

Seventh Activity Report 1 January 2006 - 31 December 2006

Executive Summary

European Anti-Fraud Office



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FOREWORD

Following my reappointment for a second 5-year term in February 2006, I was able to proceed with the reorganisation of the Office to take account of the lessons learned in the previous 6 years during which OLAF had more than doubled in size and greatly increased its efficiency.

The objective of the reorganisation is to place more emphasis on OLAF's operational work, to improve communication within the Office, and to strengthen its management. The new structure came into effect on 1 September 2006. It provides for two operational and investigation Directorates, one dealing with investigations internal to the Institutions and other bodies and with fraud in expenditure programmes managed directly by the European Institutions; and the second dealing with investigations and operations in those area of the Budget where responsibilities are shared between the Commission and the Member States (Own Resources, agriculture and structural actions). A third Directorate brings together the units which provide specialist operational support, such as intelligence, legal advice on criminal law, and the infrastructure for joint Customs operations. The fourth Directorate covers personnel, finance, management, information services and most of the policy issues on which I report to the College.

At the same time, negotiations were launched with the Commission and with the Staff Associations to identify a mutually acceptable arrangement for assuring the continuity of OLAF's staffing. This was essential, since large numbers of operational staff employed on fixed term temporary contracts were approaching the end of those contracts or were under pressure to return to national administrations. I am pleased to say that a solution was found early in 2007 in the form of a package of measures which included both a mechanism for giving qualified OLAF temporary staff indefinite contracts and the gradual reduction in the ratio of temporary to permanent staff. This agreement should end the uncertainties and instability about future staffing which were increasingly disrupting the operational work of the Office. In addition, it has at last proved possible to fill a significant number of vacant posts following the completion of various selection procedures. Priority was given to the recruitment of staff from the new Member States.

These developments, taken together, mark the end of what has been for OLAF a period of transition between the initial difficult years after the Office was set up and its transformation into a mature organisation which is consolidating the progress that it has made in the fight against fraud to the detriment of the EU's financial interests.

In 2006, for the first time, the number of investigations which OLAF conducted on its own account equalled the number of cases in which OLAF was assisting Member State authorities. I expect to see yet more concentration of OLAF resources in the coming years on major, complex fraud cases, both within the Institutions and in sensitive areas of the Budget such as procurement and external aid. Greater and more effective cooperation both between European bodies and internationally will be an essential part of this process.

I am delighted to say that, within Europe, OLAF's cooperation with Europol and Eurojust in operational matters is increasing. Beyond Europe, OLAF has forged an effective partnership with its sister agencies in the United Nations and the World Bank, reinforced by the

secondment of experienced OLAF staff. OLAF's ability to add value in the coordination of international operations is now well established.

On the revenue side of the Budget, where very large sums of money are at stake, I am pleased to report that the agreement reached between the Commission and Philip Morris on the prevention of cigarette smuggling is working well. All but one Member States have now joined the agreement and are benefiting both from the increase in cooperation in suppressing illegal cigarette trafficking and from the flow of payments provided for by the agreement. However, the refusal of some Member States to allow OLAF the means by which to demonstrate its potential in the fight against VAT fraud is as disappointing as it is difficult to understand.

Finally, I would like to thank the members of OLAF Supervisory Committee for their support, encouragement and advice. Since their appointment in November 2005, the members of the Committee have taken a close interest in all aspects of OLAF's work, making a constructive contribution both to the improvement of operational procedures and to the quality of management. The Committee remains an essential element in the defence of OLAF's operational independence.

F.H.Brüner

1 OLAF'S MISSION AND WORKING METHODS

1.1 Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect both the financial interests of the European Union, and therefore of its citizens, and the reputation of the European Institutions. It achieves this by investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions; by assisting Community and national authorities in their fight against fraud; and by means of deterrence, prevention and strengthening legislation, making it more difficult for fraud and irregularities to occur and so contributing to public trust in the European project.

OLAF performs its activities with integrity, impartiality and professionalism respecting individuals' rights and freedoms.

