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ANNEX TO THE

REPORT FROM THE COMMISSION

**Protection of the European Communities' financial
interests and the fight against fraud**

Annual report 2003

Statistical evaluation of irregularities

**Agricultural, Structural & Cohesion funds and Own resources
Year 2003**

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1. THE SITUATION IN 2003

1.1. Introduction

Community legislation defines the conditions for the notification of frauds and other irregularities by the Member States with a view to protecting the Community's financial interests in all areas of activity¹. This need is particularly evident in those sectors of the Community budget where the main responsibility for management is with the Member States namely, in the fields of Agriculture and Structural Funds (on the expenditure side) and own resources (on the revenue side). In these areas, Member States are obliged to inform the Commission of all irregularities with an impact above €4,000 (€10,000 for traditional own resources) at the various stages in the procedure for recovering the amounts unduly paid.

The obligation for reporting irregularities is set out in Regulation No. 595/91 for the agriculture sector, Regulations Nos. 1681/94² and 1831/94³ for structural measures and Regulation No. 1151/2000 for own resources. Member States are required to report irregularities under Article 3 of these regulations (for own resources the relevant provisions are contained in Article 6, paragraph 5) within two months of the end of each quarter. Under Article 5 (again, Article 6 paragraph 5 for own resources) they have to submit updates of the cases communicated and relevant information about the financial, administrative and judicial follow-up.

The distinction between irregularities and frauds is that frauds⁴ are criminal acts which only a judge is authorised to determine in the context of judicial proceedings. As such, until the judicial procedure has come to an end, the Commission is informed of irregularities, some of which give rise to suspicions of fraud. It is clear that the accuracy of the statistical image of irregularities obtained by the Commission and improvements of its capacity to react are affected by the accuracy of the notifications made and the speed with which they are received.

The practices of the national administrations still vary despite the efforts made to harmonise their approaches. The data communicated by the Member States is sometimes incomplete. Furthermore the distinction between "frauds" and "other irregularities" is not consistent as Member States do not always have the same definition, i.e. of criminal risk. Consequently, a significant proportion of communications do not categorise the case as a fraud or a simple irregularity.

¹ See in particular Article 3(1) of Council Regulation (EEC) No 595/91 of 4 March 1991 (OJ L 67, 14.3.1997), Commission Regulation (EC) No 1681/94 of 11 July 1994 (and No 1831/94 of 26 July 1994 (OJ L 191, 27.7.1994) for expenditure, and Article 6(5) of Council Regulation (EC, Euratom) No 1150/2000 for traditional own resources.

² Regulation 1681/94 applies to the Structural Funds, that is to say European Regional Development Fund (ERDF), European Social Fund (ESF), European Agriculture Guidance and Guarantee Fund (EAGGF) – Section Guidance and Financial Instrument for Fishery Guidance (FIFG).

³ Regulation 1831/94 applies to the Cohesion Fund.

⁴ See the definition in Article 1 of the Convention on the protection of the Community's financial interests of 26 July 1995 (OJ C 316 of 27.11.1995), which entered into force on 17 October 2002.

For the reasons outlined above the figures which are presented here should be cautiously interpreted. It would be particularly inappropriate to draw simple conclusions about the level of frauds in this or that part of the Union or on the efficiency of the services which contribute to the protection of financial interests. The Commission is working in close cooperation with the Member States to improve the notification system for irregularities, in particular to clarify the concepts of “fraud” and “irregularity”⁵.

The Commission is also endeavouring to improve the recovery procedures for old cases and to clear the backlog of debts which exists in certain sectors (see point 3.2 below).

1.2. Cases notified by the Member States

In general, the number of frauds and other irregularities notified for the year 2003 has decreased slowly: after a steep rise in 2002, in agriculture (see Annex 3) and, above all, in structural actions (where the number of cases more than quadrupled between 2001 and 2002, a trend which can be attributed to the closure of programmes for the period 1994-1999 -see Annex 6) the figures show what can be considered as a natural slow down. Traditional own resources are an exception.

However, the amounts are in decline, which is in line with medium term trends: by 21% in traditional own resources (see Annex 1), by 21% in structural funds and by 14% in the agriculture sector.

1.2.1. Traditional Own Resources (Annexes 1 and 2)

Communication of cases of fraud and irregularities (article on 6(5) of Regulation No. 1150/2000)

Under Article 6 §5 of Regulation n° 1150/2000, Member States communicate to the Commission, via the OWNRES system, cases of fraud and irregularity when amounts exceed €10,000.

Since July 2003 Member States have been using a new WEB based OWNRES application for this purpose. This new system has simplified the procedures for notifying the Commission of cases of fraud and irregularities and keeping it informed of updates. From its 2002 comparative analysis of amounts exceeding € 10,000 entered in the separate accounts of unrecovered duties and the comparable data contained in OWNRES (see below point 2.1.1 in chapter 2) the Commission concluded that the accuracy of the data needed to be greatly improved in most countries. Although the first results from the analysis of the second sample (cut-off date end 2003) show improvements, the observations and data in this report concerning traditional own resources must be considered in the context of continuing

⁵ The Commission opened a dialogue with the representatives of the Member States to clarify basic concepts and to re-assure Member States that the communication of irregularities in no way prejudices the outcome of criminal judicial proceedings. A working document on the practical modalities for the communication of irregularities was established. Discussions are continuing in the Advisory Committee on the Coordination of Fraud Prevention.

concern regarding the reliability of the underlying data. That said, on the basis of this information held (correct as of 13.04.2004), the following trends can be identified:

- (a) the number of detected cases of fraud and irregularity (cases > €10.000) increased by 5% compared to 2002.

In total, for the period 1989-2004 (13.04.2004), the OWNRES database contains around 37,895 communications (of which 19,774 are real cases).

For 2003 alone, 2,453 communications were transmitted by the Member States compared with 2,335 for 2002, representing an increase of 5%. Updates performed by the Member States show an increase in Communications since 2001.

Compared to 2002, there has been a considerable increase in the number of cases communicated from the Netherlands (+ 44%), Spain (+ 76%) and the United Kingdom (+ 65%). In contrast the number of cases communicated has decreased in seven Member States, notably Germany (- 20%) and Italy (- 26%).

- (b) amounts affected have decreased by 21% compared with 2002.

Communication in 2003 amounted to €269,962,768 compared to €341,906,560 in 2002, representing a decrease of 21% compared to 2002. Since 1999, however, amounts generally have been up and down. The amount recovered in 2003 was €72,856,461, representing 27% of the amount, compared to €100,174,735 or 29% in the previous year.

Analysis of the evolution of amounts affected allows us to show that this is not necessarily connected to changes in the number of cases. Likewise, compared to 2002, the increase in the amount affected is particularly significant in Denmark (+ 41%), Italy (+ 89%) and in Spain (+ 131%). Amounts affected have decreased significantly in The Netherlands (- 43%), Sweden (- 54%) and in the United Kingdom (- 41%).

1.2.2. Agricultural expenditure (Annexes 3 and 4)

In 2003, Member States reported 3,237 irregularities under Regulation (EEC) No. 595/91 against 3,285 irregularities in 2002. The total amount affected in 2003 was about €170 million as against about €198 million in 2002. Irregularities notified in this sector only correspond to 0.39% of the agricultural budget. Annex 4 gives an overview per Member State of the number of irregularities, the amounts involved and the percentage of the EAGGF expenditure.

1.2.2.1. Reporting discipline

Results in 2003 have demonstrated that Member States still do not fully comply with Regulation (EEC) No. 595/91. Member States do not give detailed information as required by article 3 and article 5 of Regulation (EEC) No. 595/91.

It is hoped that the system of electronic reporting of irregularities introduced in 2001 in the agriculture sector will improve the data quality, help Member States to meet the deadlines for reporting, avoid misunderstandings and misinterpretations due to linguistic problems and, most importantly, help Member States to comply with the regulations. Staff in all Member States received training to ensure that in 2002 all communications of irregularities under Regulation (EEC) No. 595/91 were forwarded to OLAF in electronic format rather than on paper. However, at the end of 2003 three Member States (Germany, Greece and Spain) are still using paper format. Between them, Germany and Spain account for more than 45% (1,440 cases) of the total number of cases reported.

Under Regulation No. 595/91 Member States are required to report within 2 months of the end of the quarter in which an irregularity was detected and/or new information concerning an irregularity has become known. Some Member States do not respect the deadlines set. Germany and Greece seldom report on time and more than 50% of the cases from Spain, France and the Netherlands are reported late. In total, less than 50% of the communications are received on time.

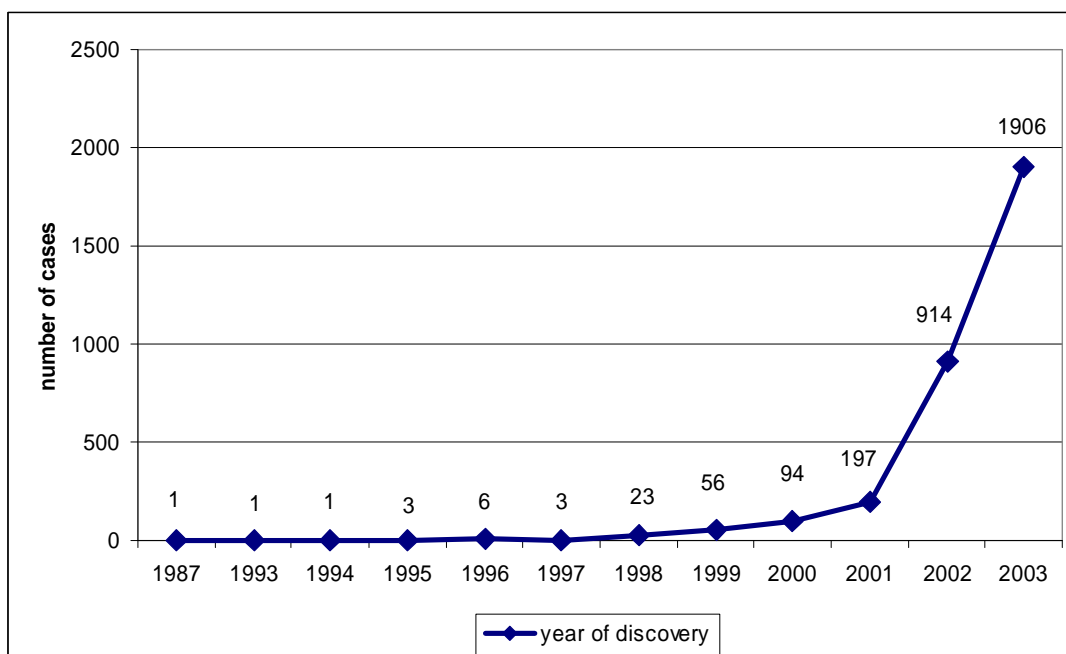
Member States should report the year of expenditure in their communications. However, only in approximately 32% of cases do Member States actually report the year of expenditure. Germany, Denmark, Spain and Portugal did not report the year of expenditure in any of their communications.

A point of concern is that Member States report a relatively high number of cases, i.e. approximately 31%, in which the irregularity or fraud took place before the year 2000. This is of particular concern as the possibility of recovery decreases with the passage of time.

