultations on an update of OLAF's investigative procedures ran in parallel with the core investigative work. In the policy field, the preparation of new legislative initiatives, including financing under the Hercule and Pericles programmes for the period 2014–20 and the implementation of the Commission's anti-fraud strategy, adopted in June 2011, have increased OLAF's visibility for our stakeholders.

This year's OLAF report shows the results of the investigative activities in a new way. The 2011 results are presented in a manner consistent with the new investigative procedures introduced in February 2012.

During 2011, the number of incoming information items originating from private sources continued to increase. At the same time, there was a decrease in the information coming from public sector sources. This result follows a trend which we monitor closely.

The number of cases closed in 2011 was higher than in recent years as a consequence of our effort to improve the efficiency of OLAF's investigative activities. More than 500 monitoring cases were also finalised in 2011 in order to better focus OLAF's resources on its investigative activity. These preparatory actions were necessary for the efficient functioning of OLAF following the introduction of the new instructions on investigative procedures and the updated organisational structure.

More than half of OLAF investigations resulted in recommendations for judicial, disciplinary and financial action to be taken by institutions and Member States.

Due to the general economic climate, the human and financial resources available to OLAF are not expected to increase in the future. At the same time, the protection of EU money and the fight against fraud remains a key priority for the EU institutions and Member States alike. Since I took office on 14 February 2011, my efforts have therefore centred on improving the efficiency and results of OLAF investigations.

With the help of OLAF's management and staff, the instructions on investigative procedures and a new organisational structure of the Office were devised during 2011 and they reached their final form by the end of the year. This exercise took into account the key objectives in the proposal amending Regulation (EC) No 1073/1999 defining the Office's investigative role and remit.

I rely on continued support from my colleagues in OLAF to make this change process a complete success. The early results of these changes will be presented in next year's OLAF report.

I trust that you will find this report informative and enjoyable reading.

Giovanni Kessler
Director-General of OLAF

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1. OLAF's role and responsibilities

Mission statement

The mission of the European Anti-Fraud Office (OLAF, also referred to as 'the Office' in this report) is threefold:

- to protect the financial interests of the European Union (EU) by investigating fraud, corruption and any other illegal activities;
- to detect and investigate serious matters relating to the discharge of professional duties by members and staff of the EU institutions and bodies that could result in disciplinary or criminal proceedings;
- to support the European Commission in the development and implementation of fraud prevention and detection policies.



'OLAF' is the acronym of its title in French, *Office européen de lutte antifraude.*
Homepage: http://ec.europa.eu/anti_fraud/index_en.html
To report fraud: http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm

OLAF: Key facts and figures for 2011

Director-General: Giovanni Kessler
Established: 1999
Staff: 437
Budget: EUR 58.2 million
Programmes: EUR 23.5 million
Incoming information: 1 046 items

Total cases at 31.12.2011:
- **Investigations:** 328
- **Coordination cases:** 135
- **Cases in selection phase:** 671
- **Cases in monitoring phase:** 407

Total cases closed: 208
Number of recommendations issued:
- **Judicial:** 73
- **Disciplinary:** 16
- **Financial:** 63
- **Administrative:** 23

Average duration of investigations: 29.1 months
Total amounts recovered: EUR 691.4 million
Judicial outcome (in national courts): 511 years in prison sentences; EUR 154.7 million in financial penalties

'The current difficulties within the European Union cannot be solved by economic and financial means alone. To gain the trust of our citizens, the Union must demonstrate that its financial interests are protected against fraud and corruption. Doing so is the role of OLAF.'

Giovanni Kessler,
Director-General of OLAF

OLAF investigates cases of fraud, assists EU bodies and national authorities in their fight against fraud and contributes to the design of anti-fraud legislation and policies in the EU. OLAF is part of the European Commission but is independent in its investigative function.

The legal basis for Union action against fraud is Article 325 of the Lisbon Treaty. OLAF's main role and remit for carrying out its administrative investigations is defined principally in Regulation (EC) No 1073/1999 ([1]).

For investigations concerning members and staff of EU institutions, OLAF also derives its mandate from the interinstitutional agreement between the European Parliament, the Council and the Commission.

OLAF has a right to perform investigative activities, including on-the-spot checks and inspections, in the context of its administrative investigations.

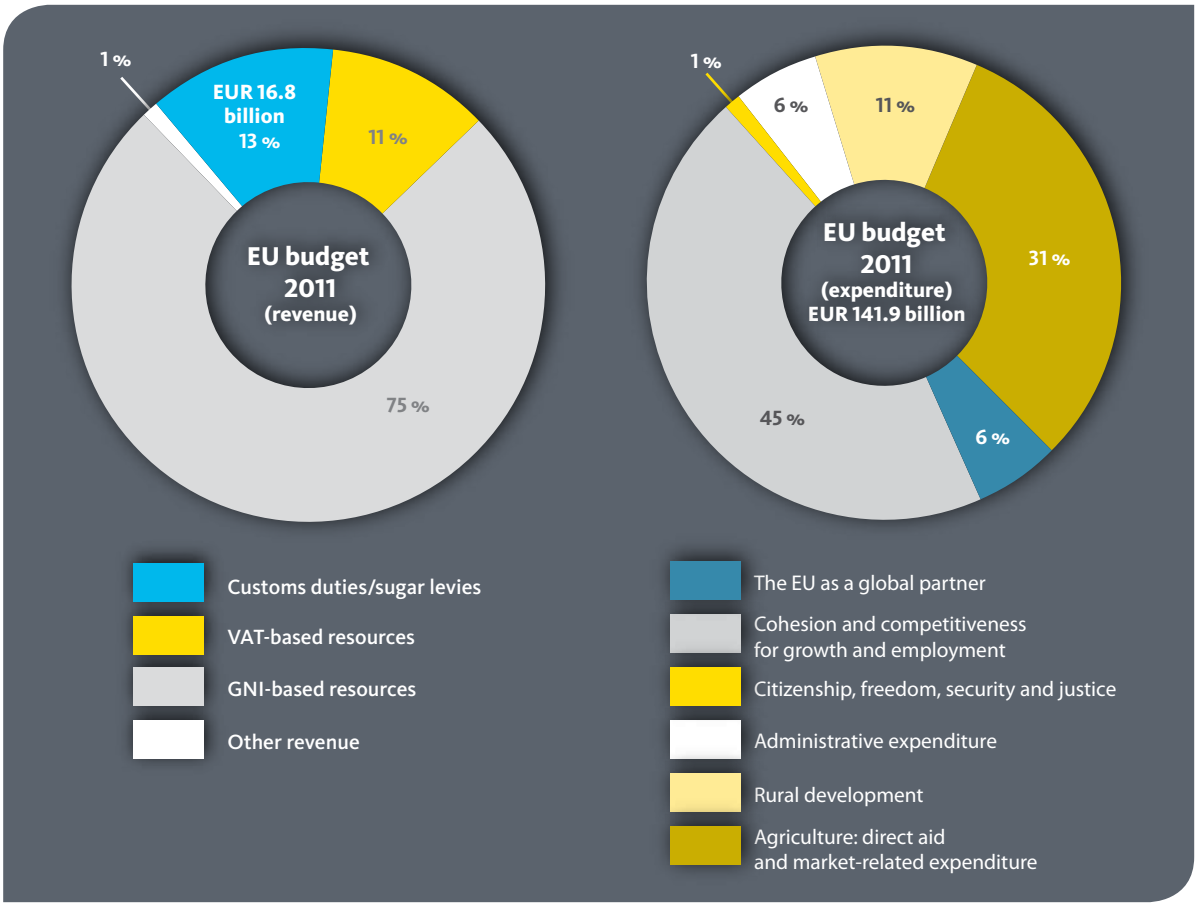
OLAF conducts, in full independence, investigations inside any EU institution or body, as well as in the Member States and non-EU countries.

Furthermore, OLAF contributes to investigations carried out by national authorities by facilitating the gathering and exchange of information and contacts. The Office may assist the competent authorities of a Member State in the conduct of criminal investigations in relation to cases affecting the interests of the EU.

As part of the Commission, OLAF also contributes to the development, monitoring and implementation of the anti-fraud policies of the European Union, and takes the necessary initiatives to ensure that anti-fraud measures are systematically included in relevant legislation.

OLAF's investigations cover, in principle, all expenditure of the EU and a part of the revenue side of the budget where OLAF focuses particularly on 'traditional own resources', including customs duties.

Chart 2: EU budget



([1]) 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); OJ L 136, 31.5.1999, pp. 1–7

2. Focus on: OLAF's new investigative procedures and organisation

Significant changes to OLAF's investigative procedures and internal organisation were introduced on 1 February 2012. These changes were the result of an internal review launched in 2011 following the arrival of Giovanni Kessler as Director-General in February of that year.

The main objectives of the review were to:

- better define the distribution of responsibilities and competences;
- reduce non-core activities, overheads and administrative burden;
- improve the efficiency and quality of investigations, reducing their length; and
- strengthen the role of OLAF as the Commission service in charge of anti-fraud policy.

Key changes to OLAF's investigative procedures.

- Simplified and concise instructions to staff have been issued on the procedure to be followed in connection with investigations to ensure a consistent application of the rules and full respect of the procedural rights of the persons concerned by investigations.
- Efficiency and consistency in the selection of cases have increased thanks to the establishment of a dedicated unit.
- The case types have been reduced from the former five to two (investigations and coordination cases).
- Quality and legal review of cases have been strengthened at the opening and closing of investigations, as well as at important milestones during the investigations.
- Recommendations are issued by the Director-General for specific action to be taken by national authorities and EU institutions.
- The results of the action taken, following the Recommendations, are monitored annually.

Key changes to OLAF's internal organisation.

- The new organisation chart provides a clearer allocation of responsibilities (investigations, investigative support, policy and resources) while allowing for OLAF's policy work to benefit from its investigative experience and vice versa.
- While the total number of OLAF staff has remained the same, the number of staff members dedicated to investigations and policy has increased.
- Legal expertise is integrated into the investigative units to ensure that legal aspects are taken into account from an early stage.

The reorganisation has also presented OLAF with an opportunity to give relevant answers to the European Court of Auditors on their findings ([2]). In the recent management audit of OLAF, the Court made nine recommendations for further action, which OLAF has fully or partially accepted and taken into account in the review of its structure and processes. The main points raised by the Court include:

- increasing the number and speed of investigations by increasing the proportion of time spent on the investigative function;
- improving the efficiency (i.e. planning and monitoring) of investigations, in order to reduce their duration;
- developing the reporting on OLAF's performance;
- revising the legal framework, notably to consolidate anti-fraud legislation and to better protect the rights of persons investigated.

The Court also made recommendations concerning the governance framework, the rights of the persons concerned by an investigation, relations between OLAF and the Member States' competent authorities and cooperation with Eurojust and Europol. The implementation of these recommendations depends wholly or partly on the adoption of the revised proposal for amending Regulation 1073/1999 ([3]).

OLAF considers that all recommendations accepted by OLAF have either been already addressed or are currently being implemented.

([2]) Following its Special Report No 1/2005, the European Court of Auditors published on 2 May 2011 its 'Special Report No 2/2011 concerning the management of the European Anti-Fraud Office'.

([3]) Amended Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EURATOM) No 1074/1999; COM(2011) 135 final of 17 March 2011.

Chart 3: The investigative process from 1 February 2012

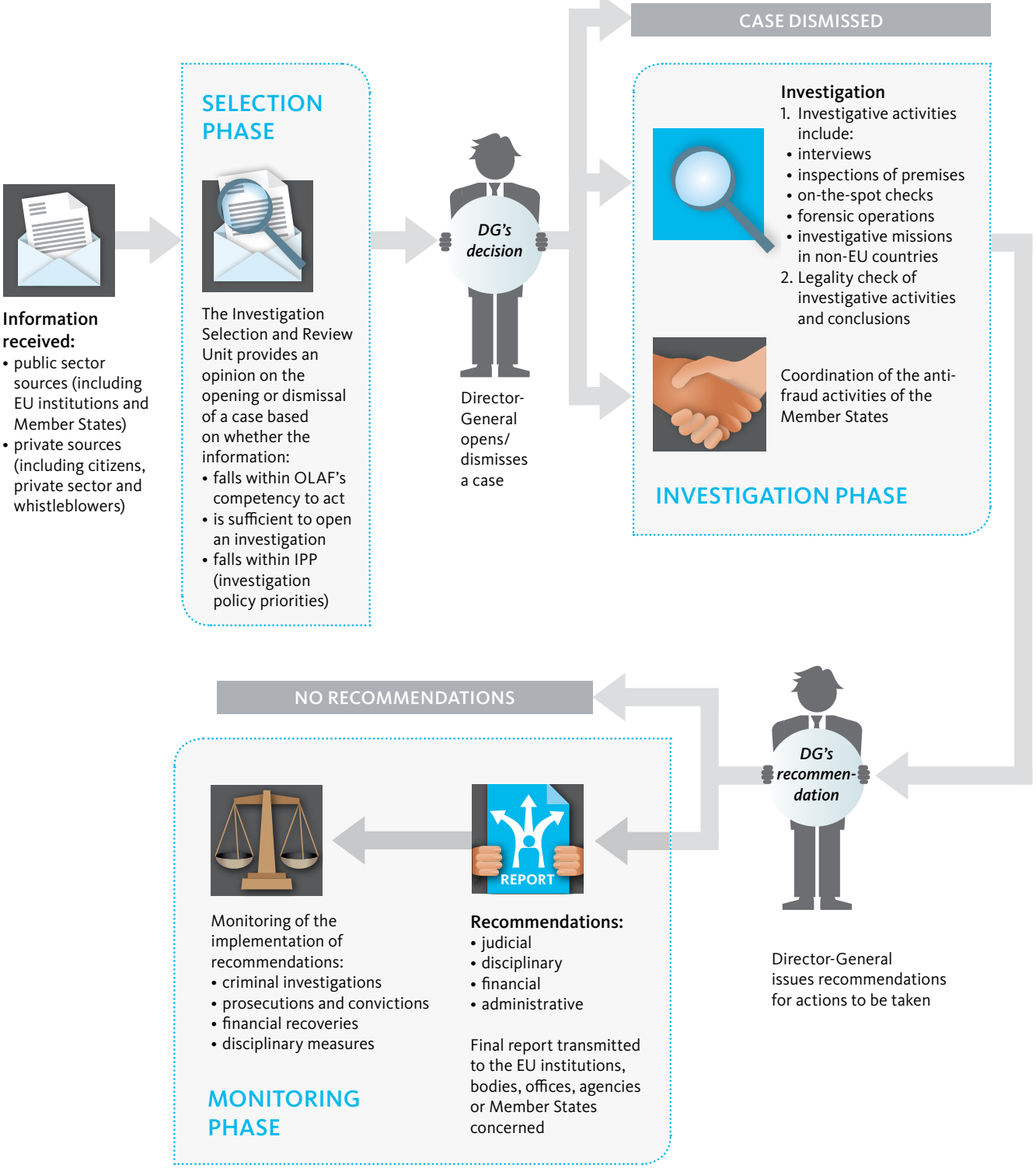
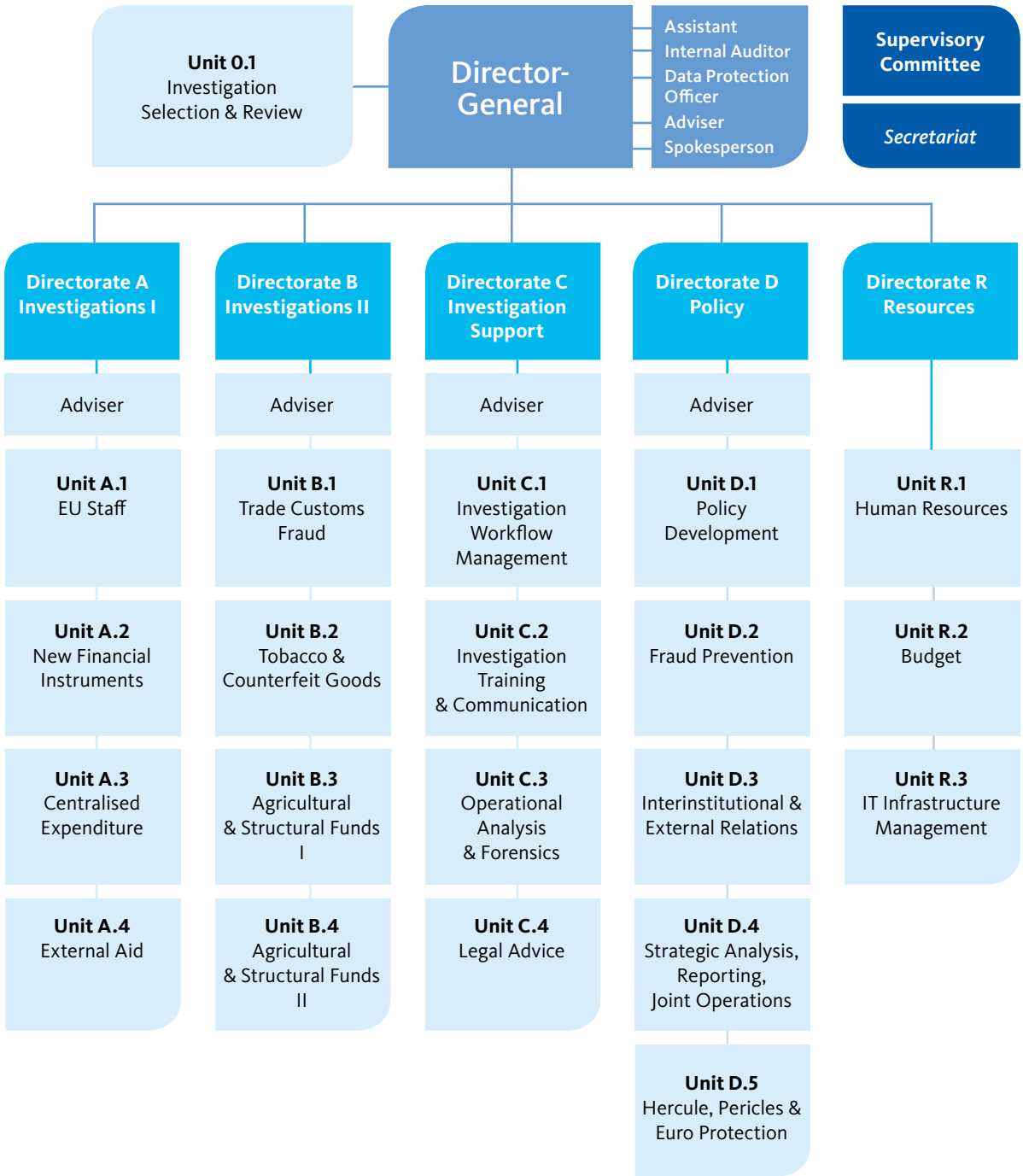


Chart 4: Organisation chart of OLAF from 1 February 2012



3. OLAF's investigative activities

The statistics outlined in this section reflect the results of the investigative activity of 2011 which was conducted in line with the procedures that existed then. On 1 February 2012, new investigative procedures were introduced and the 2011 results have been presented in a manner consistent with them.

In the 2011 report, statistical data are recorded, for the first time, under new headings which reflect the new investigative procedures and which will be used in future OLAF reports. The most significant changes concern the replacement of 'assessments' by a selection phase, the discontinuance of formal follow-up and its replacement by simplified monitoring activities and the reduction of case classifications to two types, investigations and coordination cases. External and internal investigative cases are now classified as 'investigations'. Coordination, criminal assistance and mutual assistance cases are now classified as 'coordination cases'.

3.1 Incoming information

Distribution by source

OLAF received 1 046 incoming information items in 2011 from public and private sources. There was a significant increase in the number of incoming information items received from individuals and private sector sources compared to the previous year. This increase can largely be explained by the doubling of the number of information received through the Internet-based Fraud Notification System (FNS) ([4]) which now accounts for nearly one fifth of all incoming information.

Chart 5a: Distribution of incoming information by source

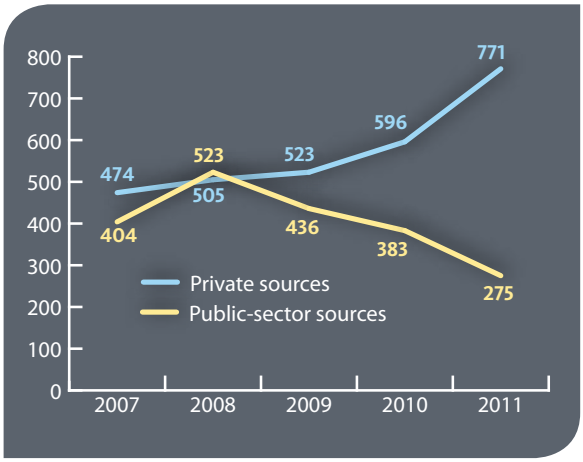
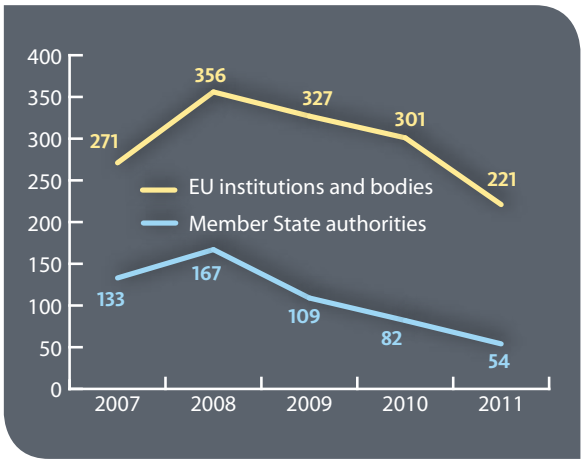


Chart 5b: Distribution of incoming information from public-sector sources

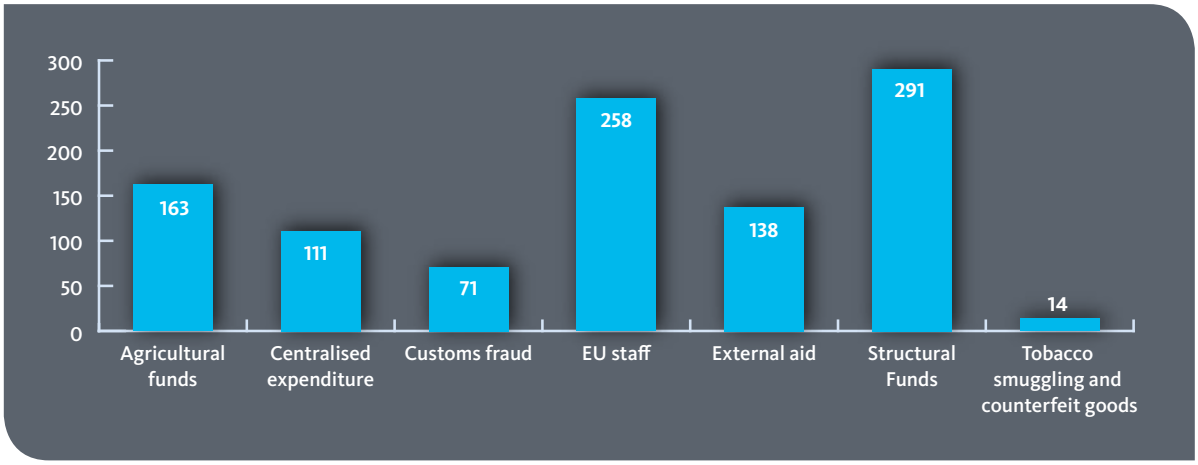


Distribution by OLAF sector

Two thirds of incoming information relates to EU budget expenditure (external aid, Structural Funds, direct expenditure and agriculture), with the highest amount of incoming information relating to Structural Funds.

([4]) Report fraud via FNS: http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm

Chart 6: Distribution of incoming information received by sector



3.2 Selection phase

On 1 February 2012, the process of selecting cases for further action by OLAF changed significantly with the creation of a central unit advising the Director-General on the opening and closing of investigations. A case is opened where OLAF is competent to act, the information is sufficient to justify an investigation or coordination case and the information falls within the investigation policy priorities established annually by OLAF ([5]).

Results of the selection process

In 2011, a record number of 1 592 cases ([6]) were dealt with in the selection process, which contributed to an increase in the average duration of the selection phase. This figure includes 671 selections that were ongoing at the end of 2011. The selection process resulted in the opening of 144 investigations and 34 coordination cases.

Chart 7: Cases opened as investigation/ coordination cases

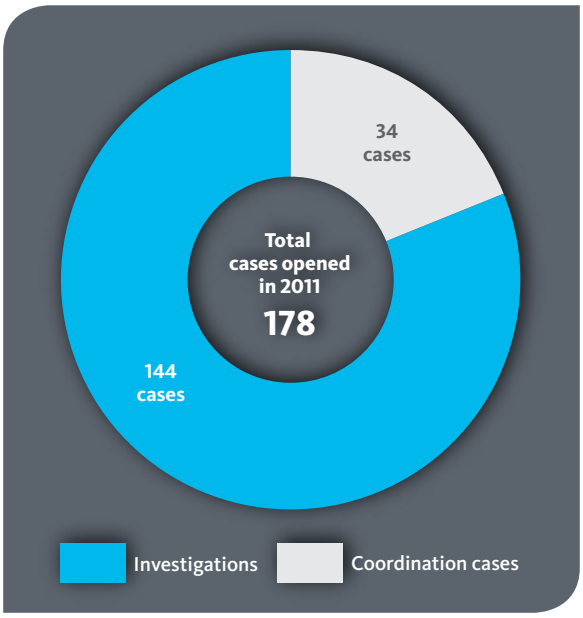


Table 1: Results of the selection process

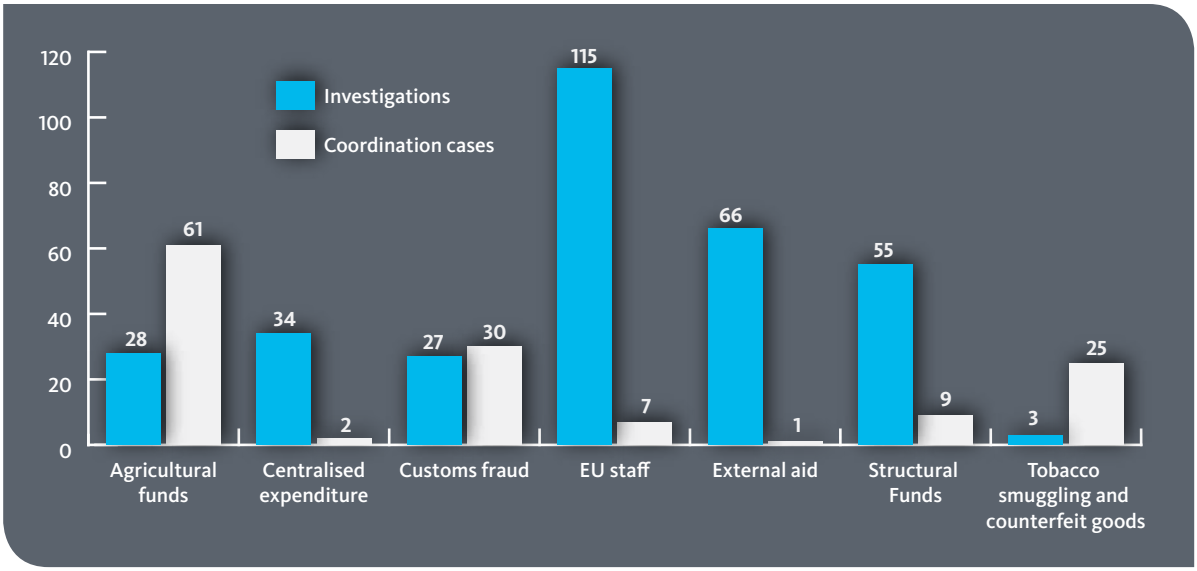
Selection results	2007	2008	2009	2010	2011
Cases dismissed ([7])	592	684	787	661	743
Cases opened as investigation/coordination cases	210	204	220	225	178
Total selections	**802**	**888**	**1 007**	**886**	**921**

([5]) The investigation policy priorities are published as part of OLAF's management plan (accessible at http://ec.europa.eu/atwork/synthesis/amp/doc/olaf_mp.pdf).

([6]) Including the former 'prima facie non-cases'.

([7]) See footnote 6.

Chart 8: Investigation and coordination cases by sector (end of 2011)



3.3 Investigative phase

As part of the new investigative procedures introduced on 1 February 2012, all investigative and post-investigative activity (including the monitoring of the implementation of actions recommended to be taken) is carried out by the same unit. This streamlining of the procedure will result in an overall reduction in the duration of investigations and more effective investigative outcomes.

OLAF's caseload

On 31 December 2011, there were 463 investigations and coordination cases, 70 % of which were investigations. The investigative resources of OLAF were focused on investigations whereby OLAF's special investigative powers could produce optimal results (through interviews, inspections of premises, on-the-spot checks, forensic operations and investigations in non-EU countries). The remaining cases related to coordination activities for which OLAF assisted Member States in their investigations.

Clearance rate

OLAF opened fewer cases during the year and concentrated its efforts on closing a greater number of cases than in previous years as reflected in the clearance rate.

Chart 9: Clearance rate (number of investigation and coordination cases opened/closed)



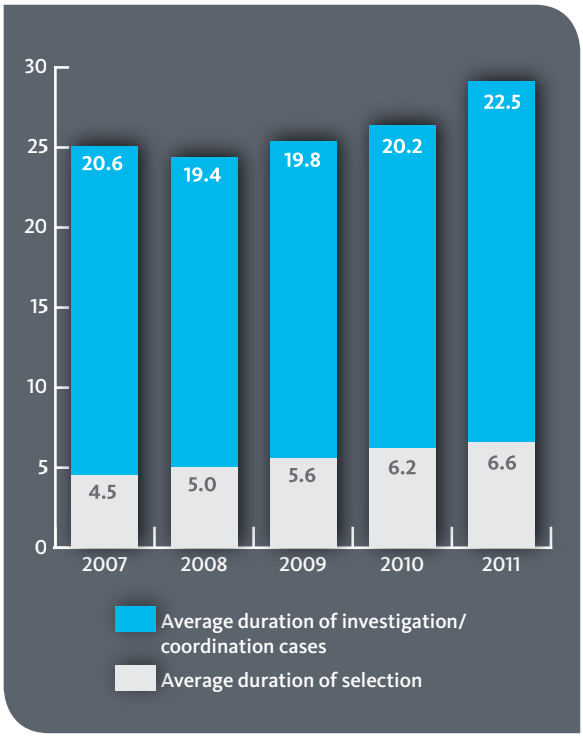
Table 2: Investigation and coordination cases at the end of each year

Type of case	2007	2008	2009	2010	2011
Investigation	317	317	325	338	328
Coordination case	91	108	132	155	135
Total	**408**	**425**	**457**	**493**	**463**

Average duration of investigation/ coordination cases

In order to improve the efficiency of the investigative activities, the Office focussed on the closing of old cases and fewer new cases were opened in 2011 than in previous years. This resulted in an increase in the average age of investigation and coordination cases ([8]).

Chart 10: Average duration (in months) of investigation/coordination cases



3.4 Monitoring phase

OLAF's recommendations

The Director-General may make a recommendation, based on a final report, for action to be taken by EU institutions, bodies, offices, agencies or competent authorities of Member States concerned. A recommendation may be for judicial, disciplinary, financial or administrative action to be taken. In 2011, recommendations were made in half of the cases closed.

Chart 11: Type(s) of recommendation made in 2011

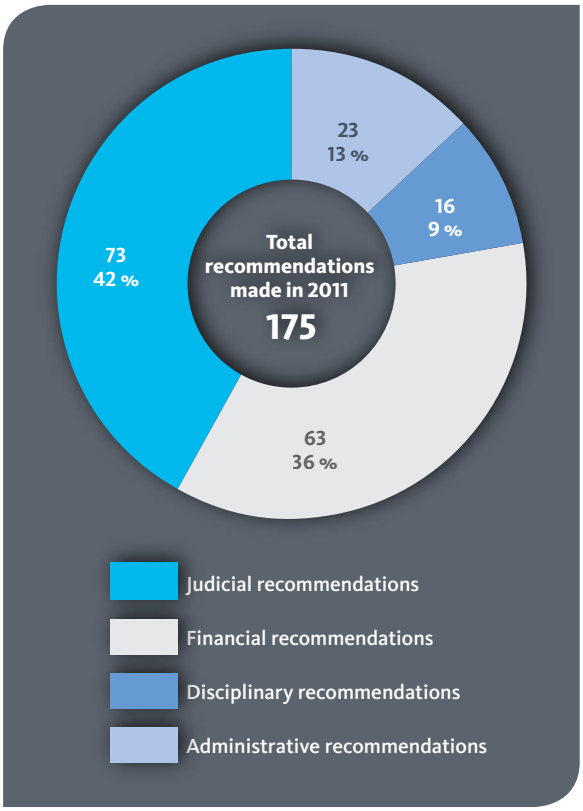


Table 3: Investigation and coordination cases closed with or without recommendations

	2007	2008	2009	2010	2011
With recommendation	153	125	106	98	108
Without recommendation	79	62	82	91	100
Total	**232**	**187**	**188**	**189**	**208**

([8]) To better reflect the efficiency of the Office, the duration of the investigative phase now includes the duration of cases closed during the reporting period and those still open at the end of the reporting period.

Chart 12: Cases in monitoring phase



In 2011, 108 cases were closed with 175 recommendations for action to be taken, of which 73 were judicial, 16 disciplinary, 63 financial recovery and 23 administrative.

Cases in monitoring phase

Under the new procedures, the investigation units will monitor the implementation of the Director-General's recommendations by EU institutions, bodies, offices, agencies or Member States concerned.

Within the framework of OLAF's internal review, an evaluation of the monitoring cases open in 2011 identified over 500 cases for which no further OLAF activity was necessary and where the likelihood of further significant results was low. Consequently and in order to better focus OLAF's resources on its investigative activity, a decision was taken in 2011 to end the monitoring activity for these cases.

Amounts recovered in monitoring phase

In 2011, EUR 691.4 million was recovered. This was an exceptional amount due to particular circumstances that year.

