



Procedure file

Basic information		
INI - Own-initiative procedure	2006/2268(INI)	Procedure completed
Protection of the Communities' financial interests: fight against fraud. Annual report 2005		
Subject 7.30.30.06 Action to combat economic fraud and corruption		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	CONT Budgetary Control		27/03/2007
		PPE-DE MUSOTTO Francesco	
	Committee for opinion	Rapporteur for opinion	Appointed
	AGRI Agriculture and Rural Development		19/12/2006
		ALDE VIRRANKOSKI Kyösti	
	REGI Regional Development		27/02/2007
		PPE-DE BŘEZINA Jan	
	BUDG Budgets	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	2804	05/06/2007
European Commission	Commission DG	Commissioner	
	European Anti-Fraud Office (OLAF)	KALLAS Siim	

Key events			
11/07/2006	Non-legislative basic document published	COM(2006)0378	Summary
29/11/2006	Committee referral announced in Parliament		
05/06/2007	Resolution/conclusions adopted by Council		
22/01/2008	Vote in committee		Summary
25/01/2008	Committee report tabled for plenary	A6-0009/2008	
18/02/2008	Debate in Parliament		
19/02/2008	Results of vote in Parliament		

19/02/2008	Decision by Parliament	T6-0052/2008	Summary
19/02/2008	End of procedure in Parliament		

Technical information	
Procedure reference	2006/2268(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	CONT/6/42356

Documentation gateway					
Non-legislative basic document		COM(2006)0378	12/07/2006	EC	Summary
Committee opinion	REGI	PE384.319	08/05/2007	EP	
Committee opinion	AGRI	PE386.664	08/05/2007	EP	
Supplementary non-legislative basic document		COM(2007)0390	06/07/2007	EC	Summary
Document attached to the procedure		SEC(2007)0930	06/07/2007	EC	
Document attached to the procedure		SEC(2007)0938	06/07/2007	EC	
Committee draft report		PE398.324	21/11/2007	EP	
Amendments tabled in committee		PE398.655	18/12/2007	EP	
Committee report tabled for plenary, single reading		A6-0009/2008	25/01/2008	EP	
Text adopted by Parliament, single reading		T6-0052/2008	19/02/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)1767	31/03/2008	EC	
Commission response to text adopted in plenary		SP(2008)1857	16/04/2008	EC	

Protection of the Communities' financial interests: fight against fraud. Annual report 2005

PURPOSE: the presentation of the 2005 Annual Report on the 'Fight against Fraud'.

CONTENT: in accordance with Article 280 of the EU Treaty the Commission is expected to prepare an annual report on the protection of the Community's financial interests and the measures taken in the fight against fraud. This report is a summary of the measures taken. For a more detailed assessment, plus Member States' contributions to the presentation of this report, see SEC(2006)911 and SEC(2006)912.

Section 1: In this section, the Commission presents an assessment on the overall strategic approach taken to protect the Community's financial resources between 2001-2005. During this period, the Commission has sought to follow a horizontal, cross-pillar approach to anti-fraud policy through the integration of all sectors potentially affected by fraud and corruption. The new Financial Regulation, which entered into force in 2003 has considerably enhanced the Community's financial interests. The Regulation, for example, makes recovery more effective; it moves the Community away from a 'cash-based' approach towards a system of accrual accounting; and it provides for the removal of unreliable candidates from public contracts.

In 2005:

- the Commission adopted a second report on the 'Black List Regulation'. This Regulation identifies those economic operators, working within the boundaries of the EAGGF Guarantee Section, that could pose a potential threat to the economic interests of the Community. The report's conclusion was that the success of the Regulation is modest. Based on these conclusions the Commission hopes to provoke a wide-ranging debate, with all of the institutions, on the need for a potential reform of the exclusion mechanism.

- the ten new EU Member States, along with Romania and Bulgaria, have established national anti-fraud co-ordination services (AFCOS), which have proved very useful. AFCOS have been specifically designed to take responsibility for all of the legislative, administrative and operational aspects relating to the protection of the Community's financial interests.
- OLAF launched a permanent technical support infrastructure (POCU) which co-operates with and supports joint customs operation by the Member States. The first operation to take place in 2005 was 'Operation Fake' on counterfeit goods stemming from China. This operation, according to the Commission Report, produced very satisfactory results.
- considerable attention was given to both preventing and combating corruption. A memorandum of understanding which was signed between OLAF, the Internal Audit Office (IAF) and IDOC, describing their respective areas of activity, has created the right conditions for a fruitful co-operation between these bodies.
- in the context of administrative reform, measures have been taken to make Commission officials aware of sound project management, conflicts of interest and the correct procedure in cases where a case of serious wrong-doing, which could affect the Community's interests, is suspected.