In addition, Member States also report the date of discovery of the irregularity and the date on which it was first reported to OLAF. Chart 1.1 shows an overview of the lapse (in years) between the discovery of, and reporting of, the irregularity. The chart shows that the reporting discipline of Member States, although it has improved, still needs attention. Irregularities should be reported as soon as possible, which means immediately after discovery. Member States did not report the date of discovery in 23 cases. These cases were reported by Germany (1) and Greece (22).

Almost 90% of irregularities are notified within 2 years following their discovery.

Chart 1.1 Cases reported in 2003 and year of discovery



The late reporting of an irregularity could imply that a Member State did not take all necessary actions to limit or to reduce the financial impact of an irregularity. Audits in Member States revealed that some Member States wait until the recovery procedures are underway before reporting. The latter implies that Member States also start their recovery procedures very late. This, in general, has a negative impact on the recovery possibilities. This late reporting can, directly or indirectly, influence the decision in the Clearance of Accounts procedure. Diligence and negligence are taken in account in this procedure.

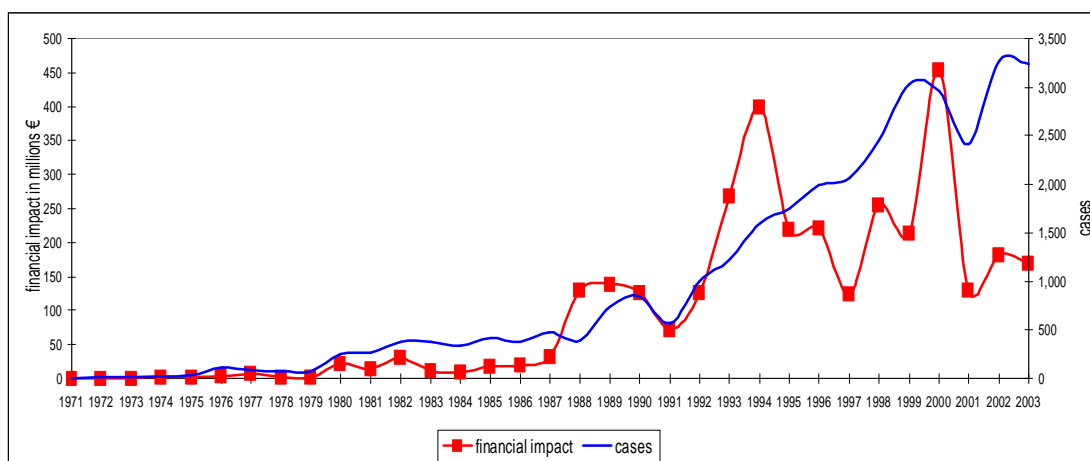
Member States are also required to give detailed information on the identity of the natural and legal persons involved. Germany has only given information concerning the identity of the natural and/or legal persons involved in 43 cases (approximately 7 %). The Netherlands has not given information on the identity of the natural and/or legal persons involved in 88 cases, which is approximately 83% of the total number of reported cases, and Finland has not given information in 5 out of 10 cases, which is 50%. All other Member States have given information on the identity of the natural and legal persons involved, and therefore comply with Regulation (EEC) No. 595/91.

Reporting discipline of Member States has improved in 2003, but further improvements are still necessary. It is worth noting that the level of compliance of a Member State decreases when the total amount of support measures increases. Germany, Spain and France together received the highest amounts of the EAGGF budget but their reporting discipline is still not yet satisfying. Generally Portugal, Finland, Sweden, Austria, Belgium and Denmark comply with the regulations.

1.2.2.2. Analysis - general

The trend of a steady and significant increase in the number of cases seems to have petered out. The total number of cases reported for 2003 is 3,237. These 3,237 cases amount to approximately €170 million compared to approximately €198 million for the 3,285 cases reported in 2002. In chart 1.2, the total number of cases per year and the total amount per year are shown. Annex 3 gives an overview over the years 1998-2003.

Chart 1.2: Irregularities communicated by Member States period 1971 – 2003



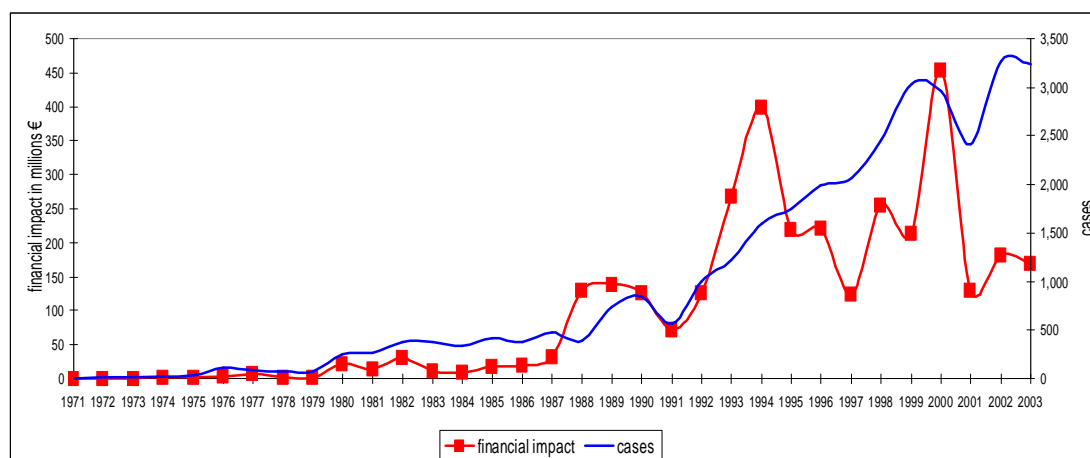
In 2003, the highest number of cases was from Spain, France and Germany, with 777, 729 and 663 cases respectively. In monetary terms, Spain was the Member State that reported the highest amounts affected by irregularities, i.e. almost €114 million, followed by Italy which reported a total amount of almost €17 million. Spain accounts for more than 65 % of the total amount affected by irregularities in 2003.

The total amount reported by Spain is extremely high. Spain has reported 13 cases in which the amount affected by the irregularity is more than €1 million. In one case the amount affected is almost €28 million. The irregularity concerns support measure “milk – additional levies” (code S2071) and took place during the period May 1998 until April 1999. The type of irregularity has been described as “incomplete documents”. The amounts reported by Germany and France are relatively low, whilst these two Member States have a relatively high number of cases (Germany 663 and France 729). In Annex 4 an overview is given per Member State.

Chart 1.3 gives an impression of the relationship between the total amount of the EAGGF-budget allocated per Member State and the total amount of the irregularities per Member State in the year 2003. Member States are placed according to the budget allocation, starting with the lowest Member State. Luxembourg received the lowest amount of the EAGGF budget as France received the highest.

Together Germany, Spain and France receive more than 50% of the total EAGGF-budget. Germany received more than €5.5 billion in the year 2003, Spain more than €6.5 billion and France more than €10.3 billion.

Chart 1.3: total amount of irregularities in relation to budget allocated per Member State year 2003



Almost all Member States have a comparable relationship between the total amount of the support measures and the total amount of irregularities. Striking are, however, the results for Spain. Spain reports a high number of cases as well as a high total amount involved and a relatively high average amount involved per irregularity. Worth mentioning are the irregularities reported by Germany and France. The total amount affected by the irregularities, as well as the average amount affected per irregularity, is relatively low. Germany, Spain and France together, receive more than 50%, i.e. approximately € 22.3 billion, of the EAGGF-budget. As stated, the level of compliance with the regulations decreases when the total amount of support measures increases. This could be one of the explanations for the difference in reporting irregularities. An analysis of the nominal data “type of irregularity” and the *modus operandi* give a clearer picture of these cases.

Type of support measure

Member States have to inform the Commission of the measures affected by irregularities. The External Communications Register (ECR) makes a distinction between 4 different types of measures:

A = direct aid

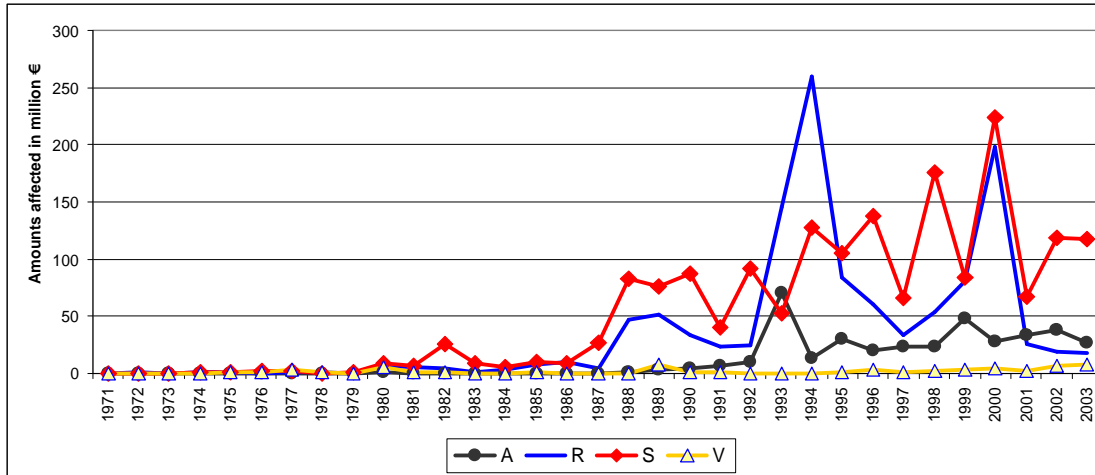
R = export refund

S = market support

V = other measures

Chart 1.4 gives an overview over the years 1971 – 2003 of the development of the reported irregularities per type of measure.

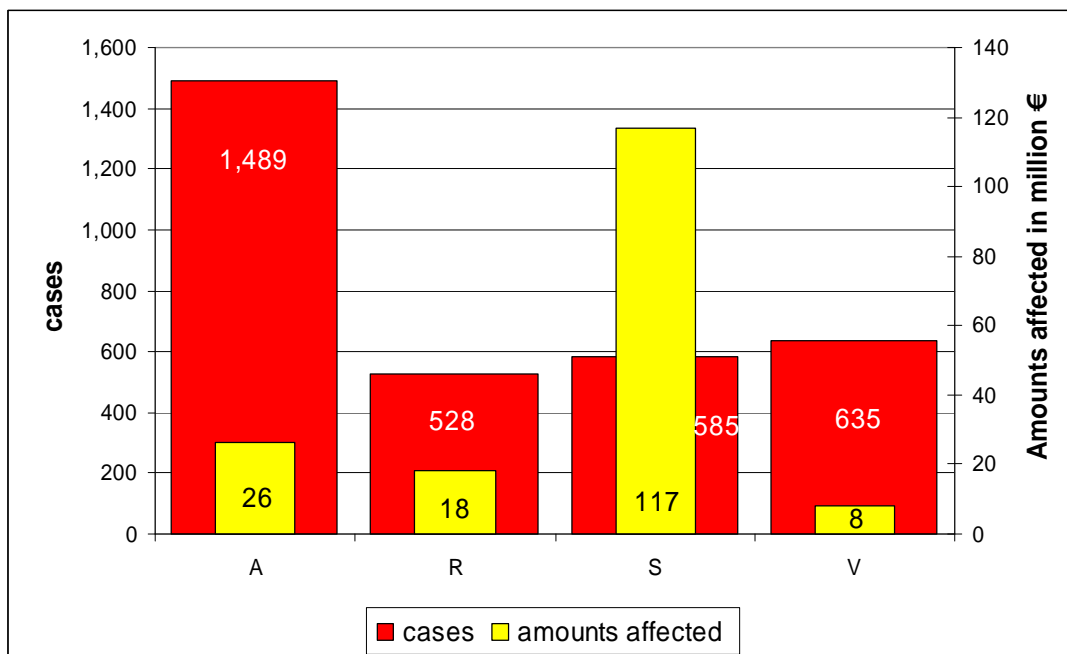
Chart 1.4: irregularities per type of measure period 1971 – 2003



The graph clearly illustrates that in the period 1971 – 2003 irregularities affecting “market support” had a higher financial impact than irregularities relating to other types of measures. In 1993 and 1994, however, irregularities affecting support measure “export refund” had a higher financial impact.