1.2 The main competencies of Olaf

- OLAF is empowered to conduct internal investigations, i.e. inside any European body funded by the EU budget.
- OLAF is empowered to conduct external investigations, i.e. at national level wherever the EU budget is at stake. During these actions OLAF is allowed to conduct on-the-spot checks and inspections on the premises of economic operators. OLAF works in close cooperation with the competent Member State and third countries authorities.
- OLAF also organises close cooperation between the competent authorities of the Member States in order to coordinate their investigative activities.
- While OLAF is operationally independent, the Office staff acts also as agents of the European Commission subject to its internal rules and powers. The experience gained by OLAF from the operational activities is utilised for the benefit of the Commission's legislative and policy initiatives, international cooperation etc.

1.3 Olaf's resources

On 31st December 2006 there were 388 persons working in OLAF¹ of whom 313 were statutory staff.

. About 70% of OLAF staff is assigned to tasks related to the Office's operational activity including administrative support for operational activity (63% if administrative support staff are excluded).

¹ Excluding 29 IT staff employed from contractors.

The administrative budget of OLAF in 2006 was €50.1 million. In addition, the operational budget, which funds anti-fraud activities in Member States, was around €17.4 million.

1.4 Case Management System

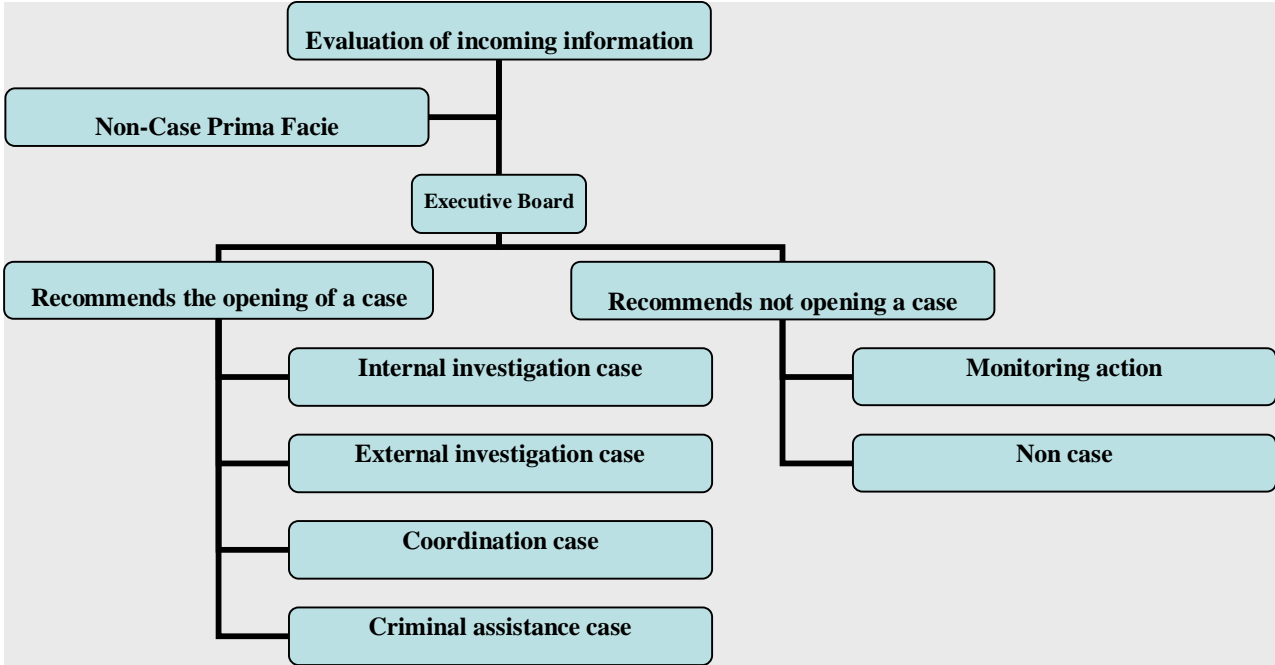
The computerised CMS is the primary source of management information for the Office.

It is OLAF’s database containing all information on new, ongoing and closed operational activities. It enables authorised personnel to track the progress of cases at all times during their lifecycle and guarantees the perfect integrity of original documents.

All significant events concerning a case are recorded here.

1.5 Investigations and Operations Executive Board

The Investigations and Operations Executive Board (“The Board”) assists the Director General by giving advice on the handling of cases. On the basis of the evaluation report the Board may recommend whether or not a case should be opened.



