

# Annual Report 2010

## European Anti-Fraud Office

Tenth Activity Report  
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# 1. OLAF's Role and Responsibilities

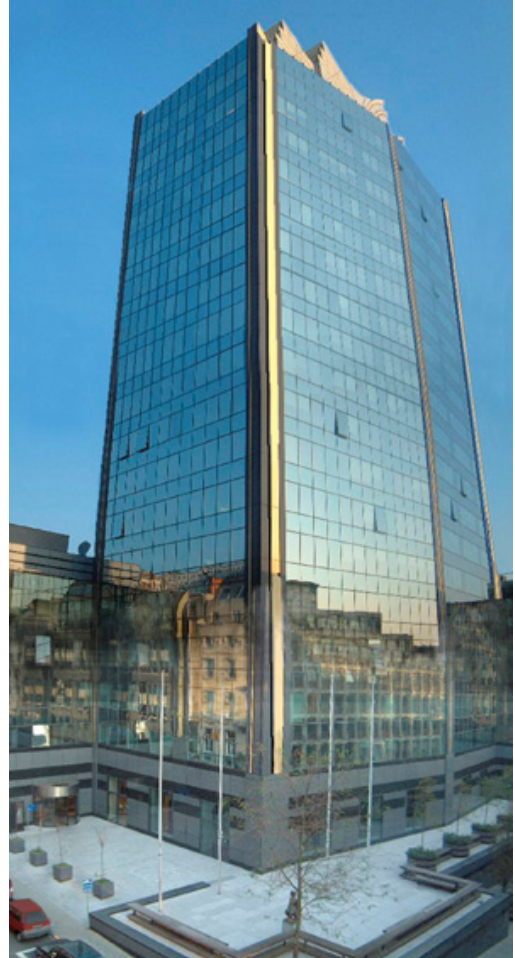
## 1.1. Mission statement

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

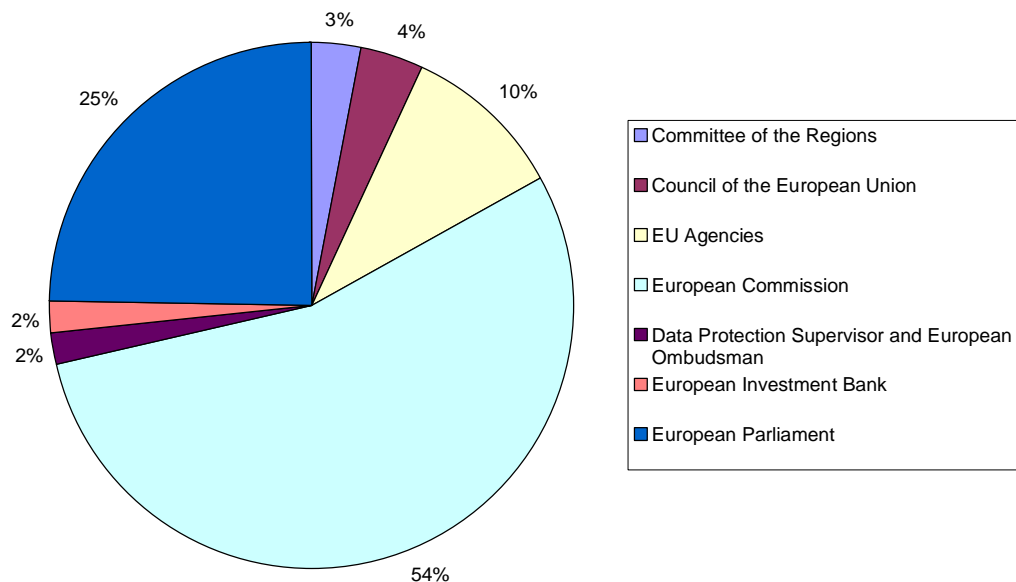
### 2.1. Internal investigations

#### 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 through 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%          |
| <b>Total</b>          | <b>802</b> | <b>822</b> | <b>878</b> | <b>1029</b> | <b>969</b> | <b>4500</b> | <b>100%</b> |