Chart 1.5 gives an overview of the number of cases reported in 2003 and the amounts involved per type of measure. This graph illustrates that market support measures have a higher financial risk than direct aid, export refunds and other measures. This is in line with earlier analyses. Irregularities affecting market support measures always had a higher financial impact than irregularities concerning the other types of measures, with exception of the years 1993 and 1994.

Chart 1.5: Irregularities and types of measures year 2003



Member States have reported a total of 585 cases affecting market support area (S). These cases alone amount to approximately €117 million, which is approximately 69% of the total amount affected by irregularities. The amount involved in irregularities affecting direct aid (A) is approximately €26 million, which is approximately 15% of the total amount affected by irregularities. The number of cases relating to the direct aid schemes is rather high, i.e. 1,489, which implies that the average amount per irregularity is low. Member States have reported a total of 528 cases concerning export refunds (R). The total amount of irregularities relating to export refunds (R) is approximately €18 million, which is 11% of the total amount affected by irregularities.

The following table gives an overview of the reported irregularities in the year 2003 relating to market support measures per type of measure with a total amount affected more than €1 million. It concerns 390 cases.

Table 1.6: Reported irregularities market support measures > €1 million year 2003.

measure	description	amounts affected
S2071	milk additional levies	58,004,031
S1590	fruits and vegetables - other measures	19,026,243
S1503	citrus fruits - compensation for processing	9,571,037
S16	wine - products of wine sector	6,679,418
S2129	beefmeat - other interventions	4,598,084
S150	fruits and vegetables - fresh	3,843,913
S1501	fruits and vegetables - financial aid for withdrawal	2,317,841
S1650	wine - other measures	2,222,403
S1507	nuts	2,201,889
S121	olive oil - production aid	1,484,099
S1512	fruit - production aid processed products	1,236,653

1.2.3. Structural measures (Annexes 6 and 7)

Although one more country than last year is now reporting irregularities electronically (Netherlands, Finland, Sweden, Denmark and, from 2003, Portugal) the percentage of cases communicated digitally has decreased from 20% to 4% of the total, mainly due to the decrease in the number of cases affecting the ESF in the Netherlands.

After the peak in 2002, due to the concurring closure of the programming period 1994-1999, in the year 2003 there was a significant reduction in the number of communications received, down from 4,656 to 2,487 (almost 50%).

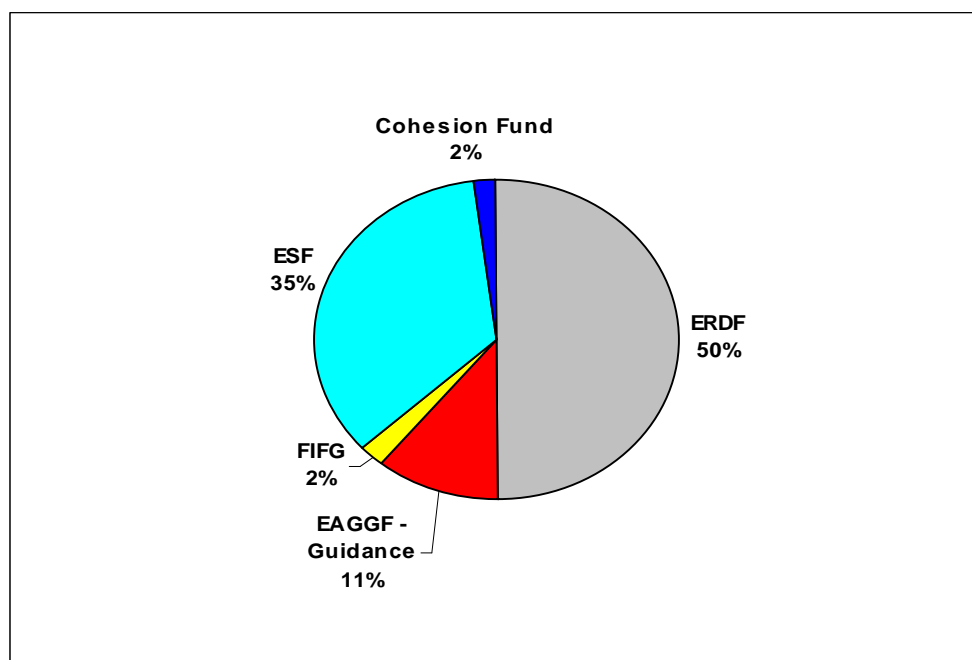
The amounts involved also decreased, but only by less than 30% (from €614 million to €482 million) showing that the irregularities detected and reported in the last year have a significant higher average value than in the previous year. Annexes 6 and 7 show the general trend of cases reported per year and the breakdown of cases per Member State.

Once again in 2003 the vast majority of cases communicated by Member States related to the Structural Funds (EAGGF Guidance Section, ESF, ERDF and FIFG)⁶. As far as the Cohesion Fund is concerned, out of the four beneficiary Member States (Greece, Spain, Ireland and Portugal), only Greece and Portugal reported cases of fraud/irregularity. However, the number of irregularities reported was higher than in 2002 both in number of cases and amounts (47 cases were reported with a total value of approximately €142 million).

Of the total number of cases reported, the European Regional Development Fund was again the most affected, with 1,239 cases and €224 million.

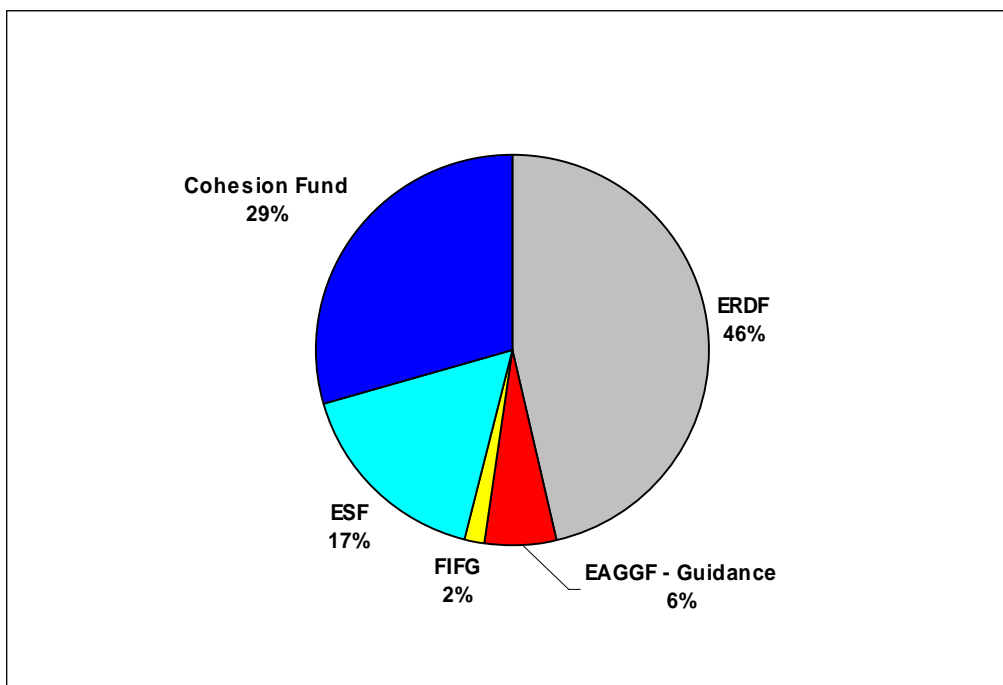
Charts 1.7 and 1.8 below show how the number of cases and the irregular amounts were distributed between the different Funds in 2003.

Chart 1.7: Distribution of communications among the different Funds – number of cases



⁶ European Agriculture Guarantee and Guidance Fund – Guidance Section, European Social Fund, European Regional Development Fund, Financial Instrument for Fishery Guidance)

Chart 1.8: Distribution of communications among the different Funds – amounts



The analysis of patterns across Member States in the previous years is only partially confirmed in 2003. Germany is still the country which reports the highest number of cases in general (766), especially concerning the ERDF (491). In terms of the amounts involved however, Germany is only second, as Greece reported a higher amount, mainly due to the 36 cases from the Cohesion Fund which involved very big projects and corresponding financial sums (more than two thirds (2/3) of the amounts reported by Greece come from the Cohesion Fund irregularities).

In relation to 2002 the number of cases reported by the Netherlands dropped from 932 to 52. As stated earlier, the main reason for this is the closure of the previous programming period.

The number of cases reported by Italy has increased by about 70% bringing the country into line with France and Spain. This is the result of improvements in the Italian reporting system. The amounts reported by Italy, however, remain higher than the others.

The first cases from Luxembourg were received in 2003 and were mainly related to the programming period 1994-1999. In order to evaluate trends in Luxembourg a regular flow of data will be necessary in the next years. Nonetheless, this information has been included in all charts and tables of the sections related to the Structural measures.