The total amount recovered in a case has been recorded in the OLAF report in the year in which the case is closed regardless of when it was actually recovered. The year 2011 is the last year in which

Table 4: Amounts recovered in monitoring activities closed during the year (million EUR)

Major sector	2007	2008	2009	2010	2011
Agricultural funds	0.7	0.3	137.2	11.4	34.0
Tobacco smuggling and counterfeit goods	0.0	0.2	0.0	0.0	0.1
Customs fraud	3.5	15.9	54.1	7.6	113.7
Centralised expenditure	0.5	0.5	0.9	10.6	0.8
EU staff	0.1	0.2	0.2	0.1	0.6
External aid	0.9	2.3	7.5	5.3	17.5
Structural Funds	197.7	128.0	51.4	32.9	524.7
Total	**203.4**	**147.4**	**251.3**	**67.9**	**691.4**

recoveries will be reported in this manner. In order to better reflect the activity of the Office during the reporting year, future reports will record the amounts recovered in the year of their recovery.

The amounts reported as having been recovered in 2011 include the total amounts recovered in the more than 500 monitoring cases which were closed.

The amounts reported as having been recovered in the Structural Funds sector in 2011 include a large single amount of EUR 389 million. This recovery relates to a single case in the Calabria region of Italy under programmes for the financing of roadworks.

Judicial results from monitoring activities

The number of months of imprisonment resulting from judicial action taken by the Member States, following OLAF recommendations, was significantly higher in 2011 than in previous years, reflecting the high number of monitoring activities closed. In the future, reporting will no longer be based on judicial results of closed cases, but on the results achieved during the year in question.

An analysis of judicial actions taken by the Member States following OLAF investigations in the period 2006-11 indicates that the number of cases in which no judicial decision has yet been taken is relatively high, at 54 %.

More than half of the 471 actions considered by the judicial authorities were dismissed before trial, 42 % of the actions resulted in a conviction and 7% resulted in acquittals. There was a significant variation in the results of the judicial actions between the Member States.

The statistics in table 6 reflect a number of factors, inter alia:

- the total number of investigations transmitted to the Member States;
- the different national procedures relating to criminal investigations;
- the length of national criminal proceedings.



Table 5: Judicial results from monitoring activities closed during the year

Judicial results	2007		2008		2009		2010		2011	
	CASES	VALUES	CASES	VALUES	CASES	VALUES	CASES	VALUES	CASES	VALUES
Suspended sentence (months)	13	246	12	452	9	339	18	1 249	35	840
Imprisonment (months)	9	326	15	955	15	1 240	23	1 503	59	6 137
Financial penalty (million EUR)	13	1.8	16	175.3	12	17.3	23	1 467.7	42	154.7

Table 6: Overview of progress on judicial actions in actions created between 2006 and 2011

Country	Actions transferred to MS	Actions pending judicial decision	As % of all actions transferred	Actions with judicial decision	As % of all actions transferred	Dismissed before trial	Dismissals as % of results	Aquittal	Aquittals as % of results	Convictions	Convictions as % of results
Austria	8	4	50.0 %	4	50.0 %	0	0.0 %	0	0.0 %	4	100.0 %
Belgium	56	28	50.0 %	28	50.0 %	10	35.7 %	0	0.0 %	18	64.3 %
Bulgaria	37	23	62.2 %	14	37.8 %	6	42.9 %	2	14.3 %	6	42.9 %
Cyprus	1	1	100.0 %	0	0.0 %	0	NA	0	NA	0	NA
Czech Republic	23	15	65.2 %	8	34.8 %	6	75.0 %	0	0.0 %	2	25.0 %
Denmark	4	1	25.0 %	3	75.0 %	2	66.7 %	0	0.0 %	1	33.3 %
Estonia	3	2	66.7 %	1	33.3 %	0	0.0 %	0	0.0 %	1	100.0 %
Finland	12		0.0 %	12	100.0 %	1	8.3 %	0	0.0 %	11	91.7 %
France	29	17	58.6 %	12	41.4 %	3	25.0 %	0	0.0 %	9	75.0 %
Germany	168	54	32.1 %	114	67.9 %	37	32.5 %	12	10.5 %	65	57.0 %
Greece	86	60	69.8 %	26	30.2 %	14	53.8 %	7	26.9 %	5	19.2 %
Hungary	10	9	90.0 %	1	10.0 %	1	100.0 %	0	0.0 %	0	0.0 %
Ireland	0	0	NA	0	NA	0	NA	0	NA	0	NA
Italy	112	75	67.0 %	37	33.0 %	21	56.8 %	2	5.4 %	14	37.8 %
Latvia	4	4	100.0 %	0	0.0 %	0	NA	0	NA	0	NA
Lithuania	9		0.0 %	9	100.0 %	1	11.1 %	0	0.0 %	8	88.9 %
Luxembourg	2	1	50.0 %	1	50.0 %	0	0.0 %	0	0.0 %	1	100.0 %
Malta	5	5	100.0 %	0	0.0 %	0	NA	0	NA	0	NA
Netherlands	29	13	44.8 %	16	55.2 %	11	68.8 %	0	0.0 %	5	31.3 %
Poland	90	73	81.1 %	17	18.9 %	9	52.9 %	2	11.8 %	6	35.3 %
Portugal	21	12	57.1 %	9	42.9 %	3	33.3 %	0	0.0 %	6	66.7 %
Romania	225	97	43.1 %	128	56.9 %	94	73.4 %	4	3.1 %	30	23.4 %
Slovakia	16	7	43.8 %	9	56.3 %	8	88.9 %	1	11.1 %	0	0.0 %
Slovenia	2	2	100.0 %	0	0.0 %	0	NA	0	NA	0	NA
Spain	54	49	90.7 %	5	9.3 %	5	100.0 %	0	0.0 %	0	0.0 %
Sweden	5	1	20.0 %	4	80.0 %	0	0.0 %	0	0.0 %	4	100.0 %
United Kingdom	19	6	31.6 %	13	68.4 %	9	69.2 %	1	7.7 %	3	23.1 %
Total	**1 030**	**559**	**54.3 %**	**471**	**45.7 %**	**241**	**51.2 %**	**31**	**6.6 %**	**199**	**42.3 %**

3.5 Case examples

3.5.1 Expenditure: OLAF protects EU interests

OLAF protects the financial interests of the EU in relation to the expenditure side of the EU budget. The case studies below illustrate OLAF's achievements in the fields of regional policy, support for a non-EU country and EU enlargement.

Case study A: The winning consortium misrepresented its qualifications and experience in a high-value EU tender



The Directorate-General for Regional Policy (DG REGIO) of the European Commission passed to OLAF information received about possible irregularities in the tender procedure for an EU-funded (Cohesion Fund) project for the construction of a plant in Bulgaria. The EU funding allocated for the project was EUR 34 million. The European Bank for Reconstruction and Development (EBRD) had also provided a loan of EUR 25 million for this project.

The central allegations in the case were that the consortium that had won the tender had misrepresented its qualifications and eligible experience in the specialised sector concerned. Of the EU funding involved, an advance payment of over EUR 7 million had already been made for the project.

OLAF's findings

OLAF's investigation in the matter necessitated enquiries in several Member States. The investigation found that the successful bid had been prepared and submitted by the winning consortium in a manner which gave an incorrect and misleading account of its experience and qualifications.

OLAF's recommendations

Consequently, OLAF recommended to the Regional Policy DG that the EU funding of EUR 34 million allocated for the project should be cancelled and that the EUR 7 million already paid out should be recovered. The DG is acting on these recommendations. OLAF also passed the file to the Bulgarian judicial authorities, which have opened a criminal investigation.

Conclusions and further steps

In EU-funded projects of a high value, Member States need to be rigorous in their examination and understanding of supporting documentation whose purpose is to demonstrate a proven and eligible record in a particular sector. Only then can it be expected that the best quality will be obtained for EU taxpayers' money. This is especially so when such supporting documentation is obtained from non-EU countries and refers to specialised sectors.

Case study B: Abuse of experts' CVs in an EU-funded African project



OLAF opened an investigation after it had received information from an EU delegation in an African country, alleging irregularities in a procurement procedure. The information concerned a service contract assigned to an EU-based company responsible for the selection of experts to direct and supervise roadworks financed by the EU budget.

OLAF's findings

OLAF carried out checks and found that the EU-based company had systematically altered the CVs of its experts, to ensure that they would meet the award criteria. OLAF also found that controls were deficient. There had been a high turnover of experts and their qualifications and competences were not checked as required. There was a general failure to ensure continuity. By examining other contracts of the same European company in another three African countries, the same modus operandi was discovered, including the substitution of highly qualified experts with unqualified last-minute replacements.

OLAF's recommendations

OLAF made recommendations for the recovery of the amounts, by means of financial damages and penalties of up to 10 % of the contract, amounting to a total of EUR 3 million. OLAF also recommended the exclusion of the contractor from EU funding for a period of time.

Conclusions and further steps

OLAF also recommended that databases of experienced experts in projects financed by EU funds should be set up and that compulsory financial sanctions should be applied in such cases.

Case study C: Fraudulent use of EU support by an Albanian NGO

The European Commission delegation in Albania and the Commission's Directorate-General for Enlargement provided OLAF with information on a possible fraud scheme affecting external aid funds awarded to two Albanian NGOs. OLAF opened an investigation in September 2011 and carried out its investigation in Albania the same month.

OLAF's findings

A number of interviews were conducted and several companies were visited. The findings of the mission fully confirmed the suspicions of fraud regarding the main grant contract awarded to an Albanian NGO. More specifically, investigators found that a tender procedure that should have been organised in the framework of the contract had never taken place and that documents presented to the EU delegation had been falsified. Evidence showed that an event that had allegedly been organised in the framework of the contract had never taken place, and that all documentation presented regarding the event had apparently been falsified. Most invoices presented in the framework of the same project had also been falsified.

Investigators found that the NGO staff responsible for the project had left Albania and were currently living in Canada. OLAF had grounds to believe that the falsified documentation and/or invoices had been presented in two or three other projects awarded to the same NGO.

OLAF's recommendations

As a result of OLAF's findings, the Commission launched recovery orders. For the main contract, the sum to be recovered amounts to the full EU contribution of more than EUR 70 000. For other contracts, recovery orders are still being prepared and national judicial authorities are commencing proceedings.

Conclusions and further steps

Experience shows that projects requiring the organisation of local educational or other events tend to create a risk of fraud. The EU funding per project is relatively low, so the likelihood of projects being inspected is also low. This case also shows that the same beneficiary can easily perpetrate such fraud in similar projects benefiting from EU grants. EU delegations need to improve their monitoring and inspection procedures. At present, only copies of invoices need to be delivered to the EU delegation, and this significantly raises the risk of fraud, as it is easy to falsify them.

3.5.2 Revenue: OLAF protects traditional own resources

Own resources provide the EU's main revenue. There are three kinds of own resources: firstly, traditional own resources which account for roughly 13 % of EU revenue, comprising mainly customs duties on imports from outside the EU and sugar levies; secondly, own resources from value added tax (VAT); and, thirdly, contributions based on gross national income (GNI). As regards traditional own resources, OLAF exercises the Commission's powers to carry out administrative investigations to fight against customs fraud and support the national customs authorities in their missions. The case studies below illustrate OLAF's achievements in the discovery of fraud in the areas of customs duties, anti-dumping duties and tax payments.

Case study D: Fraudulent biodiesel import — US biodiesel shipped through India



OLAF established that, since the entry into force of EU anti-dumping duties for biodiesel of US origin in 2009, significant consignments of US biodiesel had been shipped from the USA to a company in India. Subsequently, the same Indian company had exported similar quantities of biodiesel to the EU, which had been declared on importation as being of either preferential or non-preferential Indian origin. Therefore, no import duties had been paid. However, it was suspected that the biodiesel exported by the Indian company to the EU was of US origin and should have been subject to such duties.

OLAF decided to open an external investigation into this matter. In the course of the investigation, it requested and received information and assistance from competent authorities in Belgium, Spain, Switzerland, India and the USA.

OLAF's findings

In December 2011, OLAF made an investigative mission to India with the support and cooperation of the national authorities there. Substantial evidence was obtained by OLAF from national authorities and economic operators, other than the suspect company, which were not directly involved, such as storage and inspection companies. OLAF's investigation established that the company in India had imported biodiesel from the US, which had been stored temporarily in a warehouse and subsequently re-exported to the EU.

The Indian company, which was also a producer of biodiesel, had added minor quantities of biodiesel of Indian origin to the biodiesel of US origin and subsequently misled the Indian authorities about the origin and the composition of the product in order to fraudulently obtain certificates of preferential Indian origin. Biodiesel imported with such certificates was not subject to the payment of any import duties on importation into the EU.

In the case of one shipment, the Indian company had transported the US biodiesel to its factory and alleged that this biodiesel had been reprocessed in order to improve its properties and so meet EU standards. However, OLAF established that the biodiesel exported from the US to India had already met these standards. Moreover, these standards were not legally required on import into the EU. Therefore, the process allegedly carried out by the Indian company, which did not actually result in a new product, was not justified in economic terms. Consequently, even if the processing had been carried out as declared by the Indian company, the biodiesel would have retained its non-preferential US origin.

OLAF's recommendations

Belgium and Spain, the Member States of importation, have been provided with the necessary evidence to recover evaded import duties of over EUR 32 million.

Conclusions and further steps

This case demonstrates the importance of international cooperation with all counterpart administrations, including those countries which are not directly concerned but are able to provide OLAF with valuable information. This case also demonstrates the importance of gathering evidence from economic operators not directly implicated in the fraud.

Case study E: Identity theft — Fraudulent import of plastic bags from China

In 2010, OLAF received a complaint from the EU-based parent company of a Chinese plastic bag producer that their company's name had been used illegally by other Chinese exporters to wrongly benefit from the considerably reduced rate of anti-dumping duties payable on import into the EU of that company's legitimate products.

OLAF decided to open an investigation into this matter. In the course of the investigation, it requested and received information and assistance from the competent authorities in China and the EU Member States (primarily Denmark, Germany, Ireland, Sweden and the UK).

OLAF's findings

In April 2011, OLAF carried out an investigative mission to China with the support and cooperation of the Chinese authorities and customs officers from Germany and the United Kingdom. Substantial evidence was obtained by OLAF from those national authorities and the complainant company, which proved that a significantly larger quantity of plastic bags had been imported from China, in the name of the complainant company, than the company's own figures showed.

Over 2 000 metric tons of plastic bags, worth over EUR 3 million, had been incorrectly imported into the EU to wrongly benefit from the reduced rate of anti-dumping duties applicable to the company whose name was being misused. Additionally, these consignments were often accompanied by falsified certificates of Chinese origin. This fraud had directly led to the evasion of over EUR 1 million in EU own resources.

OLAF's recommendations

The EU Member States of importation (Denmark, Germany, Ireland, Sweden and the UK) have been provided with the necessary evidence to recover the evaded import duties. Follow-up action is under way in China.

Conclusions and further steps

This case demonstrates the importance of international cooperation, not only with the competent national authorities, but also with the economic operators who are sometimes the victims of this type of fraud and without whose cooperation a successful investigation would not have been possible.

Case study F: International criminal group smuggles cigarettes from Russia



In March 2010, OLAF received a letter from the Public Prosecutor's Office in Bielefeld (Germany) requesting that OLAF provide assistance in an ongoing investigation carried out by the Customs Investigation Office in Hanover and coordinate further investigative actions in Germany, Lithuania and Poland. This investigation concerns the illegal activities of an international criminal group smuggling cigarettes from Russia (Kaliningrad) and Ukraine via Belarus and Lithuania onto the Polish and German black markets. The criminal organisation has been using several transport companies and various cover loads and can deliver 4 million–6 million cigarettes at a time, causing significant losses to the EU and Member States' budgets.

OLAF's findings

This operation was launched in May 2010 after specific intelligence about suspicious cigarette smuggling, money laundering and organised crime was gathered by OLAF and law enforcement agencies in the Member States concerned. The aim of the investigation is twofold: firstly, to coordinate, assist and support the investigation carried out by law enforcement agencies in these Member States; and, secondly, to seize the smuggled cigarettes, arrest the members of the criminal organisation and freeze their assets.

Following the first operational meeting organised by OLAF in May 2010 in Germany, joint operations have resulted so far in the seizure of approximately 70 million cigarettes in Germany, Lithuania, Poland and Belarus representing losses of taxes and duties to the Member States and EU of approximately EUR 6.5 million. Additionally, 35 persons have been charged, 10 of whom — including the main organisers — remain in detention in Lithuania. In Poland, 30 suspects have been charged with cigarette smuggling.

The complexity of this case is due to the flexibility of 'business relations' between criminal groups in Germany, Lithuania and Poland, namely from variations in demand and in cigarette prices on the black market. OLAF has played a key role in organising and sharing coordination meetings with the representatives of the Member States concerned. Moreover, all relevant information and documents have been exchanged via OLAF in order to overcome linguistic problems and the difficulties inherent in cooperation between different legal systems.

OLAF's recommendations

Investigations are ongoing as OLAF is still facilitating the exchange of evidence between the countries involved

and more arrests are expected. Penalties for smugglers will differ depending on the Member State in which the suspect was caught.

Conclusions and further steps

This case highlights the significant losses to the EU budget that can be brought about by organised crime groups and demonstrates that OLAF has a major role to play in fighting transnational crime. A thorough examination of criminal groups' modus operandi and organising coordination and cooperation between law enforcement agencies at supranational level are essential in order to efficiently tackle cigarette smuggling.

3.5.3 OLAF fights fraud, corruption and misconduct within all EU institutions and bodies

OLAF is mandated to investigate suspected cases of serious professional misconduct in all EU institutions, bodies and agencies.

Case study G: EU official caught taking bribes

OLAF received allegations that an EU official had committed irregularities, in the form of demanding bribes. The EU official in question was employed as a project manager in a European Commission delegation. This entailed the selection of contractors and the implementation of the project.

OLAF's findings

OLAF investigators obtained immediate access to the relevant information. OLAF analysts scrutinised the relevant computer data obtained by its investigators. This information was subsequently referred to the competent judicial authorities. The same authorities drew on OLAF's expertise when conducting searches and evaluating the findings within the framework of a criminal investigation.

OLAF's findings showed that the EU official allegedly established improper links with participants in the projects and allowed participants to engage in improper contacts during the selection procedure. Over the years, the person concerned had supposedly demanded and obtained bribes. As a result, some participants were given favourable treatment.

OLAF's recommendations

A criminal investigation of the EU official and the project participants was opened as a result of OLAF's findings. In parallel, OLAF recommended that the official be removed from his post, as a precautionary measure. OLAF also recommended that the project participants be entered in the Commission's early warning system, to ensure that they cannot take part in any future European projects.

Conclusions and further steps

This case shows that it is important that OLAF's powers include immediate access to relevant premises and information to enable OLAF to examine suspicious elements and to secure data for use as admissible evidence in court by judicial authorities. OLAF has been able to continue assisting the judicial authorities after the criminal investigation was opened. The information also led to a second criminal case being opened in another jurisdiction.

Case study H: EU official divulges selection test answers to a friend at an EU agency



OLAF opened an investigation concerning possible irregularities in the selection procedure at one of the EU agencies. During the examination process, it became clear that information had been divulged, as one of the candidates' answers were almost identical to the model answers. It was considered that an official member had disclosed unauthorised information to an outside person who was a candidate in the competition.

OLAF's findings

OLAF discovered, through a forensic analysis of computers, that a high-ranking official had sent the questions and model answers of the selection test,

via a private mailbox, to a candidate, who was a friend of his. He violated his obligations with regard to rules concerning conflicts of interest and disclosed confidential information.

OLAF's recommendations

Based on OLAF's recommendation, the agency's management board decided to open a disciplinary procedure, as a result of which the high-level official resigned.

Conclusions and further steps

This case shows the efficiency of a forensic analysis carried out by OLAF in order to verify the violation of professional rules by EU officials. The cooperation with the agency was smooth and allowed OLAF to conduct a thorough check, which led to the recommendation of disciplinary measures.

3.5.4 Summary

OLAF is an administrative service with no judicial power. As an investigative service, OLAF cannot impose sanctions. It must rely on the Member States, EU institutions and bodies to carry out its recommendations. For example, if OLAF finds evidence that EU funds have been misused, it will recommend repayment or recovery of the funds. If OLAF finds evidence of criminal acts, it will ask the national authorities to start a criminal investigation. For investigations concerning EU staff, it can recommend disciplinary follow-up. The case is then referred to a disciplinary panel that decides on the measures to be taken.

OLAF adds value thanks to its multidisciplinary team of investigators, its cooperation with bodies responsible for criminal investigations in the Member States, its cooperation with EU bodies on the management and auditing of funds, and its tools to integrate and make accessible databases necessary for an efficient fight against fraud.

4. Focus on: curbing cigarette smuggling along the EU eastern border

Smuggling of highly taxed goods is a prevailing criminal phenomenon at the eastern border. It causes significant losses of revenue to the budgets of the EU and its Member States. Although accurate statistics are difficult to obtain, the direct loss in customs revenue as a result of cigarette smuggling in the EU is estimated to amount to more than EUR 10 billion a year.

Cigarette smuggling is almost exclusively the domain of organised crime groups that make substantial financial gains from their illegal activities. Their activities are also detrimental to public health as smuggling can lead to a rise in the consumption of tobacco products, especially in vulnerable groups, such as young people.

With all tools at its disposal, OLAF is active in the fight against cigarette smuggling. A large number of coordination cases and several investigations have been concluded over the years and technical assistance, including co-financing of equipment, has been provided to Member States' authorities. OLAF has also engaged in negotiations with cigarette manufacturers and with international partners in both bilateral and international contexts.

A number of factors contribute to the large-scale smuggling of tobacco. The exchange of operational information between competent authorities in the region is not always sufficient, and corruption is a prevalent problem at the eastern border, which smugglers often use to cover their illegal activities. Due to insufficient financing, flaws remain in infrastructure and equipment at the external borders.

In order to help tackle this complex problem, the Commission published an action plan to fight against cigarette and alcohol ([9]) smuggling along the EU eastern border, in June 2011.

([9]) The smuggling of alcohol involves less loss of revenue than that of cigarettes. The seizures from non-commercial traffic and passengers are not recorded in databases because individual seizures are not significant.

The implementation of the EU eastern border action plan was one of OLAF's main priorities in 2011 and it will continue to be a key objective in 2012. The following are examples of actions accomplished by OLAF in 2011.

- **Organised by the Polish Customs Service in close cooperation with OLAF, Operation Barrel was conducted in October 2011. Twenty-four Member States, as well as Norway, Switzerland, Croatia and Turkey, participated in this first joint customs operation targeting rail traffic along the EU's eastern border. The Taxation and Customs Union DG, Europol, Frontex and the World Customs Organisation also provided their support. Operation Barrel resulted in the seizure of 1.2 million cigarettes.**
- **In the Commission's legislative proposal for the future Hercule III programme ([10]), to be managed by OLAF, the rate of co-financing by the EU for technical equipment is significantly higher than in the previous programmes. The proposal is currently being negotiated by the European Parliament and the Council of the European Union.**
- **In August 2011, an OLAF liaison officer (OLO) was posted in the EU delegation in Kiev, Ukraine, to establish closer contacts and case-related cooperation with the competent services of the region, particularly in the area of illicit tobacco products. The OLO's actions are already producing investigative results.**
- **A targeted regional meeting on cigarette smuggling organised by OLAF took place in Bucharest in June 2011 with the participation of competent authorities from Bulgaria, Hungary, Romania, Moldova and Ukraine. The meeting not only offered the opportunity to share views and expertise with other law-enforcement authorities from the region but also provided a useful platform for discussing the possibility of developing internal cooperation and coordination.**

([10]) Please refer to Section 7.5.1 for further information.

While the action plan focuses on a particularly problematic geographical area, OLAF contributes to the Commission's efforts to tackle the smuggling of cigarettes on a global scale. In this context, OLAF has coordinated the EU position and has represented the EU throughout the negotiations of a Protocol on the Elimination of the Illicit Trade in Tobacco Products, (under the umbrella of the Framework Convention on Tobacco Control (FCTC)), a World Health Organisation (WHO) treaty.

In 2007, the Conference of the Parties to the FCTC established an intergovernmental negotiating body (INB) to negotiate a draft protocol. The negotiations, which started in 2007, involved over 170 parties. At the fifth meeting of the INB in April 2012, the parties agreed the draft protocol.

The protocol, once ratified, would become a powerful international treaty in the fight against the illicit trade in tobacco products. It is foreseen that the protocol would oblige parties to ensure thorough control of the supply chain by means of licencing or other equivalent approval or control systems. In this context, all tobacco products would be subject to a tracking and tracing regime in order to assist law enforcement officers worldwide to identify the companies and persons responsible for the diversion of tobacco products onto the black market. It is also foreseen that there would be strong anti-money laundering, record-keeping and due diligence ('know your customer') provisions. Control of manufacturing and movement of tobacco products in free zones, and the prohibition of intermingling of tobacco products with non-tobacco products at the point of export from free zones with appropriate criminal sanctions for offenders, are major successes in the text of the proposed protocol.

The draft protocol will be submitted for consideration and adoption to the Conference of the Parties at the WHO FCTC in November 2012.

5. Data protection

Compliance with Regulation (EC) No 45/2001 on data protection ([11]) is a comprehensive and challenging aspect of OLAF's case-related work, in particular since the requirements of data protection must be balanced with the fulfilment of OLAF's investigative and operational tasks. With the support of OLAF's Data Protection Officer (DPO), staff are instructed to comply with the rules on the protection of personal data laid down in this regulation, such as the requirements on data quality, providing information to the data subject and respecting the rights of the data subject regarding access, rectification, blocking and erasure.

5.1 EDPS: 2011 inspection of OLAF

In July 2011, the European Data Protection Supervisor (EDPS) conducted an inspection at OLAF's premises to verify implementation of his recommendations made with respect to investigations conducted by OLAF, as well as those regarding OLAF's security systems. The EDPS issued a report on the inspection with recommendations in October 2011. The inspection team randomly selected 15 investigations (five internal and 10 external) to examine from a list of cases that OLAF had provided. For each investigation selected, the team checked compliance with data protection requirements related to information on the data subject and transfers of personal data. The EDPS found that compliance was higher for internal than for external investigations, and made several recommendations for improving compliance in external investigations. OLAF is currently working on implementing these recommendations.



5.2 EDPS: 2011 general survey

OLAF considers the protection of personal data a priority issue. The EDPS has acknowledged OLAF's high level of compliance in a report on its 2011 general survey of compliance by all EU institutions and bodies ([12]). The EDPS analysed the performance of all 58 EU institutions and bodies, including OLAF, in each of six areas:

- completion of the inventory of processing operations;
- completion of notifications;
- completion of prior checks with the EDPS;
- follow-up given to EDPS recommendations;
- adoption of data protection implementing rules; and
- the appointment and role of the DPO.

The institutions and bodies were divided into four groups, based on when they were created and when

([11]) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1–22

([12]) EDPS, 'Measuring compliance with Regulation (EC) 45/2001 in EU institutions and bodies (Survey 2011)' (http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Inquiries/2012/12-01-23_Survey_2011_General_Report_EN.pdf).

they appointed a DPO. OLAF was found to have performed highly on all criteria.

5.3 The OLAF inventory and register of personal data-processing operations

Regulation 45/2001 requires that each EU institution and body has a publicly available register of all of its personal data-processing operations. The OLAF register is available on the OLAF website ([13]).

The register contains the notifications prepared by OLAF, providing details about the processing, the categories of data subjects, the categories of personal data being processed, the recipients of the data and the retention period. OLAF currently has approximately 70 processing operations in its register. During 2011, it introduced eight notifications for new, or revisions to existing, processing operations.

5.4 The EDPS's 'prior checks' of OLAF's sensitive processing operations

Approximately half of OLAF's processing operations have been subject to prior checking by the EDPS because they fall within the criteria specified in Article 27 of Regulation 45/2001 as likely to present specific risks. In particular, a number of OLAF's processing operations relating to investigations and coordination cases may relate to 'suspected offences, offences, criminal convictions or security measures'. In 2011, OLAF submitted six new notifications to the EDPS for prior checking, all of which related to the OLAF reorganisation (one concerned procedures for the reallocation of staff within OLAF and five concerned the new OLAF investigative procedures).

For each of these prior checks, the EDPS has issued an opinion, which is available on the OLAF website and on the EDPS website ([14]). Each prior checking opinion contains recommendations. OLAF has implemented most of the EDPS's recommendations, and continues to work with the EDPS to find solutions on several outstanding issues.

5.5 Guidance for OLAF staff

In October 2010, OLAF adopted an updated version of its 'Guidelines for OLAF staff regarding practical implementation of data protection requirements.' These guidelines provide OLAF investigative staff with detailed instructions on how to implement data protection requirements in their daily work. OLAF staff also received training on the guidelines at the time of their introduction. Following the OLAF internal review, it will be necessary to update these guidelines in the course of 2012. The updated guidelines will also implement a number of recommendations made by the EDPS in his recent prior checking opinions. Once completed, OLAF staff will receive training on the revised data protection procedures.

([13]) http://ec.europa.eu/anti_fraud/dataprotectionofficer//register/index.cfm?TargetURL=D_REGISTER

([14]) http://www.edps.europa.eu/EDPSWEB/edps/Supervision/priorchecking/OpinionsPC

6. Supervisory Committee

OLAF's Supervisory Committee monitors the investigative activities of the Office with the objective of reinforcing OLAF's independence. It is composed of five outside experts, appointed by the common agreement of the European Parliament, the Council and the Commission, who take no instructions from any government, institution, body, office or agency.

The Director-General keeps the committee regularly informed of the Office's activities and investigations and their results, as well as of the follow-up actions carried out.

The committee monitors the implementation of OLAF's investigative function without interfering in the conduct of investigations in progress. The committee delivers opinions to the Director-General and submits reports to the EU institutions.

In 2011, the members of the committee were the following: Mr Kálmán Györgyi, Ms Rosalind Wright, Mr Peter Strömberg, Ms Diemut Theato and Mr Luis López Sanz-Aranguez.

The Supervisory Committee provided several opinions, notably concerning the access by OLAF to personnel data held by the Commission, OLAF's powers concerning the independent conduct of internal investigations within the EU institutions and the transmission by OLAF to the institutions of final case reports drawn up following internal investigations closed without follow-up. The Committee's opinion on the amended proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (and repealing Regulation (Euratom) No 1074/1999) contributed to the general debate on the reform of this regulation.

The committee issued an activity report covering the period from January to November 2011, which was the final activity report of this committee whose term of office began in December 2005. As well as summarising its activities during 2011, this report provides a synopsis of the main issues on which the Supervisory Committee focused its monitoring activity throughout its six-year mandate.

The recommendations of the Supervisory Committee have provided very useful advice for improving OLAF's efficiency and effectiveness. In its activity report the Supervisory Committee recognises, in particular, OLAF's efforts to implement the opinions on the respect for fundamental rights and procedural guarantees and on investigative planning. Many of the recommendations given in different opinions and reports of the Supervisory Committee have been implemented in the course of the internal review of the Office.

The new members of the Supervisory Committee were appointed on 23 January 2012. They are (from left): Mr Johan Denolf, Ms Catherine Pignon, Mr Christiaan Timmermans, Ms Rita Schembri and Mr Herbert Boesch. Mr Timmermans was elected chairman of the Committee.



7. Policy for fraud prevention and detection

7.1 OLAF reform proposal

The basic regulation defining OLAF's main role and remit for carrying out its administrative investigations (Regulation (EC) No 1073/1999) is currently under review. Further to a reflection process carried out during 2010, the Commission presented an amended proposal to improve the legislative framework governing the work of OLAF ([15]) to the co-legislators, the European Parliament and the Council of the European Union, in March 2011.

Based on the Commission proposal, the reform of the regulation is likely to confirm certain legal aspects, including the presumption of innocence and rights, such as the right for the person concerned by an investigation of the Office to make their views known and to be assisted by a person of their choice. Based on the proposal, each Member State would be asked to provide support to OLAF at various stages of an investigation, to allow the Office to monitor the action taken to implement its recommendation(s). Member States are asked to designate an anti-fraud coordination service (AFCOS) for effective cooperation and information exchange with OLAF. The reform also focuses on improving the effectiveness of information exchange with judicial authorities.

To strengthen its capacity to conduct operations outside the EU, OLAF would be mandated to make administrative arrangements with competent services in non-EU countries. Furthermore, OLAF would receive a mandate to intensify its cooperation with other EU partners and to agree on administrative arrangements with Eurojust, the EU's judicial cooperation unit, and Europol, the EU's police office.

Provisions on OLAF's governance would be reinforced. The role of the Supervisory Committee would be clarified and the mandate of the Director-General would be extended to seven years, instead of the current five years. But in the future this mandate would be non-renewable, to reinforce the independence of the Director-General.

After negotiations at working group level under the Hungarian Presidency (January–June 2011), which led to the adoption of a draft 'outcome of proceedings', the Polish Presidency (July–December 2011) received a mandate to negotiate with the European Parliament rapporteur in the framework of an informal trilogue. Since then, more than 10 trilogue meetings have taken place during the Presidencies of Poland and Denmark (January–June 2012) in order to agree on a joint compromise in the first reading.

7.2 Commission Anti-fraud Strategy

As part of its preventive mandate, OLAF plays a key role in the development of comprehensive anti-fraud policies. The new Commission strategy ([16]), adopted in June 2011, aims at improving:

- the prevention and detection of fraud;
- conditions for fraud investigations;
- recovery and deterrence.

The strategy is directed primarily at Commission services and provides for the development of sectoral strategies in each policy area.

The strategy highlights the following priorities:

- adequate anti-fraud provisions in Commission proposals on spending programmes under the new multiannual financial framework (MFF);
- the development and implementation of anti-fraud strategies at Commission service level, with the assistance of OLAF;
- the revision of the public procurement rules in order to simplify requirements and reduce the risks of procurement fraud in the Member States.

([15]) 'Amended proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (Euratom) No 1074/1999', COM(2011) 135 final, 17.3.2011.

([16]) Communication from the Commission on the Commission anti-fraud strategy, COM(2011) 376 final, 24.6.2011.