| Major sector                         | 2005       | 2006       | 2007       | 2008        | 2009       | Total       | Percentage  |
|--------------------------------------|------------|------------|------------|-------------|------------|-------------|-------------|
| <b>Agriculture</b>                   | 100        | 107        | 136        | 201         | 173        | 717         | 18%         |
| <b>Cigarettes</b>                    | 9          | 9          | 10         | 13          | 10         | 51          | 1%          |
| <b>Customs</b>                       | 60         | 65         | 56         | 54          | 36         | 271         | 4%          |
| <b>Direct expenditure</b>            | 73         | 50         | 102        | 152         | 109        | 486         | 11%         |
| <b>EU institutions and EU bodies</b> | 235        | 232        | 207        | 293         | 305        | 1272        | 31%         |
| <b>External aid</b>                  | 168        | 205        | 206        | 179         | 140        | 898         | 14%         |
| <b>Structural Funds</b>              | 157        | 154        | 161        | 137         | 196        | 805         | 20%         |
| <b>Total</b>                         | <b>802</b> | <b>822</b> | <b>878</b> | <b>1029</b> | <b>969</b> | <b>4500</b> | <b>100%</b> |

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     | <b>Subtotal</b>                          | <b>666</b>    |
| Greece         | 34     |  |               |
| Hungary        | 18     |  |               |
| Ireland        | 11     | <b>Candidate country</b>                 | <b>Number</b> |
| Italy          | 52     | Croatia                                  | 11            |
| Latvia         | 4      | Former Yugoslav<br>Republic of Macedonia | 1             |
| Lithuania      | 6      | Turkey                                   | 17            |
| Luxembourg     | 12     | <b>Subtotal</b>                          | <b>29</b>     |
| Malta          | 5      | <b>TOTAL</b>                             | <b>695</b>    |

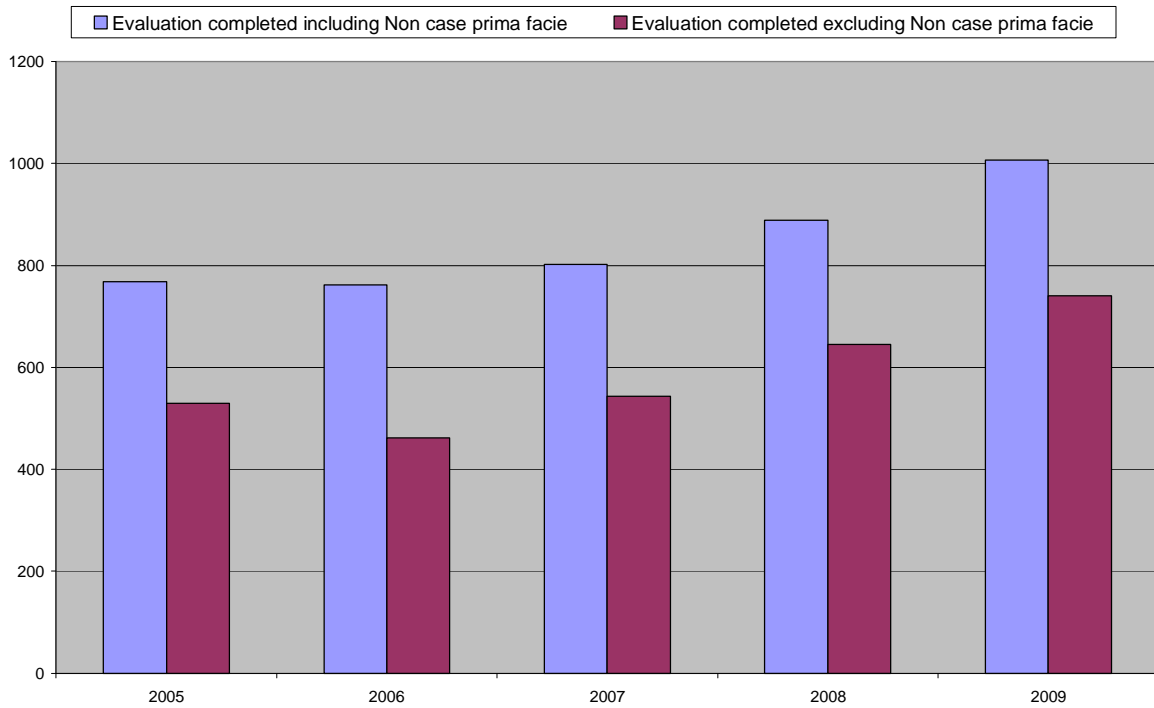
The geographical breakdown of incoming information is illustrated by Figure 2. A significant share of new information relates to a small number of countries: in 2009, approximately 65% concerned suspected fraud in six Member States (Bulgaria, Romania, Germany, Italy, Poland and Spain). This does not 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.