Chart 1.9: Number of cases and amounts per Member State

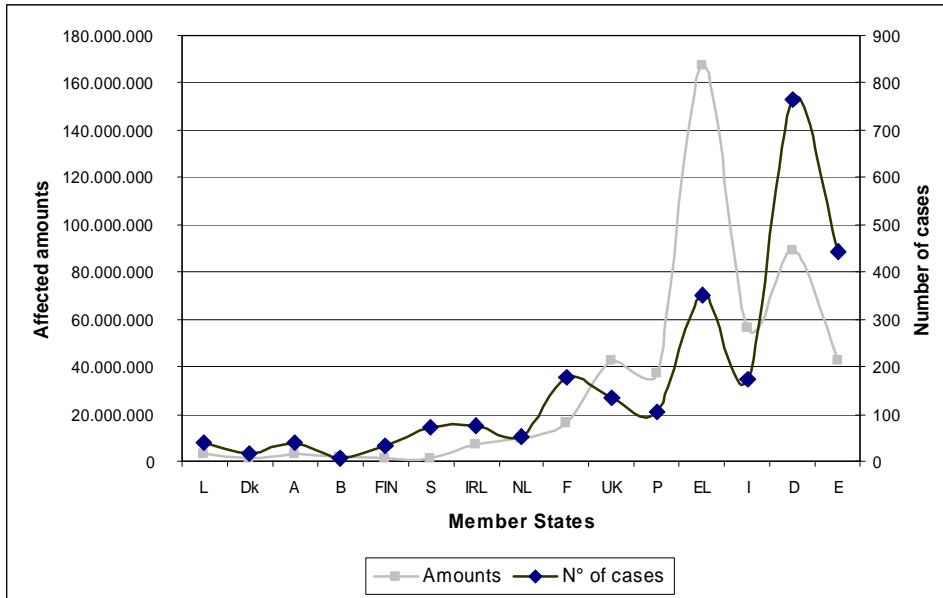
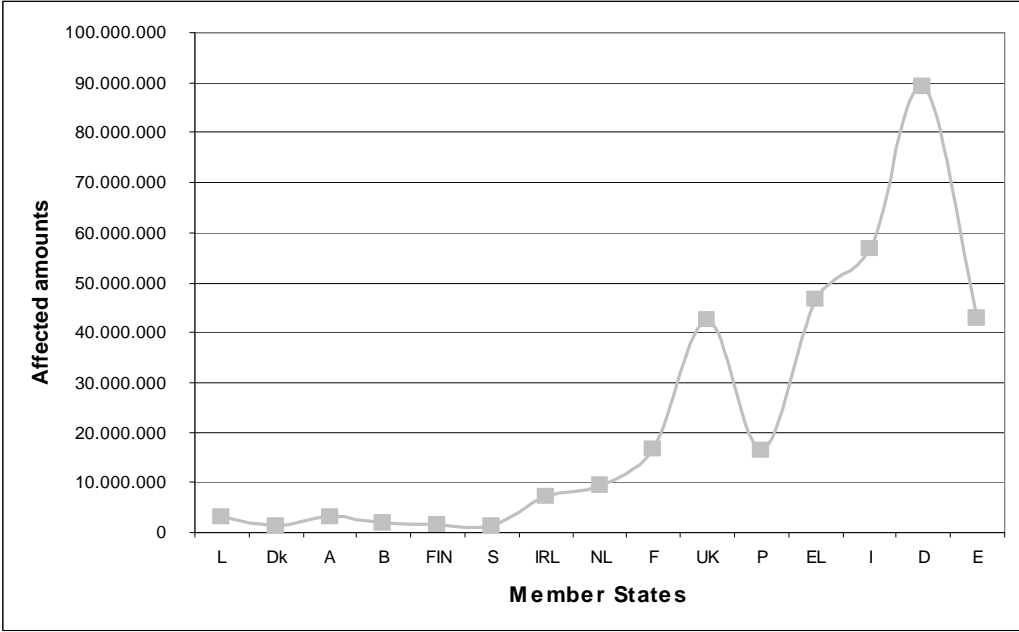


Chart 1.9 above shows the number of cases and irregular amounts communicated by each Member State. Member States are listed according to the level of structural funding allocated to them: Luxembourg, on the left, the State receiving the lowest amount of resources and Spain, on the right, the country with the highest.

Both lines (that of the irregular amounts, in grey, and that of the number of cases, in black) indicate a direct link between the resources allocated and the irregularities reported. The significant exception, in terms of the amounts involved, is Greece. As outlined above the communications from this country is deeply affected by the irregularities reported in the Cohesion Fund. If these are taken out the direct link between resources allocated and irregularities communicated is even more evident and is shown in chart 1.10 below.

Chart 1.10: Total amount of irregularities (without Cohesion Fund) in relation to budget allocated per Member State



2. SPECIFIC ANALYSIS: TRENDS

2.1. Traditional own resources

Notification of cases of fraud and irregularities under Article 6(5) of Regulation N° 1150/2000 revealed the following trends in 2003:

- (a) the breakdown of frauds and irregularities by customs procedure and by type of fraud and irregularity confirms the impact of fraud on the release for free circulation.

2003 figures confirm that the majority of own resources cases relate to the arrangements for release for free circulation which account for 72% of the number of cases and 76% of the total value communicated. In relation to 2002, the percentage of the number of cases has increased slightly (71% in 2002) but the percentage in terms of amounts has increased sharply (52% in 2002).

A breakdown by type of fraud and irregularity relating to free circulation demonstrates the high share - and the increase since 1999 of the number of cases as well as of the amounts involved - of *misdescription* (48% of cases in 2003 compared with 31% in 2002 – 37% of the amounts involved in 2003 compared with 21% in 2002). Also noticeable is a significant increase in fraud and irregularity resulting from *false declarations of value* (12% of the cases in 2003 compared with 8% in 2002 – 10% of the amounts in 2003 compared with 7% in 2002). Origin fraud and irregularity fell slightly in relation to 2002 (5% of the cases in 2003 compared with 6% in 2002 - 7% of the amounts in 2003 compared with 6% in 2002).

The impact of fraud and irregularity in the transit regime is also significant accounting for 16% of the number of cases (16% in 2002 too) but only 6% of the amounts communicated (compared with 16% in 2002). With regard to the customs warehousing arrangements, the level of fraud and irregularity is relatively stable (4% of the number of cases compared with 5% in 2002 - 3% of the amounts communicated compared with 3% in 2002). The same is true for the inward processing regime where fraud and irregularity accounted for 2% of the number of cases in 2003 (as in 2002) and 1% of the amounts noted in 2003 (compared with 3% in 2002).

The breakdown of *frauds and irregularities by Member State* shows the sensitivity of Spain to fraud and irregularity as regards inward processing, of Italy with regard to processing under customs control, of Germany and the Netherlands with regard to the customs warehousing arrangements, Germany, France, Spain, Italy, the Netherlands and the United Kingdom as regards to free circulation and Belgium for Community transit.

- (c) the breakdown of cases by type of goods confirms the impact of fraud and irregularity on cigarettes.

Of the 25 goods most affected by fraud and irregularity, as in previous financial years, cigarettes were in the lead place both in terms number of number of cases and of amounts despite a slight decrease compared with 2002. The number of cases of fraud and irregularity in the bananas sector decreased significantly in comparison to 2002 and even more in terms of the amounts communicated. The 2003 figures also highlight a continued fraud and irregularity trend in the aluminum sector with 114 cases in 2003 compared with 32 cases in 2002, and the emergence of fraud and irregularity relating to products under Chapter 85 of the Tariff (Machines, appliances and electrical equipment, etc.).

Analysis of the origin of goods subject to fraud and irregularity reveals that goods originating from the USA, Japan and China remain most affected, similarly goods from Brazil continue to pose a problem. It should be noted that since 2001 there has been a steady increase in fraud and irregularity relating to goods originating from the Russian Federation (66 cases in 2001, 91 in 2002, 158 in 2003). The number of cases in the *non-specified* category fell significantly in relation to previous years.

2.1.1. *Commission's initiatives to improve the quality of the information transmitted by the Member States*

In order to encourage the communication better quality information the relevant department of the Commission launched two initiatives in 2003:

a) *the new WEB-OWNRES application*

Following identification of various problems encountered by the Commission and the Member States in using the OWNRES system and a needs assessment, the new WEB OWNRES system was introduced. A seminar was held in May 2003 for users of OWNRES in the Member States to acquaint them with the new system and to emphasize the importance of OWNRES in preventing fraud and irregularity and protecting the financial interests of the Community. The Commission highlighted the responsibility of Member States for the content and the quality of the data that they enter. The new system became operational in July 2003 and implementation problems have been, or will soon be, ironed out. To date, the Commission considers that technically the system is satisfactory and expects its implementation to bring about a real improvement in the transmission of information.

A seminar for the new Member States was organised in March 2004 to raise awareness of frauds and irregularities and to familiarise them with the WEB-OWNRES system. In addition, at the meeting of the Advisory Committee on the Communities' Own Resources in July 2003, the Commission reminded Member States of the importance of their communications and their use in anti-fraud work, such as monitoring and recovery, and the responsibility that Member States have for the management of the data that they transmit.

- b) *a comparative analysis of amounts registered in separate accounts (i.e. B accounts) and the data entered into OWNRES*

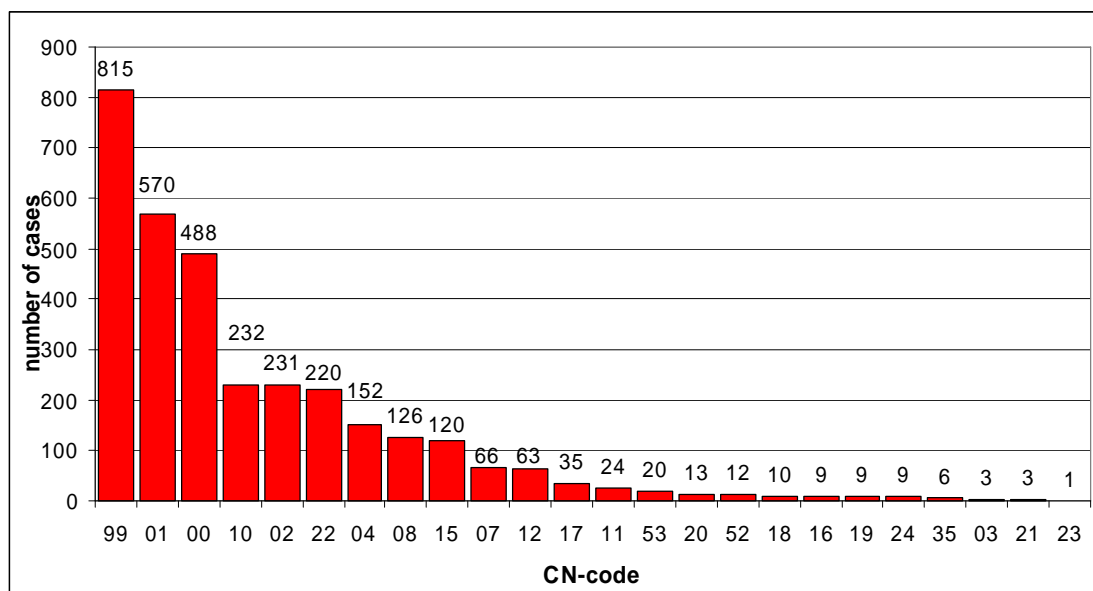
In 2002, Member States were invited to provide the Commission with data on customs debts (exceeding € 10,000) entered in the separate accounts and cases appearing in OWNRES on 31st December 2001. The Commission wished to make a comparative analysis of these two sources of information, based on the premise that it would be possible to identify a corresponding case in OWNRES for each entry in the separate accounts. The results of this exercise gave rise to reservations about the reliability of the data, in particular that in OWNRES (non-communication, absence of updates). In view of these results, the Commission responded favorably to the request by delegations to repeat the exercise using the data available on 31 December.2003. Member States are now fully aware of this issue and have already made concrete efforts to improve. Despite this, the Commission notes that the data communicated by the Member States – also transmitted to the budgetary Authority for information – remains, at least at present, not fully reliable.

2.2. Agricultural expenditure (EAGGF-Guarantee)

Products involved

The following charts present the products that were affected by irregularities. Chart 2.1 gives an overview of how often a certain product was involved in an irregularity. The selection is based on the first 2 characters of the Combined Nomenclature (CN-code) and the support measure involved. The largest number of reported irregularities, i.e. 815 cases, has the code 99, which stands for “unknown”. This means that Member States are unable to identify the products in more than 25 % of the irregularities. Germany and France do not give information about the product involved in approximately 30% and approximately 57% of their cases respectively. This is remarkable, especially when they concern export declarations where the CN-code is clearly stated. In second place comes code 01, which relates to live animals. Member States reported 570 irregularities. Code 00, which stands for “not applicable” concerns irregularities linked to direct aid, for instance the rural environment protection scheme. Member States reported 488 cases. The following chart gives an overview of the products involved and the number of reported irregularities.