On the matter of criminal judicial enhancement, the Commission remarks on a landmark ruling delivered by the European Court of Justice in 2005 on criminal-law provisions relating to the first and third pillars and the proposal for a Directive on the criminal-law protection of the financial interests of the Community, in particular. According to this judgement, when recourse to a specific criminal-law provision is necessary to guarantee the effectiveness of Community law, it must be adopted exclusively under the first pillar. This system has put an end to the dual-text mechanisms ? i.e. Regulation, or Directive or Framework Decision.

Section 2: This section contains a statistical summary of on the number of irregularities reported under the sectoral regulations. The Report notes that in 2005:

- on the matter of the Community's own resources, suspicion of fraud accounts for approximately 20% of all irregularities notified in 2005 at a cost of some EUR 95.2 million.
- for agricultural expenditure, suspicions of fraud account for approximately 13% of the cases of irregularities notified, involving some ?21.5 million, equivalent to 0.05% of the total EAGGF Guarantee Section appropriations.
- for the structural funds, approximately 15% of the irregularities notified (or some ?205 million) were attributed to fraud ? equivalent to some 0.53% of the total appropriations for the Structural Funds and the Cohesion Fund.
- for pre-accession funds, fraud accounted for approximately 18% of the irregularities notified involving an amount of some ?1.77 million - equivalent to 0.06% of the total appropriations under the PHARE, SAPARD and ISPA funds.

These amounts are based on Member State estimates.

- on the matter of traditional own resources, the number of cases of detected fraud and irregularities communicated (in other words cases higher than ?10 000) increased by 55 % compared to 2004.
- the amount affected by irregularities in 2005 is around ?322 million, compared to ?212 million in 2004, an increase of 52%. The Commission attributes this to enhanced Member States communication and that some Member States have joined the OWNRES system, which lists cases of un-discharged transit operations that were subsequently, although belatedly, discharged. One can not, therefore, conclude that the 55% increase relates to an actual increase in fraud and other irregularities.

Section 3: This section contains an illustrative selection of measures taken in 2005 by the Member States and the Commission. It also contains a description of measures taken to improve the effectiveness of the European Anti-Fraud Office (OLAF).

Section 4: This section sets out measures taken to improve the recovery of sums not collected or paid unduly.

Section 5: This section deals with the certification of Member States' accounts. The largest part of the EU budget is managed jointly between the Commission and the Member States. Thus, this section gives a brief comparison of the control principles and standards and of the certification systems (where they exist) applied by the Member States.

To conclude, five years after the launch of the overall strategic approach, a positive assessment can be made of the actions undertaken. Significant progress has been made in each of the main guidelines for the protection of the Community's financial interests. The Report does, however, lament the slow progress on the establishment of a 'European Prosecutor' ? which is the result of the failed Constitution. Of all the actions planned for 2005, 75% were carried out in full, with a further 9% being partially carried out within the stipulated timeframe. 14% were postponed to 2006 and 10% have been provisionally suspended ? largely for reasons beyond the Commission's control.

Protection of the Communities' financial interests: fight against fraud. Annual report 2005

The European Commission presented its 2006 Annual Report on the fight against fraud, within the framework of the protection of the financial interests of the Communities.

The first part of the report gives a summary of the statistics concerning irregularities reported by the Member States in accordance with sectoral regulations and provides some figures relating to the operational activities of the European Anti-Fraud Office (OLAF).

Traditional own resources: in 2006, the number of cases of fraud and irregularities reported (exceeding ?10 000) was down 12% on 2005 (from 5 943 to 5 243), but the amount affected by irregularities rose by over 7% (from ?328 million to ?353 million). Suspected fraud accounts for approximately 22% of the cases of irregularities reported, with an estimated financial impact of ?134.39 million, equivalent to approximately 0.94% of the total amount of own resources in 2006. This compares with ?105.3 million (around 0.85% of own resources) in 2005. The goods most affected by irregularities in 2006, as in previous years, are tobacco products and TVs. The figures for sugar, fish, glass and glassware and optical instruments were down on 2005, whereas meat, engines and parts, inorganic products and oils and fats were all up. The textile sector remained relatively stable, involving ?10.3 million in duties.