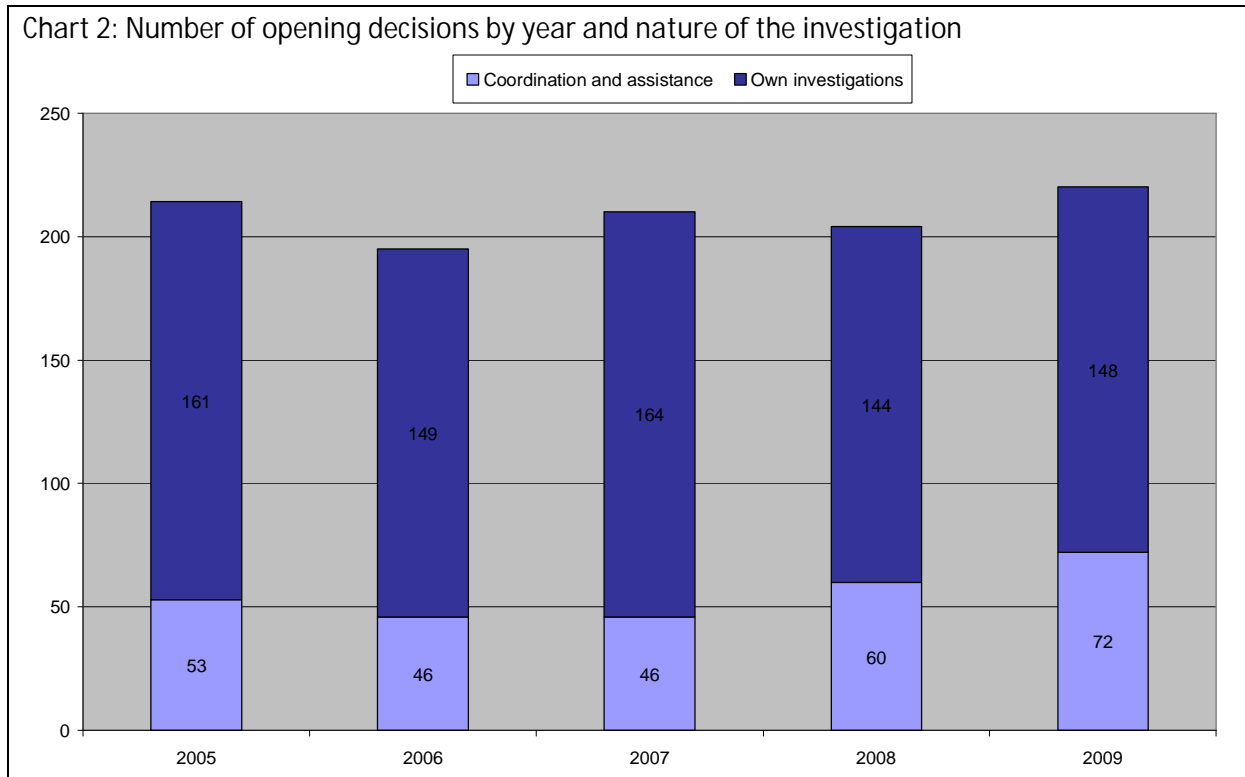
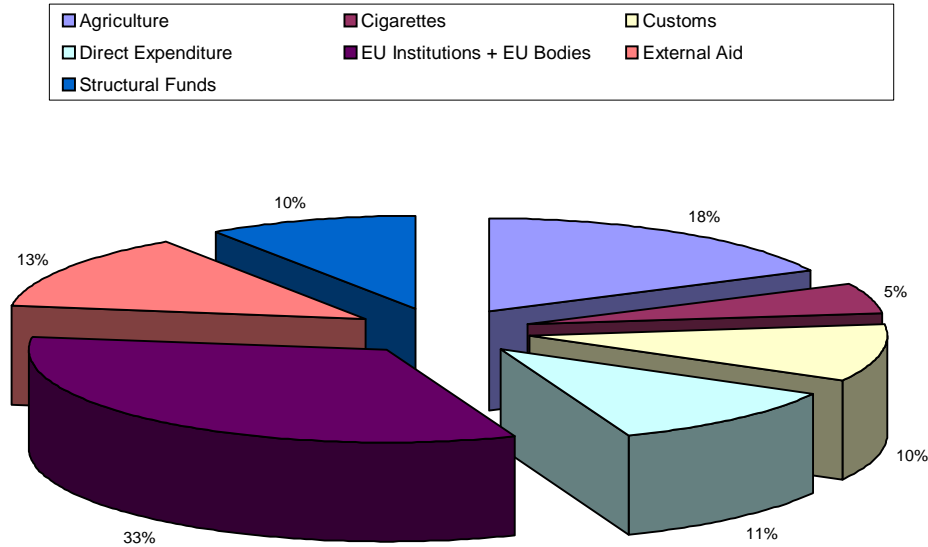