The implementation of the actions linked to the strategy is in progress. A number of concrete results have already been achieved, including:

- the insertion/reinforcement of anti-fraud provisions in the legislative proposals submitted in the framework of the MFF for the period 2014–20;
- the adoption of an action plan to fight against smuggling of cigarettes and alcohol along the EU's eastern border (see Chapter 4 for further information);
- the setting-up of a fraud prevention and detection network (FPDNet) within the Commission;
- the creation of a dedicated fraud prevention section on OLAF's intranet site, accessible to Commission services;
- an ad hoc meeting on fraud prevention in the field of structural actions, within the framework of the Advisory Committee for the Coordination of Fraud Prevention (Cocolaf), in preparation for the establishment of a sectoral subgroup;
- the publication and dissemination of a casebook for structural actions.

7.3 Protection of EU financial interests by criminal law and administrative investigations

Criminal investigators, prosecutors and judges in the EU Member States apply their own national rules to decide how to combat fraud and to intervene to protect EU finances, if at all. As a consequence, the conviction rate in cases involving offences against the EU budget varies considerably across the EU from one Member State to another, ranging from 14 % to 80 % ([17]).

OLAF's experience, underpinned by statistical and analytical evidence, shows that there is insufficient deterrence concerning criminal misuse of the EU budget.

Member States' criminal law has been, to a limited extent, harmonised with the Convention on the Protection of the European Communities' Financial Interests ('PIF Convention'). However, a number of shortcomings have not yet been addressed ([18]). Additionally, practitioners have pointed out that mutual legal assistance has its limits, that the use of evidence in cross-border cases is sometimes problematic and that there is a tendency to limit prosecutions to domestic cases and disregard the European dimension.

The Lisbon Treaty has strengthened the EU's powers in protecting the financial interests of the EU. Inasmuch as related criminal law aspects are concerned OLAF has cooperated internally with the Directorate-General for Justice.

In May 2011, the Commission announced its intention to step up action in three areas where the legal framework should be further improved to protect EU financial interests ([19]).

- The current definitions of the major offences affecting EU financial interests (such as fraud) as well as of other criminal offences affecting the protection of EU financial interests (such as embezzlement or abuse of power) vary across the EU. These concepts should be approximated by means of a new initiative on the protection of EU financial interests by substantive criminal law. The Commission is in the process of preparing a proposal for a directive to be based on Article 325 of the Treaty on the Functioning of the European Union (TFEU), for adoption in 2012.
- A proposal on the procedural framework for the protection of EU financial interests is planned, in order to make it easier for prosecutors and judges across the EU to fight fraudsters. This should, in particular, improve cooperation and the exchange of information between all competent actors, including police, customs, tax and judicial authorities, and ensure the admissibility of evidence stemming from such cooperation.
- An institutional framework should be established to investigate, prosecute and bring to justice

([17]) See also OLAF's report for 2010 (http://ec.europa.eu/anti_fraud/about-us/reports/olaf-report/index_en.htm).

([18]) 'Second report on the implementation of the Convention on the Protection of the European Communities' Financial Interests and its protocols', COM(2008) 77 final, 14.2.2008.

([19]) Commission communication on the protection of the financial interests of the European Union by criminal law and by administrative investigations — An integrated policy to safeguard taxpayers' money, COM(2011) 293 final, 26.5.2011.

perpetrators of offences against EU financial interests. This should follow a coherent approach for all competent EU structures, including the reinforcement of existing bodies — Eurojust and OLAF — and comprise the establishment of a specialised European public prosecutor's office. In accordance with Article 86 TFEU, these structures would be competent to investigate, prosecute and bring to justice perpetrators of fraud and any other offences affecting EU financial interests.

The Commission reports annually, in cooperation with the Member States, on the protection of the EU's financial interests under Article 325 TFEU. The report for 2011 is scheduled for adoption by the Commission in July 2012.

7.4 Cooperation with Eurojust

OLAF's cooperation with Eurojust was given further impetus in 2011.

Case-related cooperation with Eurojust is in line with the 'Practical agreement on arrangements of cooperation between Eurojust and OLAF' of 24 September 2008.

As foreseen by the 'practical agreement', the yearly meeting of OLAF's Director-General and the President of Eurojust took place in July 2011 in The Hague. Additionally, as in previous years, a one-day study visit for staff was organised by the liaison teams, and a group of OLAF staff visited Eurojust in The Hague. Finally, OLAF also participated in the joint investigation team expert meetings of Eurojust.

As a major practical improvement to the information exchange between the two bodies, a secure communication system was set up, allowing a secure electronic exchange of case-related information. The system has been used effectively between OLAF and Eurojust since 2011.

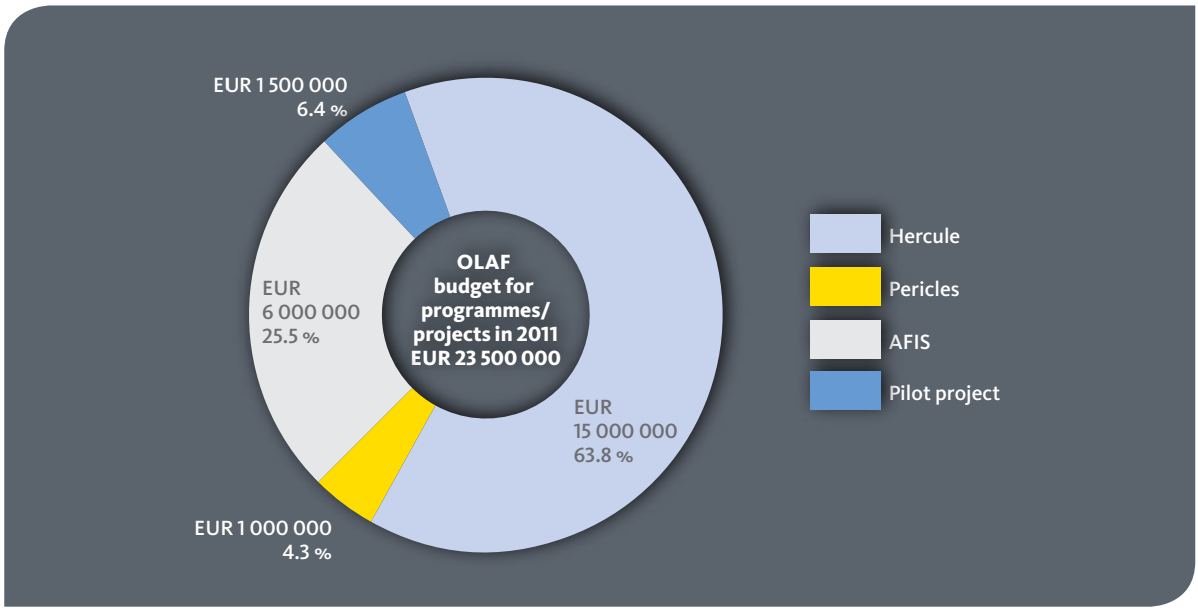
The number of investigations in which OLAF involved Eurojust has already increased from five in 2010 to 11 in 2011. Furthermore, in 2011, OLAF participated in eight coordination meetings organised by Eurojust in connection with OLAF's investigations.

OLAF and Eurojust liaison teams continue to meet at least on a quarterly basis to enhance cooperation of ongoing OLAF investigations, discuss matters of common interest and carry out joint activities.

7.5 Prevention and support

In 2011, OLAF had a budget of EUR 23.5 million at its disposal to finance activities in the framework of the Hercule II and Pericles programmes, the operation of the Anti-Fraud Information System (AFIS) and a pilot project.

Chart 13: OLAF budget for programmes/projects in 2011



- Hercule: is a programme dedicated to fighting fraud, corruption and any other illegal activities affecting the financial interests of the EU.
- Pericles: is an exchange, assistance and training programme to strengthen the protection of euro banknotes and coins in Europe and worldwide.
- Anti-Fraud Information System (AFIS): offers tools to improve cooperation with partners, including other institutions, Member States, international organisations and non-EU countries.
- Pilot project: aims at developing a methodology to quantify the costs of corruption in public procurement.

7.5.1 Hercule programme: an efficient tool to prevent and fight fraud

Activities under the Hercule II programme were intended to achieve the aims set out for the Hercule programme, in particular, the improvement of transnational and multidisciplinary cooperation between the Member States and the Commission in fighting and preventing fraud and irregularities against the EU budget.

The programme provided substantial financial support to four groups of activities.

- Funding of around EUR 7 million was provided for technical assistance to national and regional (customs) authorities, allowing them to detect and prevent illegal imports of illegal or counterfeit products, including cigarettes and tobacco.
- Approximately EUR 4 million was provided to fund a large number of conferences, seminars and training activities in order to disseminate information on best practice amongst law enforcement staff working 'in the front lines' of the fight against fraud and the prevention of fraud against EU financial interests.
- Access to databases containing information on companies, trade statistics, shipments or container movements was purchased for nearly EUR 3 million. Such access enables Member States' law enforcement agencies to better carry out their investigations.
- EUR 0.7 million went towards funding a number of specific studies and academic seminars in order to disseminate the results of academic research into the protection of EU financial interests.

On 19 December 2011, the Commission adopted a proposal for a regulation on the Hercule III programme to promote activities in the field of the protection of EU financial interests ([20]). This proposal is now being discussed by the European Parliament and the Council.

Actions funded under the Hercule programme

As part of the technical assistance element of the Hercule II programme, the Commission provided financial support to the Romanian authorities to allow them to purchase special equipment in order to strengthen the investigation of smuggled and counterfeit goods. This not only led to the seizure of substantial quantities of (counterfeit) cigarettes and smuggled tobacco, but also to the identification and arrest of customs officials suspected of corruption.

Hercule II support was used to purchase scanners deployed in harbours to improve container checks for smuggled items, such as cigarettes.

The Hercule II - funded subscription to databases containing company information results in substantial savings for Member States' law enforcement authorities. Additionally, analyses made on the basis of information available in these databases helped customs authorities, for example, in determining risk profiles of container shipments. This, consequently, enabled national customs authorities to target their investigations and detect counterfeit goods and irregularities with documents certifying the origin of goods.

([20]) COM(2011) 914 final.

7.5.2 OLAF contributes to the protection of the euro

In 2011, 606 000 counterfeit euro banknotes were removed from circulation, down from 751 000 the year before and 860 000 in 2009. In the same year, 157 500 counterfeit euro coins were discovered, a total below 200 000 for the fourth consecutive year and a decrease of 15 % compared to the previous year.

With regard to the protection of euro banknotes and coins, OLAF, on behalf of the Commission, continued its activities in the following three domains:

- training and technical assistance;
- technical analysis of counterfeit euro coins; and
- the preparation of legislative initiatives.

Implementation of training and assistance requires close institutional cooperation and coordination with the competent Member State authorities, as well as with Europol, Interpol and the European Central Bank (ECB).

In 2011, 15 projects for the protection of euro banknotes and coins against counterfeiting, including conferences and seminars, were organised, under the Pericles programme, by either the Member States or OLAF, in collaboration with Europol and the ECB.



The European Technical and Scientific Centre (ETSC) ([21]) provided technical 'on-the-spot' support to four investigations carried out by the Member States' competent authorities, by delivering technical reports and establishing possible technical links between the different investigations.

On 19 December 2011, the Commission adopted a proposal for a new Pericles programme (Pericles 2020) for the next MFF, which has been submitted to the European Parliament and the Council.

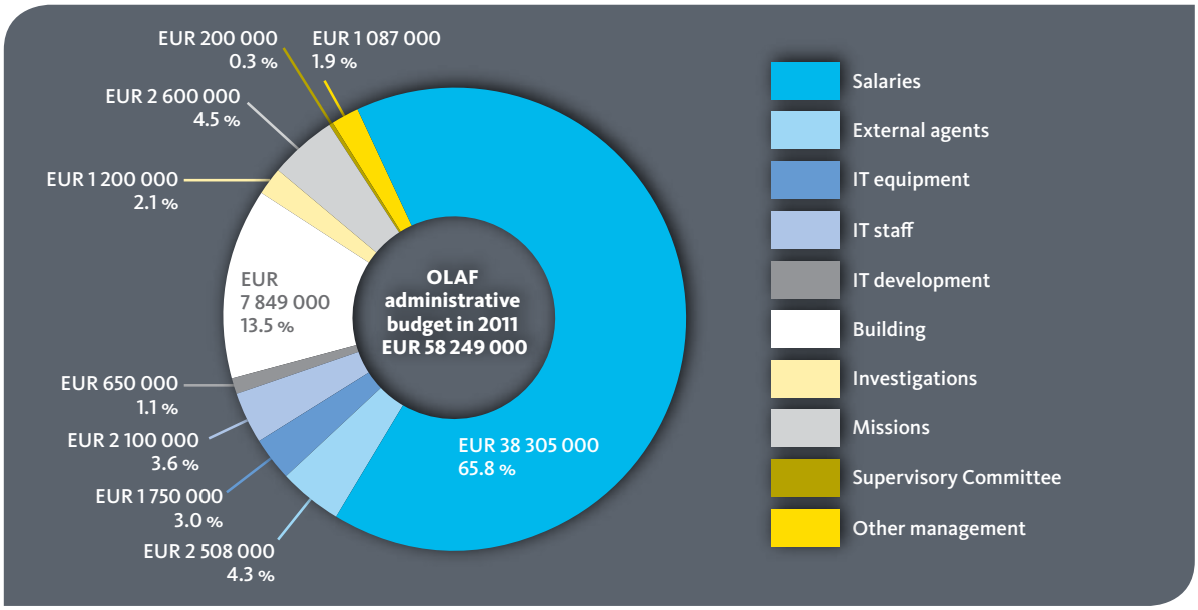
([21]) Located in OLAF, established by Commission Decision 2005/37/EC of 29 October 2004 establishing the European Technical and Scientific Centre (ETSC) and providing for coordination of technical actions to protect euro coins against counterfeiting (OJ L 19, 21.1.2005, p. 73–74).

8. Resource management

8.1 Budget

In 2011, OLAF had an administrative budget of EUR 58.249 million at its disposal, the allocation of which is shown in the chart below.

Chart 14: OLAF's administrative budget in 2011



8.2 Human resources

Table 7: Overview of OLAF personnel on 31 December 2011

	Permanent and temporary posts	External personnel	Total
Fight against fraud	295	35	330
Administrative support for the European Anti-Fraud Office	41	13	54
Policy strategy and coordination for the European Anti-Fraud Office	48	5	53
Total	**384**	**53**	**437**

In 2011, there were no major organisational changes in OLAF as the year was dedicated to a reflection on the review of its working methods and organisation. The new organisational chart was approved by the Commission at the end of October 2011 and entered into force on 1 February 2012. The main objective of the new structure is to focus on the core tasks: investigations and anti-fraud policy.

There was a slowdown in recruitments during the second half of 2011, in anticipation of the upcoming reorganisation. However, OLAF further stabilised and retained the staff required to fulfil its mission and increased its staff, with 36 new recruits during the year. The vacancy rate for permanent posts at 31 December 2011 was around 8.5 %.

8.3 Training

An important aspect of OLAF's quality management is training. The training budget for 2011 was EUR 220 000. This budget covers all internal and external training activities for OLAF staff, specialist training for analysts and training provided by OLAF for its operational partners and for other directorates-general, Member States and EU bodies.

OLAF organises internal training sessions in order to meet the specific needs of its staff in their core activities. This includes topics such as interviewing techniques, administrative writing, conducting of on-the-spot checks, clear writing and evidence gathering.

OLAF also organises general training sessions on topics including ergonomy at the workplace, assistant network sessions, ethics and individual obligations for officials, the appraisal system, lunchtime debates and away days.

Training sessions are also provided to other Commission services, for example on fraud prevention in the field of Structural Funds. In 2011, the following courses were organised:

- training on the new Irregularities Management System (IMS) modules for Structural Funds and fisheries, with representatives from national authorities;
- training on the renewed IMS module for agriculture, with representatives from national authorities;
- implementation of the reporting structure for the pre-accession aid module of the IMS in Croatia.

OLAF experts have participated, on an ad hoc basis, in training events initiated by external organisers.

9. Outlook: 2012 and beyond

A number of change processes launched or ongoing in 2011 will have an impact on the work of the Office in the coming years.

OLAF will implement the 'Instructions to staff on investigative procedures' following their introduction on 1 February 2012. The new organisation chart, effective from the same date, will also be tested in the coming period. A first assessment of these changes will be provided in next year's OLAF report.

To tackle cigarette smuggling on a global scale ([22]), OLAF will continue to be involved in the next steps towards the adoption of the Protocol on the Elimination of the Illicit Trade in Tobacco Products, under the umbrella of the World Health Organisation's Framework Convention on Tobacco Control. It will be submitted for consideration and adoption to the Conference of the Parties in November 2012.

In the policy field, OLAF is, at the time of writing, actively engaged in the following key processes ([23]):

- negotiations of the European Parliament and the Council on the Commission's amended proposal to improve the legislative framework governing the work of OLAF, aimed at reaching a joint compromise in the first reading;
- the implementation of the Commission's anti-fraud strategy;
- new legislative proposals on the protection of EU financial interests by substantive criminal law ([24]), on the procedural framework for the protection of EU financial interests and on the establishment of a specialised European public prosecutor's office, and on the reinforcement of Eurojust and OLAF; and
- negotiations for new Hercule and Pericles programmes under the MFF for the period 2014–20.

Inasmuch as related criminal law aspects are concerned, OLAF cooperates internally with the Directorate-General for Justice.

Updated information on these ongoing processes will be posted on OLAF's website throughout the year.

([22]) Please refer to Chapter 4 for further information.

([23]) Please refer to Chapter 7 for further information.

([24]) Scheduled for adoption by the Commission in 2012.

European Commission

The OLAF report 2011
Twelfth report of the European Anti-fraud Office
1 January to 31 December 2011

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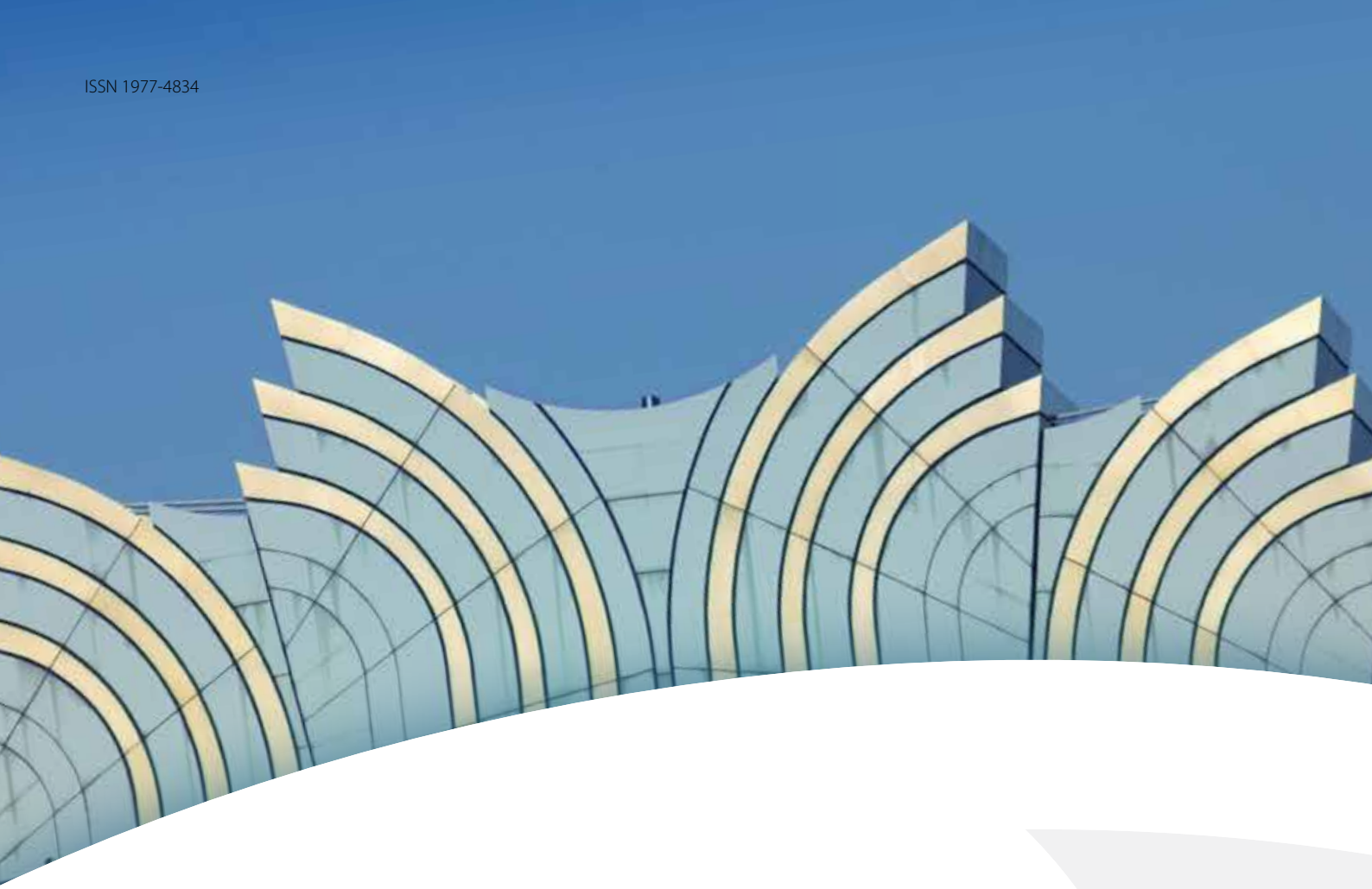
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The **OLAF** report **2012**

EUROPEAN ANTI-FRAUD OFFICE

The Fraud Notification System (FNS) is a web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud.
http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm

Europe Direct is a service to help you find answers to your questions about the European Union.

Freephone number (*):

00 800 6 7 8 9 10 11

(*) Certain mobile telephone operators do not allow access to 00 800 numbers or these calls may be billed.

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The **OLAF** report **2012**

Thirteenth report of the European Anti-Fraud Office, 1 January to 31 December 2012

EUROPEAN ANTI-FRAUD OFFICE

Disclaimer:

OLAF's report features case studies for illustrative purposes only. In particular, the fact that OLAF presents such case studies does not prejudge the outcome of any judicial proceedings; nor does it imply that any particular individuals are guilty of any wrongdoings.

Executive summary

Significant changes were introduced on 1 February 2012 to OLAF's internal organisation and investigative procedures aiming mainly to reinforce the investigative function and strengthen OLAF's contribution to anti-fraud policies.

In 2012, OLAF received 1 264 incoming information items of possible investigative interest, an increase of 21 % compared to 2011.

Of the 718 cases opened in 2012, 431 were opened as investigation cases; while 287 were opened as cases in which OLAF takes a coordination role. Moreover, 465 cases were closed during the year.

At the end of 2012, OLAF had 716 ongoing investigations and coordination cases.

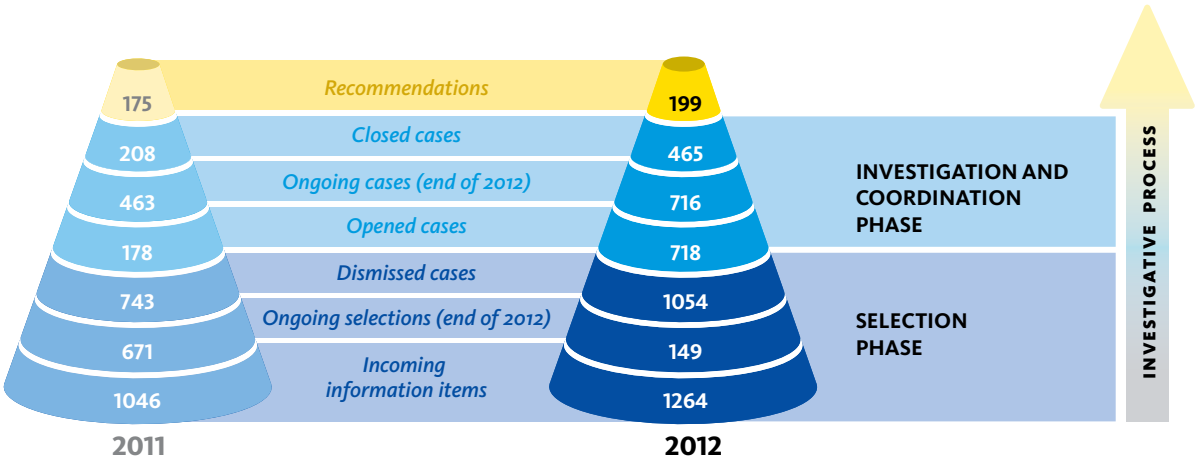
For cases selected after 1 February 2012 the average duration of the selection phase was 1.4 months, down from 6.8 months in 2011. This is primarily due to the creation of a new unit dedicated to dealing with the selection of cases.

The duration of the investigation and coordination cases has sharply decreased - by almost half a year - reaching an average of 22.6 months (including the selection phase) for the year 2012.

With OLAF's support, the Commission's Anti-Fraud Strategy is now being implemented within all the European Commission's services.

OLAF, on behalf of the European Commission, has successfully represented the European Union throughout the negotiation process for the Protocol to Eliminate the Illicit Trade in Tobacco Products to the World Health Organization Framework Convention on Tobacco Control. The European Commission is now preparing the signature of the Protocol.

Chart 1: 2012 caseload





Foreword

It is with great pleasure that I present to you the 13th OLAF Report covering the activities of the European Anti-Fraud Office in 2012.

On 1 February 2012 a major internal reorganisation of OLAF took place. The year was characterised by the implementation of these internal changes, new investigative procedures and new working practices. The achievements highlighted in the following pages are presented in a manner consistent with these new investigative procedures.

2012 was also the year during which the new OLAF Supervisory Committee took up its function.

As a result of the new organisation and the new investigative procedures, OLAF has reinforced its investigative function and achieved significant results. The changes have led to substantial improvements in a number of key processes. Notably, the duration of the selection phase has decreased to 1.4 months as from 1 February 2012, representing a reduction of 80 % compared to 2011. The shortened duration of the selection phase allows OLAF not only to take decisions on whether or not to open an investigation or coordination case more swiftly, but also to inform its sources more speedily on the outcome of the selection process.

Furthermore, the average duration of the investigation phase has been reduced by 23 %, from 22.4 months in 2011 to 17.3 months in 2012 (excluding the selection phase). Improved efficiency is a prerequisite for dealing with the increased amount of information reaching OLAF with allegations of fraud or corruption. The number of incoming information items in 2012 was 1264, which represents an increase of 21 % compared to 2011 (1046 items).

In line with its mandate to protect the financial interests of the European Union and the reputation of the European Institutions, OLAF has continued to play throughout 2012 a crucial role in preserving the credibility and high ethical standards of the European Institutions. Among other priorities, particular attention was paid to the Structural and Cohesion Funds and the smuggling of cigarettes and alcohol along the EU Eastern border. The number of investigation and coordination cases increased from 64 in 2011 to 186 in 2012 in the Structural Funds area.

OLAF's contribution to anti-fraud policies was also further reinforced. In the framework of the Commission's Anti-Fraud Strategy, OLAF cooperated closely with the responsible Commission services to improve the detection and prevention of fraud. This year's results illustrate the good cooperation that exists between OLAF and the European Institutions.

During 2012, OLAF together with the Directorate-General for Justice pressed ahead with the preparation of a legislative proposal for setting up a European Public Prosecutor's Office. This proposal will be presented in 2013 by Commissioner Šemeta and Vice-President Reding. OLAF's investigative experience and expertise constitute a valuable basis for the development of a European body competent for conducting criminal investigations, prosecuting the persons concerned and protecting more effectively the financial interests of the European Union. The establishment of the European Public Prosecutor's Office will be an important step towards the realisation of a European area of justice.

Finally, this report highlights the contribution of OLAF staff and the excellent results they have achieved. Such results would not have been possible without their hard work and commitment. I would like to thank them all.

Giovanni Kessler
Director-General of OLAF

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1. OLAF's role and responsibilities

Mission statement

The mission of the European Anti-Fraud Office (OLAF, also referred to as "the Office" in this report) is threefold:

- it protects the financial interests of the European Union (EU) by investigating fraud, corruption and any other illegal activities;
- it detects and investigates serious matters relating to the discharge of professional duties by members and staff of the EU Institutions and bodies that could result in disciplinary or criminal proceedings;
- it supports the EU Institutions, in particular the European Commission, in the development and implementation of anti-fraud legislation and policies.

By performing its mission as effectively as possible, OLAF contributes to the efforts made by the EU Institutions to guarantee that the best use is made of taxpayers' money. OLAF is part of the European Commission but is independent in its investigative function.

OLAF: Key facts and figures for 2012

Director-General: Giovanni Kessler
Internal reorganisation: 1 February 2012
Staff: 435
Budget: €57.4 million

Incoming information: 1 264 items
Total cases opened: 718
Investigation cases: 431
Coordination cases: 287
Total cases closed: 465
Number of recommendations issued: 199
Amounts recommended for recovery: €284 million

Average duration of selections undertaken from 1 February 2012: 1.4 months
Average duration of investigation and coordination cases, including the duration of the corresponding selection: 22.6 months

The legal basis for EU action against fraud is Article 325 of the Lisbon Treaty. OLAF's main role and remit for carrying out its administrative investigations is defined principally in Regulation (EC) No 1073/1999 ([1]). This Regulation is currently being reviewed by the European Parliament and the Council of the European Union.

For investigations concerning members and staff of EU institutions, OLAF also derives its mandate from the Interinstitutional agreement between the European Parliament, the Council and the Commission([2]).

> In 2012, OLAF has kept up the high pace in fighting fraud and maintained the policy of zero tolerance towards corruption. To achieve the full impact of OLAF investigations, the strong commitment of our partners and of the Member States are also necessary. It is essential that they take swift and decisive actions to recover misused EU money and bring perpetrators to justice."
>
> *Giovanni Kessler, Director-General of OLAF*

Action taken by OLAF to protect the financial interests of the EU covers, in principle, the entire expenditure side of the budget. On the revenue side of the budget, OLAF focuses particularly on "traditional own resources", including customs duties.

([1]) 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); OJ L 136, 31.5.1999, pp. 1–7.

([2]) Interinstitutional agreement, OJ L 136/15, 31.5.1999.

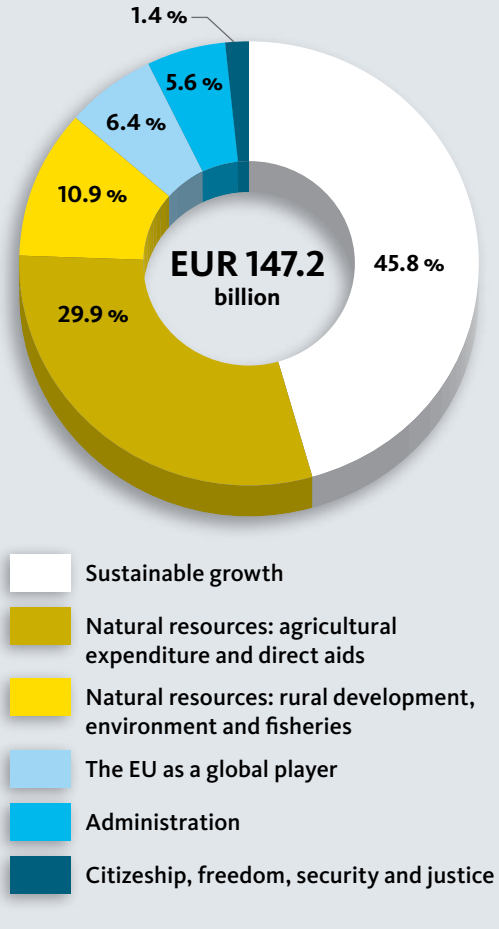
'OLAF' is the acronym of its title in French, *Office européen de lutte antifraude*.

Communicating with OLAF:

http://olaf.europa.eu/

- Online form to report fraud via the Fraud Notification System: https://fns.olaf.europa.eu/
- Online form for general enquiries: http://ec.europa.eu/anti_fraud/contacts/general-enquiries/index_en.htm
- Online form to request a visit to OLAF: http://ec.europa.eu/anti_fraud/contacts/request-visit/index_en.htm
- By phone: +322 2991111 (general switchboard)
- By post: OLAF – European Anti-Fraud Office - European Commission - Rue Joseph II, 30, 1000 Brussels, Belgium

Chart 2: EU budget 2012 - expenditure side



Whistleblowers: "Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which gives rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the EU (...)" shall without delay inform either his hierarchy or OLAF directly about these facts. "An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the (...) information, provided that he acted reasonably an honestly". (Art. 22a, Staff Regulations of Officials of the European Communities, 1 May 2004)

OLAF's reorganisation

Some of the improvements brought by the reorganisation are:

- simplified and concise instructions to staff on the investigative procedures (ISIP([3])) have been issued to ensure a consistent application of the rules, the full respect for the procedural rights of the persons concerned by OLAF's investigation and coordination cases, and the respect for the confidentiality and the identity of informants and whistleblowers;
- a dedicated unit was established in order to improve efficiency and consistency in the selection of cases;
- the introduction of a legal review of cases at the opening of investigations, as well as for important milestones during the investigation or coordination phase;
- recommendations are issued by the Director-General for specific actions to be taken by national authorities and/or EU institutions;
- following recommendations, the results of the actions taken are monitored annually;
- the new organisation provides a clearer allocation of responsibilities (investigations, investigative support, policy and resources);
- a more efficient allocation of staff allowed for an increase in the number of staff dedicated to investigations and policy.