Agricultural expenditure (EAGGF Guarantee Section): in 2006, the number of irregularities reported was up 3% on the previous year (3 249 cases in 2006). The total amount involved in 2006 was down 15%, at ?87 million, accounting for almost 0.17% of total appropriations for the

EAGGF Guarantee Section (?49 742 million for 2006). Suspected fraud accounted for around 10% of all irregularities reported (?29.8 million, 0.06% of total appropriations, compared with ?21.5 million, or 0.05% of total appropriations in 2005). The highest number of irregularities reported related to rural development, bovine sector, and fruit and vegetables (60% of the total number of reported irregularities and almost 70% of the total amount affected).

Structural measures: in 2006, the number of irregularities reported (3 216 cases, including the Cohesion Fund) was down 10% on the previous year (3 750 cases) whereas their financial impact increased by 17% to ?703 million in 2006. As in previous years, the ERDF and ESF account for the most irregularities (around 75%). The number of irregularities reported for the Guidance Section of the EAGGF increased by 38%; for the Cohesion Fund and the FIG it remained stable.

Pre-accession funds: the number of irregularities concerning PHARE, SAPARD and ISPA funds for 2006 increased by 13.6% (384, compared with 338 in 2005). The presumed financial impact of the irregularities increased for PHARE and SAPARD but fell for ISPA (from ?6.9 million in 2005 to ?1.2 million in 2006). For 2006, the total amount of irregularities reported was down 26% to ?12.318 million (from ?16.7 million in 2005). Suspected fraud accounted for approximately 14.63% of the irregular amounts reported. The financial impact is estimated at ?1.57 million. The most frequently reported type of irregularity for each of the pre-accession funds was ?non-eligible expenditure?. For the PHARE fund, the second most common irregularity was ?unjustified expenditure?.

The number of investigations opened by OLAF following evaluation of information received fell (195 in 2006 against 214 in 2005).

In addition to a general overview of the measures taken in the different areas, the report focuses on 4 specific topics:

1. Risk analysis and management: this area is currently being developed within the Commission as well as in Member States, to ensure proactive protection of financial interests, prevention and targeted action. For some years the Commission has used risk management not just in relation to expenditure but more generally too. The Commission has taken a number of steps since 2006, with the aim of improving the decision-making process, increasing effectiveness and strengthening the reliability of management systems. At national level all Member States have rules in their budgetary procedures to help managers to assess and manage the financial risks involved in awarding grants and public contracts, in particular to verify the reliability of potential beneficiaries. The national customs authorities use risk analysis to identify potential illegal activities and to target controls more effectively. Over the years, coordination at European level has improved the effectiveness of actions taken by the national authorities.
2. Early-warning and debarment systems: Article 95 of the Financial Regulation, as amended in 2006, provides for the introduction of a central database of organisations excluded from contracts and grants financed by the EU budget. It is a common database of the institutions, executive agencies and bodies covered by Article 185 of the Financial Regulation. This database will contain all relevant information on entities convicted of fraud or corruption in the Member States and in third countries involved in the implementation of EU programmes. The system will be supplied with information from partners, and authorities involved in implementing the Community budget in the Member States will also be able to consult it. The Commission already has an internal Early Warning System (EWS) database containing information on funds managed directly by the Commission. The Commission also manages a database for risk identification in relation to economic operators in the specific field of the EAGGF Guarantee Section. Information for this database is supplied by the Member States. In connection with the recent developments in the field of early-warning and debarment (blacklisting) systems, Member States were asked to indicate what databases of risky beneficiaries they had (if any). Almost all the databases described aim at prevention (early-warning system). All the databases include information on the legal person responsible for the irregularity in question. In all the countries with tax databases, not being up to date with taxes or social security contributions is considered a ground for inclusion in the database.
3. Warning systems involving internal informants (whistleblowing): civil servants and other staff of administrative authorities are the best placed to realise what the risks are and thus to prevent and combat fraud. The treatment of whistleblowers has changed considerably in recent years in some Member States, as it has in the European Union and various international organisations. In 2006, no OLAF investigations were launched as the result of information received direct from a whistleblower. All Member States indicated that they had adopted legal provisions or practices entitling or requiring civil servants and other public administration employees to pass on information discovered in the course of their duties if they suspect that an irregularity, fraud, corruption or malpractice may have been committed in the organisation where they work.
4. Recovery of amounts not collected or wrongly paid: in 2002, the Commission announced the setting-up of a Task Force Recovery (TFR) to examine the considerable backlog of recovery cases concerning the EAGGF Guarantee Section. The Agriculture and Rural Development Directorate-General and OLAF's joint TFR was responsible for 463 cases involving more than ?500 000 each and 3 227 cases involving less than ?500 000 each, following an irregularity reported to the Commission prior to 1999. The report presents the situation with regard to TFR's work at 31 December 2006. This part also contains a section on mechanisms for recovery by offsetting under national law. The report notes that, in most Member States, a Community debt and a national claim can be offset and vice versa. Reported statistics show that some Member States use offsetting regularly. The Commission can only encourage the use of this very effective instrument for recovering Community funds wherever possible.