Chart 3: Opening decisions taken in 2009 by area



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         |
| <b>Total</b>        | <b>111</b> | <b>153</b> | <b>99</b> | <b>94</b> | <b>100</b> | <b>557</b> |

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                |       |
|                   |  | <b>Sub-Total</b>   | 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     |
|                   |  |  | <b>Sub-Total</b> | 1          | 0       | 0                  | 0         | 0               | 2            | 1          | 0                | 4     |
|                   |  | <b>Grand Total</b>   | 33               | 15         | 20      | 22                 | 11        | 19              | 8            | 7          | 21               | 156   |

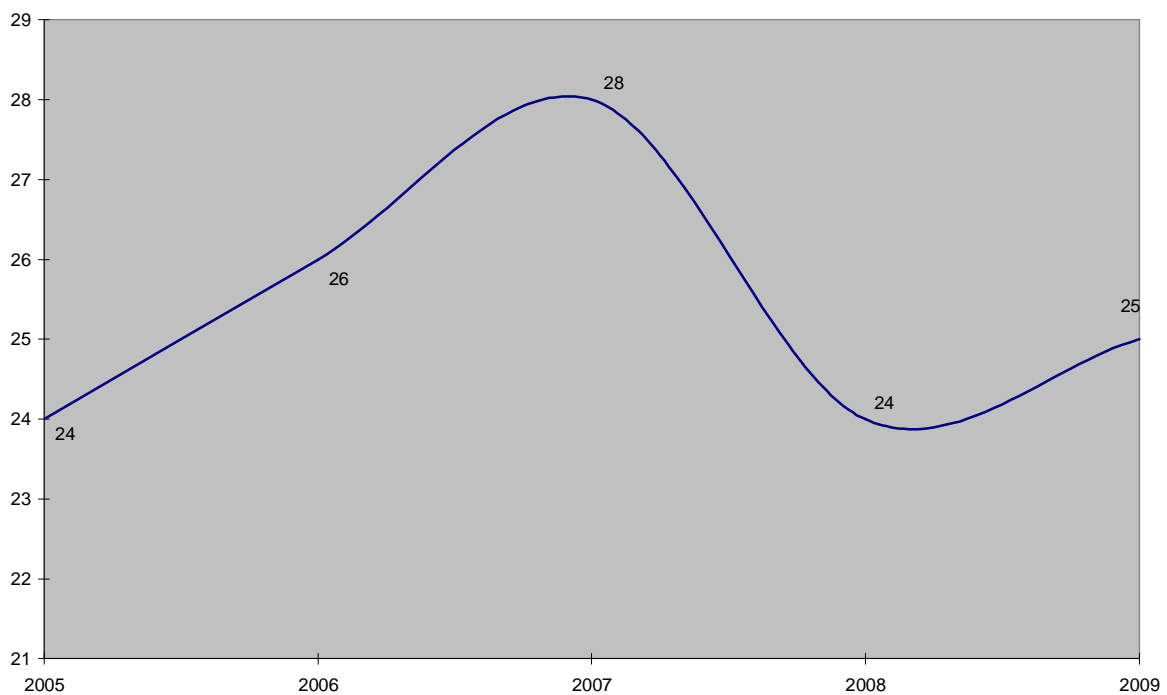
Figure 4 provides a snapshot of all active cases at the end of 2009 showing the instances where Member States and acceding or candidate countries are involved. One case record may relate to more than one country, as cases can have a transnational dimension.