([3]) OLAF Instructions to Staff on Investigative Procedures (accessible at http://ec.europa.eu/anti_fraud/documents/about_us/instructions-to-staff-120201.pdf#page=1)

Chart 3: Organisation chart

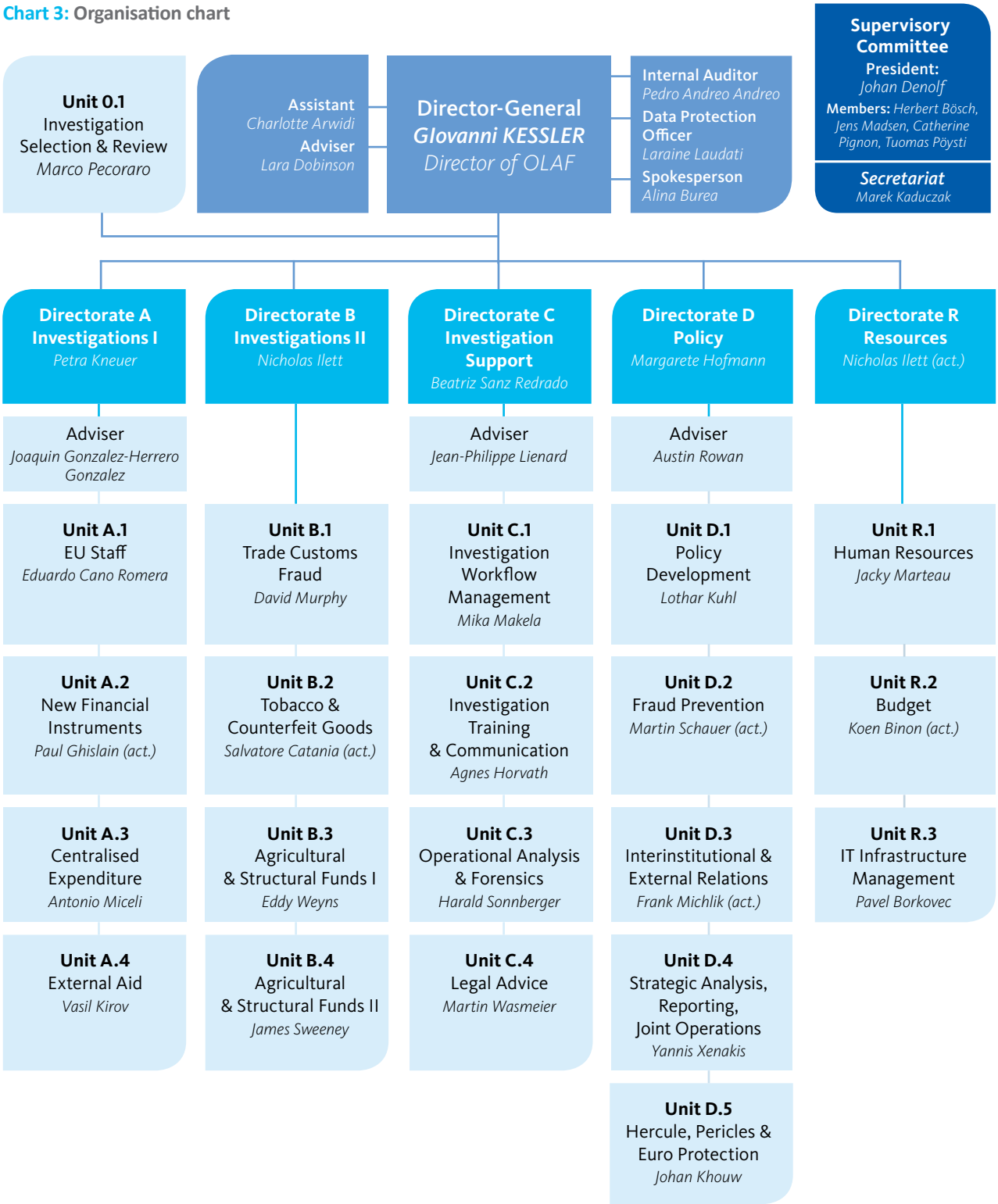
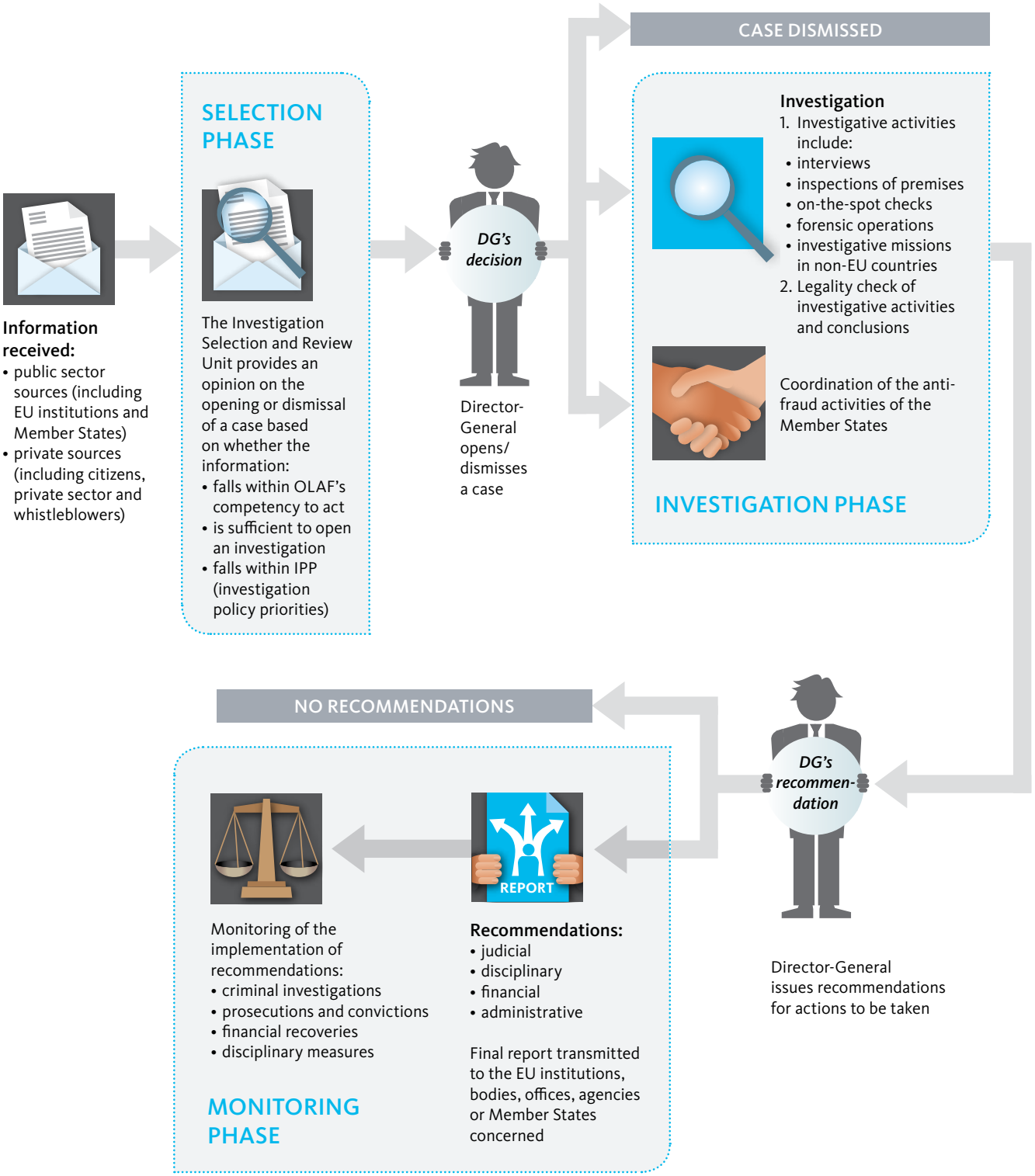


Chart 4: The investigative process from 1 February 2012



2. Focus on: Incoming information

Incoming information of possible investigative interest remains essential for OLAF's investigative function and constitutes the starting point in OLAF's efforts to protect the financial interests of the EU. Every piece of information, which could result in the opening of an investigation, is treated consistently and swiftly by the Office.

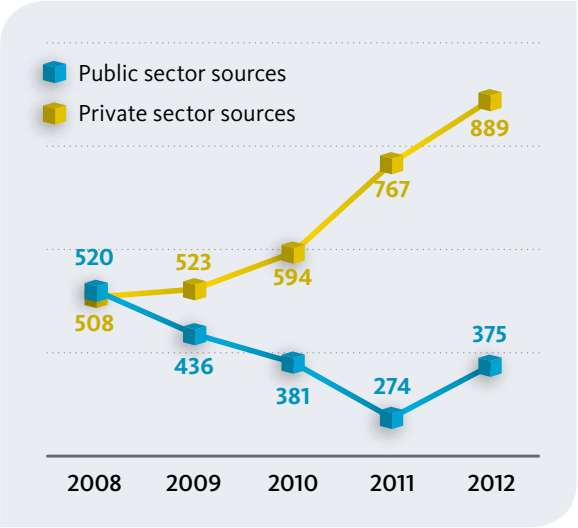
Under the new procedures emphasis is given to efficiency and promptness in the treatment of incoming information, as well as to consistency in the selection of cases.

An increase in incoming information of possible investigative interest

In 2012, OLAF received 1 264 incoming information items coming from both public and private sources, an increase of 21 % compared to 2011. This increase can be attributed to several factors:

- increased visibility of OLAF as an independent investigative office;
- growing awareness of the need to protect the financial interests of the EU;
- improved transparency and expeditiousness in the treatment of incoming information, following the implementation of OLAF's reorganisation;
- better cooperation with other Commission services as a result of the on-going implementation of the Commission's Anti-Fraud Strategy([4]) (see section 4.3 Commission's Anti-Fraud Strategy).

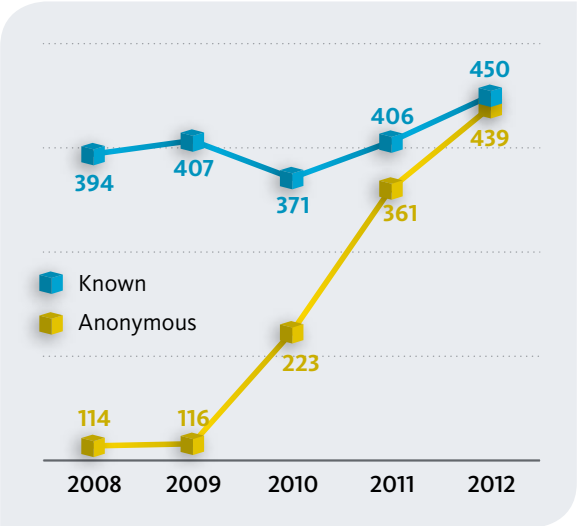
Chart 5: Distribution of incoming information by source



Disparities persist among the types of sources

Information from private sources represented 70 % of the total items received. Over the last few years an increase in the number of items received from anonymous([5]) sources has been noted.

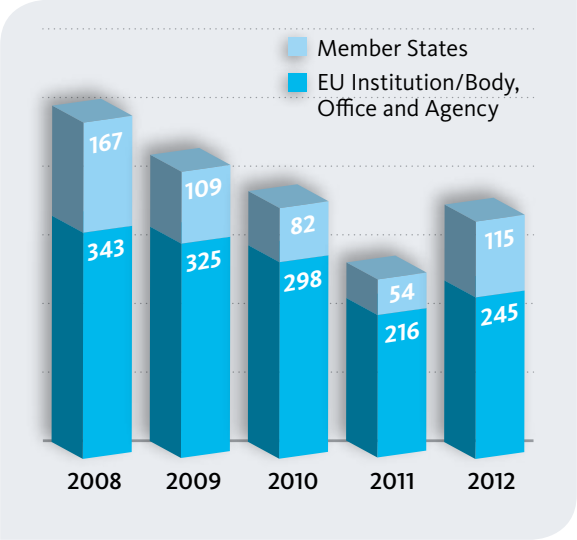
Chart 6: Incoming information items from private sources



([4]) Communication from the Commission on the Commission's Anti-Fraud Strategy, COM (2011) 376 final, 24.6.2011.

([5]) Including sources having provided insufficient contact details.

Chart 7: Incoming information items from the public sector in the EU (6)



Information coming from the public sector has significantly increased in 2012 (+37 % as compared to 2011), breaking a negative trend.

Although the European Commission remains the main source in terms of information items of possible investigative interest reported (165 items in 2012), this year's overall increase can be mostly attributed to the incoming information from Member States. Member States share with the Commission the management of more than 80 % of EU funds. Therefore, they play a leading role in alerting OLAF of any fraud or irregular activities concerning EU expenditure.

Though the number of items reported by the Member States was higher than in previous years (+113 % as compared to 2011), there are significant disparities among them. For example, public sources from two Member States (Germany and Italy) reported almost half of the incoming information items, while ten Member States provided one or two items, and five Member States provided none. It is notable that, in the case of certain Member States, where there has been a high level of expenditure of EU funds during 2012 and a significant number of information items received from private sources, not much information has been received from public sources.

Table 1: Distribution of incoming information by Member State

Member State	Public sources	Private sources
Germany	38	38
Italy	16	42
Romania	11	31
Spain	7	26
United Kingdom	5	21
Slovakia	4	13
Belgium	4	19
Bulgaria	4	46
Denmark	3	2
Netherlands	3	4
Greece	3	15
Czech Republic	3	23
Sweden	2	0
Ireland	2	1
Portugal	2	5
Poland	2	24
Cyprus	1	0
Finland	1	0
Estonia	1	2
Austria	1	3
Lithuania	1	3
Hungary	1	17
France	0	8
Latvia	0	2
Luxembourg	0	5
Malta	0	4
Slovenia	0	9
Total	**115**	**363**

(6) Information from third countries and international organisations has not been included.

Table 2: Total number of incoming information items by Member State (ratio public-private)([7])

Member State	Total number of incoming information items	Ratio of incoming information items from public sources/private sources
Germany	76	1.00
Italy	58	0.38
Bulgaria	50	0.09
Romania	42	0.35
Spain	33	0.27
United Kingdom	26	0.24
Czech Republic	26	0.13
Poland	26	0.08
Belgium	23	0.21
Greece	18	0.20
Hungary	18	0.06
Slovakia	17	0.31
Slovenia	9	0.00
France	8	0.00
Netherlands	7	0.75
Portugal	7	0.40
Denmark	5	1.50
Luxembourg	5	0.00

Developing incoming information from third countries

The number of incoming information items received from public sources in third countries (10) and from International organisations (5) remains low. OLAF is stepping up its efforts to improve cooperation with its partners outside the EU by entering into formal Administrative Cooperation Arrangements with competent authorities with which OLAF has close relations (see section 4.2 Cooperation activities between OLAF and its partners).

Case study: Developing the reporting of information of possible investigative interest from public sources in third countries

Very little information of possible investigative interest comes from local authorities from third countries. Developing cooperation with local public sources can lead to new investigation cases.

OLAF was contacted by a judge leading a major criminal investigation in the coffee-cocoa industry in an African country. It emerged that one of the investigated structures had received, since its inception, funds from the European Development Fund. OLAF opened a case to determine whether funds had been embezzled and offered its assistance to the local judicial authorities.

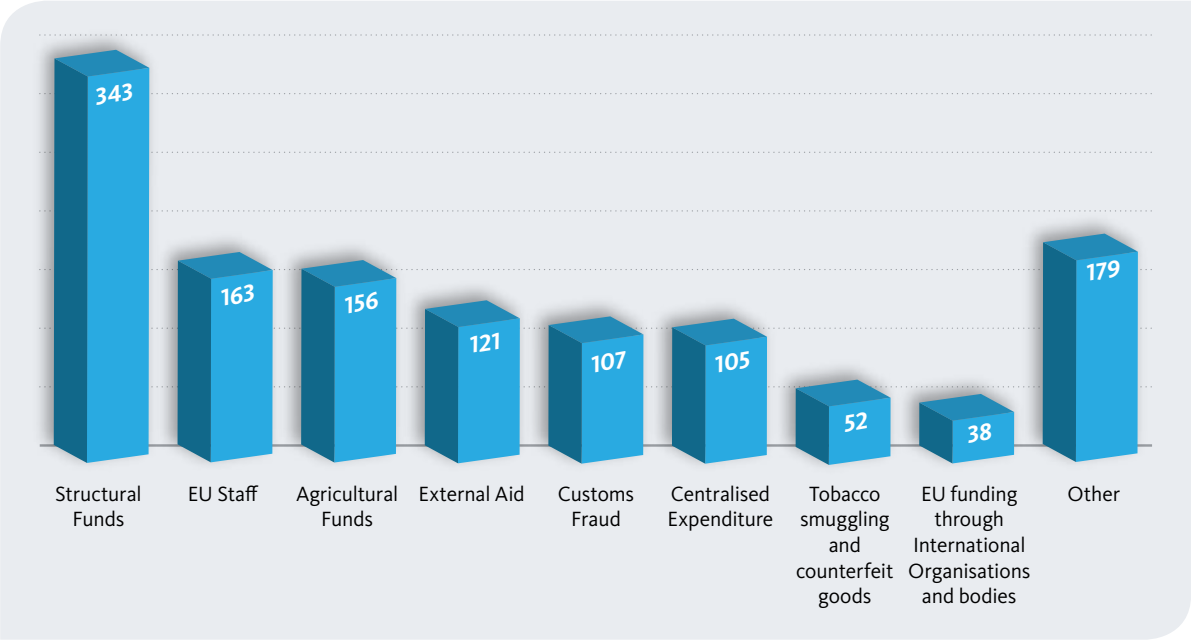
OLAF together with the EU delegation in the African country acted as coordinators to gather the expertise and the financing required to perform audits. It was found that the funds, due to remain frozen, had been released without authorisation from the EU. In addition, it was established that these funds, intended as back-up for financial guarantees, had financed various projects whose objectives fell outside the intended scope of the funding. The beneficiaries were identified.

Conclusion and further steps

Thanks to the investigation organised by OLAF, the country concerned agreed to reimburse the full amount of the aid granted – more than €11 million. Furthermore, the audit were transmitted to the national judicial authorities as part of the global criminal investigation.

([7]) The table includes only figures from those Member States from where more than 5 information items have been received.

Chart 8: Incoming information by sector



Distribution of incoming information by sector

Almost half of the incoming information relates to the Structural Fund (343 items) and Agricultural Fund (156) sectors. Information on EU staff also represents an important share of the incoming information (163).

Improving the quality of the incoming information

In the framework of the Commission's Anti-Fraud Strategy, OLAF plays a key role in supporting the development and implementation of anti-fraud strategies in all of the Commission's Directorates-General. Among other, the strategies include measures aimed at improving the reporting of information of possible investigative interest and on further developing communication with other European Commission services.

3. OLAF's investigative activities

Significant changes were introduced on 1 February 2012 to OLAF's investigative procedures and organisation. Among the objectives were the improvement of the efficiency and quality of the investigative activity, and the reduction of its duration. Placing more emphasis on the investigation phase, Instructions to Staff on Investigative Procedures (ISIP) were issued, while responsibilities and competencies were reassigned among the investigative units.

One of the main changes introduced by the reorganisation concerns the replacement of the assessment phase with a selection phase. As a result, 419 cases, which were being assessed under the previous investigative procedure, were opened as investigation or coordination cases on 1 February 2012. This significant number of cases has been included in the reporting of the statistics. However, where relevant, additional explanatory information has been provided.

Rights and procedural guarantees

Particular attention is given to the rights of persons concerned in an investigation. Specific procedures set out in the ISIP ensure that these rights are respected:

- all investigative actions must be conducted in full respect of the rights of persons involved in an investigation, including data protection and procedural guarantees applicable in OLAF investigations;
- when the investigation unit intends to interview persons concerned, it must inform those persons of their right not to incriminate themselves and to be assisted by a person of their choice. The persons concerned must also be informed that they may use any official EU language of their choice;
- prior to drawing conclusions, the persons concerned must be given the opportunity to provide comments on the facts concerning them established by the investigation.

3.1 Selection phase

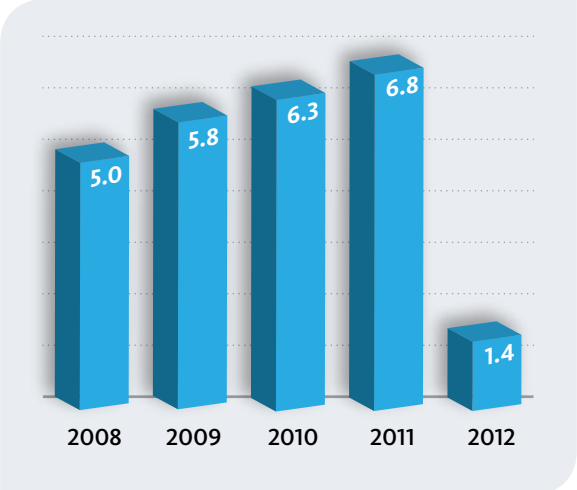
2012: A change in the organisation of the selection phase

As a result of the reorganisation, during 2012, OLAF was able to reduce the duration of its selection process and apply the selection criteria more consistently.

As of 1 February 2012, incoming information of possible investigative interest to OLAF is transferred to a dedicated selection unit, the Investigation Selection and Review Unit (Unit 0.1), centralising the analysis of the incoming information. In accordance with the ISIP, this unit provides an opinion on the opening or dismissal of a case to the Director-General within two months.

The average duration of selections closed during 2012 has been significantly reduced compared to all previous years. From February until December 2012 the average duration of the selection phase was 1.4 months, a reduction of almost 80 % compared to 2011.

Chart 9: Average duration (in months) of selection phase by year



The average duration of the selection phase reported in Chart 9 does not include the selections completed before 1 February 2012, given that the selection process conducted in January was based on the former procedures. Including January, the average duration of the selection phase would be 3.9 months.

HOW DOES OLAF SELECT CASES

Within the selection phase the following criteria apply:

- **competency of OLAF to act;**
- **sufficiency of the suspicions to open an investigation, based on the reliability of the source and the credibility of the allegations;**
- **whether the information falls within the Investigative Policy Priorities* which are proportionality, efficient use of investigative resources, subsidiarity/ added value, special policy objectives and financial impact. The five policy priorities will all be taken into consideration in order to decide whether or not to open an investigation. No single policy priority will operate as a *conditio sine qua non*.**

* OLAF Investigation Policy Priorities (accessible at http://ec.europa.eu/anti_fraud/documents/about_us/ipp_amp.pdf)

Since 1 February 2012, in eleven months, 1158 new information items were treated under the selection process, resulting in 760 dismissals, 249 openings of investigation or coordination cases, and 149 ongoing selections at the end of the year. This represents a significant increase in the number of items treated under the selection process over the last four years. In 2012 (from 1 February), this number increased by 26 % compared with 2011 (full year).

The table below shows the results of the full year.

Table 3: Results of the selection process by year

Selection results	2008	2009	2010	2011	2012
Dismissed selections	684	787	661	742	1054
Opened Investigation cases	152	160	152	146	431
Opened Coordination cases	52	60	73	32	287
Total selections completed	**888**	**1007**	**886**	**921**	**1772**

Table 4: Clearance rate (number of investigation and coordination cases opened/closed)([1])

Cases	2008	2009	2010	2011	2012
Total opened	204	220	225	178	718
Total closed	187	188	189	208	465
Clearance rate (in months)	**1.1**	**1.2**	**1.2**	**0.9**	**1.5**

([1]) The 718 cases include 419 cases opened as a result of the reorganisation, out of which 221 were closed in 2012.

The figures presented in Table 3 include 419 investigation and coordination cases, previously under evaluation, opened as a result of the implementation of the reorganisation on 1 February 2012.

3.2 Investigative phase

An increased investigative activity

A special investigative team was established to handle the high number of cases opened on 1 February 2012. Correspondingly, a high number of cases were closed in 2012.

A total of 716 cases were still open at the end of 2012 (see Chart 10). The Structural Funds sector accounted for the highest number of investigations (134 in 2012 up from 55 in 2011), followed by External Aid and EU Staff sectors. Whilst the overall proportion of investigations remains similar to last year, OLAF has improved its investigative record in some sectors, such as in the area of Agricultural Funds (28 cases in 2011 and 59 in 2012).

Case study: An example of investigation in the Structural Funds sector

In the framework of a previous investigation in the fishing industry in Central America, OLAF discovered other irregularities concerning two fishing vessels operated by a company registered in a Member State under the local flag. Suspecting fraudulent registration of these vessels, OLAF decided to open a new case.

It was established that the operator had received more than €4 million from the Financial Instrument for Fisheries Guidance to register the two fishing vessels in a non-EU country and fish in the Indian Ocean under a local flag for at least five years. However, OLAF's investigators discovered that the vessels had changed flag and were seen operating in the waters of a Central American country before the agreed term.

Conclusions and further steps

- **The result of the investigation was transmitted to the national judicial authorities with a view to launching a criminal investigation.**
- **OLAF's expertise in the field of fraudulent use of Structural Funds has added value for the national authorities. Critical evidence was transmitted, allowing the Ministry concerned, after hearing the suspected parties, to claim a refund of more than €7 million.**

OLAF investigated 95 cases of serious misconduct by members or staff of the EU institutions, bodies, offices or agencies. These cases fall within OLAF's mandate to protect the reputation of the European Institutions, going beyond the sole protection of the EU's financial interests. In the course of 2012, OLAF dealt with such a case involving a Commissioner. OLAF's investigation was conducted swiftly and independently. The results of the investigation were transmitted to the Commission for its consideration and to the competent national judicial authorities for possible judicial follow-up. This case is an example of the capacity of the EU Institutions to deal effectively with allegations of fraud and corruption also at the highest level.

Overall reduction of the average duration of investigation and coordination cases

In 2012, the average duration of investigation and coordination cases was reduced significantly compared to previous years. The figures provided in Chart 11 include the average duration of investigation and coordination cases closed during 2012 or still opened at the end of 2012, as well as the duration of the selection phase corresponding to these investigation and coordination cases.

Most of the investigation and coordination cases were selected before 2012. That is the reason why the duration of the selection phase (6.2 months) differs from the duration of the selection phase conducted after 1 February 2012 (1.4 months).

Chart 10: Open investigation and coordination cases by sector (end of 2012)

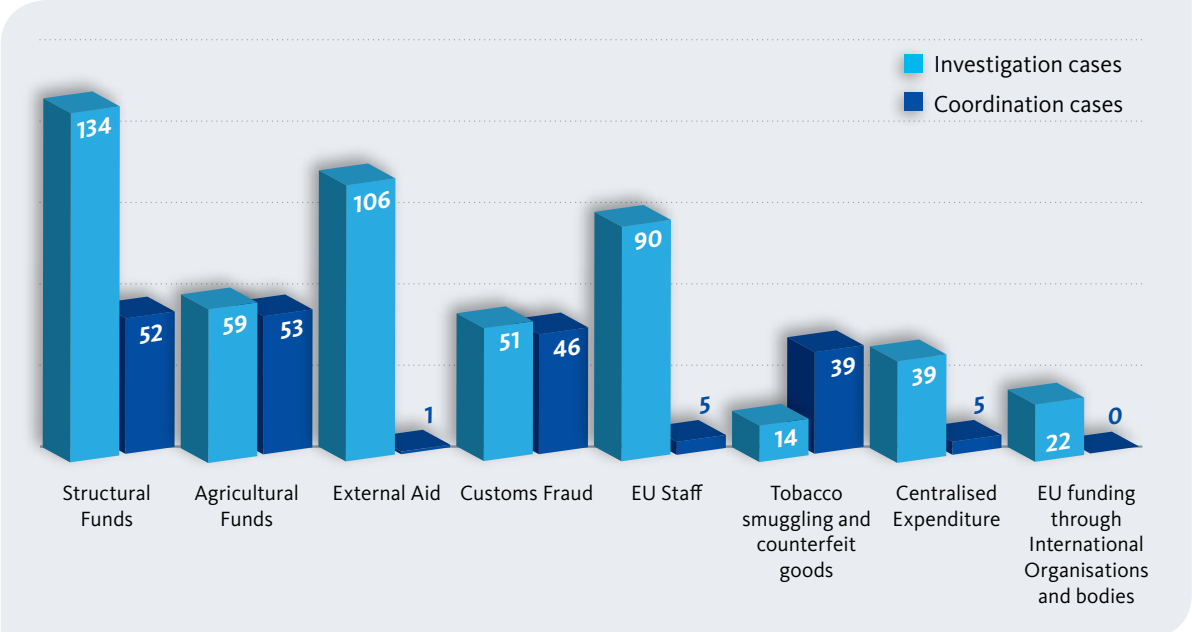
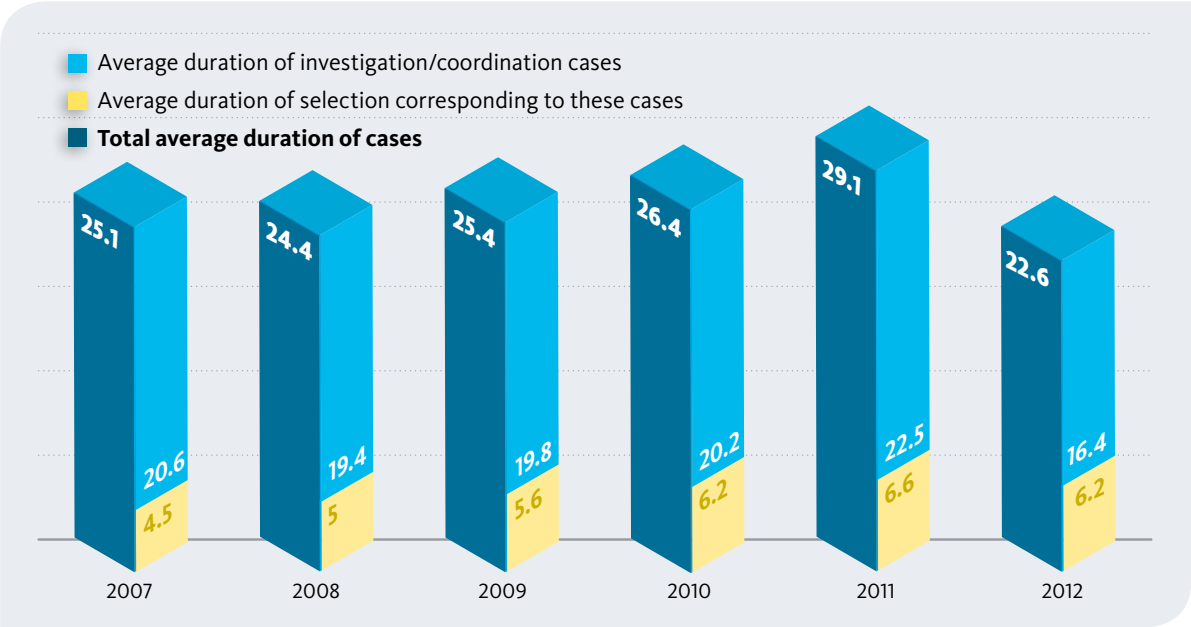


Chart 11: Average duration (in months) of cases



The statistics on the average duration of the investigation or coordination phase reflect an improvement compared with previous years. As such, the average duration of investigation cases has been reduced significantly from 22.4 months in 2011 to 17.3 months in 2012. The duration of coordination cases has also been reduced from 22.7 months in 2011 to 14.6 months in 2012.

Example of key investigative activities

OLAF has at its disposal a number of investigative tools that allows it to conduct effective investigations. The most important tools used in 2012 were the on-the-spot checks, inspections of EU premises, interviews, digital forensic operations as well as investigative missions in third countries (see chart 13).

Chart 12: Average duration (in months) of investigation and coordination cases

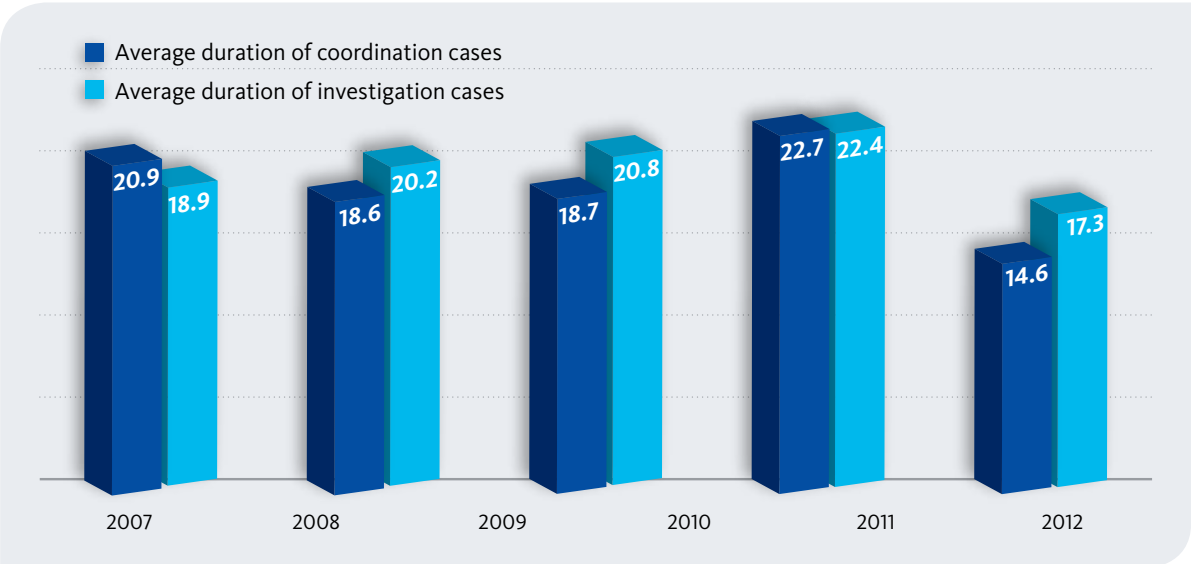
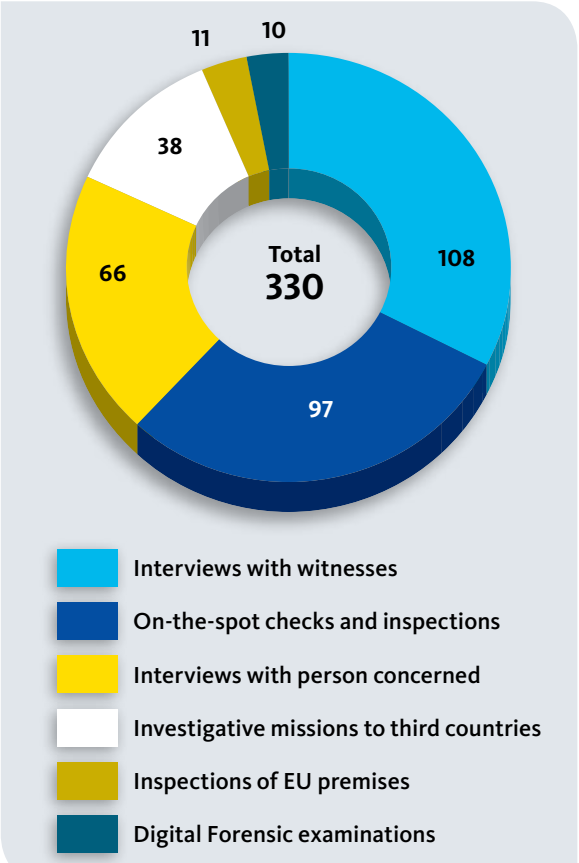


Chart 13: Investigative activities conducted in 2012



Case study: "On-the-spot" checks, an opportunity to reveal bigger frauds

OLAF received information that payments executed by the European Parliament in favour of a private company providing secretarial services to one of its Members (MEP) were not in line with the internal rules of the Parliament.