The advice of the Board is systematically requested on each major stage in the lifecycle of cases: opening; “non-cases”; changing case types; closing; opening new follow-up paths; closing follow-up. The Board is informed of the associated activities of external investigative, judicial and other partners associated with a case.

Once a case has been opened and the operational activity has been completed and approved by the Board, the case moves to the follow-up stage (in some circumstances follow-up activities may take place before the formal closure of the investigation stage). Follow-up

includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up case is formally closed and any associated EU entities or other parties are informed of the outcome.

2 OLAF'S WORKLOAD

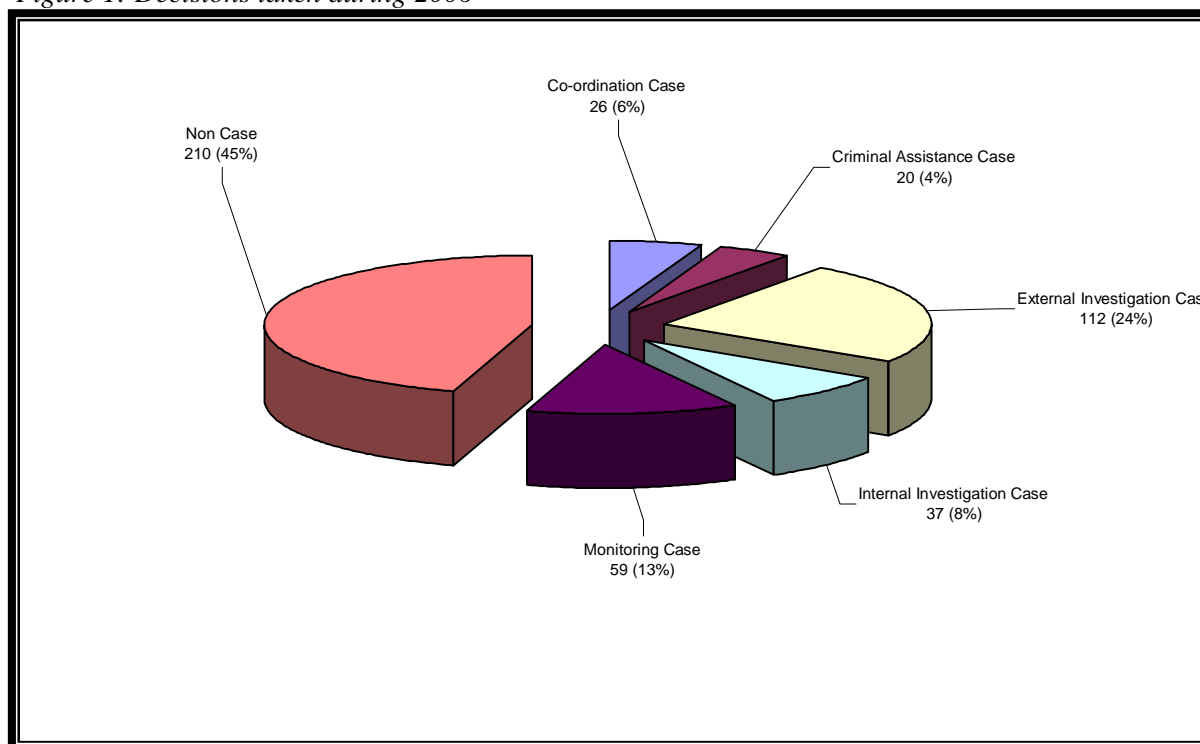
2.1 Incoming information: trust in OLAF confirmed

The statistics suggest that OLAF is increasingly trusted to make effective use of the information which is passed to it. The volume of information received by the Office has progressively increased from 529 new items in 2002 to 826 in 2006.

464 decisions were taken in 2006 on the basis of incoming information.

Figure 1 shows a breakdown of the decisions taken in 2006 by type of case or action².