### 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.

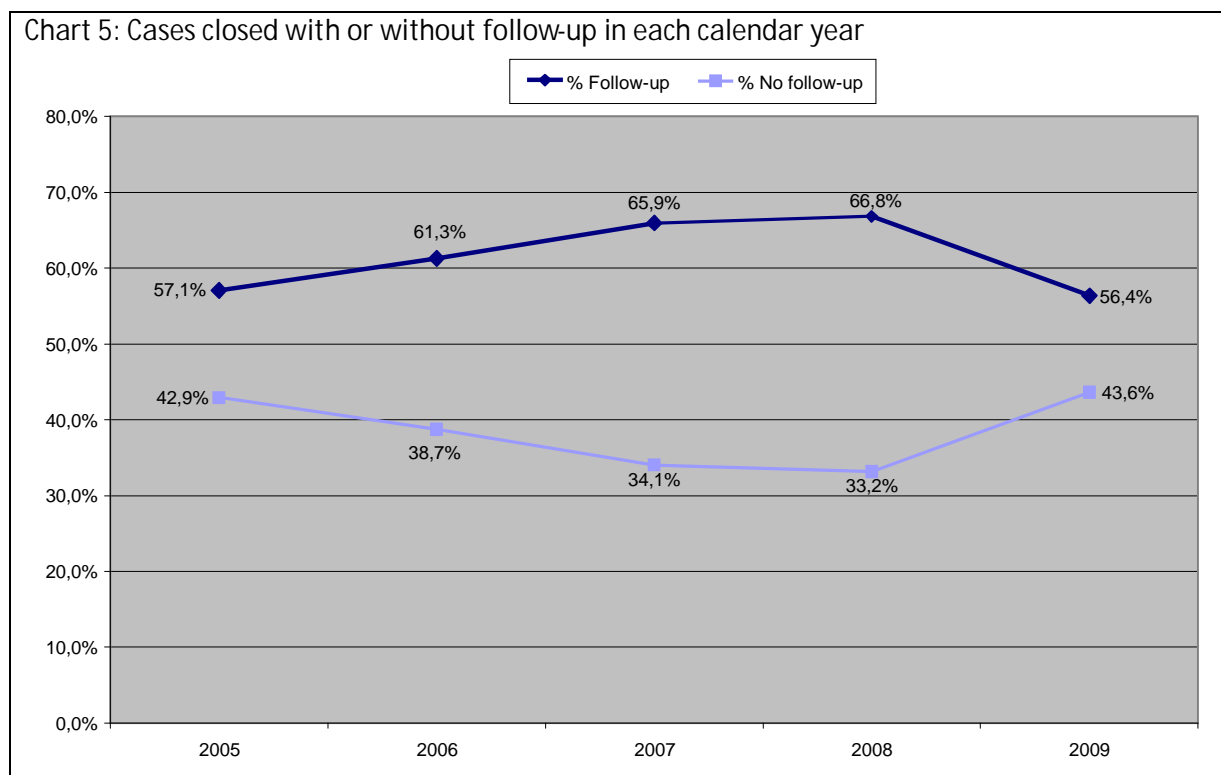


Chart 5 illustrates the spread of follow-up activities related to the cases closed in the last four years.