Based on this information OLAF conducted an investigation to determine whether the expenses were justified. In cooperation with the local authorities, on-the-spot checks were carried out at the service provider's premises to check the financial accounts.

Not only did the investigation corroborate the initial suspicions, but it also allowed the identification of other irregularities. OLAF investigators discovered that expenses allegedly declared for hiring personnel, hotel accommodation as well as private travel had been unduly reimbursed by the service provider to the MEP.

The national authorities were informed of the evidence found in the financial accounts of the service provider, including suspected irregularities in VAT treatment.

Conclusions and further steps

- Following its investigation, OLAF recommended that the European Parliament issue a recovery order addressed to the MEP for an amount in excess of €100 000. The case is currently being monitored by OLAF to ensure the implementation of this recommendation.
- The case demonstrates the importance of on-the-spot checks in order to acquire quickly evidence to prove or disprove allegations and to verify that no other EU interest is affected by irregularity or fraud.

3.3 Monitoring phase

A stable trend for issued recommendations

The Director-General can issue recommendations on the basis of the results of investigations, for action to be taken by EU Institutions, bodies, offices, agencies or competent authorities of Member States concerned. A recommendation may be for administrative, disciplinary, financial or judicial action to be taken, and several recommendations may be made in a single case.

In 2012 the number of cases closed with recommendations (100) remained stable compared to previous years.

Table 5: Investigation and coordination cases closed with or without recommendations

	2008	2009	2010	2011	2012
with recommendations	125	106	98	108	100
without recommendations	62	82	91	100	365
Total	**187**	**188**	**189**	**208**	**465**

The high number of cases closed without recommendations is due to the exceptional number of cases opened as a result of the reorganisation.

199 recommendations were issued in 2012. The majority of these were financial recommendations, reflecting OLAF's mandate to protect the financial interests of the EU.

Chart 14: Type(s) of recommendations

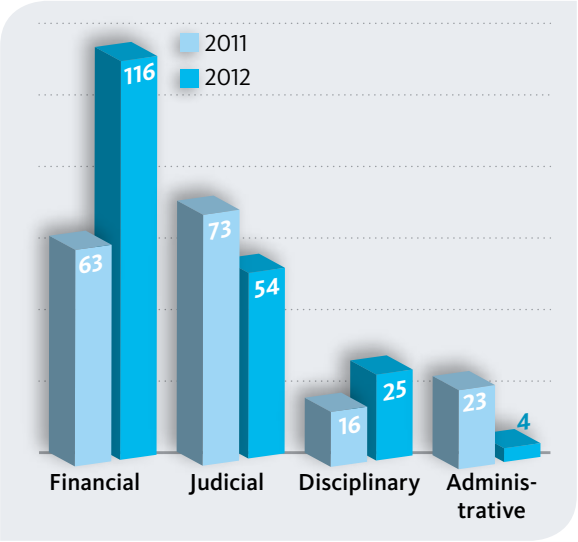


Table 6: Distribution of judicial recommendations issued in 2012 per Member State

Member State	Total
Romania	13
Belgium / Bulgaria	6
Italy / Luxembourg	5
Spain	3
Malta / Netherlands / United Kingdom	2
Austria / Cyprus / Czech Republic / Estonia / Finland / France / Germany / Greece / Latvia / Slovakia	1
Total	**54**

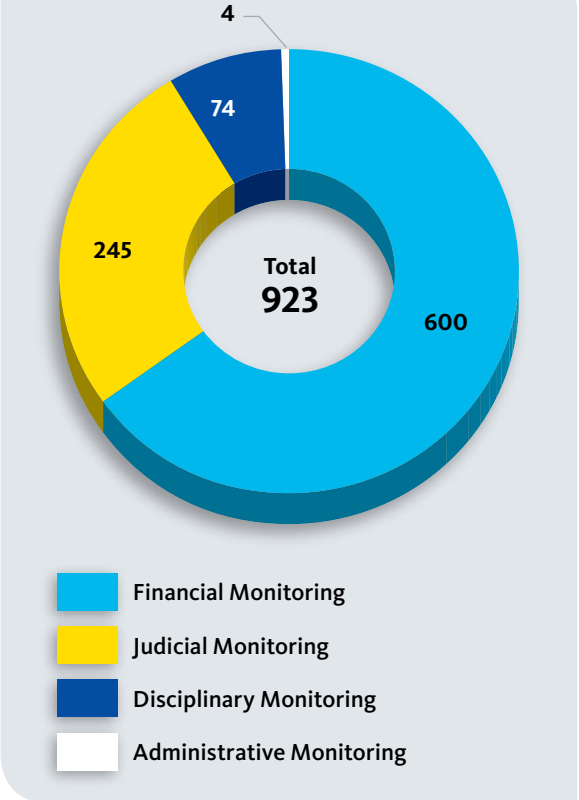
In 2012 OLAF made financial recommendations in relation to the recovery of a total of €284 million.

Table 7: Amounts recommended for recovery in 2012

Sector	Recommended amount (€ million)
Customs Fraud	165.8
Structural Funds	63.3
Agricultural Funds	33.4
External Aid	15.6
Centralised Expenditure	5.0
EU Funding through International Organisations and bodies	0.8
EU Staff	0.1
	284.0

In addition to the 199 recommendations issued in 2012, OLAF is monitoring a further 724 recommendations issued in previous years.

Chart 15: Total recommendations in monitoring phase (end of 2012)



Case study: Improving the prosecution of transnational cases

The 'Leonardo da Vinci' programme funds practical projects in the field of vocational training. Partners can claim through their National Agency, partial reimbursement of the costs they incur working on projects. The European Commission's Directorate-General for Education and Culture (DG EAC) informed OLAF of suspicions of possible multiple claims for reimbursement by a project partner and its connected entities.

OLAF computed the information received from DG EAC on the staff time reported by the suspected entities. In parallel, the Office notified the persons concerned of the facts and took account of the information they provided to draw up its conclusions. OLAF concluded that, over a period of several years, the persons had reported time worked on projects in excess of the number of working days in the period. The excess costs were ineligible for EU funding.

Conclusions and further steps

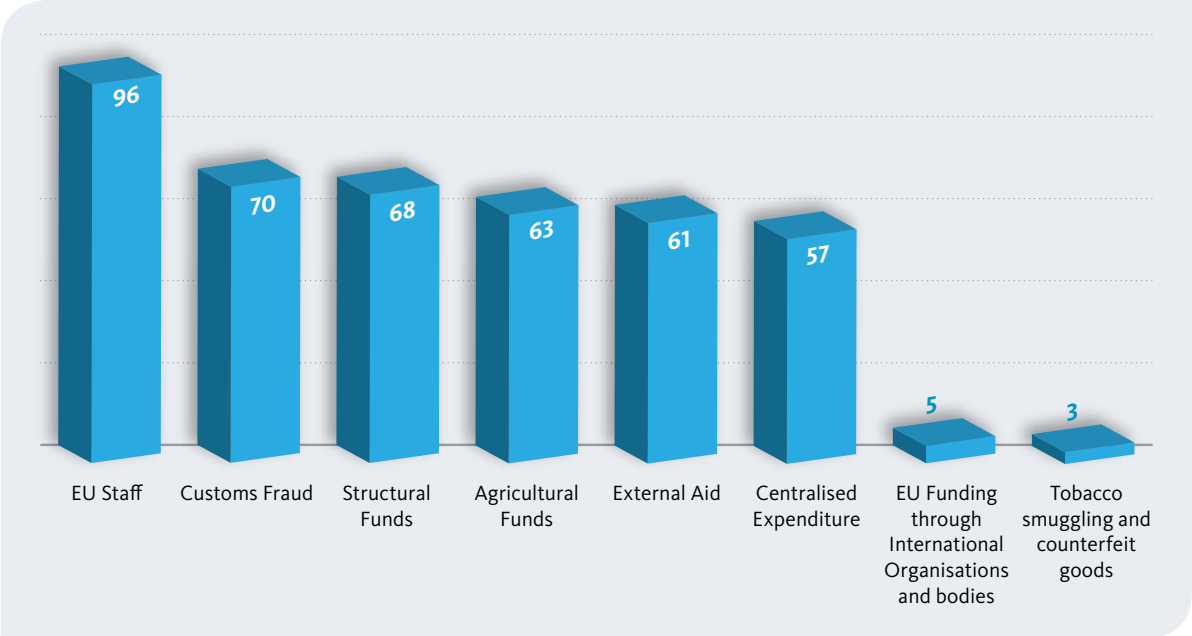
- Based on its investigation, OLAF recommended to DG EAC to seek recovery of the excess funding. OLAF also communicated its findings to the judicial authorities of the relevant Member State.
- The case was not prosecuted by the national judicial authorities despite the evidence collected. This was because the criminal intent of the persons concerned could not be demonstrated, owing to lack of clarity in the relevant EU legislation, in particular regarding permitted working days.

Monitoring, a transitional period

As part of the new procedures introduced on 1 February 2012, all investigative and post-investigative activities (including monitoring of the implementation of actions recommended to be taken) are carried out by the investigative unit. As such, the investigators are now monitoring the outcome of the investigations.

The total number of cases in the monitoring phase in 2012 (423) slightly increased (407 in 2011).

Chart 16: Cases in monitoring phase by sector (end of 2012)



In terms of financial recovery([8]), as announced in last year's report, from 1 February 2012 OLAF changed its reporting procedures. With effect from 2012, in order to reflect better the activity during the reporting year, the Office will present the amounts recovered in the year of their recovery. Previously, the amount recovered in a case was reported in the year in which the case was closed, regardless of when it was actually recovered.

In line with the new approach, OLAF is reporting that an amount of €94.5 million was recovered in 2012 as a result of its investigations([9]).

Table 8: Amounts recovered in monitoring activities during the year

Sector	Recovered amount (€ million)
Customs Fraud	33.9
Structural Funds	33.4
Agricultural Funds	14.3
External Aid	12.8
EU Staff	0.05
Centralised Expenditure	0.04
EU Funding through International Organisations and bodies	0.003
	94.5

In addition to the amount recovered in 2012, the sum of €207 million recovered before 2012 but corresponding to cases still open at that time, was not accounted for in last year's report, and will not need to be reported in the future as a consequence of the changes in reporting methods.

At the time of adoption of this report, the final results of the judicial actions taken by national authorities, to whom the recommendations were addressed, were not yet available.

([8]) In the context of this report, the term 'recovery' mainly includes the results of recovery orders issued by the Commission, offsetting of debts, de-commitment of EU finances from projects or programmes, debt liability apportionment between the Commission and Member States in certain sectors and recoveries of EU funds (e.g. import duties) from economic operators by Member States. Not all of these recovery transactions are individually identifiable in the Commission's accounting system.

([9]) Figures on amounts recovered available at the time of adoption of this report. For expenditure sectors, the recovery data was provided to OLAF by the competent Commission services and, with regard to the traditional own resources sector, the recovery data was extracted from the OWNRES database, which the Member States use to report frauds and irregularities over €10 000 to the Commission.

4. Policies to fight against fraud

4.1 Curbing cigarette smuggling

In the context of the Commission's Anti-Fraud Strategy, designed to update and modernise its policies to fight against fraud, the European Commission published in June 2011 an Action Plan([10]) to fight against cigarette and alcohol smuggling along the EU's Eastern border. This is one of the strategies for combating fraud against the EU budget from a regional perspective, by tackling the smuggling of highly taxed goods as a criminal phenomenon prevailing at the Eastern border. The implementation of this action plan was one of OLAF's key objectives in 2012.

Examples of actions accomplished by OLAF in 2012:

- OLAF organised a targeted meeting focusing on cigarette smuggling in the Baltic region, in Warsaw, in November 2012. Lithuanian, Latvian, Estonian, Polish, Russian and Belarusian competent authorities took part in the meeting discussing smuggling in the Baltic Region and improvement of operational contacts.
- Together with the Commission's Directorate-General for Taxation and Customs Union, a detailed risk assessment was carried out at the Eastern EU land border within the Customs 2013 Land Frontier Contact Group.
- The Commission, with OLAF's involvement, was also active in raising problems with Russia, Ukraine, Moldova and Belarus at official meetings with customs authorities and at political level.

Smuggled cigarettes very often originate in Asia and far-Eastern countries. Therefore there is a need, at EU level, to look at the illicit tobacco trade in a global



and comprehensive way. OLAF, on behalf of the Commission, is now working on a comprehensive EU strategy to step up efforts to fight against cigarette smuggling.

In the same context, the Protocol to Eliminate the Illicit Trade in Tobacco Products to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) plays an important role. The FCTC Protocol covers a variety of measures including a requirement for countries to impose restrictions on tobacco advertising, sponsorship and promotion, regulate the packaging and labelling and the content of tobacco products, ensure strict smoking controls in public places and make use of tax and price measures in order to reduce tobacco consumption. OLAF, on behalf of the European Commission, has coordinated the EU position and represented the EU throughout the negotiation process.

In November 2012 negotiations for the Protocol were finalised in Seoul, Republic of Korea, by the fifth Conference of the Parties of the World Health Organization. According to Article 43 of the Protocol, it is open for signature at the UN Headquarters in New York until 9 January 2014.

([10]) Commission Staff Working Document accompanying the Commission Anti-fraud Strategy, Brussels, 24.6.2011, SEC(2011) 791 final.

The Commission is now preparing, on behalf of the EU, the signature of the Protocol. The Commission services are also currently analysing the steps to be taken in order for the EU to comply entirely with the Protocol and implement it. One key aspect will be the implementation of the tracking and tracing provisions. Once in force, the Protocol will be a strong international tool to fight against illicit trade.

With 176 Parties, including the EU and all of its Member States, the WHO FCTC is one of the most widely accepted UN Treaties in history.

4.2 Cooperation activities between OLAF and its partners

The EU budget finances a wide range of programmes and projects in the European Union and around the world. OLAF's work to ensure that the funds reach the intended beneficiaries, without being diverted by fraud and corruption, depends significantly on cooperation with its external partners. The partner services include authorities responsible for bringing prosecutions where necessary, investigating irregularities and monitoring EU-funded projects.

OLAF's aim is to intensify its collaboration with various investigative, administrative and judicial partner services in the EU, non-EU countries and international organisations, who:

- have the competence to exercise functions of control over projects financed by the EU, realised inside or outside the EU territory;
- have the competence to investigate and/or prosecute cases of fraud, corruption and other illegal activities affecting those funds.

OLAF's partners cooperate by:

- **assisting OLAF in conducting inspections and on-the-spot checks in EU and non-EU countries;**
- **sharing information and expertise.**

OLAF has developed specific policy actions concerning cooperation with its partners. The Office organises consultations with national authorities from Member States and enlargement countries through regular or ad-hoc meetings. Moreover, Administrative Cooperation Arrangements are signed to facilitate practical day-to-day cooperation.

OLAF's cooperation with the Member States and enlargement countries, sharing information and expertise

The meetings organised at European level between OLAF and its partners from Member States and enlargement countries serve as a platform for sharing experience and best practices between the attending participants, thus providing a basis for future cooperation.

- Two meetings of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), composed of representatives of the Member States' authorities, relevant to cooperation with OLAF, took place in May and October 2012 and served as an exchange of best practices.
- In June 2012 Croatia hosted the annual Anti-Fraud Co-ordination Service (AFCOS) meeting, with the participation of the Member States (EU12) and most of the enlargement countries (Albania, Croatia, FYRO Macedonia, Montenegro, Serbia and Turkey). The discussions focused on the challenges to be met in regard to cooperation between OLAF and national authorities, such as exchange of information, safeguarding of evidence and equal treatment of suspected fraud cases involving EU funds by prosecution and other judicial authorities.

Case study: The need to improve the efficiency of transnational investigations

A national law enforcement service from a Member State informed OLAF that two companies had declared sales of large quantities of concentrated tomato to buyers located in two other Member States and, as a consequence, had already received EU funds under the Common Agricultural Policy. In order to assist in the national investigations, OLAF opened a coordination case involving law enforcement services from four different Member States.

During a previous investigation, OLAF had already established that one of the buyers was a fictitious company. This fact was confirmed by

the national authorities. It was concluded that the invoices had been used to cover fictitious sales. Meanwhile, in another Member State, the investigation carried out by the national authorities, at the request of OLAF, concluded that the processed tomatoes had been effectively sold and delivered at national level.

Conclusions and further steps

- **Following its investigation, OLAF recommended that the national paying agency recover €2 million unduly paid by the EU. Besides, OLAF transmitted its conclusions to the national law enforcement services. A judicial case is ongoing in the respective Member State, with more than 200 individuals and 30 companies under investigation.**
- **OLAF, as a European body, coordinated the actions of the national authorities, playing an important role in the transnational cases. However, cooperation has its limits, and improved protection of the EU's financial interests would require a dedicated structure. In this case study, a European Public Prosecutor's Office would have simplified transnational investigations, while speeding up the prosecutions.**

Administrative Cooperation Arrangements

In recent years, OLAF has intensified its efforts to establish closer links with its operational partners in Member States, third countries and International organisations through bilateral or multilateral Administrative Cooperation Arrangements (ACAs). The ACAs are aimed at achieving multi-faceted cooperation between OLAF and its operational partners to protect the financial interests of the European Union and of the recipient country or International organisation.

The ACAs do not contain legally binding commitments, apart from their contractual data protection clauses, but do provide a structured framework for practical cooperation.

Cooperation activities may include:

- exchange of information;
- operational assistance;
- joint investigations;
- technical assistance;
- access to information systems and databases;
- strategic analysis;
- training and staff exchange.

In 2012 ACAs were signed with:

- the Italian Guardia di Finanza;
- the Department of International Cooperation, United Kingdom;
- the Inspectorate of Government of the Republic of Uganda;
- the Export Promotion Bureau of the Ministry of Commerce of the People's Republic of Bangladesh.

Policy initiative for the creation of a European Public Prosecutor's Office (EPPO)

The initiative for setting up a European Public Prosecutor's Office was announced by the President of the Commission, Mr Barroso, in his speech on the State of the Union in September 2012. Under the joint political guidance of Commissioner Šemeta and Vice-President Reding, OLAF and the Directorate-General for Justice are preparing a legislative proposal to set up such an Office. The European Commission will put forward this legislative proposal in 2013.

This initiative should address gaps and shortcomings in the investigations and prosecutions of fraud, which continue to be experienced by OLAF in its cooperation with national judicial authorities. OLAF's case experience has demonstrated that, in order to conduct successful criminal investigations in EU fraud cases and speed up prosecutions, a European prosecution authority is needed. This body would ensure better coherence, effectiveness and equivalence in the investigation and prosecution of fraud throughout the EU.

In this context, OLAF's experience is used as a basis to define the rules that would govern a European body competent for conducting criminal investigations, prosecuting the persons concerned and protecting more effectively the financial interests of the EU.

Case study: International cooperation is essential to uncover and investigate fraud

The ACA signed between OLAF and the Bangladeshi Export Promotion Bureau (EPB) came as a consequence of their close cooperation while conducting investigations into fraud relating to the Generalised System of Preferences (GSP).

OLAF was informed of suspicions that two EU textile importers - situated in two different Member States were using fake GSP certificates from Bangladesh to enjoy duty-free access to the EU market.

OLAF, together with the Bangladeshi EPB, investigated the Bangladeshi exporters and found that more than 1 000 textile consignments were identified as originating from third countries but were claimed to be of Bangladeshi origin by use of fake GSP certificates of origin. Another 1 000 textile consignments, mostly jeans and trousers, were indeed exported from Bangladesh, but did not qualify for preferential treatment. In order to obtain wrongfully such status for these goods, dummy companies submitted fraudulent applications to the Bangladeshi authorities.

Conclusions and further steps

The financial impact of these two fraud cases is likely to be in excess of €10 million in own resources (customs duties/revenue side of EU budget). OLAF is in the process of issuing recommendations to the Member States involved in order to recover the custom duties.

4.3 Commission's Anti-Fraud Strategy

Following the adoption of the Commission's Anti-Fraud Strategy (CAFS), OLAF has contributed to the implementation of a series of initiatives and measures, as part of its mandate to support the European Commission in the development of comprehensive anti-fraud policies.

The CAFS aims at improving:

- the prevention and detection of fraud;
- the conditions for fraud investigations;
- the recovery and deterrence.

With OLAF's involvement and support, the Commission has made considerable headaway in tackling the priorities identified in the strategy:

- OLAF fully supports the implementation of the anti-fraud provisions included in the legislative proposals for the new Multiannual Financial Framework (MFF). In some policy areas preparations have already started for the application of these provisions;
- OLAF has devised up a methodology to support the Commission's Directorates-General (DGs) in drawing up of anti-fraud strategies. Most DGs are currently working on or have already completed their anti-fraud strategies;
- the Commission has already tabled a proposal for public procurement rules and negotiations are taking place.

Also other actions linked to the strategy have been completed in 2012 or are in progress:

- OLAF launched the Commission Anti-Fraud website in July 2012. This website, accessible to Commission staff only, serves as a central source of anti-fraud information and experience of the Commission services, including OLAF;
- OLAF coordinated the publication and dissemination of a casebook for external actions with anti-fraud information, based on an analysis of fraud cases;
- OLAF organised regular meetings of the Fraud Prevention and Detection Network (FPDNet), set up within the Commission to allow exchange of best practices among Commission services;
- an ad hoc COCOLAF (Advisory Committee for the Coordination of Fraud Prevention) meeting focused on structural actions took place and will continue to be organised annually, to facilitate the exchange of best practices in anti-fraud measures among Member States;
- with OLAF's support, training on detection and reporting of fraud for auditors of the Commission has been developed and several training sessions took place.

4.4 Financial support

The **Hercule programme** offers funding dedicated to fighting fraud, corruption and any other illegal activities affecting the financial interests of the EU, including the fight against cigarette smuggling and counterfeiting. Hercule II([11]) had in 2012 a budget of €14.3 million, covering all current EU countries and on certain conditions those that will join soon or are official Candidate Countries. Funding can be awarded to administrations (national or regional), research and education institutes or non-profit bodies.

In 2012, the Hercule programme provided grants to customs in Estonia and Lithuania in order to develop an Automated Number Plate Recognition System (ANPRS) for capturing information about cars and vehicles entering or leaving any of the three Baltic countries. The ANPRS is a system that consists of cameras, computers and dedicated software to identify the number plates of inbound and outbound vehicles at the main border crossing points of Estonia, Latvia and Lithuania. The purpose of the ANPRS is to gather information and intelligence on vehicles owned by persons or companies suspected of being involved in the smuggling and counterfeiting of cigarettes. The geographical location of the three Baltic Member States makes them vulnerable to smuggling of cigarettes and the introduction of the ANPRS has already led to some substantial seizures of smuggled cigarettes.

The ANPRS is a good example of "best practices" that have been facilitated by EU funding. Moreover, through their cooperation the Member States have endorsed a common approach to a number of practical problems during its development stage, which eventually could facilitate its extension to other Eastern border Member States and third countries.

Based on positive outcome from the previous years, a new proposal for Hercule III([12]) was adopted by the Commission in December 2011 as part of the Multiannual Financial Framework (MFF) package. This proposal provides for an overall budget of €110 million for a period of seven years as from 1 January 2014.

4.5 Protection of the euro

In 2012, OLAF, on behalf of the Commission, continued to protect the euro against counterfeiting through its activities in the following three domains:

- preparation of legislative initiatives;
- training and technical assistance;
- technical analysis of counterfeit euro coins.

IMPORTANT FIGURES

A total of 531 000 counterfeit euro banknotes were withdrawn from circulation in 2012. Although there was a decrease of 12.4% compared with 2011, the European Central Bank (ECB) notes an increase of 11.6% in the second half of 2012, compared with previous months (source: ECB).

The number of counterfeit euro coins removed from circulation increased by 17% to 184 000 in 2012 (source: OLAF's European Technical Scientific Centre – OLAF/ETSC). This increase can be attributed to the efforts of the Member States in implementing the Regulation concerning the authentication of euro coins.

OLAF is managing, on behalf of the European Commission **the Pericles programme**, which is an exchange, assistance and training programme designed to strengthen the protection of euro banknotes and coins in Europe and worldwide. The amount allocated for the implementation of the programme in 2012 was €1 million, covering technical assistance, professional training, support for improving cooperation between competent authorities, as well as awareness-raising activities concerning counterfeiting of the euro. The new MFF also includes a new proposal for Pericles 2020([13]) with a budget of €7.7 million for a period of seven years from 2014 until 2020.

In 2012, OLAF, together with the Directorate-General for Justice, finalised a proposal for a Directive of the

([11]) Decision No 878/2007/EC

([12]) COM(2011) 914 final

([13]) COM(2011)913 final.

European Parliament and of the Council to enhance the protection of the euro and other currencies([14]). The key objectives of this proposal are:

- to increase deterrence by harmonising the levels of minimum and maximum sanctions for serious cases of production and distribution;
- to increase the efficiency of cross-border investigations by means of special tools that are used for detecting other organised crime offences;
- to improve the detection of counterfeits by obliging judicial authorities during judicial proceedings to transmit seized counterfeits to the competent authorities for analysis.

Case study: OLAF contribution to the investigations - Three arrested in Italian Counterfeit Coin Raid

In 2012, a joint investigation carried out by the Italian Carabinieri and Guardia di Finanza with the on-the-spot support of OLAF led to the discovery of an illegal mint near Rome, Italy. Three criminals were arrested for producing fake €1 and €2 coins. The illicit mint produced a large amount of good quality counterfeit coins and had the potential to yield substantial profits.

Along with the coins, approximately €120 000 worth of equipment and materials were seized on site. Experts from the Italian Coins National Analysis Centre and the ETSC were called in to provide technical expertise in examining the coins as well as to oversee any possible links with similar cases across Europe.

After examination, OLAF/ETSC found that the case was technically linked to a mint which was discovered in Mons, Belgium, in April 2011.



([14]) Proposal for a Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA, COM(2013) 42 final, 5.2.2013.

5. Data protection

Protection of personal data is the key to a successful investigation because it is a crucial element in safeguarding the rights of individuals concerned by investigations. Since OLAF was established as an independent body, a decision was taken that it should appoint its own Data Protection Officer (DPO), who would make every effort to ensure that the Office implements the requirements of Regulation 45/2001 on the protection of personal data([15]), including recommendations of the European Data Protection Supervisor (EDPS).

The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media.

OLAF is committed to guaranteeing the implementation of data protection requirements by staff in their daily work. The new Instructions to Staff on Data Protection([16]) (ISDP) were submitted for consultation to the EDPS in 2012, and following implementation of the EDPS recommendations, were adopted by the Director-General of OLAF in April 2013.

Key figures about our activity in 2012:

Data subjects submitted a total of 13 requests for access to their personal data. OLAF granted access to all of them except one, about whom OLAF held no personal data.

A total of eight complaints were ongoing during 2012, of which two were newly filed in 2012.

This has to be put into perspective with the 891 investigations opened since 1 January 2009, involving more than 2 400 data subjects.

Case study: Data protection during computer forensic examination

In 2012, the EDPS issued several important decisions on a series of complaints which had been lodged in 2011 and 2012 by several staff members of an EU institution. The complaints concerned the manner in which OLAF had conducted an investigation and an on-the-spot inspection, including a forensic examination of digital media, in the concerned institution. The specific allegation was that OLAF had gathered an excessive amount of personal data from a computer (documents and e-mails unrelated to the subject of the investigation and private documents) and the SIM card of a mobile phone containing two telephone numbers, one of which was private (telephone traffic data).

The EDPS concluded that OLAF's execution of the digital forensic examination complied with data protection requirements.

In this context it should be noted that:

- digital forensic examinations are used only where there is a concrete suspicion of breach of EU rules, corroborated by concrete initial evidence;
- digital forensic examinations are preceded by a documented assessment of necessity and proportionality in relation to the suspected offence;
- when the forensic file is analysed by OLAF, only relevant data is extracted by means of key word searches and other more complex techniques. The rest of the content is not subject to further processing by OLAF and does not go into the investigation file.

OLAF has a margin of discretion in conducting investigations, in particular in the field of complex technical operations, and the EDPS will only declare an infringement of data protection rules if OLAF has made a manifest error of assessment.

([15]) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

([16]) http://ec.europa.eu/anti_fraud/about-us/data-protection/guidelines/index_en.htm

6. Supervisory Committee

The mandate of the Supervisory Committee([17]) of OLAF is set out in Regulation (EC) No 1073/1999 and in Decision 352 establishing OLAF([18]). The Supervisory Committee is the guarantor of OLAF's independence and supervises its investigative function through regular monitoring in order to ensure the proper conduct of investigations. Its five members are outside experts, appointed by the common agreement of the European Parliament, the Council and the Commission, who take no instructions from any government, institution, body, office or agency.

In 2012, a new Supervisory Committee was established, composed of Christiaan Timmermans (Chairman January-October 2012), Johan Denolf (Chairman as of October 2012), Herbert Bösch, Catherine Pignon and Rita Schembri. In January 2013 the Supervisory Committee welcomed a new Member, Jens Madsen, who replaced Christiaan Timmermans while Tuomas Pöysti replaced Rita Schembri as from 27 March 2013.

The monitoring function of the Supervisory Committee is carried out according to its Rules of Procedure([19]) and is based on examination of information on OLAF cases and other data available, as a result of which conclusions and recommendations may be communicated to the Director-General of OLAF and, where necessary, to the relevant Institutions.

In order to give a clear framework to the working relationship between OLAF and the Supervisory Committee, the Office and the Committee agreed in September 2012 on Joint Working Arrangements. They set out the procedure for the Committee to access information concerning OLAF's investigations.

The Supervisory Committee delivers opinions to the Director-General of OLAF at the request of the Director or on its own initiative concerning OLAF's activities without, however, interfering with the conduct of investigations in progress. In 2012 the Committee received information on all cases transmitted by OLAF to national judicial authorities and 188 OLAF reports on cases lasting more than nine months. The Committee examined the full case files for 38 investigative cases. Furthermore, it delivered two formal Opinions to the Director-General of OLAF. The first Opinion adopted on 26 June 2012 related to OLAF's Preliminary Draft Budget for 2013. The second Opinion adopted on 11 December 2012, was an analysis of a specific OLAF investigation. OLAF provided replies to these Opinions.

The activities of the Supervisory Committee are described in detail in its own annual report which covers the full year from its appointment at the end of January 2012 up to January 2013. This report, published on 22 April 2013, is available on the Supervisory Committee's website section([20]) and was welcomed by the Director-General of OLAF([21]).

([17]) Supervisory Committee's dedicated section on OLAF's website: http://ec.europa.eu/anti_fraud/about-us/supervisory-committee/index_en.htm

([18]) Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999, OJ L 136/20, 31.5.1999.

([19]) Rules of Procedure (OJ L 308, 24.11.2011, p. 114).

([20]) Supervisory Committee's Activity Report: http://ec.europa.eu/anti_fraud/about-us/reports/supervisory_reports/index_en.htm

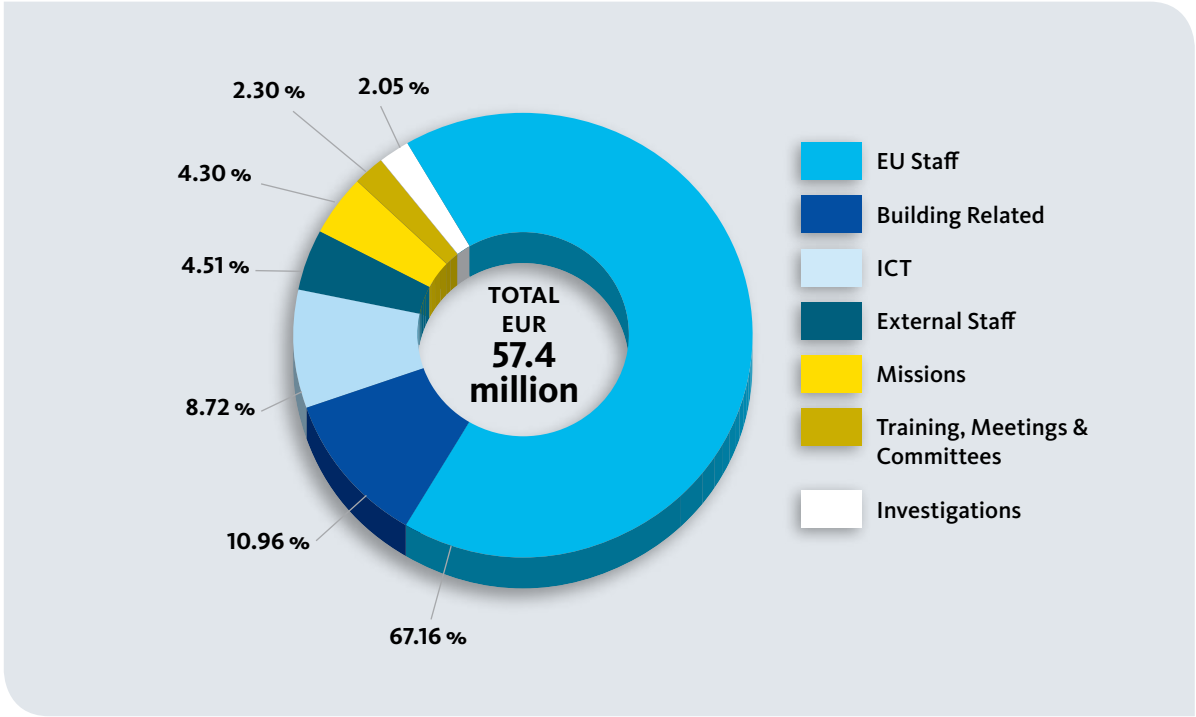
([21]) See OLAF's press release: http://ec.europa.eu/anti_fraud/media-corner/press-releases/press-releases/2013/20130423_01_en.htm

7. Resource management

7.1 OLAF's Budget

In 2012, OLAF's administrative budget was €57.4 million. This was allocated as follows:

Chart 17: OLAF's administrative budget in 2012



7.2 Human resources

The new organisational structure of OLAF, implemented in February 2012, focuses on two core tasks: investigation and anti-fraud policy. The intention is to improve efficiency and effectiveness, while making best use of existing human resources. The number of staff dedicated to the core tasks has been increased significantly by internal redistribution, so that more than two thirds of staff are now working either on fraud investigations or on the support of investigations. This is against a background of reductions in the overall number of posts available to OLAF of 2 % in 2012, with further cuts foreseen in 2013.