Chart 2.1: Reported cases and the products or goods involved (year 2003)⁷



It is perhaps more useful, however, to look at the amounts affected by the irregularities. Analysis on the basis of the amounts can help identify the areas and sectors with higher financial risks and, more importantly, can help to develop a control and/or investigation strategy so that limited manpower can be better deployed.

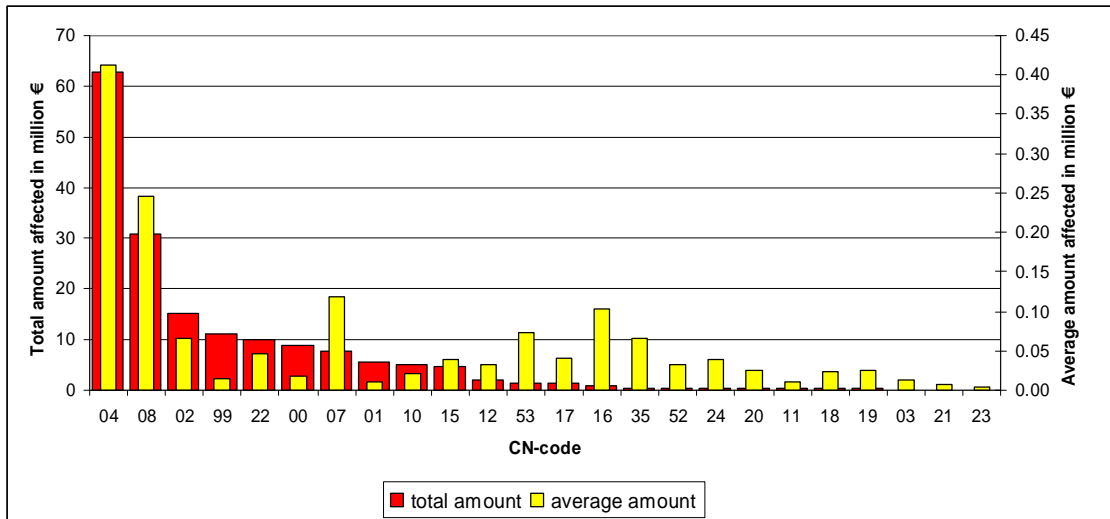
In chart 2.2, an overview is given of the products in which the highest total amounts, as well as the average amounts, are reported per product.

⁷

In charts 2.1 and 2.2, the CN Code is used to give an overview of the manner in which a product is involved in an irregularity. The categories are the following:

- Code 00: Not Applicable
- Code 01: Live animals
- Code 02: Meat and Edible Meat Offal
- Code 03: Fish
- Code 04: Dairy Produce
- Code 07: Edible Vegetables
- Code 08: Edible Fruits and Nuts
- Code 10: Cereals
- Code 11: Products of the milling industry
- Code 12: Oil seeds
- Code 16: Preparations of meat
- Code 17: Sugars and sugar confectionery
- Code 21: Miscellaneous edible preparations
- Code 22: Beverages, spirits and vinegar
- Code 23: Residues and waste from the food industry
- Code 24: Tobacco
- Code 53: Other vegetable textile fibres
- Code 99: Unknown or non described product

Chart 2.2: Total amount and average amount per case (year 2003)



The 2002 Annual Report stated that the highest total amount was connected to irregularities which the Member States had reported as “unknown” for the product. Member States have improved their reporting. The highest total amount, as well as the highest average amount, was reported for “dairy produce” (code 04). With the exception of Greece and Luxembourg, all Member States reported irregularities in this area. The total amount involved was approximately € 63.0 million and the average amount per case was approximately €413,000. The total amount involved, however, is very strongly influenced by 2 cases reported by Spain with a total amount involved of more than €43 million.

As in 2002, the second most affected product in this chart of irregularities is code 08, “edible fruits and nuts”. Seven Member States reported irregularities: Germany, Spain, France, Greece, Italy, the Netherlands, and Portugal. The total amount involved was approximately € 30 million and the average amount per case was approximately € 245,000. Also here, the total amount involved is influenced by 3 Spanish cases which alone account for more than €20 million and 1 Italian case, in which the total amount involved is more than €2 million.

Also worthy of mention is code 07, “edible vegetables” and code 16, “preparations of meat”. The total amount of the irregularities reported may not be as high but the average amount per irregularity is, however, relatively high. The average amount per irregularity was more than €100,000.

The graph also highlights irregularities in which a relatively low average amount is reported. An insight into the areas and/or sectors where relatively low amounts are involved could also help in the process of setting priorities for controls and investigations. These irregularities concern the following products:

- Code 99: unknown
- Code 03: fish
- Code 11: products of the milling industry
- Code 01: live animals
- Code 21: miscellaneous edible preparations
- Code 23: residues and waste from the food industry

The average amount per case is less than €15,000.

Irregularities started in 2002 and 2003

Member States must also report the period during which, or the moment at which, the irregularity was committed. The External Communications Register (ECR) can also be used as a warning system to inform Member States of the latest trends and developments. Irregularities that started in 2003 and in 2002 are more interesting than irregularities that started in 1987 or 1991. Informing Member States about the latest trends and developments will help Member States in deciding their (control) priorities.

Member States have reported a “blank” in 336 cases, which implies that they do not know when an irregularity took place or started. France is responsible for the largest number (189) of “blanks”.

Table 2.3 gives an overview of the irregularities that started or took place in 2002 and/or 2003 and the support measure involved.

Table 2.3: Irregularities start year 2002 and/or year 2003

measure	description	unknown 99	live animals 01	beverages, spirits and vinegar 22	not applicable 00	meat and edible meat offal 02	cereals 10	dairy produce 04	oil seeds 12	miscellaneous edible preparations 21	other vegetable textile fibres 53	Grand Total
S1650	wine - other measures			1,978,241								1,978,241
A999	other direct aid	979,267	33,009	0	724,356	10,778	14,438	105,924	50,428	13,520	4,398	1,936,118
V36	other EAGGF-guarantee measures	942,028	311,174		168,189	78,121	21,903	6,634				1,528,049
A1031	cereals - aid				37,356		1,149,194		179,402			1,365,952
A2120	suckler cow premiums		1,161,703									1,161,703
S2129	beefmeat - other interventions					962,370						962,370
R2100	beef/veal meat	9,897	463,742			343,913						817,552

Once again there is a significant number of irregularities concerning “unknown” or “other”. Reporting an “unknown” or an “other” does not help to identify the irregularities and, more importantly, does not contribute to improving the fight against fraud.

Detection method: controls based on Reg. 4045/89 and Reg. 386/90

Member States are obliged to perform certain controls on the basis of Council Regulation (EEC) No. 4045/898 and Council Regulation (EEC) No. 386/909.

Table 2.4 gives an overview of irregularities that have been detected on the basis of these controls. The table concerns the period 2001 – 2003, since the cases reported for 2003 do not give enough information to be able to produce any meaningful statistics.

Table 2.4: Irregularities detected on the basis of Reg. 4045/89 or Reg. 386/90 controls period 2001 - 2003

MS	Cases 2001 - 2003	Reg. 4045/89	Reg 386/90
B	155	23	0
DK	226	15	27
D	1863	183	24
EL	63	28	0
E	2265	42	3
F	1547	275	14
IRL	340	13	9
I	529	20	2
L	5	0	0
NL	223	62	2
A	286	117	5
P	388	33	4
FIN	89	8	0
S	198	5	0
UK	757	37	0
TOTAL	8934	861	90

The number of irregularities detected on the basis of these controls is rather low. There could be several reasons for this, for example that beneficiaries comply with the regulations (no irregularities), that Member States do not perform these controls, that the effectiveness of the controls is poor or that Member States forget to report the discovery of irregularities discovered as a result of these controls. A more in depth analysis will give a clearer view.

⁸ Council Regulation (EEC) N° 4045/89: this regulation relates to the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the Guarantee Section of the EAGGF in order to ascertain whether transactions forming part of the system of financing by the Guarantee Section of the EAGGF have actually been carried out and have been executed correctly.

⁹ Council Regulation (EEC) N° 386/90: this regulation sets down certain procedures for monitoring whether operations conferring entitlement to the payment of refunds on, and all other amounts in respect of, export transactions have been actually carried out and executed correctly.

The number of irregularities discovered on the basis of Regulation (EEC) N° 386/90 controls is very limited. Table 2.5 illustrates that only 90 irregularities have been discovered on the basis of Regulation (EEC) N° 386/90 controls and that 6 Member States reported a zero.

Chart 2.5 shows per Member State the control results for the period 2001 - 2003, in total amount and in average amount per irregularity, on the basis of Regulation (EEC) N° 4045/89. Notable are the results from France and Belgium.

Chart 2.5: Results of Regulation (EEC) N° 4045/89 controls

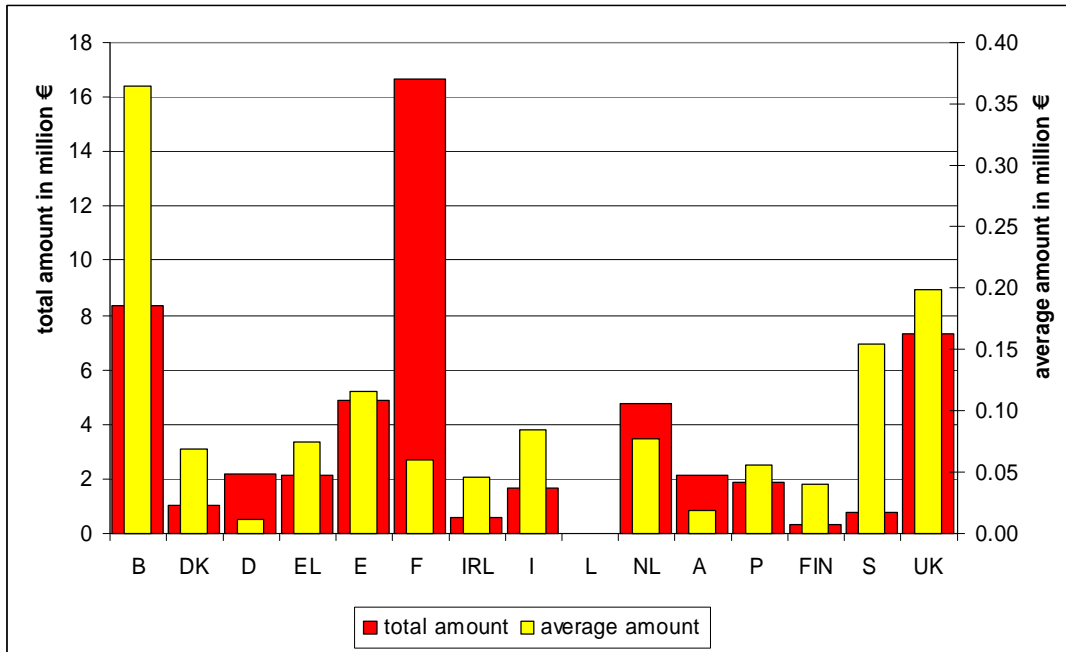
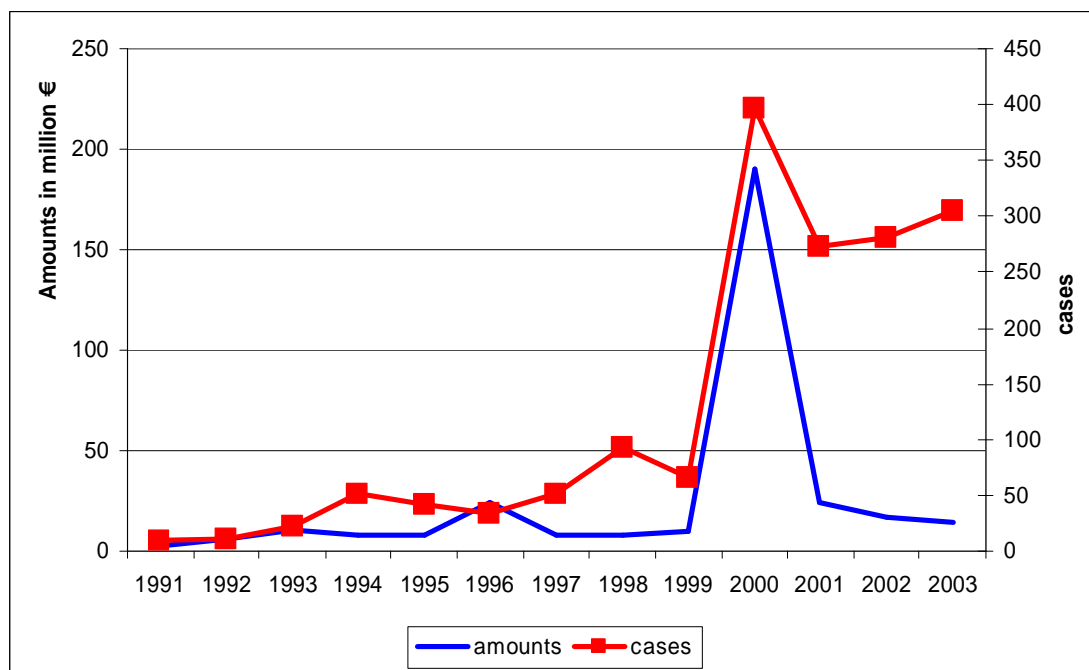