Figure 1: Decisions taken during 2006



2.2 Operational Activity: focus on core business

195 out of 464 decisions outlined above resulted on the opening of a case. OLAF targets more and more on the most substantive cases which are often very complex and take a long time to be finalised. This is the reason why the number of opening decisions adopted has been declining over time as shown in Figure 2. The share between the different types of cases shows that OLAF is increasingly tending to concentrate on its “own” investigations (internal

² A detailed explanation about the whole procedure and the type of cases can be found in paragraph 14 of the annex.

and external cases) rather than assisting national authorities (coordination and criminal assistance cases).

Figure 2: Opening decisions by type of case in each calendar year

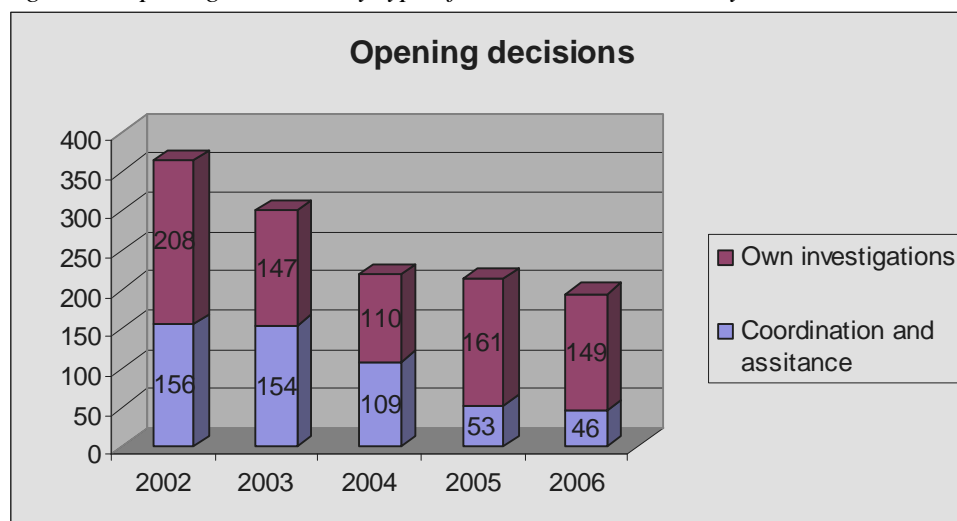


Table 1 below provides a breakdown by sector of the 195 opening decisions adopted in 2006. Direct expenditure, external aid and internal investigations, where OLAF is the only authority in charge of preliminary administrative investigation, account altogether for more than one half of the total opening decisions.

Table 1: Opening Decisions taken in 2006 by Sector and type of decision

Major sector	Co-ordination case	Criminal assistance case	External investigation case ³	Internal investigation case	Total
Agriculture	9	1	14	0	24
Structural Funds	1	2	25	0	28
Cigarettes	5	2	0	0	7
Customs	8	0	16	0	24
VAT	2	2	0	0	4
Direct expenditure	0	2	9	0	11
External aid	0	10	44	0	54
EU institutions	0	1	2	32	35
EU bodies ⁴	0	0	2	5	7
Precursors	1	0	0	0	1
Total	26	20	112	37	195

³ External investigation cases within the sectors EU institutions and EU bodies relate to cases in which third parties, e.g. contractors, are involved.

⁴ The Sector EU bodies is a new category which merges “EUROSTAT” and “Multiagency investigations” sectors from the previous years’ reports.

216 cases were closed in 2006. Figure 3 below shows that the number of cases completed has been declining over time. This is consistent with the lower number of opening decisions each year and the focus on more serious cases.