In 2012, OLAF reinforced its senior management team through the appointment of three new Directors. The three newly appointed Directors are women.

OLAF pays close attention to improving gender balance at all levels in order to reinforce the organisational effectiveness of the Office.

Table 9: Overview of OLAF personnel on 31 December 2012

	Permanent and Temporary posts	External Personnel	Total
Fight against fraud	303	42	345
Administrative support	30	5	35
OLAF Policy strategy and coordination	49	6	55
Total	**382**	**53**	**435**

7.3 Training

In the framework of OLAF's reorganisation and given the introduction of new investigative procedures, the main focus of the in-house training in 2012 concerned the changes and the implementation of these new procedures. All OLAF's staff participated in this training. With the internal redistribution of staff due to the reorganisation, more specific training courses were also given to those joining investigative units.

The reorganisation also reinforced the role of the training Unit by clarifying its main focus on investigative training in order to maintain and improve further the high standards of OLAF in the investigative fields (including the forensic area).

In order to share widely throughout the Office the expertise and know-how acquired by OLAF's experts and investigators, training sessions for investigative staff were sometimes given directly by OLAF's own experts or investigators, for example relating to on-the-spot check or the use of IT tools.

Equally, in order to deepen their knowledge, OLAF staff were also given training by other Commission services (Directorate-General for Agriculture and Rural Development) or specialised Institutions or bodies (the European Investment Bank).

OLAF is also contacted regularly by other Commission services, institutions or bodies to give trainings on specific topics relating directly to its competences, expertise or methods of work. In the framework of the Commission's Anti-Fraud Strategy, OLAF supports the Commission services in their efforts to raise awareness about fraud issues and develop appropriate anti-fraud training.

8. Outlook: 2013 and beyond

2012 was a year in which OLAF's new investigative procedures and organisation were implemented. These changes will continue to have a considerable impact on the work of the Office in the coming years.

The reform of Regulation (EC) No 1073/1999, which has been the subject of negotiation for several years, is much needed by the Office in order to provide a clear and stable legal framework for its activities([22]). Once adopted it will reinforce the governance of OLAF, safeguard fundamental rights of the persons concerned in OLAF's investigations and strengthen its cooperation with the Member States.

As for OLAF's contribution to anti-fraud policies, major challenges await the Office and the European Commission in 2013:

- In the fight against illicit trade of tobacco products, following the development of the Eastern Border Action Plan (2011-2012), the Commission will come forward with a broader initiative encompassing the whole EU. OLAF is preparing, on behalf of the Commission, this overall EU Strategy against illicit tobacco trade, to be adopted mid-2013.
- It will integrate the achievements and ongoing initiatives under the Eastern Border Action Plan and will propose new actions based on an analysis of the seizures reported by the Member States. On an international scale, the signature and conclusion of the FCTC Protocol is one of the key objectives for the EU.
- The negotiations for the new Hercule and Pericles programmes under the new MFF are ongoing and should be finalised by the end of 2013.
- OLAF, in cooperation with the Directorate-General for Justice, is working on a proposal for a regulation on setting up a European Public Prosecutor's Office (EPPO), to be presented in 2013. Article 86 of the Treaty on the Functioning of the European Union([23]) allows for the possibility of establishing the EPPO, which would be responsible for investigating, prosecuting and bringing to justice those who damage assets managed by or on behalf of the EU.

([22]) See Position (EU) No. 2/2013 at first reading with a view to the adoption of a Regulation of the European Parliament and the Council concerning investigations conducted by OLAF, adopted on 25 February 2013, OJ C 89E/ 27.03.2013.

([23]) Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community [2007] OJ C306/01.

European Commission

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The **OLAF** report **2013**

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The **OLAF** report **2013**

Fourteenth report of the European Anti-Fraud Office, 1 January to 31 December 2013

EUROPEAN ANTI-FRAUD OFFICE

DISCLAIMER:

OLAF's report features case studies for illustrative purposes only. In particular, the fact that OLAF presents such case studies does not prejudge the outcome of any judicial proceedings; nor does it imply that any particular individuals are guilty of any wrongdoing.

Executive summary

- In 2013, the European Anti-Fraud Office (OLAF) received the highest amount of incoming information since its creation: 1294 items. This reflects the continued commitment of EU citizens, EU institutions and other partners to reporting suspected cases of fraud and also shows sustained confidence in OLAF.
- The selection of cases in OLAF lasted on average 1.8 months in 2013. OLAF succeeded in keeping the selection phase short despite the higher volume of incoming information.
- In 2012 and 2013, OLAF opened more investigations than in the preceding years (431 and 253 respectively), marking a new record high in a decade.
- The average duration of investigations in 2013 remained low at 21.8 months (23.6 months in 2012). The results of the last two years mark a clear improvement compared to previous years. This demonstrates the priority given by OLAF to improving the efficiency of its investigations and to reducing the overall duration of its cases.
- In 2013, OLAF issued 353 recommendations for action to be taken by the relevant EU institutions, bodies, offices, agencies or competent authorities of the Member States. This is an unprecedented high number since 2006, and a substantial increase (+77 %) compared to 2012.
- On 1 October 2013, Regulation No 883/2013 on investigations by OLAF entered into force. It brought significant changes to the work of OLAF and to its relations with various stakeholders. The Regulation further defines the rights of persons concerned, introduces an annual exchange of views between OLAF and the EU institutions and requires that each Member State designate an Anti-Fraud Coordination Service.
- OLAF's Director-General adopted new Guidelines on Investigation Procedures for OLAF staff which entered into force on the same day as the OLAF Regulation.
- OLAF and its Supervisory Committee have agreed on new Working Arrangements following the entry into force of Regulation No 883/2013. These Arrangements notably cover the modalities of how OLAF shares information with its Supervisory Committee.
- During 2013, OLAF has contributed greatly to the Commission's efforts to fight against cigarette smuggling. It will continue to consider this as a priority area.
- OLAF contributed to the adoption by the Commission of a proposal for establishing a European Public Prosecutor's Office responsible for investigating and prosecuting offences of fraud affecting the EU.

'OLAF' is the acronym of its title in French, *Office européen de lutte antifraude*

Communicating with OLAF on

olaf.europa.eu

- How to report fraud to OLAF **ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm**
- How to complain about OLAF investigations **ec.europa.eu/anti_fraud/investigations/complaints-on-olaf-investigations/complaints_on_olaf_investigations_en.htm**
- How to contact OLAF and ask for general enquiries
  ec.europa.eu/anti_fraud/contacts/general-enquiries/index_en.htm
  OLAF -European Commission - Rue Joseph II, 30, 1000 Brussels, Belgium
- How to request a visit to OLAF **ec.europa.eu/anti_fraud/contacts/request-visit/index_en.htm**
- Media contacts **ec.europa.eu/anti_fraud/contacts/media-enquiries/index_en.htm**



Foreword

It is with great pleasure that I introduce this Annual Report of the European Anti-Fraud Office (OLAF). The last year was important for us because 2013 was the first full reporting year following the major reorganisation of OLAF in 2012. The reorganisation aimed to improve the overall efficiency of our investigative activity. We can now see that it has yielded excellent results.

In 2013, OLAF received more information of potential investigative interest than ever before. This reflects the continued attention given by citizens, institutions and other partners to fraud issues and shows increased confidence in OLAF's investigative capacities. We succeeded in assessing this information in a short time — 1.8 months on average — before deciding whether to pursue a case or not.

In 2013, we opened a high number of investigations, 253, confirming that the last two years mark a new record in OLAF investigations. In parallel, we worked on reducing the overall duration of our investigations, in order to increase the chance that OLAF cases lead to meaningful results on the ground, with better possibilities for prosecution, recovery and avoidance of prescription.

OLAF also issued the highest number of recommendations in the last five years, with 353 recommendations for judicial, financial, administrative or disciplinary action to be taken. We are hopeful that the results triggered by these recommendations will become apparent in the coming years when the competent authorities take the relevant measures.

Beyond these promising results, last year has also been busy for OLAF on the policy side. The new OLAF Regulation No 883/2013 came into force. It defines more clearly the rights of the persons concerned by OLAF investigations and facilitates cooperation with our operational partners within and beyond Europe. In line with this regulatory reform, we adopted new Guidelines on Investigative Procedures for OLAF staff. OLAF entered into a number of cooperation and working arrangements with a series of partners, which will help strengthen OLAF's outreach. Last but not least, OLAF assisted the European Commission with the development of anti-fraud policies and legislation. We contributed to the Commission's proposal on the establishment of a European Public Prosecutor's Office. We will continue to work on this file throughout the legislative process, contributing to the creation of a European area of justice.

In addition, OLAF continued to fight against tobacco smuggling, a harmful phenomenon that causes huge annual losses to the EU and Member States' budgets. You will find a focus chapter on this topic in this year's Report.

Looking back over 2013, we have done our best to make OLAF an increasingly efficient and engaged Office at the service of European citizens. We stepped up our investigative efforts, contributed to key policies and further developed the cooperation with our operational partners. This was achieved with virtually the same resources as in previous years. I would like to conclude by thanking OLAF staff for their commitment, dedication and hard work.

Giovanni Kessler
Director-General of OLAF

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1. OLAF's role and responsibilities

Mission statement

The mission of the European Anti-Fraud Office (OLAF)([1]) is threefold:

- It protects the financial interests of the European Union (EU) by investigating fraud, corruption and any other illegal activities;
- It detects and investigates serious matters relating to the discharge of professional duties by members and staff of the EU institutions and bodies that could result in disciplinary or criminal proceedings;
- It supports the EU institutions, in particular the European Commission, in the development and implementation of anti-fraud legislation and policies.

By performing its mission OLAF contributes to the efforts made by the EU institutions to guarantee that the best use is made of taxpayers' money.

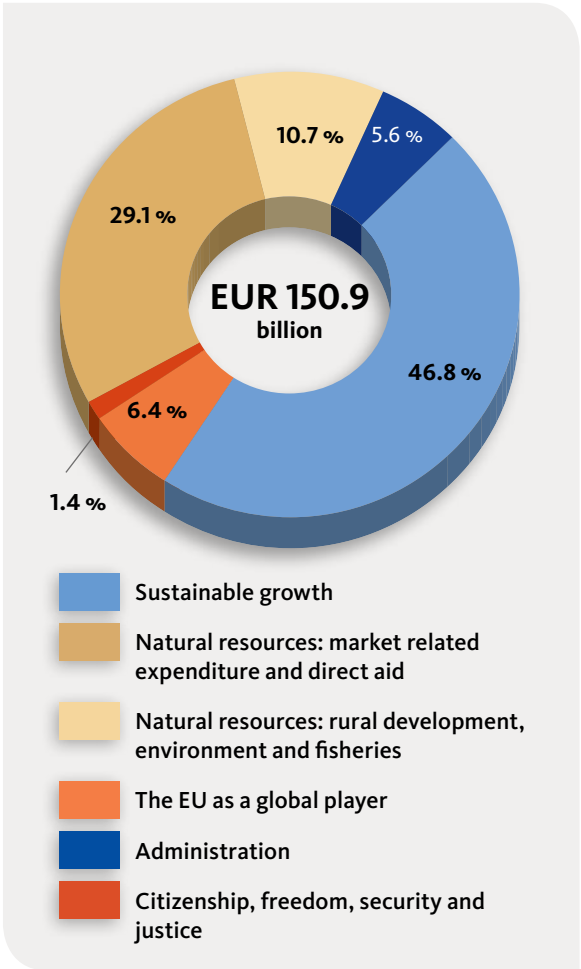
The legal basis for EU action against fraud is Article 325 of the Lisbon Treaty. OLAF's main role and remit for carrying out its administrative investigations is defined principally in Regulation (EU, EURATOM) No 883/2013 ([2]) (the OLAF Regulation) which came into force on 1 October 2013, after its adoption by the European Parliament and the Council of the European Union.

For investigations concerning members and staff of EU Institutions, bodies, offices and agencies (internal investigations), OLAF also derives its mandate from the inter-institutional agreement between the European Parliament, the Council and the Commission ([3]) and from Staff Regulations ([4]).

While OLAF is part of the European Commission, under the responsibility of the Commissioner in charge of Taxation and Customs Union, Audit and Anti-Fraud (from 2010 to 2014), it has an independent status for its investigative function.

Action taken by OLAF to protect the financial interests of the EU covers the entire expenditure side of the budget. On the revenue side of the budget, OLAF focuses particularly on "traditional own resources", including customs duties and sugar sector levies that represent around 14.1 % of the revenue side of the EU budget.

Figure 1: EU budget 2013 – Expenditure side



([1]) OLAF is also referred to as "the Office" in this report

([2]) Regulation (EU, EURATOM) No 883/2013 (referred to as the OLAF Regulation in this report) of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.

([3]) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:136:0015:0019:EN:PDF

([4]) No 31 (EEC), 11 (EAEC) of 1 January 2014.

Regulation No 883/2013 on investigations conducted by OLAF

The OLAF Regulation ([5]) strengthens the rights of the persons concerned by OLAF investigations, provides clarifications on investigation procedures and updates the information requirements to OLAF's Supervisory Committee. It also clarifies the information requirements between OLAF and the EU institutions, bodies, offices and agencies, as well as between OLAF and the EU Member States; it contains provisions on cooperation with EU law enforcement bodies and with third countries. Further information on three specific features of the OLAF Regulation is provided below.

GUIDELINES ON INVESTIGATION PROCEDURES FOR OLAF STAFF

The OLAF Regulation requires the Director-General to adopt guidelines on investigation procedures. These are internal rules to be applied by all OLAF staff in order to ensure that OLAF investigations are carried out in a consistent and coherent manner. The guidelines cover:

- The conduct of investigations;
- The procedural guarantees;
- Details on the internal advisory and control procedures, including legality checks;
- Data protection.

They recall that all investigative activities are carried out in full respect of EU Treaties, the Charter of Fundamental Rights of the EU and EU legislation. In addition investigations are conducted in an objective and impartial manner ensuring procedural fairness, in accordance with the highest professional standards and in full respect of the rights of all persons involved.

Due to the adoption of the OLAF Regulation, the new guidelines come to application on 1 October 2013 ([6]). They replace the OLAF Instructions to Staff on Investigative Procedures adopted in 2012.

DESIGNATION OF AFCOS IN THE MEMBER STATES

All Member States are required under the OLAF Regulation to designate an Anti-Fraud Coordination Service (AFCOS) to facilitate effective cooperation and an exchange of information, including information of an operational nature, with the Office. OLAF is providing the necessary assistance and advice to the Member States to support the national administrations in designating their AFCOS. The importance of the implementation of the AFCOS is twofold:

- At the EU level it will lead to better information exchange between OLAF and the Member States. In turn this will contribute to more effective transnational efforts to combat fraud;
- At the national level it can allow for better coordination between the anti-fraud authorities and improve the fight against fraud.

By the end of 2013 more than half of all Member States had designated an AFCOS.

EXCHANGE OF VIEWS WITH THE INSTITUTIONS

The OLAF Regulation introduces an annual exchange of views at the political level between the European Parliament, the Council, the Commission and the Director-General of OLAF, with the participation of the OLAF Supervisory Committee. Representatives of the Court of Auditors, Eurojust and/or Europol may be invited to attend on an ad hoc basis ([7]).

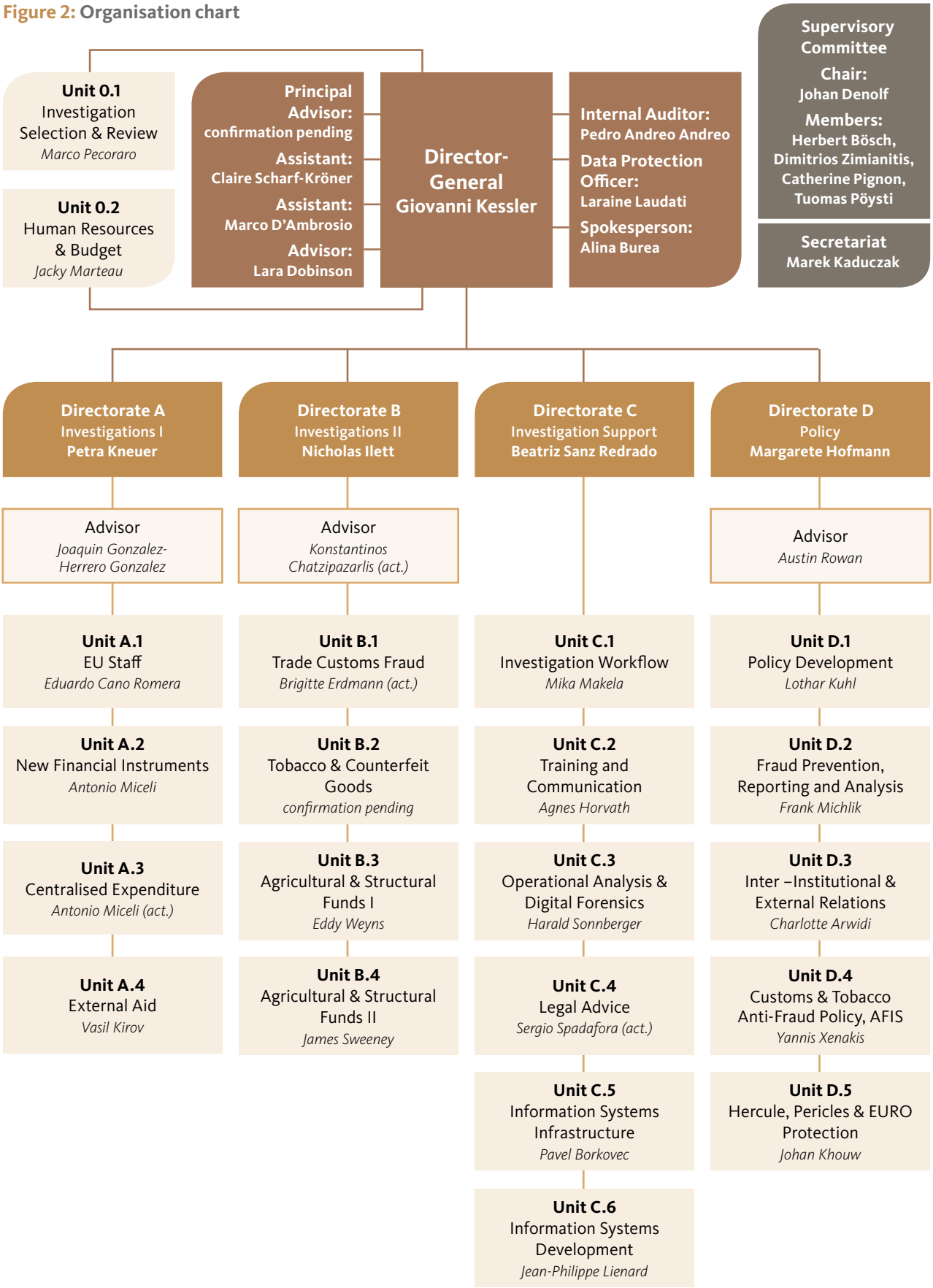
The exchange of views provides a forum for discussing aspect of OLAF's policy relating to methods of preventing and combating fraud, corruption or any other illegal activity affecting the financial interests of the EU. The possible topics include the strategic priorities for investigation policies and the effectiveness of the work of the Office, with regard to the performance of its mandate, as well as the relations between OLAF and other institutions and authorities in the EU, its Member States or third countries. The discussion must not, however, interfere with the conduct of OLAF's independent investigations.

([5]) For further details, please refer to : http://ec.europa.eu/anti_fraud/about-us/legal-framework/memo_en.htm

([6]) For further details, please refer to : http://ec.europa.eu/anti_fraud/documents/gip/gip_18092013_en.pdf

([7]) See Article 16 of the Regulation No 883/2013 of 11 September 2013.

Figure 2: Organisation chart



2. OLAF's investigative activities

In 2013, OLAF saw the first results flowing from the major reorganisation of the Office in the previous year which aimed to improve the overall efficiency of its investigative activity. This reform has started to yield results allowing OLAF to step up the fight against fraud, while at the same time, dealing with more incoming information than ever before and shortening the overall duration of its investigations.

In addition, the Office was further reinforced by the entry into force of Regulation No 883/2013 and the adoption of Guidelines on Investigation Procedures for OLAF Staff.

Figure 3a: OLAF's investigative activity in 2013

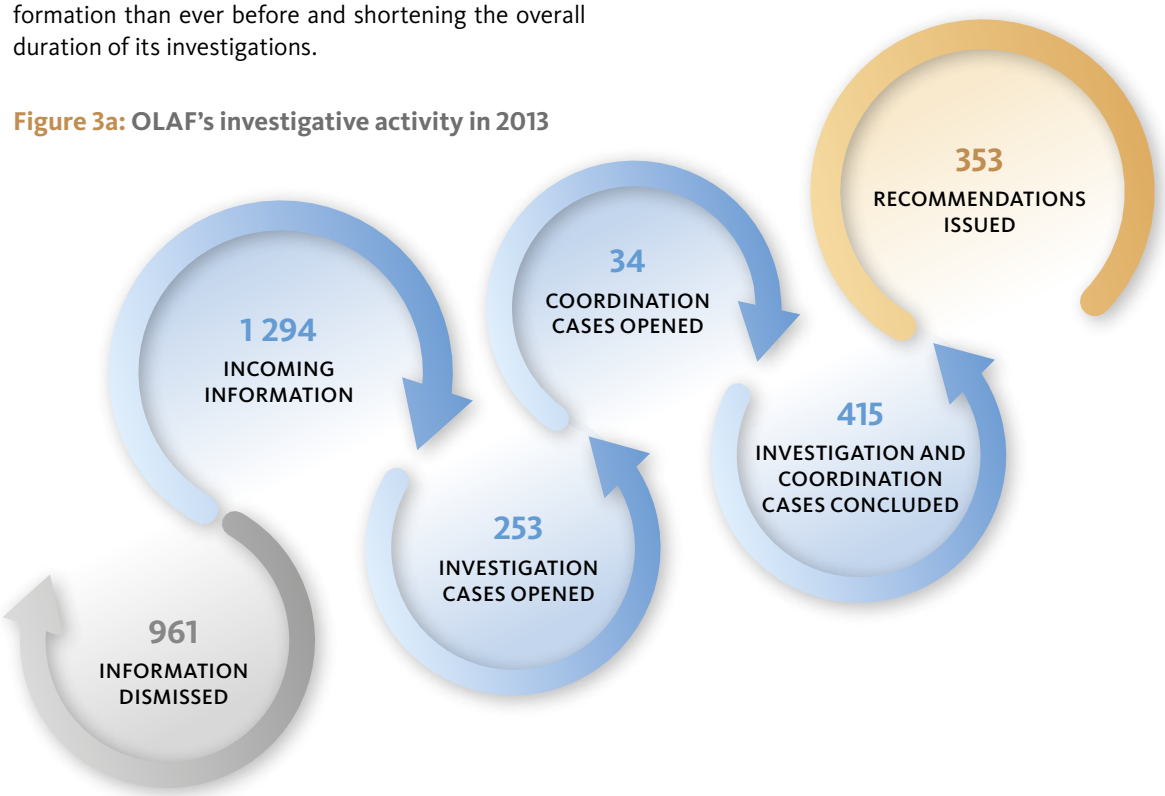
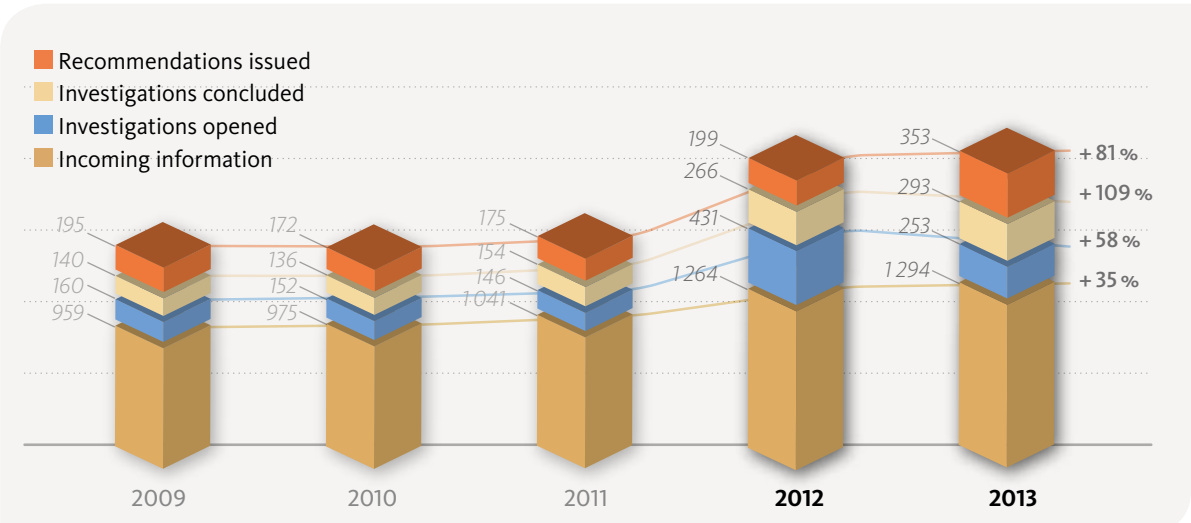


Figure 3b: OLAF over the last five years: increase in incoming information, more investigations opened and concluded and a higher number of recommendations issued



2.1 Incoming information

The reception of information of possible investigative interest is the starting point for OLAF's investigative activity.

INFORMING OLAF IN 2013: ALL-TIME RECORD SINCE THE CREATION OF THE OFFICE

In 2013, OLAF received the highest number of incoming information items since its creation: 1 294 items. This reflects the continued commitment of EU citizens, EU institutions and other partners to reporting suspected cases of fraud and also shows continued confidence in OLAF.

The largest amount of incoming information relates to the Structural Funds ([8]). The Agricultural Funds and EU Staff sectors also represent an important share of the incoming information.

There were also 248 incoming information items that did not fall into OLAF areas of competence.

Figure 4: Incoming information by source

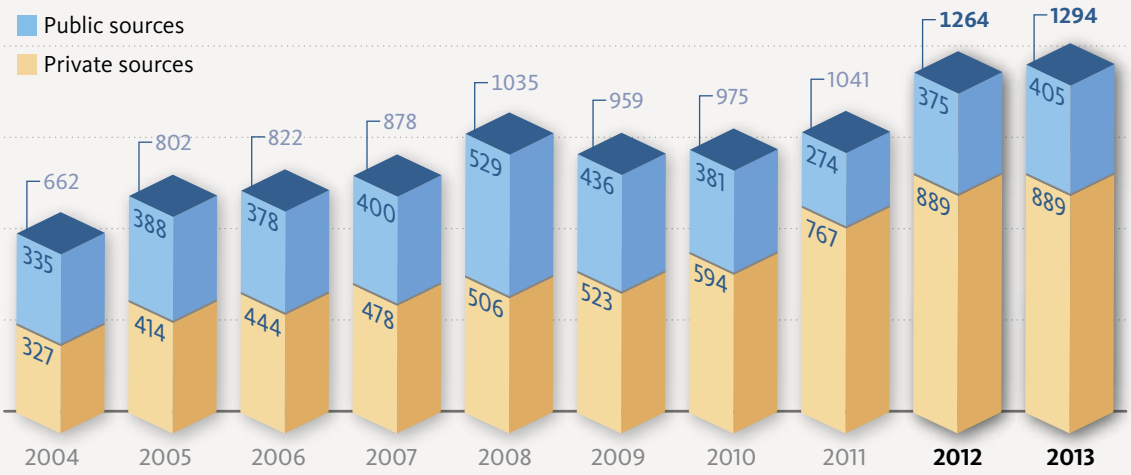
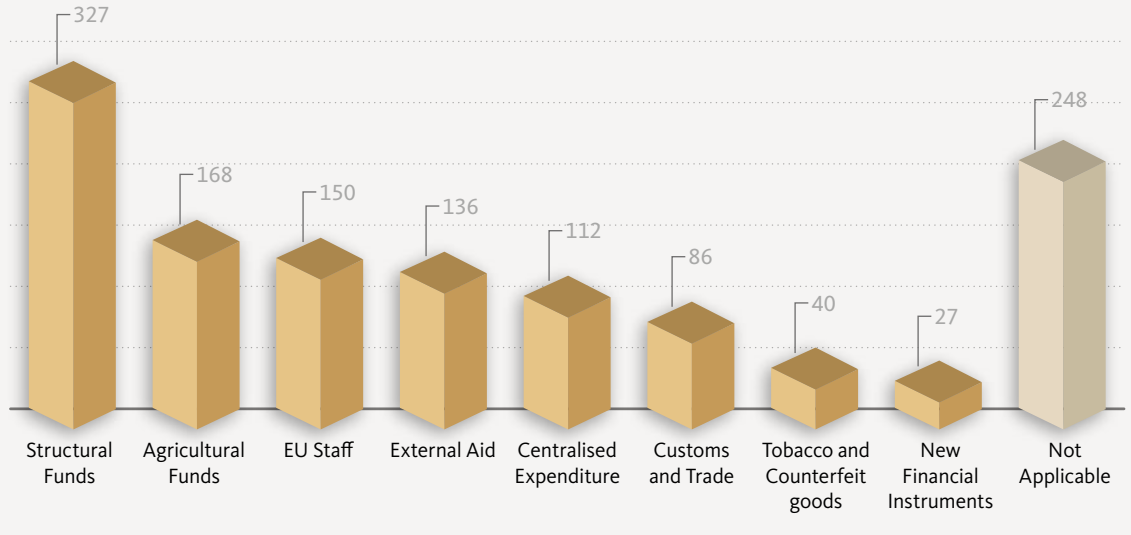


Figure 5: Incoming information by sector



([8]) The Structural Funds sector includes the Cohesion Fund and Fisheries Funds. The Customs and Trade sector also includes precursors.

Two-thirds of the 1294 information items received by OLAF in 2013 arrived from private sources, whether known or anonymous ([9]).

About 44 % of the incoming information from public sources in 2013 has led to the opening of an investigation or coordination case, this figure amounts to only 10 % for incoming information from private sources.

Based on Regulation No 883/2013, OLAF may open an investigation when there is a sufficient suspicion that there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU, also on the basis of anonymous information.

Case study: Processing incoming information swiftly – Detection of fraud through reporting mechanism (Fraud Notification System)

In September 2011 OLAF received anonymous but well substantiated allegations via its Fraud Notification System (fns.olaf.europa.eu/) and opened an investigation. The allegations focused on possible conflict of interest, tender manipulations and irregularities in the tender application (list of experts supplied). These were identified in relation to EUR 3.8 million provided to a Member State as technical assistance funding from the European Regional Development Fund.

In the course of its investigation OLAF uncovered evidence of falsified documentation and signatures in the tender procedure which confirmed the alleged irregularities.

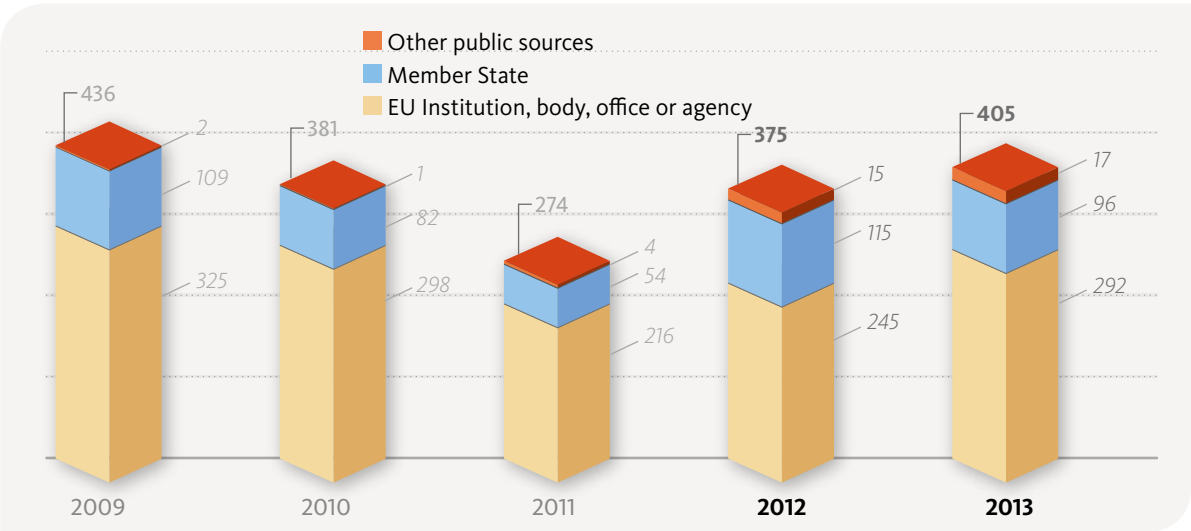
In early 2013, OLAF issued Recommendations to both the administrative and judicial authorities of the Member State concerned. This led to the opening of a national police investigation. A financial recommendation for the recovery of EUR 3.8 million of EU funding was also issued to the Directorate-General of Regional Policy of the European Commission.

In 2013, information from public sector sources was up by 8 %. The increase was driven by a higher amount of information received from EU institutions, bodies, offices or agencies (+19 %). This can be attributed to better cooperation with these institutions and bodies and to the implementation of anti-fraud strategies in the Commission services.