Protection of the Communities' financial interests: fight against fraud. Annual report 2005

The Committee on Budgetary Control adopted an own initiative report drawn up by Mr Francesco MUSOTTO (EPP-ED, IT) in response to the 2005 and 2006 annual reports from the Commission on the protection of the Communities' financial interests and the fight against fraud.

The parliamentary committee welcomes the fact that the annual reports on the protection of the Communities' financial interests have become more analytical, even though the statistics rely on very diverse national structures with different administrative, judicial, supervisory and inspection systems. Members call for the annual reports and the reports drawn up by Parliament on the basis of those reports, to be included in the Council's agenda, and for the Council, subsequently, to forward its observations to Parliament and the Commission.

As far as own resources are concerned, the report notes that the amount affected by irregularities rose by 7% from EUR 328 million in 2005 to EUR 353 million in 2006. The products most affected were televisions and cigarettes. The number of cases in Italy (+122%) and the Netherlands (+81%) rose sharply.

As far as agricultural expenditure is concerned, the amount affected by irregularities fell from EUR 105 million in 2005 to EUR 87 million in 2006. Spain, France and Italy were responsible for 57.2% of the irregularities, or a total of EUR 64.9 million, while the sectors most affected were rural development, beef and veal, and fruit and vegetables.

Concerned by the fact that the level of recovery of sums unduly paid remains low and varies between Member States, members call on the Commission to step up its efforts to improve the recovery rate.

MEPs fully support the Commission in the rigorous application of the legislation on suspension of payments. They urge that CAP funding should also be subject to the same procedure as the measures for the non-transfer of funds where the Commission does not have an absolute guarantee of the reliability of the management and control systems of the Member State which is the beneficiary of those funds.

The report also points out that the amount affected by irregularities relating to structural actions increased by 17% (from EUR 601 million in 2005 to EUR 703 million in 2006). In this respect, it regrets that of the 95 projects funded using Structural Funds audited over the current funding period, 60 were affected by material errors in declared project expenditure. MEPs consider that a greater number of projects should be audited. In addition, they call on the Commission to inform Parliament's relevant committees twice a year on the progress made and the specific measures taken in order to speed up the recovery of the outstanding amounts (EUR 266.5 million has still to be recovered for 2006, while for previous years EUR 762 million still needs to be recovered).

In order to remedy weaknesses, members call on the Commission to include an analysis of the Member States' structures involved in combating irregularities in the 2008 annual report. They also call on the Commission to indicate, as regards the own resources sector, which further actions it will undertake to put a stop to the fraudulent importing of televisions, cigarettes and counterfeit goods in general.

In terms of agricultural expenditure, MEPs consider it wholly unacceptable that for many years Germany and Spain have not been forwarding information to the Commission, in electronic form, on irregularities concerning agricultural expenditure. The Commission is therefore urged to start infringement procedures against these two Member States and to withhold 10% of agricultural payments pending the procedure. The Commission should also take a firm stance should Greece fail to comply with the action plan for introducing the Integrated Administration and Control System.

The report underlines that the Commission should attach particular importance to criminal networks specialising in the misappropriation of EU funds. The Commission is therefore called upon to provide Parliament's Committee on Budgetary Control with a detailed analysis of the system or systems used by organised crime, whether run on mafia lines or not, to undermine the Communities' financial interests.

As a general principle, members urge Member States to guarantee the quality of their supervisory and control systems and emphasise the direct responsibility of Member States in recuperating funds, the payment of which is affected by irregularities. They reiterate their encouragement to the Commission to suspend interim payments to Member States in cases of serious irregularity. They also call on the Commission to take the appropriate measures (including infringement procedures), against those Member States which do not assist the Commission services in carrying out on-the-spot checks.

As regards value added tax (VAT) fraud, the report is extremely concerned at the financial losses caused by 'carousel' transactions. MEPs consider that improved cooperation between the services concerned and with the Commission (OLAF) is essential.