Chart 2.5 shows that France detects rather high total amounts affected by irregularities via controls under Reg. 4045/89. The average amount per detected irregularity, however, is low. Belgium, on the other hand, has a very high average amount per detected irregularity. This is also true for Sweden and the United Kingdom. A high average amount per detected irregularity could be considered as an indicator of the effectiveness of a control.

In terms of amounts, the irregularities discovered on the basis of controls under Regulation (EEC) N° 4045/89 in 2003 represent about 8.2% of total amounts affected by irregularities in 2003. This is rather low considering the number of controls conducted on the basis of Regulation (EEC) N° 4045/89 and the number of auditors that have been dedicated to these controls. It is, however, in line with recent developments. Chart 2.6 gives an overview of the number of controls on the basis of Regulation (EEC) N° 4045/89 for the period 1991 – 2003. This overview demonstrates that the number of cases reported has increased but that the amounts affected by the irregularities is still at around the same level as in the first years that Regulation (EEC) N° 4045/89 came into force. The peak in 2000 is caused by 3 cases. Italy reported 2 cases which involved about € 120 million and Belgium reported 1 case with a total value of about €31.5 million.

Chart 2.6: Irregularities detected on the basis of Regulation (EEC) N° 4045/89 controls 1991 - 2003



2.3. Structural measures

Charts 1.7 and 1.8 in paragraph 1.2.3 already illustrated how the different funds were affected by irregularities in 2003.

It must be underlined again that amounts related to the Cohesion Fund represent an exception to the trends which have emerged in previous years.

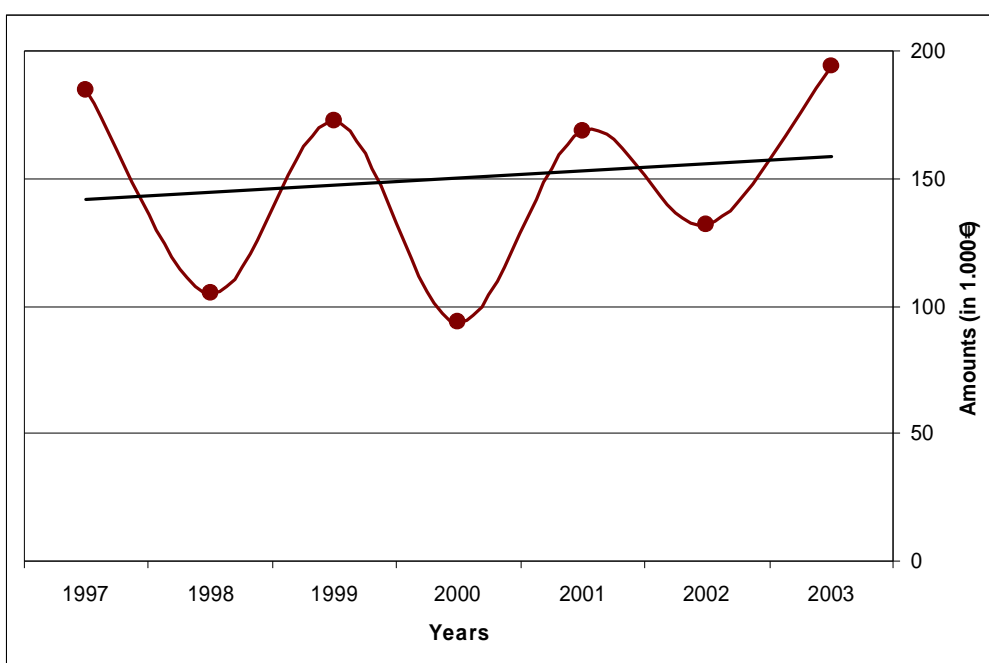
Annex 6 shows the general trend in the number of cases and amounts in the last seven years and the relative impact on the budget. It is important to highlight that the assessment of the real impact on the budget of irregularities communicated during the reporting period presents some difficulties.

The budget indicated follows the yearly allocations for the programming period 2000-2006, while irregularities communicated refer also to different programming periods (1994-1999 and 2000-2006/10). Their impact has however, been calculated on the 2003 allocation. A full assessment of the impact of irregularities/frauds on the Structural Funds budget will only be possible following the full closure of the programming period and the processing of the related information/data.

Chart 2.7 represents the evolution of the overall average irregular amounts per case in the last seven years (EU15 mean). The resulting trend is a slow increase, but it is also affected by irregularities related to the Cohesion Fund, as explained in more detail below.

¹⁰ In theory it could also be that irregularities/frauds referring to the programming period 1989-1993 are identified in 2003 and therefore reported to the Commission.

Chart 2.7: Trend of EU15 mean of irregular amounts per case 1997-2003



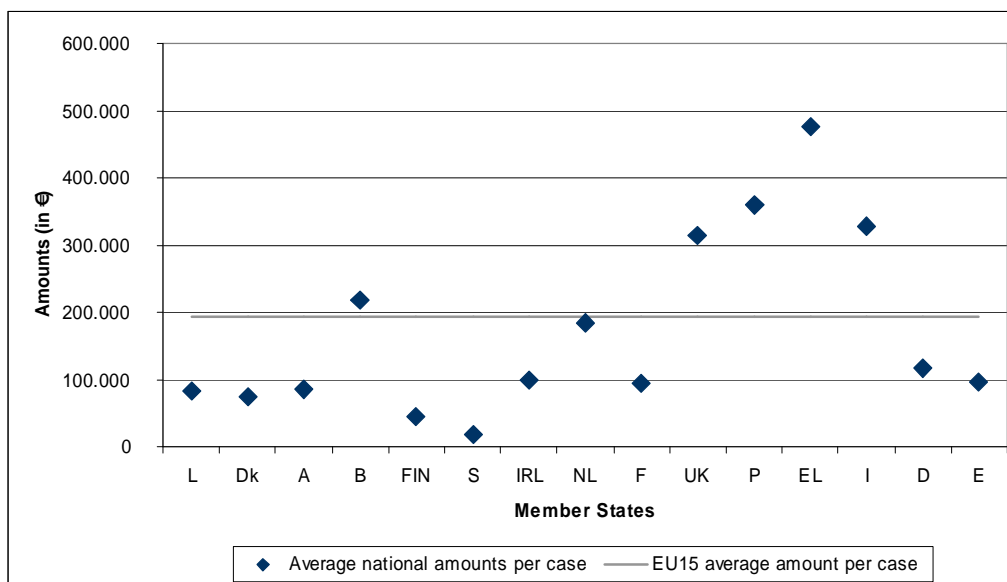
If the amounts relating to the Cohesion Fund are ignored, the result is in line with the year 2002, with a small increase in respect to the previous year, but with a general decreasing trend, as shown in chart 2.8 below. This can be explained by better reporting by Member States which continue to report more and more cases, paying increasing attention to irregularities involving lower amounts (and therefore more in line with the spirit of the regulation 1681/94 that requires all cases of irregularities above €4,000 to be reported).

Chart 2.8: Trend of EU15 mean of irregular amounts per case 1994-2003 (without Cohesion Fund 2003)



Chart 2.911 shows the average amount of the irregularities in each Member State and how they are distributed in relation to the overall mean (straight horizontal line).

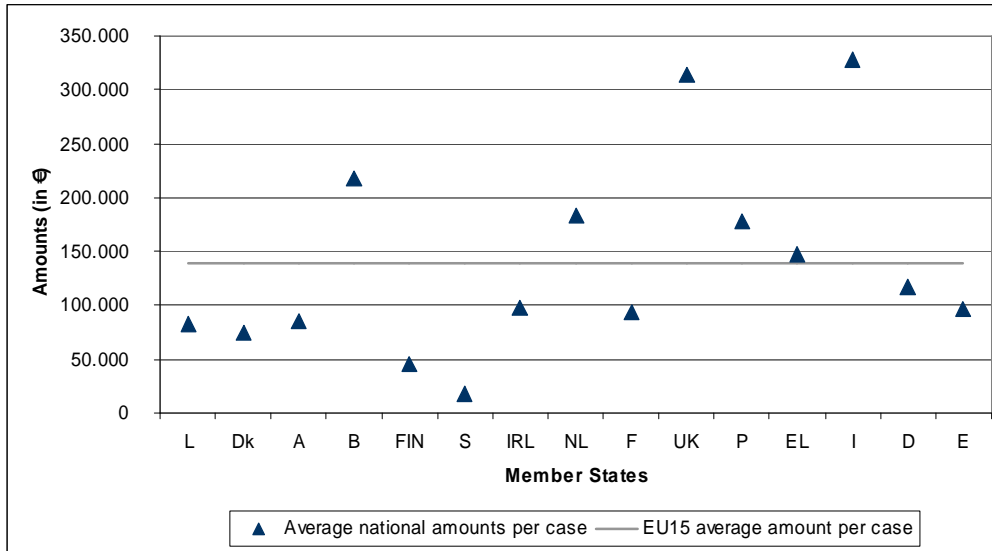
Chart 2.9: Distribution of national average values in relation to EU15 mean



As in 2002, in 2003 a very significant difference exists between Member States and especially the “distance” between the highest average value (Greece, €476,265) and the lowest (Sweden, €17,381). It should be kept in mind that, as mentioned in paragraph 1.2.3, the values from Greece are very much influenced by the irregularities reported for the Cohesion Fund. If those are excluded from the analysis, the situation is the one described in chart 2.10 and Italy (as in 2002) is the country with the highest average amount.