Figure 3: Cases completed in each calendar year

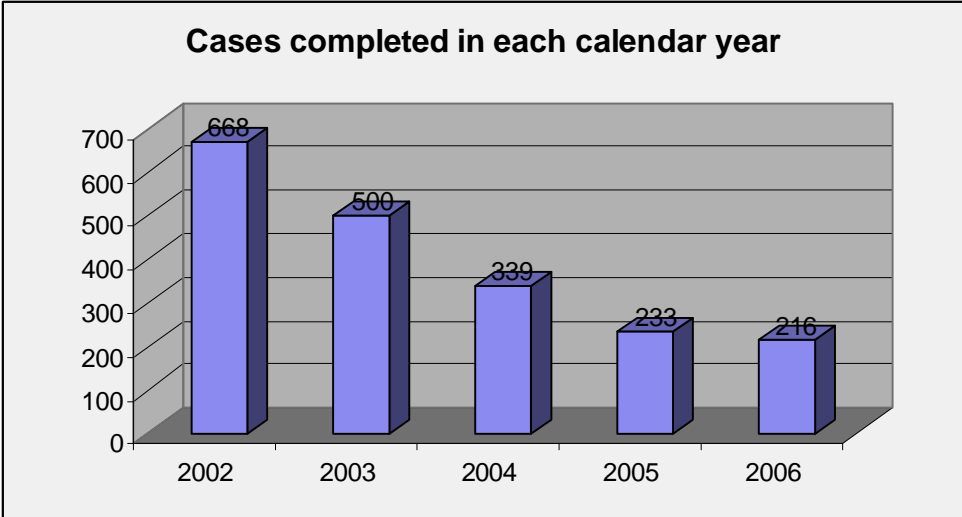


Table 2 shows the number of cases opened and closed annually in the period 2002-2006. It demonstrates that the clearance rate⁵ is getting closer to one over time in line with OLAF’s operational strategy. A clearance rate of one has been established as a medium term target in order to adapt the workload to the resources available and to avoid an excessive backlog of unfinished cases.

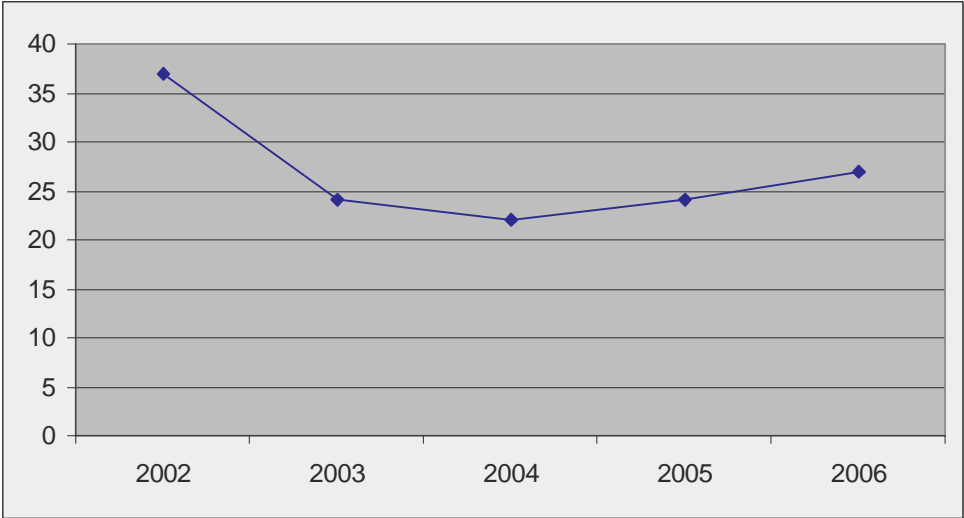
Table 2: Opening, closing decisions and clearance rate (2002-2006)

	2002	2003	2004	2005	2006
Cases opened	364	308	219	214	195
Cases closed	670	493	339	233	216
Clearance rate	0,543	0,625	0,646	0,918	0,903

Figure 4 shows that the average duration of the cases has been relatively stable over time. In 2006, OLAF increased its monitoring of the duration of investigations although a significant part of the latter is due to factors out of the scope of the Office.

⁵ The clearance rate is the ratio between the number of cases opened during the reporting period and the number of cases completed during the same period.

Figure 4: Duration in months of active stage in each calendar year



2.3 Follow-up activity

Cases closed with follow-up accounted for more than 60% of cases closed in 2006.

Figure 5 shows the number of cases closed with and without a follow-up recommendation. As OLAF focuses gradually on more substantive cases, the proportion of cases closed with follow-up is still growing. This is a positive development which demonstrates a proportional increase in substantive results from OLAF’s operational and investigative work.