Lastly, members remind the Commission that the Parliament is in favour of grouping together OLAF's investigatory powers in a single regulation. They therefore call on OLAF, as a matter of urgency, to submit an analysis of the interoperability of the different legal bases granting investigative powers to it, in the context of the future revision of the OLAF Regulation.

Protection of the Communities' financial interests: fight against fraud. Annual report 2005

The European Parliament adopted a resolution based on the own-initiative report drafted by Francesco MUSOTTO (EPP-ED, IT) in response to the Commission's 2005 and 2006 annual reports on the protection of the Communities' financial interests and the fight against fraud.

Parliament welcomes the fact that the annual reports on the protection of the Communities' financial interests have become more analytical, even though the statistics rely on very diverse national structures with different administrative, judicial, supervisory and inspection systems. Members call for the annual reports and the reports drawn up by Parliament on the basis of those reports, to be included in the Council's agenda, and for the Council, subsequently, to forward its observations to Parliament and the Commission.

As far as own resources are concerned, Parliament notes that the amount affected by irregularities rose by 7% from EUR 328 million in 2005 to EUR 353 million in 2006. The products most affected were televisions and cigarettes. The number of cases in Italy (+122%) and the Netherlands (+81%) rose sharply.

As far as agricultural expenditure is concerned, the amount affected by irregularities fell from EUR 105 million in 2005 to EUR 87 million in 2006. Spain, France and Italy were responsible for 57.2% of the irregularities, or a total of EUR 64.9 million, while the sectors most affected were rural development, beef and veal, and fruit and vegetables.

Concerned by the fact that the level of recovery of sums unduly paid remains low and varies between Member States, Members call on the Commission to step up its efforts to improve the recovery rate. When in a specific Member State recovery remains systematically low, the Commission should apply corrective measures.

Parliament fully supports the Commission in the rigorous application of the legislation on suspension of payments. They urge that CAP funding should also be subject to the same procedure as the measures for the non-transfer of funds where the Commission does not have an absolute guarantee of the reliability of the management and control systems of the Member State which is the beneficiary of those funds.

Parliament also points out that the amount affected by irregularities relating to structural actions increased by 17% (from EUR 601 million in 2005 to EUR 703 million in 2006). In this respect, it regrets that of the 95 projects funded using Structural Funds audited over the current funding period, 60 were affected by material errors in declared project expenditure. MEPs consider that a greater number of projects should be audited. In addition, it calls on the Commission to inform Parliament's relevant committees twice a year on the progress made and the specific measures taken in order to speed up the recovery of the outstanding amounts (EUR 266.5 million has still to be recovered for 2006, while for previous years EUR 762 million still needs to be recovered).

Parliament remains convinced that Member States and EU institutions, including the Court of Auditors (ECA), must come to a political understanding on a 'tolerable error rate' if a positive declaration of assurance is ever to be achieved.

In order to remedy weaknesses, Members call on the Commission to include an analysis of the Member States' structures involved in combating irregularities in the 2008 annual report and gave a list of questions that the analysis should look at. They also call on the

Commission to indicate, as regards the own resources sector, which further actions it will undertake to put a stop to the fraudulent importing of televisions, cigarettes and counterfeit goods in general.

In terms of agricultural expenditure, Parliament considers it wholly unacceptable that for many years Germany and Spain have not been forwarding information to the Commission, in electronic form, on irregularities concerning agricultural expenditure. The Commission is therefore urged to start infringement procedures against these two Member States and to withhold 10% of agricultural payments pending the procedure. The Commission should also take a firm stance should Greece fail to comply with the action plan for introducing the Integrated Administration and Control System.

Parliament underlines that the Commission should attach particular importance to criminal networks specialising in the misappropriation of EU funds.

As a general principle, Members urge Member States to guarantee the quality of their supervisory and control systems and emphasise the direct responsibility of Member States in recuperating funds, the payment of which is affected by irregularities. They reiterate their encouragement to the Commission to suspend interim payments to Member States in cases of serious irregularity. They also call on the Commission to take the appropriate measures (including infringement procedures), against those Member States which do not assist the Commission services in carrying out on-the-spot checks.

As regards value added tax (VAT) fraud, Parliament is extremely concerned at the financial losses caused by 'carousel' transactions. It considers that improved cooperation between the services concerned and with the Commission (OLAF) is essential.

Lastly, Parliament reminds the Commission that the Parliament is in favour of grouping together OLAF's investigatory powers in a single regulation. It calls on OLAF, as a matter of urgency, to submit an analysis of the interoperability of the different legal bases granting investigative powers to it, in the context of the future revision of the OLAF Regulation.