¹¹ Member States are listed in order according to the Structural Funds allocation (programming period 2000-2006), Luxembourg the one with the lowest amount and Spain the one with the highest.

Chart 2.10: Distribution of national average values (without Cohesion Fund) in relation to EU15 mean

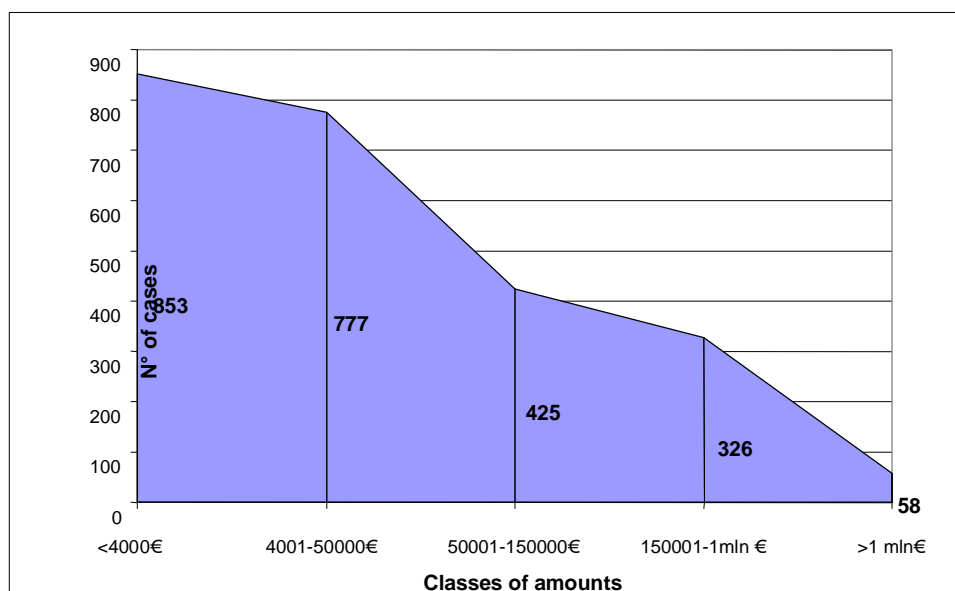


In charts 2.11 and 2.12, communications have been divided into five classes according to the amount affected by irregularities (€4,000 to 10,000; €10,001 to 50,000; €50,001 to 150,000; €150,001 to 1 million; over €1 million).

Here again, the Cohesion Fund cases were not taken into account in the analysis in order to avoid a real distortion especially in comparison to last year's data. As a matter of fact, more than 50% of the cases reported in the Cohesion Fund (25 out of 48) involve amounts higher than 1 million euros. Moreover, the irregular amounts resulting from those 25 cases represent 96% of the total irregular amounts reported for the Cohesion Fund in 2003.

Returning to chart 2.11, it is clear that the highest number of cases communicated relate to amounts between €4,000 and €50,000 (first two categories in chart 2.11) and account for 67% of the total number of cases reported to OLAF (853 cases in the first category + 777 of the second).

Chart 2.11: Distribution of communications per category – number of cases



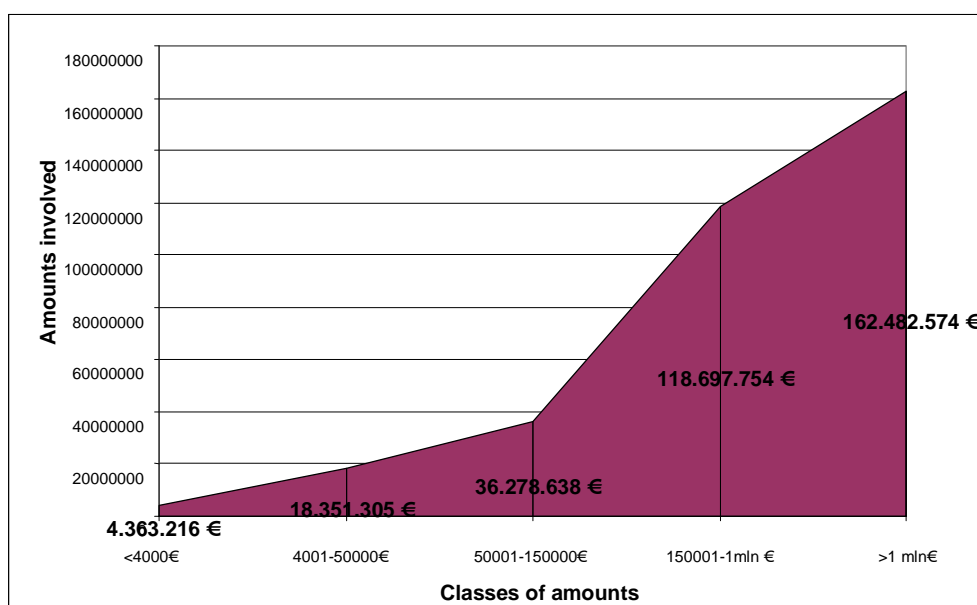
Five countries reported no cases in the highest value category (> € 1 million): Belgium, Denmark, Finland, Luxembourg and Sweden. The five countries which reported most cases in the highest category are Italy and Germany (11), Spain (10), United Kingdom (9) and Greece (8), if the cases from the Cohesion Fund are not counted. If the Cohesion Fund cases are taken into account Greece becomes first and Portugal fourth in this “ranking” (more than 50% of cases from the Cohesion Fund are above €1 million¹²).

If the amounts involved are taken into account, the situation is reversed, with the 58 cases in the highest category (>€ 1 million) involving almost 50% of the total amounts communicated to OLAF, as shown in chart 2.12 below.

¹²

This is mainly due to the very nature of projects financed through the Cohesion Fund for example major projects relating to transport and environment.

Chart 2.12: Distribution of communications per category – amounts



Types of irregularity

Differences remain among Member States on the types of irregularity reported and, to a certain extent, these are consistent with last year. The majority of cases involve irregularities of an “administrative” kind that most of the time are detected in the course of the normal documentary checks before any payment of European money is made. To demonstrate this, the two most frequent types of irregularity reported by Member States are the “not eligible expenditure” and “missing or incomplete supporting documents”. Only 6% of the cases involved suspected “falsifications” (of documents, supporting documents, requests for aid, accounts) reported by ten Member States, with Italy playing the major role (58% of cases regarding suspected falsifications were communicated by Italy).

Table 2.13 contains some figures on the most frequent types of irregularities together with an indicative implicated amount and the indicative average amount:

Table 2.13: Most frequent types of irregularity reported by Member States					
Code	Description	Frequency (alone)	Frequency (with other codes)	Indicative implicated amounts	Indicative average amounts
(A)	(B)	(C)	(D)	(E) ¹³	(F) = [E/(C+D)]
210	Missing or incomplete supporting documents	164	170	35,780,488	107,127
325	Not eligible expenditure	347	173	55,708,485	107,132
405	Irregular termination	98	47	8,794,483	60,652
601	Failure to respect deadlines	80	32	7,682,543	68,594
612	Failure to respect other regulation/contract condition	67	36	31,705,999	307,825
811	Action not completed	152	60	29,633,857	139,782
812	Action not carried out in accordance with rules	42	34	5,061,141	66,594
831	Overfinancing	99	30	7,205,835	55,859
999	Other irregularities	331	66	53,036,194	133,592
	Falsifications ¹⁴	53	89	41,517,723	292,378

It should be noted that due to the reporting method a single case communicated to OLAF may contain more than one type of irregularity. Figures in table 2.13 are based on how many times the type of irregularity has been communicated alone and how many times together with others. The implicated amount shown as “indicative” sums up all the values related to that specified typology.¹⁵

The “real” total amounts reported are those in annex 7.

¹³ The amounts shown in this column refer to all the instances of the types of irregularities, either when they are reported alone or when they are reported together with other typologies.

¹⁴ The category “falsifications” refers to different types of irregularity and has been reported in this way because many references have been made to it in the text. The types of irregularity included in this category are the following: falsified accounts, false or falsified documents, false or falsified request for aid, false or falsified supporting documents, false or falsified certificates.

¹⁵ Therefore, as some irregularities have been counted more than once, the total value is distorted and this is why the ‘total’ row has been omitted. The values expressed under “indicative implicated amount” and “indicative average amount” columns are only “virtual”.

It is important to underline that the most frequent types of irregularity are almost the same as in the year 2001 and 2002 confirming a certain consistency in patterns and trends related to the sector of structural measures.

As with previous years, it should be stressed that the «999 – other irregularities» code has a significant impact on the overall evaluation. Irregularities communicated under this code do not fit any other description provided for by the reporting system.

However, their weight on the total has decreased in the last years (15% in 2003, compared to 23% in 2002 and 28% of 2001 concerning frequency). This trend is encouraging, but the availability of more precise information in this field would certainly aid interpretation of the statistics concerned.

Overall, the quality of the information communicated by the Member States improved during 2003. This is partly due to the system audit of the implementation of Regulations Nos. 1681/94 and 1831/94 conducted jointly by OLAF and the Commission services responsible (in particular DG REGIO) but is also the result of important efforts on the side of Member State authorities.

It is to be hoped that the positive trend registered in the last years will continue in 2004, also in relation to the new Member States.

3. FINANCIAL MONITORING

3.1. Traditional Own Resources

Decision 94/728¹⁶ on own resources, and in particular Article 8, stipulates that the collection of traditional own resources is the responsibility of the Member States. The Commission performs compliance audits to ensure that Member States respect their obligations to ensure the recovery of these resources under the Community provisions in the customs domain. To this end, the Commission uses an overall strategy¹⁷ to evaluate Member States' actions and to take, where necessary, corrective measures.

Three main principles underlie this strategy: *follow-up based on a sample of current cases*, *procedure for writing-off* those amounts of own resources higher than € 10,000 which are considered irrecoverable and the principle of *financial responsibility* for certain errors made by the national administrations.

¹⁶ Repealed by Council Decision 2000/597/EC, Euratom of 29.9.2000 (OJ L 253 of 7.10.2000).

¹⁷ For details of the strategy developed by the Commission, see the report on the protection of the financial interests and fraud prevention financial year 2000.

3.1.1. Follow-up by sample

In order to evaluate the recovery actions taken by the Member States, the Commission uses a procedure to sample data (*Sample B*). This sample consists of a detailed examination of certain particularly difficult files which have been the subject of mutual assistance communications that involve several Member States and have an impact on the Community budget of more than one million euros. The aim of this procedure is to follow, until the final outcome, the recovery measures pertaining to a number of representative cases. The results appear in the report known as the B sample report drawn up by the Commission¹⁸ at regular intervals. The next report will be produced in 2004.

This new report will cover 17 cases (analysis of 9 new files and monitoring of recovery procedures in 8 cases already treated in the B1998 report). The B reports of 1994 and 1998 referred to a recovery rate of 2% and 12% respectively. Preliminary data show a further improvement in the recovery rate.