Figure 5: Cases closed with follow-up in each calendar year

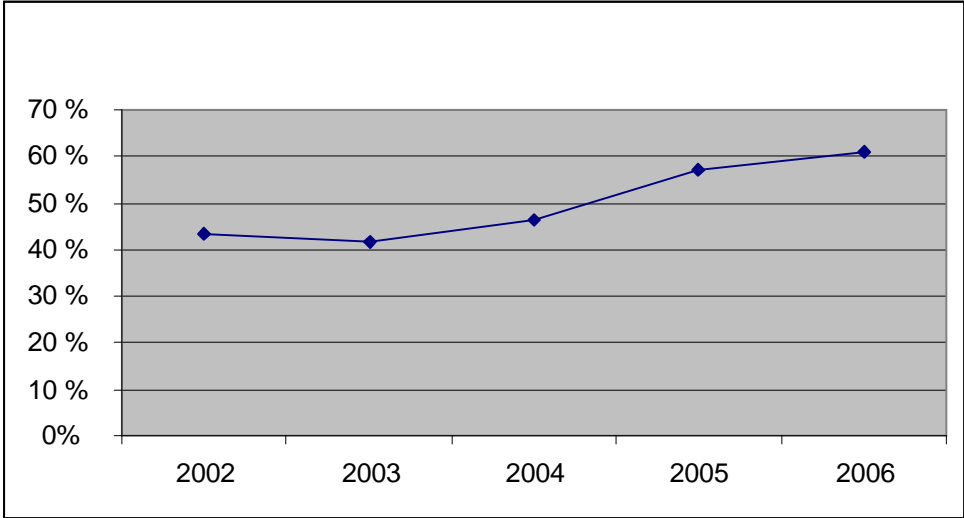
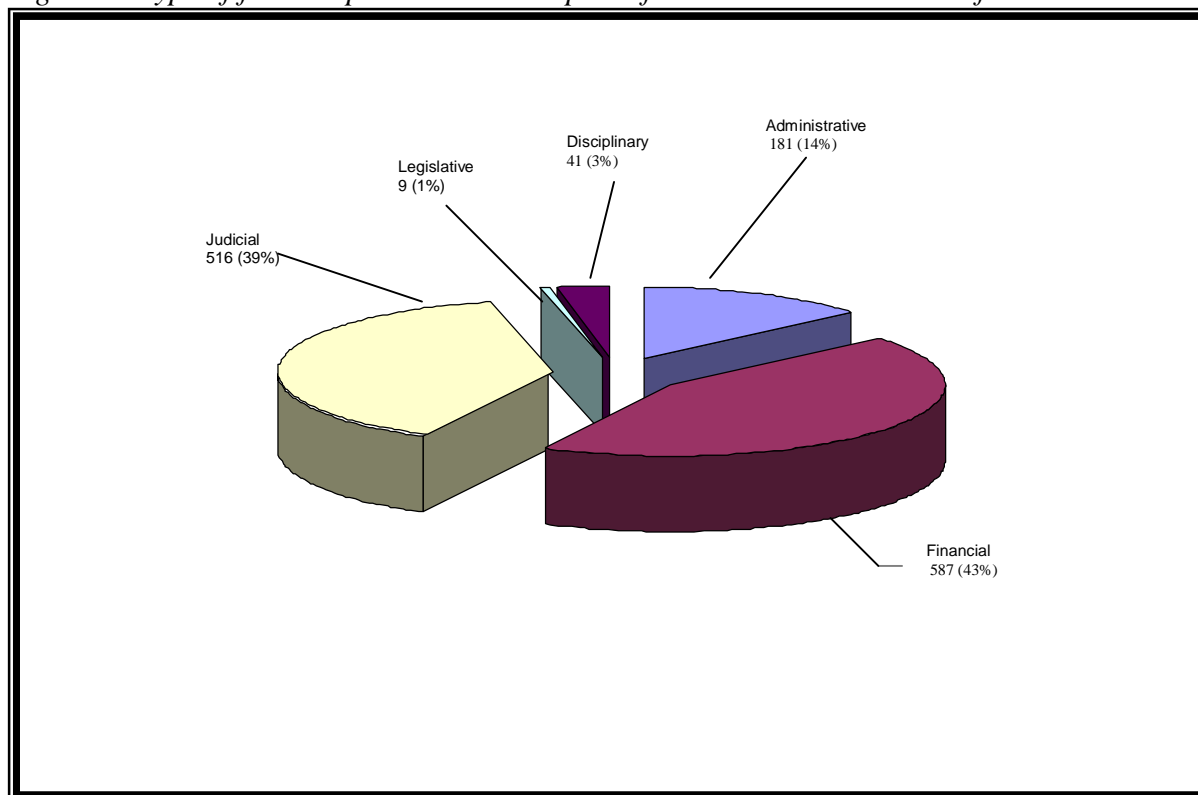


Figure 6 shows the follow-up activities related to the 799 cases closed for which at least a follow-up path was still open at the end of 2006. Most of the activities relate to judicial and financial follow-up actions.