At the same time, there was a 17 % decrease in the number of information items received from Member States compared to 2012. However in a medium-term perspective, the incoming information coming from Member States authorities remains stable.

As Member States share with the Commission the management of around 80 % of EU funds, they have a responsibility to send to OLAF any relevant information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the EU.

Figure 6: Incoming information items from the public sector



([9]) Including sources that provided insufficient contact details.

Figure 7: Incoming information from Member States

Member State	Number of items
Germany	38
Italy	7
Greece, Spain	6
Belgium	5
France, Lithuania, United Kingdom	4
Bulgaria, Ireland, the Netherlands, Romania	3
Czech Republic, Portugal	2
Austria, Croatia, Malta, Poland, Slovakia, Slovenia	1
Cyprus, Denmark, Estonia, Finland, Hungary, Latvia, Luxembourg, Sweden	0
Total	**96**

Figure 7 shows the distribution among the number of items reported by the Member States which is an indicator of the degree of cooperation with the Office.

The amount of information items coming from third countries in 2013 was 13, up from 10 during 2012. The number of items coming from international organisations was 4 in 2013 compared with 5 in 2012.

Case study: Investigation unveils misuse of multi-million fund from the EU budget

The EU is one of the biggest aid suppliers in the world. Among the different aid mechanisms and instruments the Commission also provides budget support to partner governments in third countries. In 2012, OLAF received information about the alleged misuse of the EU's budget support programme funds and serious financial irregularities in a third country.

In the course of its inquiry, OLAF obtained central pieces of information from an independent source and from a Ministry in the country concerned. These helped to establish that there had been serious mismanagement and that funds had been diverted towards non-contractual and non-agreed use. Most of the amounts provided did not enter the revenue of the national budget, but were funnelled to an account and used to finance other costs. In consequence, this funding was outside the budgetary control of the national Parliament and was excluded from the financial circuit of the competent Ministry.

As a result of this investigation, OLAF issued a recommendation for financial recovery to the European Commission's Directorate General for Development and Cooperation for approximately EUR 40 million.

2.2 Selection phase

During the selection phase, the unit in charge of Investigation Selection and Review analyses information of possible investigative interest and provides an opinion to the Director-General on whether an investigation or coordination case should be opened.

SELECTION OF CASES IN OLAF

Under Regulation No 883/2013, cases are selected based on the existence of sufficient suspicion that there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU. The decision whether to open an investigation also takes into account:

- the investigation policy priorities (annexed to the management plan of OLAF ([10])) and the principles of subsidiarity and proportionality as well as the need for efficient use of the Office's resources;
- all the relevant information and the opinion provided by the Selection and Review unit. When a case is dismissed, the source that had submitted the information may be informed.

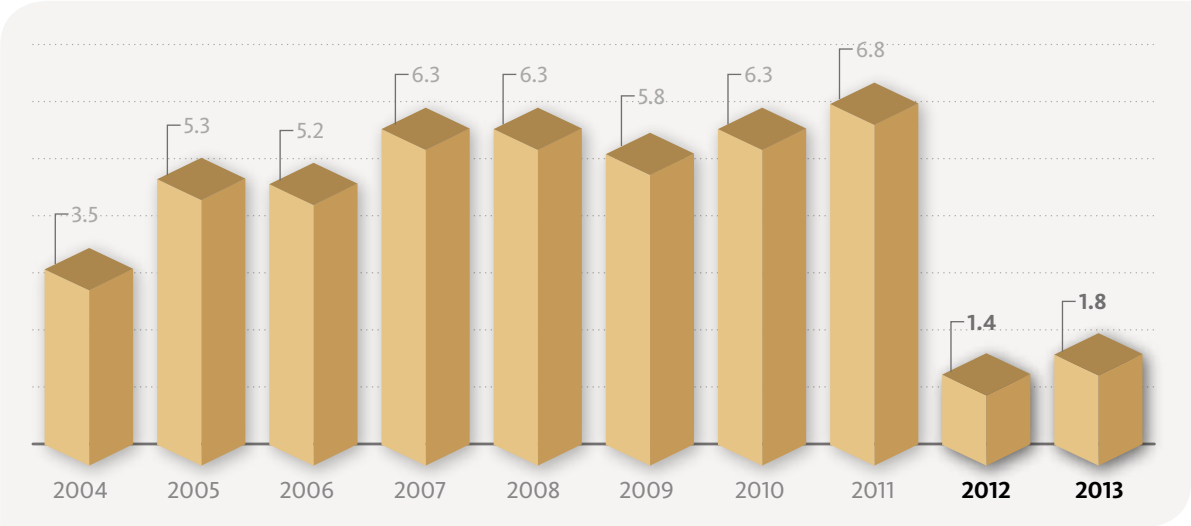
OLAF has made considerable efforts to reduce the overall duration of the selection phase in the last two years, with excellent results in 2013, confirming the trend of 2012.

DURATION OF THE SELECTION PHASE REMAINS SHORT IN 2013

In 2013, the duration of the selection phase was 1.8 months (Figure 8), despite the higher volume of incoming information. This result is below the two-month maximum target established in OLAF's Management Plan.

([10]) http://ec.europa.eu/anti_fraud/documents/about_us/mgmt_plan/olaf_mp_2014_en.pdf

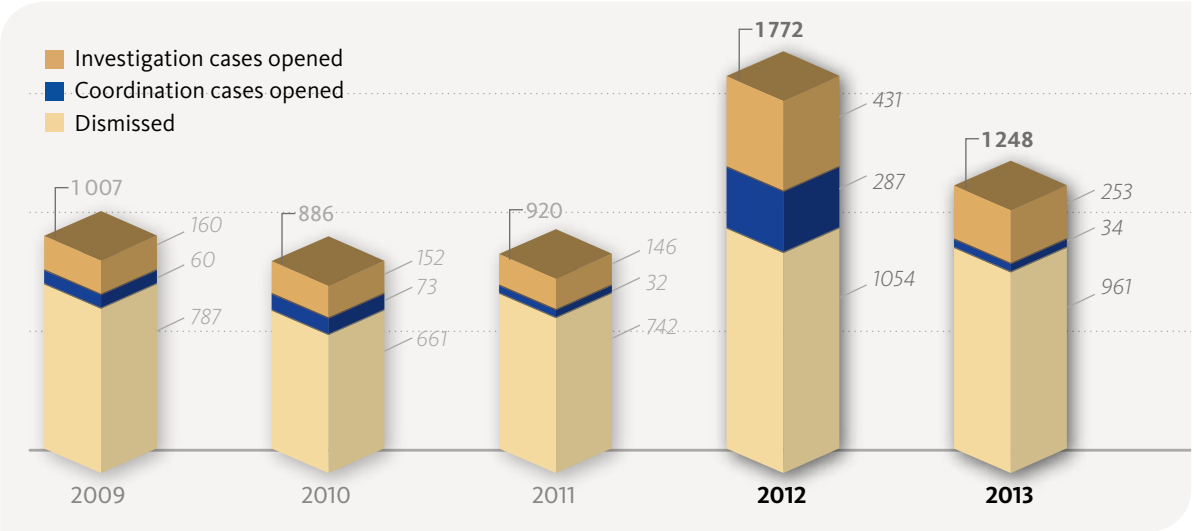
Figure 8: Average duration of case selection phase (in months) ([11])



In 2013 the volume of selections completed remained at a high level.

The figures regarding selections also show that OLAF is increasingly focusing its resources on investigations. Eighty-eight per cent of the cases opened in 2013 pursuant to a selection were investigations while only 12 % were coordination cases.

Figure 9: Results of the selection process



([11]) Note that the average for 2012 was calculated for 11 months following the reform of 1 February 2012. If January is included the average duration of the selection phase would be 3.9 months.

2.3 Investigations

A RECORD NUMBER OF INVESTIGATIONS OPENED IN 2012 AND 2013

The analysis of data confirm OLAF's efforts to focus on investigations. In 2012 and 2013, the Office opened more investigations than in the preceding years (see Figure 10).

DECREASE IN THE DURATION OF INVESTIGATIONS AND CORRESPONDING SELECTION PHASE

Investigations are being completed in less time. The 2013 results confirm the trend of 2012, and mark a net improvement with respect to previous years. This reflects the priority given by OLAF to improving the efficiency of its investigations and to reducing the overall duration of its cases.

In addition, in 2013, the average duration of the selection phase in investigation cases was 4.3 months, a record for the five previous years.

The figures provided in the Figure 11 include the average duration of investigation cases closed during 2013 or still open at the end of 2013, as well as the duration of the selection phase corresponding to these investigation cases. Therefore the duration of the selection phase shown in Figure 11 (4.3 months) differs from the average duration of the selections conducted in 2013 (1.8 months – Figure 8)

Figure 11: Average duration of investigations (with selection)

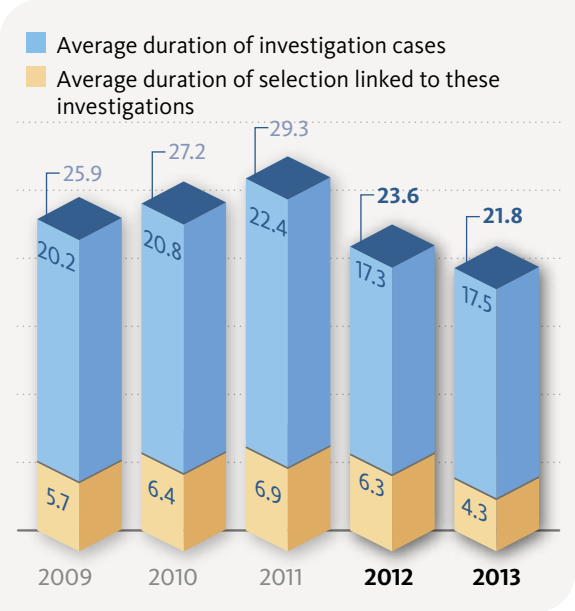
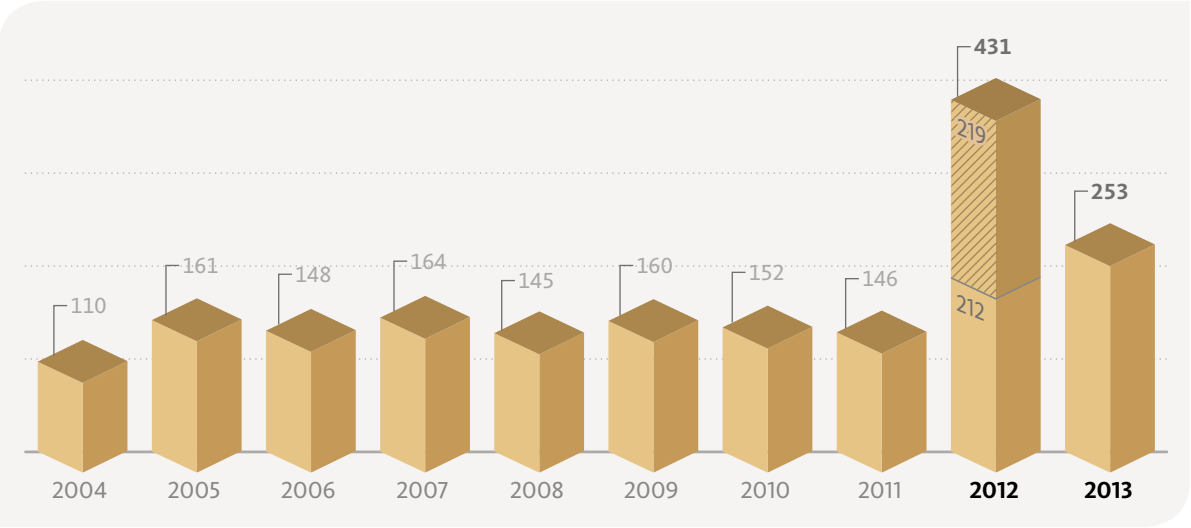


Figure 10: Investigations opened ([12])



([12]) The figures for 2012 include 219 investigation cases, already previously under evaluation, opened as a result of the reorganisation of 1.2.2012.

As shown in Figure 12, a total of 484 investigation cases were ongoing at the end of 2013. The Structural Funds sector accounted for the highest number of investigations (149 in 2013 compared to 134 in 2012), followed by the Agricultural Funds (82 in 2013 compared to 59 in 2012) and External Aid (80 in 2013 compared to 106 in 2012) sectors.

Case study: On-the-spot-check and interviews lead to discovery of irregularities in an ERDF project

In late 2011 OLAF received information from a private source about possible irregularities concerning a project funded through the European Regional Development Fund (ERDF) in an overseas region of a Member State. A non-governmental organisation had been granted EUR 1.3 million for the construction of a shelter for young people and adults in social difficulties.

Complaints had already been submitted to the national authorities and certain judicial steps had been taken. Given that the EU was the biggest donor to the project, it was OLAF's responsibility to carry out a thorough investigation.

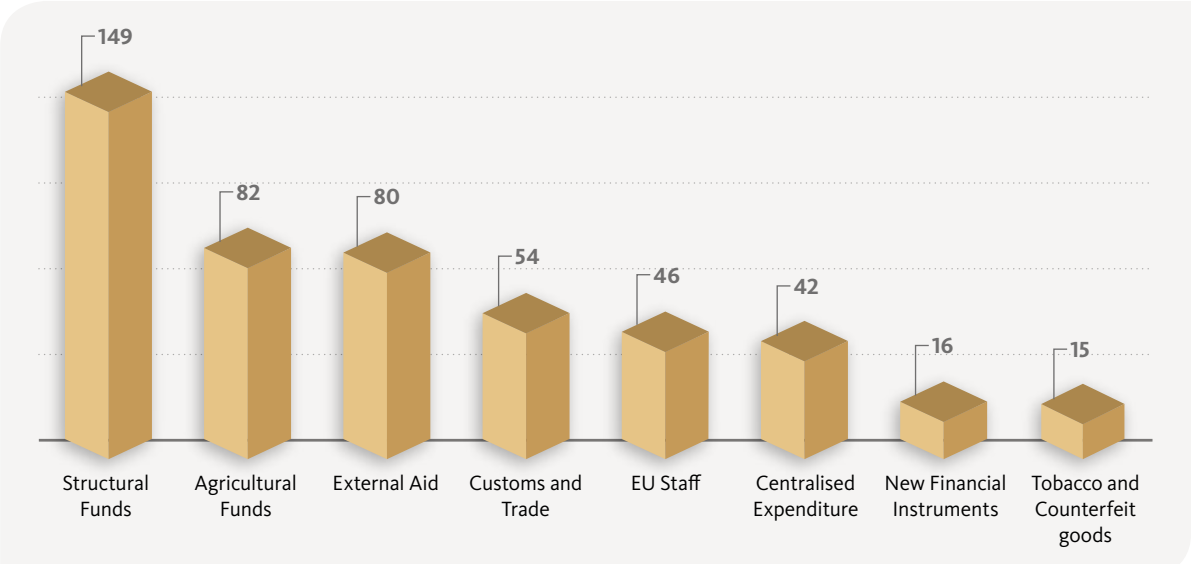
OLAF opened an investigation including an on-the-spot check and interviews with the informant, the beneficiary and regional authorities. The investigation revealed that the building had never been used for the intended purpose since the completion of the works. In addition, a valid permit for construction and the necessary administrative authorisations had not been obtained by the beneficiary. The local government's technical service raised concerns at an early stage, but the managing authority disregarded them. The national co-financing authorities, which were also responsible for overseeing the project, should have noticed the red flags earlier.

OLAF recommended to the Directorate-General for Regional Policy the full recovery of the ERDF subsidy given that the terms of the project's grant agreement had not been respected. The EUR 1.3 million was deducted from the final balance of the project.

Case study: Investigation leads to the discovery of complex anti-dumping duties fraud

This case is an example of a particularly comprehensive investigation involving many stakeholders, including Member States, third countries and companies. This type of investigation requires considerable investigative and multinational legal expertise, available only in OLAF. Member States' capacities alone would have been insufficient to conduct such investigations.

Figure 12: Ongoing investigations per sector



A product is considered as being dumped if its export price to the EU is less than its normal value ([13]). To prevent negative effect to its industries, the EU may apply an anti-dumping duty (ADD) for such products. OLAF is competent for investigating cases where EU importers evade such duties. The OLAF investigation below established evidence which enabled 18 Member States to start recovery proceedings for EUR 26 million in evaded ADD and conventional customs duties.

The focal point of the investigation was the traffic of Chinese-produced fasteners (such as screws and bolts) via Batam Island (Indonesia) to the EU. The traffic commenced following the imposition of an ADD on Chinese fasteners. The island is part of a free-trade zone and, as such, is closely monitored by Indonesian customs. Based on import and export records, together with transport documentation obtained from the maritime freight carriers, OLAF found that the finished fasteners had been imported from China into Batam and, following cross-stuffing of containers, were re-exported to the EU. On importation into the EU, the EU importers declared the goods as originating in Indonesia and presented Indonesian certificates of preferential origin to customs officials. The Indonesian exporters had obtained these certificates on the basis of incorrect information provided to the issuing authorities.

The evidence was collected in joint OLAF/Member States missions conducted in Indonesia in close cooperation with the Indonesian authorities. OLAF made financial recommendations to Member States' customs authorities to collect the evaded duties.

This investigation is among several which concern fraudulent imports of fasteners originating in China. It is also an example of good cooperation with Indonesia even in the absence of a customs agreement.

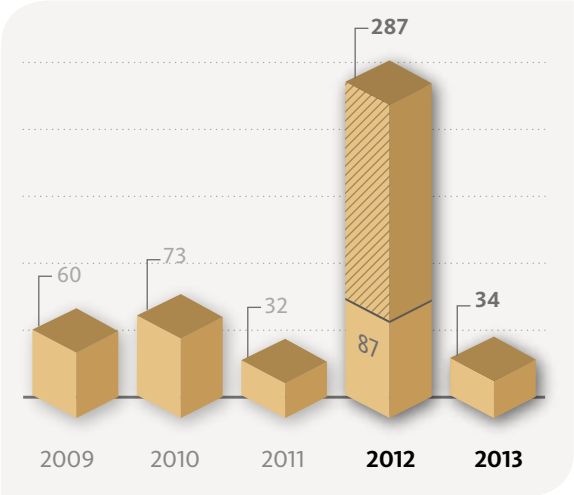
2.4 Coordination activities

OLAF AS CENTRAL POINT

Within the framework of a coordination case, OLAF provides assistance and contributes to investigations carried out by competent authorities in the Member States. This facilitates the collection and exchange of evidence and ensures investigation synergy among the relevant competent authorities.

Due to the more limited role of OLAF in coordination cases in recent years, the tendency has been to open more investigations and fewer coordination cases.

Figure 13: Coordination cases opened ([14])



Most coordination cases were opened in sectors linked to the collection of "traditional own resources": the Tobacco and Counterfeit Goods sector followed by the Customs and Trade sector. In these sectors especially, OLAF can bring added value in the context of a coordination case because it holds information of a European or international dimension, which national authorities may lack. In the case of the fight against tobacco smuggling, for example (see also Chapter 3), OLAF can assist its partners with operational information on the transport of containers and can put at their disposal a IT coordination centre in its Brussels headquarters.

([13]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

([14]) The figures for 2012 include 200 coordination cases, already previously under evaluation, opened as a result of the reorganisation of 1.2.2012.

2.5 Recommendations

THE HIGHEST NUMBER OF RECOMMENDATIONS IN FIVE YEARS

In 2013 OLAF closed the highest number of cases with recommendations in the last five years (Figure 14). In addition the Office confirmed the trend of 2012 and issued a high number of recommendations – 353 – another record since 2006.

The Director-General of OLAF issues recommendations based on the results of investigations, for action to be taken by the relevant EU Institutions, bodies, offices, agencies or competent authorities of Member States.

A recommendation may be for administrative, disciplinary, financial or judicial action to be taken, and several recommendations may be made in a single case. The results of OLAF's investigations may also be transmitted to the competent authorities in third countries.

These recommendations are the main outcome of OLAF investigative activities. Indeed, it is mainly through issuing recommendations that OLAF can contribute to the efforts made by the EU Institutions to ensure that EU funding reaches the projects it is intended for or is recovered to the EU budget; that the reputation of the EU Institutions is safeguarded; and that any misconduct of EU staff is promptly addressed.

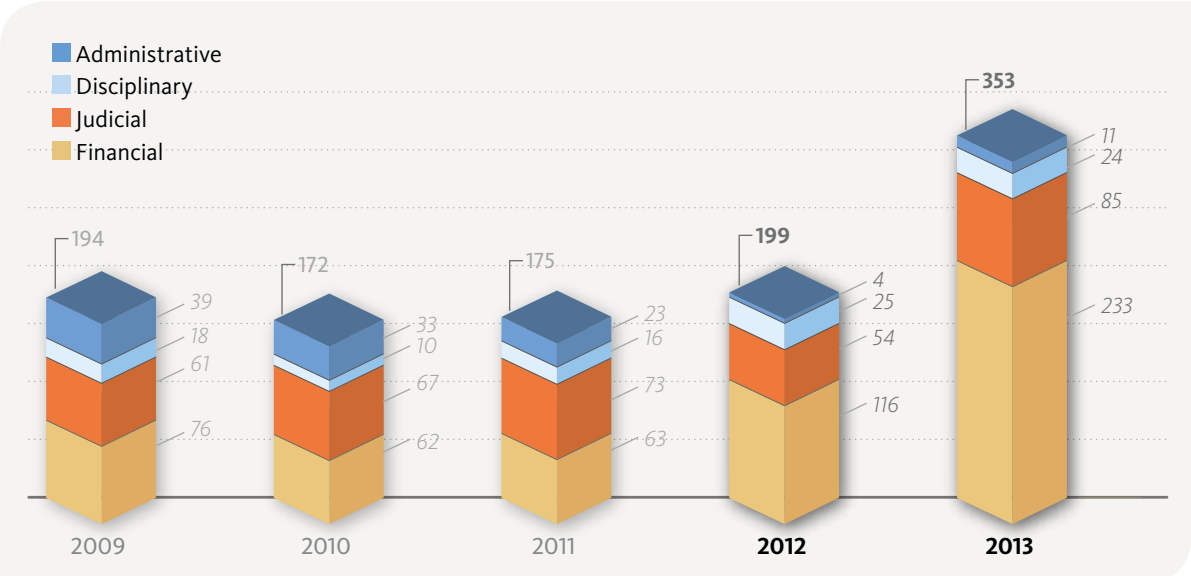
As demonstrated in Figure 15, the majority of recommendations issued in 2013 were financial recommendations and were almost double those of 2012, followed by judicial and disciplinary recommendations.

Financial recommendations are usually directed at the EU institutions, bodies, offices or agencies providing or managing the EU funds. However they can also be directed at the competent authorities of Member States, such as national customs authorities, e.g. for the collection of evaded import duties.

Figure 14: Investigation and coordination cases closed with or without recommendations

Cases closed	2009	2010	2011	2012	2013
with recommendations	106	98	108	100	164
without recommendations	82	91	100	365	251
Total	**188**	**189**	**208**	**465**	**415**

Figure 15: Number of recommendations issued by type in the last five years



In 2013 OLAF recommended that a total of EUR 402.8 million be recovered by the competent authorities, compared to EUR 284 million in 2012.

Figure 16: Amounts recommended by OLAF for recovery in 2013

Sector	Amount (EUR million)
Structural Funds	111.7
External Aid	100.4
Customs and Trade	84.9
New Financial Instruments	66.3
Agricultural Funds	34.4
Centralised Expenditure	4.5
EU Staff	0.6
Total	**402.8**

Case study: Financial and judicial recommendations issued in a fraud case involving a tender procedure

The Structural and Cohesion Funds are the financial instruments of EU regional policy, which are intended to narrow the development disparities among regions and Member States. There are two Structural Funds, the European Social Fund and the European Regional Development Fund (ERDF). In late 2010, OLAF received detailed information alleging that in 2003 and 2004 there were irregularities in the public procurement procedures for the procurement and construction of water purification plants in Member State. 75% of the costs were financed by the ERDF. There were also allegations regarding the regularity of the Technical Assistance related to these projects. The informant claimed that the local authorities did not investigate the initial allegations prior to OLAF's involvement.

OLAF opened an investigation and conducted a series of on-the-spot controls. Based on its findings OLAF concluded that the project tendering procedures were irregular for a number of reasons, including:

- The tender requirements were not directly related to the purpose of the contract and were discriminatory;
- The award/solvency criteria were not in line with public procurement rules;
- The successful tenderer was in possession of confidential information.
- Disproportionately low weighting was given to the "price" criterion.

These abuses were intended to favour the successful tenderer over the other competitors. With regard to the Technical Assistance contract OLAF also found that this was seriously flawed both in its preparation and its execution.

In 2013, OLAF made financial recommendations to the Directorate-General for the Regional Policy that the total of EUR 10.2 million in EU funding provided for the projects be returned to the EU budget.

Later that year, the national judicial authority opened a case against the defendant following OLAF's judicial recommendation. Judicial proceedings are ongoing.

Case study: OLAF's internal investigation reveals an EU official's misconduct

OLAF is the only body with the competence to investigate officials from all European Union institutions, bodies and agencies. As such it is instrumental in safeguarding the integrity and reputation of the EU and its civil servants.

In 2009, based on information flowing from an external investigation, OLAF opened an internal case investigating irregular relations between a company under investigation and a European Commission official. The investigation revealed that the official may have been involved in professional misconduct, including a conflict of interest relating to the subcontracting of services for contracts that he managed.

Following its investigation, OLAF made a judicial recommendation regarding the possible passive corruption and other irregular activities of the official. Currently, judicial proceedings are ongoing and the personal immunity of the suspect has been waived. In these proceedings the Commission seeks financial compensation for financial loss and restoration of its reputation. Furthermore the disciplinary recommendations to the relevant European Commission body indicated a conflict of interest and other professional misconduct. As a result, the individual was found to be in breach of European Commission Staff Regulations and has been dismissed from duty.

2.6 Implementation of recommendations

OLAF is monitoring a total of 1 267 recommendations issued in previous years, including the 353 recommendations issued in 2013.

OLAF'S INVESTIGATIVE EFFORTS HAVE RESULTED IN HIGHER AMOUNTS RECOVERED TO THE EU BUDGET

OLAF's primary role in protecting the financial interests of the EU is to investigate fraud, corruption or other illegal activities affecting these interests. Where the results of such investigations establish a financial liability, all appropriate recovery actions must be undertaken. It must be underlined, however, that OLAF has not been empowered to recover EU monies. Consequently, any recovery actions following the results of OLAF investigations fall under the responsibility of competent authorities (EU institutions, bodies, offices, agencies or Member States).

In 2013, OLAF helped recover EUR 117.05 million to the EU budget.

The figures on amounts recovered indicated by sector in Figure 17 are those available at the time of adoption of this report. For expenditure sectors, the recovery data was provided to OLAF by the competent Commission services and other EU institutions, bodies, offices and agencies. With regard to the Customs (traditional own resources) sector, the recovery data was extracted from the OWNRES database which Member States use to report frauds and irregularities over EUR 10 000 to the Commission.

Figure 17: Amounts recovered ([15]) by the competent authorities following OLAF's recommendations (in million)

Sector	2012 recoveries	2013 recoveries
Customs Fraud	33.9	76.5
Structural Funds	33.4	33.7
Agricultural Funds	14.3	3.2
External Aid	12.8	2.5
EU Staff	0.05	0.8
Centralised Expenditure	0.04	0.05
EU funding through International Org and Bodies	0.003	0.3
Total	**94.493**	**117.05**

OLAF'S INVESTIGATIONS HAVE LED TO AN INDICTMENT RATE OF 54 %

The results of actions taken following OLAF judicial recommendations transmitted between 1 January 2006 and 31 December 2013, in total and by Member State, are presented in Figure 18a ([16]). It covers recommendations issued by OLAF as a result of investigation activities conducted.

These statistics reflect progress in as much as more than half of OLAF's recommendations have led to results. However there continue to be considerable disparities in the follow-up given by the Member States to OLAF's judicial recommendations.

The heterogeneous treatment of OLAF's judicial recommendations in the Member States and the need to further speed up the judicial decision making confirm the urgency to set up a EU body in the field of criminal investigation and prosecution. As a result, the investigation and prosecution of fraud against the EU budget would be more equivalently handled in cooperation with national judicial authorities.

For this purpose the Commission proposed, in July 2013, a Regulation on the establishment of a European Public Prosecutor's Office (EPPO) ([17]) to improve the fight against offences affecting the Union's financial interests. Its exclusive task would be to investigate, prosecute and, where relevant, bring to judgement, in Member States' courts, crimes affecting the Union's financial interests.

([15]) In the context of this report, the term "recovery" includes the results of recovery orders issued by the Commission, offsetting of debts, de-commitment of EU finances from projects or programmes, debt liability apportionment between the Commission and Member States in certain sectors and recoveries of EU funds (e.g. import duties) from economic operators by Member States. Not all of these recovery transactions are individually identifiable in the Commission's accounting system.

([16]) In Figure 18a a recommendation issued to different authorities was counted as several different recommendations based on the number of authorities that it was directed to. However, one recommendation could concern several individuals and it would still be counted as one recommendation.

([17]) COM(2013) 534 final

Figure 18a: Rate of indictment following OLAF's judicial recommendations

Number of judicial recommendations	No decisions taken		Decisions taken			Rate of Indictment
	Reporting period	Ongoing criminal investigation	Total	Dismissal	Indictment	
436	37	138	261	121	140	54 %

Figure 18b: Actions taken by national judicial authorities following OLAF judicial recommendations per Member State between 1 January 2006 and 31 December 2013

Number of judicial recommendations		No decisions taken		Decisions taken			Rate of Indictment
		Reporting period	Ongoing criminal investigation	Total	Dismissal	Indictment	
Austria	5	-	2	**3**	1	2	67 %
Belgium	43	-	14	**29**	15	14	48 %
Bulgaria	27	2	7	**18**	8	10	56 %
Cyprus	4	-	3	**1**	-	1	100 %
Czech Republic	7	2	1	**4**	1	3	75 %
Denmark	4	1	2	**1**	1	-	0 %
Estonia	2	-	-	**2**	1	1	50 %
Finland	1	-	-	**1**	1	-	0 %
France	20	-	6	**14**	4	10	71 %
Germany	30	-	6	**24**	7	17	71 %
Greece	22	4	8	**10**	1	9	90 %
Hungary	4	-	3	**1**	-	1	100 %
Ireland	1	-	1	**-**	-	-	0 %
Italy	71	2	26	**43**	18	25	58 %
Latvia	1	-	1	**-**	-	-	0 %
Lithuania	5	-	1	**4**	3	1	25 %
Luxembourg	8	-	6	**2**	1	1	50 %
Malta	6	1	-	**5**	-	5	100 %
Netherlands	16	1	2	**13**	7	6	46 %
Poland	17	2	4	**11**	5	6	55 %
Portugal	10	-	3	**7**	5	2	29 %
Romania	70	17	31	**22**	12	10	46 %
Slovakia	9	3	1	**5**	5	-	0 %
Slovenia	1	-	-	**1**	-	1	100 %
Spain	30	-	7	**23**	14	9	39 %
Sweden	3	1	-	**2**	-	2	100 %
United Kingdom	19	1	3	**15**	11	4	27 %
Total	**436**	**37**	**138**	**261**	**121**	**140**	**54 %**

3. Focus on: The fight against illicit trade in tobacco products and the role of OLAF

The illicit trade in tobacco products is a harmful phenomenon that deprives the EU and Member States' budgets of considerable resources, with estimated tax losses of EUR 10 billion each year ([18]). It is an ever more globalised, multi-faceted phenomenon, subject to constant change ([19]). This is why the fight against the illicit trade in tobacco products can only be successful if Member States' customs authorities and the EU coordinate their action through a variety of policy and law enforcement measures.

OLAF's work in the fight against illicit tobacco trade involves investigative activities and policy measures.

In order to address the significant challenges stemming from the need to step up the fight against illicit tobacco trade OLAF has deployed important resources over the last five years as detailed Figure 19.

Figure 19: OLAF staff dealing with illicit trade in tobacco ([20])

2009	2010	2011	2012	2013
15	18	16	20	21

OLAF is focusing its work on the following areas:

- Investigations by OLAF and coordination of Member States' investigative activities;
- Joint Customs Operations coordinated by OLAF;
- Contributions to the development and implementation of policy and legal instruments.

INVESTIGATIONS BY OLAF AND COORDINATION OF MEMBER STATES' INVESTIGATIVE ACTIVITIES

On its own initiative or at the request of Member States, OLAF conducts or coordinates investigations into allegations of tobacco smuggling, often involving investigative missions in third countries as well as in the EU. These activities are supported by tracking and tracing information combined with other market information from the four major cigarette manufacturers with whom the EU and Member States have agreements (see section below). Europol is a partner in these activities.

Figure 20 shows the number of investigation and coordination cases that OLAF has opened in the last five years.

Figure 20: Investigation and coordination cases opened in the sector of illicit trade in tobacco products in 2009–2013

Year	2009	2010	2011	2012	2013
Investigation cases opened	0	0	3	13	8
Coordination cases opened	14	13	9	33	21

([18]) This figure has been estimated on the basis of the total seizures of cigarettes in the EU, the assumption that enforcement authorities are able to seize 10 % of the products traded illicitly and the EU average loss in excise and VAT taxes and applicable duties.

([19]) This phenomenon has been further explained in the Commission's Cigarette Communication of 6 June 2013 (COM (2013) 324).

([20]) The figures include staff involved in investigation and policy.

Case study: OLAF coordinates multi-national efforts to curb cigarette smuggling

The following case started in 2010 is a good example of OLAF's coordination efforts in fighting illicit tobacco trade. The Czech customs authorities requested OLAF's coordination in an investigation of a structured cigarette smuggling network. The network had direct contacts with the producers of counterfeit cigarettes in China and used other criminal networks to traffic these into the EU.

Czech customs also provided information about the activities of this group in Spain. OLAF shared this information and helped coordinate the investigations in Spain and in the Czech Republic. Spanish customs identified a large, structured criminal group responsible for smuggling cigarettes from China into Spain and Portugal. The group was also suspected of laundering the profits of these illegal activities.