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         |
| <b>Total</b>             | <b>724</b> | <b>807</b> | <b>872</b> | <b>888</b> | <b>867</b> |

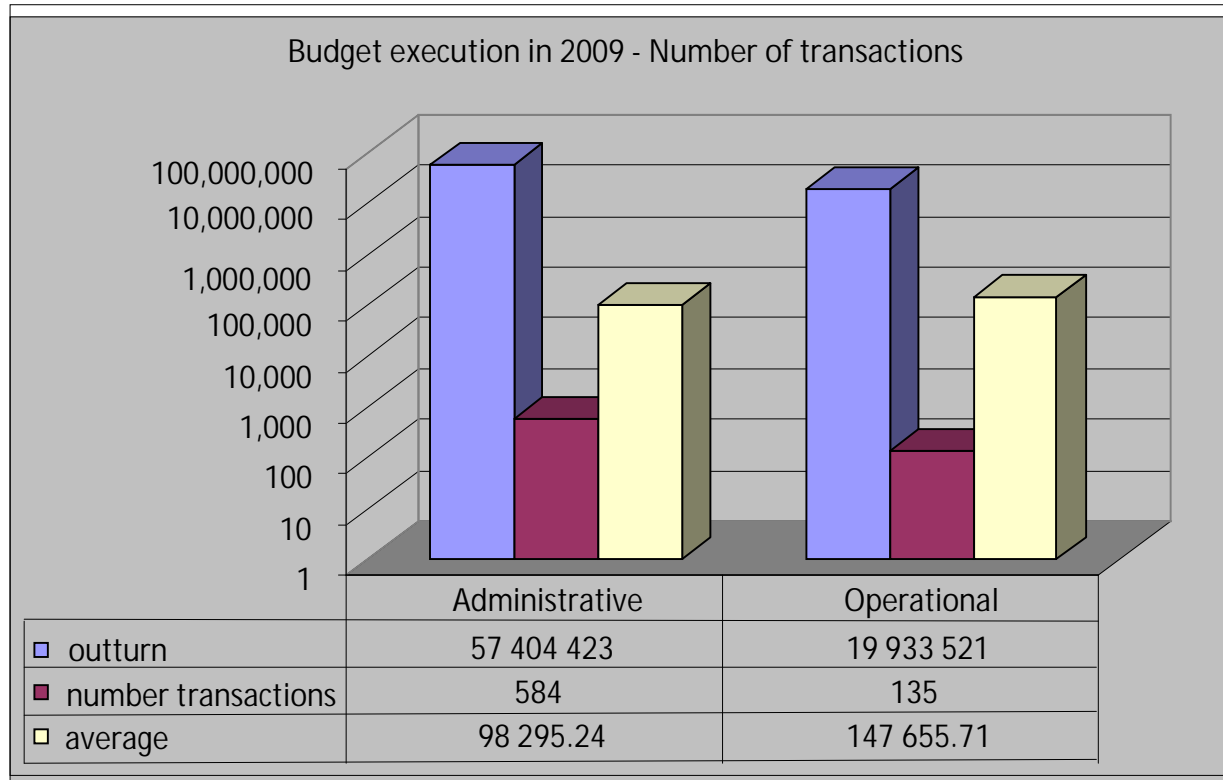
Figure 6 reflects the annual breakdown of financial recovery completed in the last five calendar years: €249.2 million were recovered as a result of follow-up actions closed in 2009. The large fluctuations observed from year to year are due to the fact that a few high-profile cases accounted for the 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         |
| <b>Total</b>                | <b>207.3</b> | <b>24.6</b> | <b>203.4</b> | <b>147.4</b> | <b>249.2</b> |

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.