Figure 6: Type of follow-up activities in respect of closed cases at the end of 2006



2.4 Recovery

In 2006, a sum exceeding €450 million was recorded as recovered in the context of OLAF cases. This amount arises from the cases closed in 2006 (about €114 million) and the actions that were in follow-up at the end of the year (about €336 million).

Table 3 shows the annual breakdown of financial recovery completed in the last five calendar years. In addition to the €13m recovered as a result of closed follow-up actions, an additional €336 million has been recovered in respect of follow up actions which are still continuing. By way of comparison, the cost of running OLAF was around €50million in 2006 (cf: paragraph 1.3) and the prorata cost of OLAF's operational functions, at 70% of this figure was about €35 million (equivalent to 0.03% of the EC budget).

Table 3: Breakdown of amounts recovered in million € in each calendar year

Major sector	2002	2003	2004	2005	2006	Follow-up ongoing at the end of 2006
Agriculture	0.000	0.000	0.065	14.201	1.175	134.555
EU institutions	0.000	0.000	0.038	0.000	2.080	0.160
Cigarettes	0.000	0.000	0.000	0.000	0.000	0.736
Customs	0.000	0.035	1.578	2.977	0.130	21.323
Direct expenditure	0.055	0.348	1.975	0.161	0.376	0.287
EU bodies	0.000	0.000	0.000	0.000	0.080	1.599

External aid	0.005	0.826	2.010	31.773	92.750	1.853
Structural Funds	0.726	1.469	192.584	95.172	17.219	146.314
VAT	0.000	0.000	0.000	59.972	0.000	29.714
Total	0.787	2.679	198.250	204.257	113.810	336.540

3 OLAF's ADDED VALUE: SOME CASE STUDIES

Case Study: – Fraud by an accountant in an EC Delegation

The Commission's services informed OLAF that, during a verification of the accounts of an EC Delegation had found that several payments had apparently been made for the rent of the Delegation's offices for a single period. In the light of this information OLAF opened an internal investigation into the conduct of the Delegation's accountant, a member of the local staff.

Based on OLAF's investigation into his conduct, the EC funds improperly diverted by the accountant were calculated to be in excess of €350 000.

As a result of OLAF's investigation, the Commission dismissed the accountant on grounds of serious misconduct. In addition, OLAF recommended referring the matter to the judicial authorities of the country concerned. The necessary actions are being taken to recover the amounts unduly paid.

This case shows the importance of OLAF's powers to operate within EU institutions anywhere in the world and to liaise within the relevant national authorities.

Case study: Fraud in several EC funded projects in Spain

OLAF received information about possible fraud committed by a company which was participating in various projects financed by the EC in Spain. This information stated that the money was kept by the manager and the projects were not finalised.

The first checks established that the company had benefited from several European projects. OLAF confirmed the veracity of the information received by detailed analysis of the various statements of costs as declared by the company, a systematic cross-check of available national administrative data and interviews with employees. The damage caused to the European budget amounted to €1 million. The information has been passed on to the Spanish judicial authorities. Judicial proceedings have been launched.

Case Study: Criminal assistance case in the sector of Structural Funds

In the context of an operation against money laundering, the Swiss Federal Prosecutor's Office requested OLAF assistance to prepare charges against a citizen of a Member State who had allegedly undertaken illegal activities affecting several EU countries. The report contained information which showed that grants of the ERDF Industry Programme 1994-99 had been claimed against inflated invoice values. The framework for this cooperation between the Swiss authorities and the Commission is the cooperation arrangement⁶ concluded in 2004.

⁶ Cooperation agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, on countering fraud and all other illegal activities affecting their financial interests. CS/2004/12352.