OLAF coordinated actions across Europe, including controlled delivery ([21]), and more than 40 million cigarettes were seized. OLAF also coordinated activities between judicial and customs authorities in Spain, the Czech Republic, Portugal, Andorra, Romania, Poland and the Netherlands. It supported the investigative bodies of each Member State involved and prepared the requests for international judicial assistance together with Eurojust. Through the cooperation facilitated by OLAF, several Member States were able to carry out investigations and actions simultaneously.

The criminal network was identified and dismantled in Spain, Portugal and in the Czech Republic in 2010. The competent services in the Member States, together with OLAF, are still in the process of confiscating the assets obtained through these illegal activities.

As a result more than EUR 7 million of potential losses in unpaid customs duties were prevented.

JOINT CUSTOMS OPERATIONS COORDINATED BY OLAF

In the context of Joint Customs Operations (JCO) OLAF coordinates the work of several national customs authorities exchanging information and acting jointly against internationally organised contraband ([22]).

Figure 21 illustrates the number of JCO related to the illicit trade in tobacco products OLAF that worked on during the last five years.

RESULTS OF OLAF'S INVESTIGATIVE ACTIVITIES AND JOINT CUSTOMS OPERATIONS

As shown in Figure 22, OLAF's investigative activities and the JCO it has coordinated have contributed to significant amounts of cigarettes seized in the EU.

CONTRIBUTIONS TO THE DEVELOPMENT AND IMPLEMENTATION OF POLICY AND LEGAL INSTRUMENTS

OLAF is involved in negotiating and drafting of international and EU legislation. The Office is the lead service responsible for the conclusion of the Protocol to Eliminate Illicit Trade in Tobacco Products, the first Protocol to the Framework Convention on Tobacco Control (FCTC Protocol), and contributes to the imple-

Figure 21: Joint Customs Operations conducted by OLAF in 2009–2013

Year	2009	2010	2011	2012	2013
JCO	3	1	2	0	2

Figure 22: Number of cigarettes seized with the support of OLAF's activity in 2009–2013

Year	2009	2010	2011	2012	2013
Coordination and investigation cases	125 037 600	212 040 100	156 213 400	155 749 000	280 680 400
JCOs	81 944 400	74 816 400	1 741 726	0	68 137 676
Total	**206 982 000**	**286 856 500**	**157 955 126**	**155 749 000**	**348 818 076**

([21]) Law enforcement authorities' tracking of suspected shipments through one or more Member States.

([22]) For further information about JCO see Chapter 4.1, OLAF's cooperation activities with its partners.

mentation of the EU Tobacco Products Directive. OLAF furthermore contributes to the implementation of the Cigarette Communication of 2013. It also participates in the negotiation and implementation of agreements with the four major tobacco manufacturers.

THE FCTC PROTOCOL

The FCTC Protocol is an international treaty annexed to the WHO Framework Convention on Tobacco Control. The EU signed the Protocol on 20 December 2013. The Protocol ([23]) will enter into force once 40 States have ratified it. Currently one state (Nicaragua) has ratified the Protocol. Some of its rules, like the introduction of a tracking and tracing regime, need to be implemented within five years after the entry into force of the Protocol.

The Protocol aims at combating illicit trade in tobacco products by a variety of measures. These include inter alia an obligation for all tobacco manufacturers to record information allowing the tracking and tracing of their product, access of officials to that information and the reporting of that information upon request to a global information sharing point. Moreover, the Protocol foresees rules on the licensing of manufacturers and persons involved in the import and export of tobacco products and due diligence obligations for the manufacturers of tobacco products relating to the compliance of their customers with the applicable laws and regulations. These supply chain control provisions are complemented by provisions on offences, on law enforcement cooperation, mutual administrative and mutual legal assistance, extradition and international cooperation also with regard to free zones and Internet sales.

OLAF significantly contributed to the signature of the FCTC Protocol by the EU on 20 December 2013 and is now working on furthering its conclusion by the EU and its Member States. OLAF is equally promoting the ratification of the FCTC Protocol by other countries, mainly by those from which the EU illicit trade in tobacco products originates.

THE CIGARETTE COMMUNICATION

The Communication on stepping up efforts to fight against cigarette smuggling and other forms of illicit trade in tobacco products (the Cigarette Communication) of June 2013 proposes a comprehensive EU strategy for fighting illicit trade in cigarettes ([24]).

The Communication proposes measures to reinforce the cooperation with the main source and transhipment countries. It also proposes measures to reinforce the control of the supply chain of tobacco products such as tracking (monitoring the movement) and tracing (to detect at which point the product fell off the legal supply chain). Another priority is enhanced information and intelligence gathering and sharing among the competent authorities inside the EU, including the agencies and bodies at EU level. Furthermore, measures are proposed to organise targeted customs operations, to increase enforcement capacity with more coordinated financing, technical assistance and training, as well as sharing of best practices. Attention is moreover given to address corruption, to decrease the incentives created by the gaps and loopholes in the excise legislation, to strengthen the disincentives (sanctions) and to raise awareness in the public about the risks associated with consuming illicit cigarettes.

Council conclusions were adopted by ECOFIN on 10 December 2013 concerning the fight against the illicit trade.

OLAF is coordinating the implementation of the Cigarette Communication and will publish annual reports on the state of play of its implementation.

THE AGREEMENTS WITH CIGARETTE MANUFACTURERS

OLAF contributed significantly to the conclusion of binding agreements between the EU and four tobacco manufacturers (PMI, JTI, ITL and BAT, hereafter named "Cooperating Manufacturers") ([25]) . The Agreement with PMI was concluded in 2004, that with JTI in 2007, and the agreements with BAT and ITL in 2010. All Member States which were Members of the Union prior to the accession of Croatia have acceded to the cooperation agreements, with the exception of Sweden, which has not concluded

([23]) http://apps.who.int/iris/bitstream/10665/80873/1/9789241505246_eng.pdf?ua=1

([24]) COM (2013) 324

([25]) The texts of the agreements are available at: http://ec.europa.eu/anti_fraud/investigations/eu-revenue/cigarette_smuggling_en.htm .

Figure 23: Annual and seizure payments by the Cooperating Manufacturers in 2009–2013 in Euro

Year	2009	2010	2011	2012	2013
Annual Payments	89 000 000	114 342 777	101 507 738	88 190 862	84 229 703
Seizure Payments	11 784 835	8 411 615	11 289 669	6 345 782	3 727 226
Total	**100 784 835**	**122 754 392**	**112 797 407**	**94 536 644**	**87 956 929**

the agreements with BAT and ITL. Croatia has joined the agreements on 7 April 2014.

The agreements foresee a variety of compliance commitments of the Cooperating Manufacturers in addition to private law and the applicable EU laws and regulations. The commitments include strong anti-money-laundering provisions and a global tracking and tracing of their product until it has been sold to their first customer and to subsequent customers as technology develops. They include provisions requiring to know their customer and to globally apply due diligence in proactively avoiding that their product ends up on the illicit market.

The agreements also foresee that Manufacturers co-operate with OLAF and the national police and customs authorities by providing relevant information to support investigations against the criminals behind the illicit trade in tobacco.

The agreements provide for annual and seizure payments to the EU's and the Member States' budgets. A share of 9.7 % of the annual payments is allocated to the EU's general budget while the rest goes to the Member States' budgets. Seizure payments are an incentive for the manufacturers to control the chain of distribution by obliging them to make payments in the event of seizure in the EU of their genuine products above defined quantities. Their allocation to the EU's and the Member State's budgets is made on the basis of a complex formula taking into account the EU's share of customs duties and VAT which would have been due for the seized cigarettes.

OLAF is investing significant resources to ensure the smooth implementation of the agreements with the Cooperating Manufacturers.

OUTLOOK

In the Cigarette Communication of 2013, the Commission undertook to address the remaining challenges in fighting illicit trade in tobacco products. Improving the availability and accuracy of independent information sources is of great importance, since such sources are needed to analyse trends and thereby better focus the OLAF's policy and investigation resources. The implementation of the agreements with the Cooperating Manufacturers continues to be a priority for the current monitoring of the supply chain of illicit cigarettes. Since illicit cigarettes seized in the EU often originate from countries outside the EU and are not destined for the EU market, EU legislation needs to be complemented by effective investigations, international agreements (like the FCTC Protocol) and the agreements with the Cooperating Manufacturers to curb the illicit trade in tobacco products.



4. Policies to fight against fraud

4.1 OLAF's cooperation activities with its partners

OLAF conducts investigations in the EU institutions, Member States and worldwide, wherever there is a suspicion of fraud against EU funds. It also supports the Commission and other EU institutions and bodies as well as Member States in the development and implementation of anti-fraud legislation and policies.

The institutions and authorities in the EU and across the globe cooperate with OLAF in sharing information on suspected fraud and corruption, providing operational assistance and monitoring the implementation of its recommendations.

COOPERATION WITH EU INSTITUTIONS AND BODIES

Among the EU institutions, OLAF strengthened in particular its cooperation with the European Parliament, with the signature of Practical Arrangements on 29 July 2013. This document aims at ensuring the effectiveness of investigations led by OLAF and enhancing cooperation between OLAF and the European Parliament. Discussions on the signature of similar arrangements are ongoing with other EU institutions.

The OLAF Regulation puts a specific emphasis on developing cooperation with Europol and Eurojust, important partners of OLAF in the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

OLAF and Europol are working on a practical arrangement to reinforce their cooperation and information exchange based on work done so far.

In order to build a stronger relationship with Eurojust, the OLAF Director-General adopted on 18 October 2013 new internal guidelines for OLAF investigators regarding the transmission of case-related information to Eurojust ([26]). The guidelines aim at developing a consistent and coherent practice for the cooperation between the two bodies through, for instance, information exchanges and training events.

([26]) In 2013, OLAF and Eurojust cooperated in four common cases (which correspond to four cases registered in OLAF and six cases registered in Eurojust). In 2013 OLAF attended two Eurojust coordination meetings.

OLAF has an established practice on cooperating with Eurojust on cases that need additional attention from national prosecutors.

Case study: Cooperation with Eurojust and current limitations of intervention

The following case is an example of good cooperation between OLAF and Eurojust, but also shows the limits of OLAF's scope of intervention. In 2010, OLAF established that a network of individuals located in several Member States was possibly smuggling fresh garlic from China into the EU via Norway. Import of fresh Chinese garlic to the EU is subject to a 9.6 % *ad valorem* duty and a specific amount of EUR 1 200 per tonne (net weight).

OLAF carried out a fact-finding mission to Norway and a Member State helped quickly to disrupt the alleged fraudulent activities. A load of garlic was seized. Initially the national prosecutor refused to dedicate resources to the criminal investigations and the subsequent prosecution of all persons involved in this smuggling activity (57 truckloads of garlic had been smuggled into the EU by this group in 2009 and 2010). After more than a year and the intervention of Eurojust, a new criminal investigation was opened by a different national prosecutor.

OLAF assisted the national prosecutor's office in preparing and executing mutual legal assistance requests in various Member States, but OLAF recognised its current limits to intervene. It took more than three years before an indictment had been issued. The evaded customs duties are estimated at EUR 1.6 million and the loss of a further EUR 170 000 was prevented following the disruption of the operations in June 2010.

This is an example of a case where an initiative by the European Public Prosecutor's Office could have resulted in a quicker and more successful ending.

COOPERATION WITH MEMBER STATES

In its role as coordinator in the fight against fraud at EU level, OLAF cooperates closely with the Member States in order to ensure a rapid exchange of information and swift follow-up actions.

In 2013 the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF) and its working parties, where relevant Member States' authorities are represented, were restructured along the lines of different fraud prevention and control areas, such as:

- legislative and policy issues;
- general issues of investigative cooperation, irregularities, protection of the Euro;
- external communication.

The aim of this re-structuring was to provide a clearer overview of activities and relations with the Member States' authorities.

Member States are now required to designate an anti-fraud coordination service (AFCOS). In Member States that have joined the EU since 2004, AFCOS are already operational and assisting OLAF in its investigative and policy activities. At the end of the year 2013, 15 Member States had designated AFCOS and others have taken steps to do this in 2014.

As part of its extensive cooperation with AFCOS, OLAF organises an annual AFCOS conference together with the candidate countries. In 2013 this took place in Ankara, Turkey.

Among the Member States that have designated AFCOS, the following have decided to place it as a constituent body within the Ministry of Finance: Croatia, Cyprus, the Czech Republic, Estonia, France, Latvia, Hungary, the Netherlands, Slovenia and Poland.

Bulgaria and Lithuania have placed it within the Ministry of Internal Affairs.

Finally, in Malta, Romania and Slovakia the AFCOS is set up as an independent body within the national government.

All of the above were designated by 31 December 2013, while a number of other AFCOS have already been designated in the course of 2014. It is expected that all Member States will have an AFCOS in place before the end of 2014.

While EU legislation provides sufficient basis for cooperation with Member States' authorities, the Office will also sign Administrative Cooperation Arrangements to further facilitate the working relationship between OLAF and the respective authority.

OLAF signed the following Administrative Cooperation Arrangements in 2013:

- the Swedish International Development Cooperation Agency (SIDA);
- the Prosecutor General's Office of Latvia;
- the General Prosecution Office of the Italian Court of Auditors.

COOPERATION WITH NON-EU COUNTRIES AND INTERNATIONAL ORGANISATIONS

Cooperation with non-EU countries and international organisations is an important component of OLAF's work. Through the signature of Administrative Cooperation Arrangements with partner services in non-EU countries, international organisations and financial institutions, OLAF has managed to establish in recent years, a solid network of partners throughout the world. This approach was pursued in 2013 when OLAF signed arrangements with the Palestinian Anti-Corruption Commission, the Moldovan Customs Service, the Ukrainian Ministry of Revenue and Duties and the Australian Customs and Border Protection Service.

Case study: Strengthened cooperation between OLAF and the Customs Service of the Republic of Moldova in tackling cigarette smuggling

OLAF signed an Administrative Cooperation Arrangement (ACA) with the Moldovan Customs Service on reinforcing the cooperation in fighting trade customs fraud and especially the illicit trade in tobacco products. The ACA came as a result of good cooperation, exchanges of information and assistance received on a regular basis from Moldovan Customs.

In 2013 the Moldovan Customs Service informed OLAF about a number of illegal factories in different EU countries, running under the coordination/activities of a Moldovan organised crime group. This group specialised in supplying machines for manufacturing cigarettes and providing technical assistance in the use of these machines. On the basis of the information received, OLAF coordinated a joint investigation into illegal factories located in Bulgaria, Greece and Poland.

As a result of this coordination case, tobacco containers were seized, three illegal factories shut down and the Moldovan criminal organisation was dismantled with the individuals concerned arrested.

AN EXAMPLE OF TARGETED AND EFFICIENT COOPERATION: OLAF COORDINATED JOINT CUSTOMS OPERATIONS IN 2013

In the implementation of the policy to fight against the smuggling of excise goods, Joint Customs Operations (JCO) are specifically targeting smuggling and customs fraud in high-risk areas or along identified trade routes. These operations also improve cooperation between the countries involved in tackling these illegal activities. JCOs do not only safeguard the EU's financial interests, but also protect citizens and legitimate businesses by intercepting illegal products entering the EU.

In 2013 OLAF provided substantial conceptual, operational and financial inputs to two operations.

The first operation, ROMOLUK, was carried out in the context of the EU Action Plan to fight smuggling of cigarettes and alcohol along the Eastern border of the EU. It was jointly coordinated by OLAF and Romanian Customs, with the participation of the Ukrainian and Moldavian authorities, EU-BAM, FRONTEX and EUROPOL. OLAF provided its expertise, as well as analytical and logistical input.

The second operation, WAREHOUSE, was carried out in close cooperation with Lithuanian tax authorities to target excise and VAT fraud specifically, as well as customs fraud. During the entire operation, OLAF provided organisational, logistical, financial and technical support to allow for an exchange of information and intelligence in real time.

OLAF put its newly designed application Virtual Operational Coordination Unit (V-OCU) at the disposal of the Member States to allow real-time exchange of information and intelligence through a secure customs network during the JCOs.



4.2 Implementation of the Commission Anti-Fraud Strategy: OLAF's contribution

2013 was a significant year in the implementation of the Commission Anti-Fraud Strategy (CAFS). The priority actions announced in the CAFS were completed in 2013 as well many supporting actions.

PRIORITY ACTIONS

In the CAFS, three issues were addressed as a matter of priority related to fraud prevention:

- To insert adequate anti-fraud provisions in Commission proposals on spending programmes for the programming period 2014–2020. Provisions have been included in all relevant funding programmes which provide for a reference to OLAF's investigative competence.
- The development of anti-fraud strategies at Commission Service level. OLAF developed a methodology to support Commission Services in the elaboration of their strategies and organised workshops with groups of services active in similar policy areas. Most Directorates-General adopted their strategies; a few are finalising theirs.
- The revision of the procurement directives by the Directorate-General for Internal Market and Services. The new rules on public procurement and concession contracts entered into force in April 2014.

SUPPORTING ACTIONS IN 2013

OLAF provided training to Commission officials and auditors in particular on the detection of fraud and fraud indicators and on reporting suspicions of fraud. The training has led to increased fraud awareness within the Commission and will lead to a stronger focus on the prevention of fraud and detecting fraud at an early stage.

OLAF also supported the Commission Services on fraud risk management. Fraud risk assessment is an important part of the methodology for the elaboration of an anti-fraud strategy. By identifying and assessing fraud risks within a Commission Service, anti-fraud measures can be directed at areas with a higher fraud risk, thus enabling a proportionate and effective means of fraud prevention.

The Fraud Prevention and Detection Network (FPD-Net), a network of representatives from all Commission Services aimed at exchanging experience and best practices in fraud prevention had four meetings in 2013. Among the discussed topics were the ethics structure in the Commission and the anti-fraud measures to prevent and detect corruption and irregular activities of EU officials.

OLAF ANTI-FRAUD STRATEGY

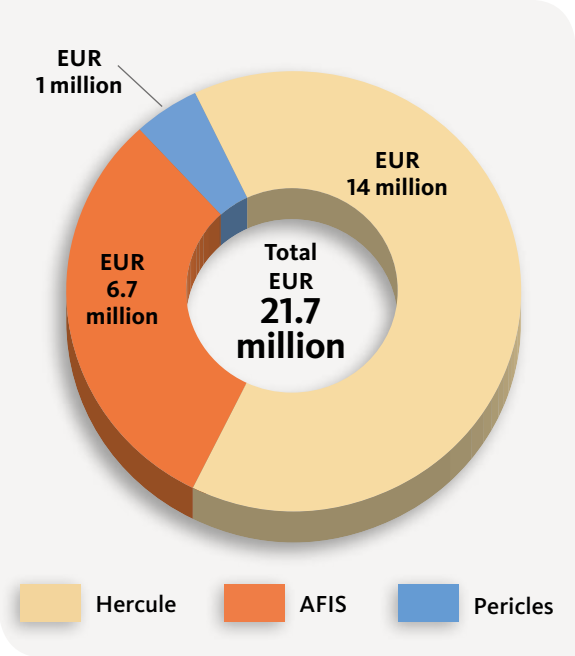
In December 2013, OLAF adopted its own Anti-Fraud Strategy for 2014-2017 to strengthen the anti-fraud measures already in place in the Office. Taking into account the fraud risk assessment, the control environment, the procedures in place and OLAF's mission, it was decided to focus on two main objectives:

- Maintaining a high level of control for funds managed by OLAF;
- Promoting the highest level of integrity of OLAF staff.

A set of actions was proposed and will be implemented in order to achieve these objectives.

4.3 Financial support

Figure 24: OLAF budget for programmes in 2013



HERCULE PROGRAMME

The Hercule programme offers funding dedicated to preventing and fighting fraud, corruption and any other illegal activities affecting the financial interests of the Union, including the fight against cigarette smuggling and counterfeiting.



The Hercule II programme ([27]) had a budget of EUR 14 million in 2013 for funding actions to strengthen the operational and administrative capacity of customs and police forces in the Member States, and for training activities and conferences as well as for IT support.

In 2013, the Commission supported more than 40 technical assistance actions, for an amount of almost EUR 8.5 million, undertaken by law enforcement agencies in the Member States. The actions consisted of, for example, the purchase of x-ray scanners deployed at the Union's external borders to examine containers, lorries and other vehicles. The scanners proved to be helpful in the detection of substantial amounts of smuggled and counterfeit cigarettes and tobacco but also helped in revealing the presence of liquor, drugs or arms.

Hercule funding was further provided for organising conferences and training seminars in 2013 in order to provide an opportunity to law enforcement staff from different Member States and third countries to meet and to share information on the best practices in the fight against irregularities, corruption and fraud. The Hercule programme continued to provide funding in support of digital forensics training sessions for law enforcement staff from Member States and some third countries.

Lastly, one of the programme's operational objectives consists of enhancing the development of legal and judicial protection of the financial interests against fraud by promoting comparative legal analysis.

EUCRIM magazine

Eucrim is a periodical publication which serves as a Europe-wide forum for European criminal law and intends to encourage discussion among practitioners and academics. The magazine is also a forum for the Network of the Associations for European Criminal Law and for the Protection of the EU Financial Interests. Eucrim is issued four times per year and it is available in paper and electronic versions ([28]). The project is financially supported by OLAF under the Hercule programme.

A new Hercule III Regulation for 2014–2020 entered into force in January 2014. The budget for this programme amounts to EUR 104.9 million over the seven-year period and at least 70 % will have to be spent on Technical Assistance actions.

ANTI-FRAUD INFORMATION SYSTEM

The Anti-Fraud Information System (AFIS) is a set of anti-fraud applications operated by OLAF under a common technical infrastructure aiming at the timely and secure exchange of fraud-related information between national and EU competent administrations. It encompasses two major areas: Mutual Assistance in Customs Matters and Irregularities Management.

The programme's budget for 2013 was EUR 6.7 million including human resources and IT costs.

PERICLES PROGRAMME

OLAF manages, on behalf of the European Commission, the Pericles programme: an exchange, assistance and training programme to protect the euro against counterfeiting. The amount allocated to the programme in 2013 was EUR 1 million. In 2013, 13 projects to protect euro banknotes and coins against counterfeiting were funded in the framework of the Pericles Programme.

In 2011 the Commission presented a proposal for a new Pericles programme for 2014–2020. The negotiations between the Commission, the European Parliament and the Council were successfully concluded in 2013. The budget for this programme amounts to EUR 7.3 million over the seven-year period.

Results of the study "Identifying and reducing corruption in public procurement in the EU"

At the request of the European Parliament, a study was commissioned by OLAF on behalf of the European Commission and carried out, using a special budget line, between March 2012 and June 2013 by PwC and Ecorys, with the support of the University of Utrecht. It concluded that corruption had a very detrimental effect on public resources and therefore the transparency of procurement projects and procedures should be strengthened as a priority ([29]).

([27]) Decision 878/2007 of 23 July 2007 for the period 2007-2013

([28]) http://www.mpicc.de/eucrim

([29]) http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf

5. Data protection

The year 2013 marks an important milestone for data protection at OLAF and in all of the EU institutions, bodies, offices and agencies: it is the tenth anniversary of the appointment of the European Data Protection Supervisor (EDPS), responsible for overseeing their implementation of data protection requirements. The OLAF Data Protection Officer (DPO) and OLAF Controllers have collaborated extensively with the EDPS, and as a result, data protection has permeated every aspect of OLAF's work. OLAF has set up a system for data protection compliance based on the accountability principle.

Some of the most significant achievements of the last ten years are the following:

PRIOR CHECKING

As OLAF is processing operations related to investigations that require the EDPS review, it has submitted approximately 50 notifications for prior checking. These notifications describe OLAF's most sensitive data processing operations, including internal and external investigations, the Fraud Notification System, intelligence, mutual assistance on irregularities, and monitoring by the OLAF Supervisory Committee. The EDPS has issued a total of approximately 25 prior checking opinions (having treated several notifications together in some of the opinions), and each opinion contains a number of recommendations which OLAF has had to implement.

CONSULTATIONS

OLAF has submitted a number of consultations to the EDPS over the ten-year period, seeking advice on legislation being drafted, internal rules on data protection, and important issues of policy or procedures to be followed. An example of an important issue with respect to which OLAF sought advice from the EDPS is the data protection clauses to be attached to OLAF's administrative cooperation arrangements with third countries and international organisations. Through meetings and discussions, model data protection clauses have been agreed for transfers of personal data to recipients in third countries and international organisations.

INSPECTIONS AND VISITS

The EDPS has conducted several inspections and on-the-spot visits at OLAF. These occurred in 2006, 2011 and 2013 to verify the reality regarding the measures taken with respect to the EDPS opinions concerning OLAF investigations and mutual assistance. In each instance, the EDPS staff selected at random a group of case files, and verified whether they reflected the commitments OLAF had made. The EDPS issued a report following each inspection (the 2013 inspection report is expected in early 2014) suggesting, when necessary, ways to strengthen data protection.

OLAF'S "PRIVACY BY DESIGN" AND ACCOUNTABILITY IN DATA PROTECTION

Following all the prior checks, OLAF has developed and implemented a system for ensuring compliance by each investigator in each case. This is achieved through the OLAF instructions to staff on data protection, OLAF work forms and the OLAF Data Protection Module in the Case Management System. The instructions to staff on Data Protection were adopted by the Director-General in April 2013, replacing Guidelines that had been in force for several years. The instructions take account of a number of the EDPS recommendations indicating what OLAF case handlers must do in order to meet data protection requirements. The OLAF work forms contain privacy statements and data protection transfer clauses, ensuring that the recipients of letters from OLAF are correctly informed of their data protection rights or obligations. Case handlers are obliged to record relevant information about their observance of data-protection requirements in the OLAF data-protection module, which was updated in 2013.

The first decade of collaboration between OLAF and the EDPS has been a period of great change. The excellent collaboration between the EDPS and the various actors at OLAF – the DPO, the management and the investigators – has resulted in a practical implementation of the requirements in this complex environment. The result is that data-protection for all data subjects involved in OLAF investigations is rigorously applied.

6. Supervisory Committee

The mandate of the Supervisory Committee to monitor OLAF's investigative function in order to reinforce its independence is outlined in Article 15 of Regulation (EU, Euratom) No 883/2013.

The Committee is composed of five members, appointed by the common agreement of the European Parliament, the Council and the Commission. In carrying out their duties the members do not take instructions from any government, institution, body, office or agency.

In 2013, the members of the Committee were: Mr Johan Denolf (Chair, elected as of 8 October 2013 for another one-year term), Mr Herbert Bösch, Ms Catherine Pignon, Mr Tuomas Pöysti (as of 27 March 2013) and Mr Jens Madsen (as of January 2013) ([30]). In February 2014 the Supervisory Committee welcomed a new member, Mr Dimitrios Zimianitis, who replaced Mr Jens Madsen. According to the OLAF Regulation the term of office of the members is five years, not renewable and two members should be replaced alternately to preserve the Supervisory Committee's expertise ([31]) .

In 2013, OLAF allocated to the Supervisory Committee the necessary resources for performing its mission. In addition, during the year, the number of staff members assigned to the Supervisory Committee Secretariat increased from 6 to 8.

The Supervisory Committee delivers opinions or, when appropriate, recommendations to the Director-General of OLAF. These can be delivered on its own initiative, at the request of the Director-General or at the request of an EU institution, body, office or agency without interfering with the conduct of investigations in progress.

In 2013, the Supervisory Committee delivered two Opinions to the Director-General of OLAF related to OLAF's Preliminary Draft Budget for 2014 and to the Establishment of an internal procedure for complaints. During the year, the Supervisory Committee requested and was granted access to 18 cases. Additionally, access to 351 documents relating to investigations was requested. All requests were honoured by OLAF. The Committee received information on all cases transmitted by OLAF to national judicial authorities and OLAF reported to the Supervisory Committee all the required information on the duration of cases.

NEW REGULATORY FRAMEWORK BETWEEN OLAF AND THE SUPERVISORY COMMITTEE

With the entry into force of Regulation (EU, Euratom) No 883/2013, OLAF and its Supervisory Committee agreed on new joint Working Arrangements which were signed on 14 January 2014. The text is available on the OLAF website ([32]).

The Working Arrangements marked a significant step forwards in the working relations between both parties. They set out:

- The general information to be provided to the Supervisory Committee concerning the investigative activity of OLAF;
- An agreed methodology for providing extensive information on OLAF investigations, whilst fully respecting the rules concerning the confidentiality of information and personal data contained in the relevant case files;
- A timeframe for the provision of this information, taking into account the monitoring needs of the Supervisory Committee to have regular and reliable information on the investigative function of OLAF, while reducing the burden of continuous reporting for the Office.

The Working Arrangements aim at strengthening the relationship between OLAF and its Supervisory Committee, by enhancing the support for OLAF's investigative function and to its independence and improving the cooperation practices.

([30]) Supervisory Committee's dedicated section on OLAF's website : http://ec.europa.eu/anti_fraud/about-us/supervisory-committee/index_en.htm

([31]) Article 15.3, Regulation (EU, Euratom) No 883/2013

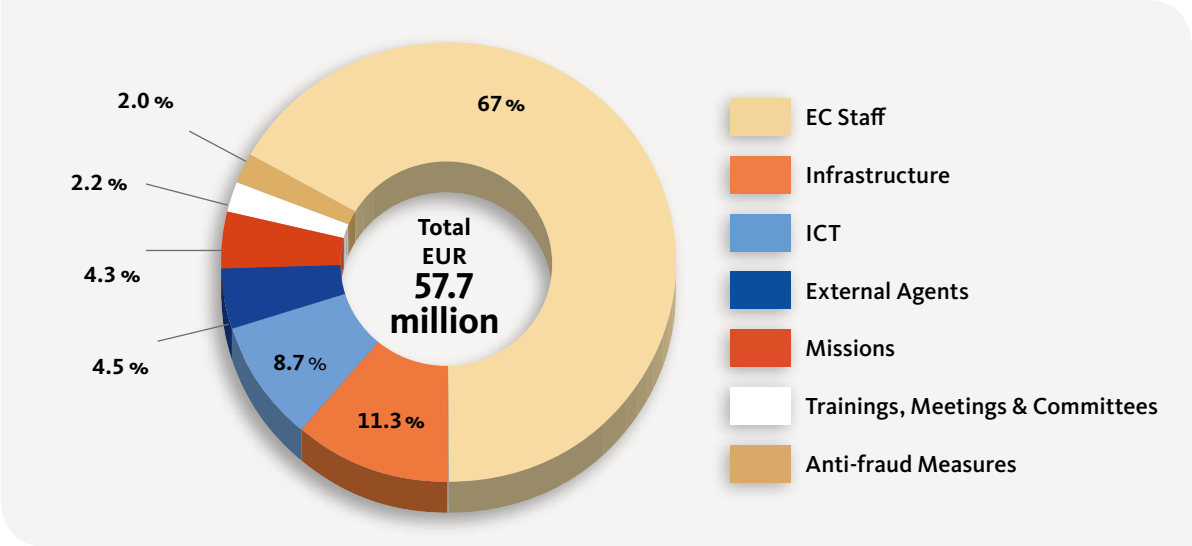
([32]) http://ec.europa.eu/anti_fraud/documents/legal-framework-agreements/working_arrangements_olaf_supervisory_committee_en.pdf

7. Resource management

7.1 OLAF's Budget

In 2013 OLAF's administrative budget, EUR 57.7 million, was allocated as follows:

Figure 25: OLAF administrative budget in 2013



7.2 Human Resources

On 31 December 2013, almost 80 % of OLAF's total staff (350 out of 440) was working on activities related to OLAF's investigative functions.

Figure 26: Overview of OLAF personnel on 31 December 2013

	Permanent and Temporary posts	External Personnel	Total
Fight against fraud	306	44	**350**
Administrative support for the European Anti-fraud Office	32	6	**38**
Policy strategy and coordination for the European Anti-fraud Office	46	6	**52**
Total	**384**	**56**	**440**

7.3 Training

As a follow-up to the entry into force of OLAF Regulation, in-house training was organised on the implications of this new regulation on the investigative procedures and practices.

The main focus on investigative training was reinforced by a set of new training sessions delivered exclusively by experienced investigators. The topics of these sessions were Interviewing techniques, Gathering of evidence, On-the-spot checks, Report writing and Inspection of premises. These training sessions were organised to maintain and improve further the high standards of OLAF in the investigative field and led to the identification of best practices.

OLAF's forensic experts and operational analysts regularly participate in a number of highly specialised external training sessions.

Furthermore, OLAF's staff was trained by the Directorate-General for Agriculture and Rural Development and by the specialist EU agency for judicial cooperation in criminal matters, Eurojust, in order to enhance their knowledge on specific relevant subject matters.

A management training programme was developed in 2013 to enhance management competencies via group coaching. The importance of ethics in OLAF was addressed in an awareness campaign including a lunch debate, along with the drafting of an OLAF Ethics guide and a revamp of the intranet page dedicated to Ethics.

A mentoring session was organised in order to prepare staff members interested in middle management positions. Special attention was paid to gender balance and equal opportunities issues.

OLAF is contacted regularly by other Commission services, institutions or bodies and external organisations to give presentations on specific topics relating directly to its competences, expertise or methods of work. In the framework of the Commission's Anti-Fraud Strategy, OLAF supports the Commission services and EU agencies in their efforts to raise awareness about fraud issues and develop appropriate anti-fraud training.

8. Outlook: 2014 and beyond

OLAF is looking forward to continuing its active involvement in all the relevant investigation activities and policy initiatives linked to its mandate.

- The Office will strive to further consolidate the positive results achieved in the investigative field.
- The first exchange of views between the European Parliament, the Council, the Commission and the Director-General of OLAF took place on 8 April 2014. OLAF welcomes this new process as a good opportunity to improve further the relationship and dialogue with the institutions on matters of general anti-fraud policies which are the focus of the exchange.
- Improving cooperation with partners will remain a key priority for OLAF in the years to come. OLAF intends to conclude cooperation arrangements with the Commission and the other EU institutions; deepen cooperation with Eurojust and Europol and sign further Administrative Cooperation Arrangements with Member States and third country authorities, as well as with international organisations.
- OLAF will continue to actively support the negotiations on the Commission's legislative proposal on the establishment of a European Public Prosecutor's Office. As the legislative process further advances, it will be necessary and important to reflect on the special relationship between OLAF and the future EPPO.

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