On the basis of the information received from the Swiss investigations OLAF decided to open a criminal assistance case. OLAF's objective in this case was to support and coordinate the investigation of the Member State concerned and the Swiss authorities. Investigations revealed that substantial contracts for the supply of new machinery had been placed between companies and suppliers mostly located in other EU Member States. However, whilst the machinery, described as new and unused, was being shipped using invoices issued by the suppliers, actual billing was done by offshore agents operating in another Member State.

As a result of the investigations a recovery of an estimated €7.33 million has been requested. The companies in question were expected to receive further funding under an ERDF programme 2000-2006.

This case demonstrates also the usefulness to OLAF of being a partner in investigations of possible cases of fraud involving money laundering. Likewise, it shows the importance of the cooperation arrangements concluded with third countries in the fight against fraud in securing effective protection of the Community's financial interests.

4 COOPERATION WITH OLAF'S PARTNERS IN THE FIGHT AGAINST FRAUD: A KEY FACTOR IN A GLOBALISED WORLD

4.1 Cooperation with Member States

In 2006, OLAF supported five joint customs operations conducted respectively by The Netherlands (2), Poland, Sweden and Italy in using the Permanent Operational Co-ordination Unit (POCU) with the presence of liaison officers from the Members States. One joint customs operation conducted by France was also supported by OLAF without the need for a physical presence (Virtual-OCU). The POCU is a service-provider centre based in OLAF. It aims at providing logistical and technical support for joint customs operations. Virtual-OCU is an application that allows the participation in joint customs operations activities without the need for a physical presence.

During these operations, the participating administrations coordinated and increased their operational activities on deep sea containers, road, rail and yacht traffic with the aim of identifying, locating, intercepting and reinforcing the control on such means of transport which can be suspected being involved in any type of illicit transport of sensitive goods.

At the end of 2006 twenty-four Member States were participating in the Phillips Morris Agreement (the exception being the United Kingdom) aimed to fight counterfeiting of cigarettes. Both parties are benefiting from the increase in cooperation in suppressing illegal cigarette trafficking and from the flow of payments provided for by the agreement. Around 425 million dollars have already been paid by the cigarette maker at the end of 2006. Under the Agreement, the cigarette maker agreed to pay around 1 billion dollars over a period of 12 years to the European Community and the Member States who had joined the Agreement by July 2004. In October 2006 the ten Member States which signed the Agreement in 2004 and the Commission confirmed their agreement on the sharing of these payments.

4.2 Cooperation with EU bodies

4.2.1 Eurojust

A number of contacts were made in 2006 between the President of Eurojust and the Director General of OLAF to discuss improving their cooperation system.

On 14 July 2006, Eurojust organised a meeting of "Heads of EU JHA agencies" with a view to gathering all EU players concerned with the European policies in the field of justice and police co-operation. Although OLAF is not a "JHA Agency" it participated in the meeting because of the relevance of its independent investigative role in the protection of EC financial interests.

OLAF assumed the responsibility of organising an inter-agency working group on legal challenges relating to the exchange of information.

4.2.2 Europol

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol. OLAF and Europol have begun working together on combating cigarette smuggling.

Two other meetings were held in 2006 between OLAF and Europol. The meetings bring together the heads of the National Central Offices for combating currency counterfeiting in the Member States and in some third states, Interpol, the ECB and the European Commission. The main items on the agenda were the Euro counterfeiting situation in the states represented and technical and operational issues relating to Euro counterfeiting.

4.3 Cooperation with International Organisations

OLAF is strengthening its relations with international donor institutions in order to exchange experience and enhance cooperation. OLAF has assisted United Nations in fighting fraud and corruption by sending an experienced investigator to New York for this purpose. This investigator is the former Head of Unit who was in charge of the multi-agency investigations within OLAF. The United Nations have expressed satisfaction with this measure as a number of investigations were completed leading to both criminal referrals and disciplinary hearings.

OLAF provided its expertise in the fight against corruption in other groups such as the Inter Agency Group for Anti-Corruption (IGAC), the Interpol Group of Experts on Corruption (IGEC) and the OECD working group for anti-corruption measures in transition economies. In 2006 cooperation has been further enhanced through the International Investigators' Conference which attracted nearly 100 participants from over 30 institutions.