3.1.2. Procedure for managing Member States' requests for write-off

Member States are required to take the necessary measures to make traditional own resources available, except in cases of *force majeure* or where recovery proves to be impossible for reasons which can not be attributed to the Member State concerned. Cases of write-off are communicated to the Commission (where the amount of duties involved exceeds € 10,000) for examination. Where the Member State can demonstrate that the lack of recovery cannot be attributed to it, the demand for write-off is accepted. If not, the Member State bears financial responsibility on the basis of Article 8 of Decision 94/728 and of Articles 2 and 17 of Regulation No 1150/2000.

In 2003, 85 requests for exemption of provision were communicated to the Commission by 8 Member States under Article 17§2 of Regulation No 1150/2000, relating to a total amount of €27,022,394.02¹⁹. But 108 files were examined in 2003. The *result*, in financial terms, of the treatment of the 108 files (11 cases DE, 20 ES, 1 IE, 11 the U.K., 57 NL, 6 AT and 2 PT) is distributed as follows:

COM position	Number of cases	% cases	Amount in €	% amount
<i>Write-off accepted</i>	65 cases	60.18%	€10.196.110.52	12.57%
<i>Required additional information</i>	32 cases	29.63%	€66.469.180.58	81.96%
<i>Non suitable exemption request</i>	1 case	0.93%	€36.145.85	0.05%
<i>Write-off refused</i>	10 cases	9.26%	€4.393.522.04	5.42%
Total	108 cases	100%	€81.094.958.99	100%

¹⁸ Two reports of this type, B94 and B98, were drawn up: Commission Reports on the Recovery of traditional own resources coming from the cases of fraud and of irregularities ("Sample B94", COM(1997) 259 final of 9 June 1997 and "B98 Sample", COM (1999) 160 final of 21 April 1999).

¹⁹ In the 31.12.2003, the total number of requests for exemption of provision recorded since 1992 is of 576 cases representing a total amount of €189.092.324,78 exemption.

Examination of the diligence of the Member States constitutes a very effective mechanism not only for gauging Member States' activities in the field of recovery but it also encourages national administrations to intensify their recovery actions, since a lack of diligence leading to failure to recover will result in Member States being financially liable for these amounts.

In addition, in May 2003, in light of the planned developments in the use of Article 17-2 once the modification of Regulation N° 1150/2000 is in force, a *Task Force* was created within the unit of the Commission department responsible (DG BUDGET) in order to increase efficiency in the management of the anticipated increase in the number of cases to be dealt with in the future.

3.1.3. *Principle of Member States' financial responsibility for their administrative errors*

According to the Decision on own Resources, Member States are responsible for the collection of traditional own resources. For performing this task, and to support the sound and efficient management of public finances, they may keep 25% (about € 3,619 million). Any negligence on the part of the Member States which results in a loss of own resources gives rise to a financial liability. In this way the Commission holds the administrations financially responsible for their own errors²⁰.

Certain Member States, whilst agreeing with the principle of financial responsibility, continue to claim that there is no legal basis to support the Commission's action. In order to settle this difference in interpretation of Community law, a pilot case on financial responsibility is the subject of infringement proceedings²¹. Of the 38 new cases identified in 2003, which represent a total amount of € 36,101,528, some € 22,691,835²² was made available to the Commission by Austria, Finland, France, Italy, the Netherlands, Spain, Sweden and the United Kingdom.

In 2003 certain changes were made to the provisions for implementing the Customs Code relating to requests for refund or remission. The new regulation set a ceiling of €500,000, below which Member States can decide not to recover, to refund or to set off customs duties (on the basis of Articles 220-2 (b) and 239 of the Customs Code). Moreover, as stipulated in Regulation No 1335/2003²³, Member States must notify the Commission every six months of those REM/REC cases for amounts higher than € 50,000 in which they have granted a favourable decision. After analysis, the Commission can take financial measures if necessary.

²⁰ These cases are identified on the basis of the articles 220§2.b (non perceptible administrative errors), 221§3 (regulation resulting from the inactivity of the customs), of Articles 869 and 889 of the Provisions for application of the Code or on the basis of non-observance, by the customs administration, articles of the Community Customs Code giving rise to a situation of the operator's legitimate expectations.

²¹ For this case, the referral of the Court of Justice was carried out by the Commission (Case C-329/02) on 8 November 2002. Hearings are expected to be held from mid-2004 and the decision is anticipated in spring 2005.

²² France paid €15,196,783, Italy €1,122,871, Spain €117,600 and Finland €1 420.

²³ Commission Regulation (EC) n° 1335/2003 of 25 July 2003 amending Commission Regulation (EEC) n° 2454/93 laying down certain provisions for application of the Council Regulation (EEC) n° 2913/92 establishing the Community Customs Code - OJ L 187 of the 26.7.2003 p. 16 – 20.

3.2. (EAGGF Guarantee Section): Expenditure (Annex 5)

In 2003, Member States communicated, pursuant to Regulation No. 595/91, 3.197 irregularities for a total amount of €169,724,000 (see Annex 4).

The situation as regards recovery in 2003²⁴ (see Annex 5) is as follows:

- the overall sum to be recovered was €2,086,341,000 for the communications prior to 2003;
- to this amount, €148,224,000 was added which relates to the communications received during 2003;
- the amounts relating to the cases for which a legal procedure is on-going account for approximately €771,730,000 for the period prior to 2003;
- finally in the same period, the amount declared irrecoverable pursuant to Article 5, par. 2 of Regulation No. 595/91, and which are awaiting a formal decision within the auditing of accounts procedure is €234,343,000.

3.3. Structural Measures (Annex 8)

In 2003, Member States communicated pursuant to Regulations 1681/94 (financing of the structural policies) and 1831/94 (financing of the Cohesion Fund) 2,487 cases of irregularities for a total amount of €482,215,000 (see annex 7).

The situation as regards recovery in 2003²⁵ (see annex 8) is as follows:

- € 621,993,000 remains to be recovered in relation to the communications of irregularities, pursuant to Regulations Nos. 1681/84 and 1831/84, received before 2003;
- to this amount, €203,915,000 was added relating to the communications received during 2003.

²⁴ These data refer to ongoing procedures and therefore the part of money still to be recovered is not a definitive loss for the European budget

²⁵ These data refer to ongoing procedures and therefore the part of money still to be recovered is not a definitive loss for the European budget

In respect to the Structural Funds, i.e. measures part-financed under multi-annual programmes, the crucial phase with regard to the financial follow-up is the closure of the programme in question. As regards the 1994-1999 programming period, the closure of the programmes is on-going, as the deadline for the presentation of the balance was 31 March 2003. A considerable number of cases which were communicated under Article 3 of Regulation No. 1681/94 should be the subject of a discharge, except for the actions suspended for legal reasons. The Commission will finish the closure exercise in 2004. The results of the closure are already apparent from the communications of 2003. More than 50% of the amounts affected by the irregularities were the subject of recovery; for the majority of cases, by means of withdrawing the amount of the request from the balance submitted to the Commission.

Regulation No. 448/2001 obliges Member States to notify the Commission, once a year, of the balance of pending recoveries. This facilitates the financial follow-up and the charging to the Member States of the amounts lost because of their negligence.

ANNEXES

ANNEX 1
Traditional own resources
Number of cases of fraud and irregularity reported by the Member States²⁶ to the Commission
1999 – 2003

Member States	1999	1999	2000	2000	2001	2001	2002	2002	2003	2003
	Cases	Amounts €	Cases	Amounts €	Cases	Amounts €	Cases	Amounts €	Cases	Amounts €
Austria	116	11 213 033	93	6 559 101	101	17 322 898	119	19 597 993	90	8 841 758
Belgium	294	9 956 308	306	7 438 093	296	7 421 364	484	28 372 440	470	20 847 020
Denmark	103	9 106 823	106	9 288 803	67	5 066 932	94	5 761 628	68	8 157 103
Finland	36	5 104 165	36	1 598 820	20	3 140 752	18	782 783	24	1 160 029
France	268	23 425 262	253	29 312 376	217	16 971 636	202	25 215 366	183	16 635 556
Germany	497	41 460 664	491	59 585 284	365	25 766 935	377	106 648 659	300	53 711 413
Greece	13	319 602	1	210 051	10	7 088 417	27	7 675 639	32	1 361 194
Ireland	40	7 833 465	38	1 882 401	34	1 376 401	44	4 136 553	32	2 340 846
Italy	295	14 700 766	228	39 717 946	207	98 688 810	309	40 177 849	226	76 292 783
Luxembourg	5	417 184	2	35 620			1	23 666	1	1 013 477
Netherlands	220	13 051 534	325	20 852 948	478	33 151 348	285	81 841 236	411	46 472 778
Portugal	14	526 374	19	1 306 757	11	1 489 355	15	2 004 205	22	2 197 568
Spain	119	8 157 274	116	8 534 724	134	29 705 373	121	11 447 554	213	26 448 366
Sweden	65	4 793 667	18	1 081 083	21	2 589 884	36	2 675 681	45	1 212 991
United Kingdom	538	107 537 273	507	337 165 303	238	10 830 541	203	5 545 308	336	3 269 886
Total	2 623	257 603 394	2 539	524 569 310	2 199	260 610 646	2 335	341 906 560	2 453	269 962 768

²⁶ Member States must notify cases of fraud and irregularity where the amounts exceed €10 000 in accordance with a Community obligation laid down in Article 6(5) of Regulation No 1150/2000 of 22 May 2000.

ANNEX 2

Traditional own resources

Cases of fraud and irregularity reported by Member States for 2003

(Amounts in euros)

Member States	Number of cases notified for 2003	Amounts established	Amounts as a % of EUR-15 total	Average amount per case	Amounts recovered in cases notified for 2003	Amounts to be recovered ²⁷
(1)	(2)	(3)	(4)	(5) = (3) / (2)	(6)	(7)
Austria	90	8.841.758	3,28 %	98.2412	710.826	8.130.932
Belgium	470	20.847.020	7,72 %	44.355	1.590.590	19.256.430
Denmark	68	8.157.103	3,02 %	119.957	7.816.181	340.922
Finland	24	1.160.029	0,43 %	48.335	463.308	696.721
France	183	16.635.556	6,16 %	90.905	7.445.972	9.189.584
Germany	300	53.711.413	19,90 %	179.038	6.629.695	47.081.718
Greece	32	1.361.194	0,50 %	42.537	784.783	576.411
Ireland	32	2.340.846	0,87 %	73.151	1.343.922	996.924
Italy	226	76.292.783	28,26 %	337.579	2.599.864	73.692.919
Luxembourg	1	1.013.477	0,38 %	1.013.477	0	1.013.477
Netherlands	411	46.472.778	17,21 %	113.072	28.625.688	17.847.090
Portugal	22	2.197.568	0,81 %	99.889	589.811	1.607.757
Spain	213	26.448.366	9,80 %	124.171	12.689.179	13.759.187
Sweden	45	1.212.991	0,45 %	26.955	1.021.447	191.544
United Kingdom	336	3.269.886	1,21 %	9.732	545.055	2.724.831
EUR-15 TOTAL	2 453	269.962.768	100 %	110.054	72.856.461	197.106.307

²⁷ Only the amount of €72.856.461 of the overall established amount of €269.962.768 (see column (3)) has so far been recovered. However, as recovery actions are ongoing, it would be wrong to conclude that the still outstanding amount of €197.106.307 represents a loss to the community budget.

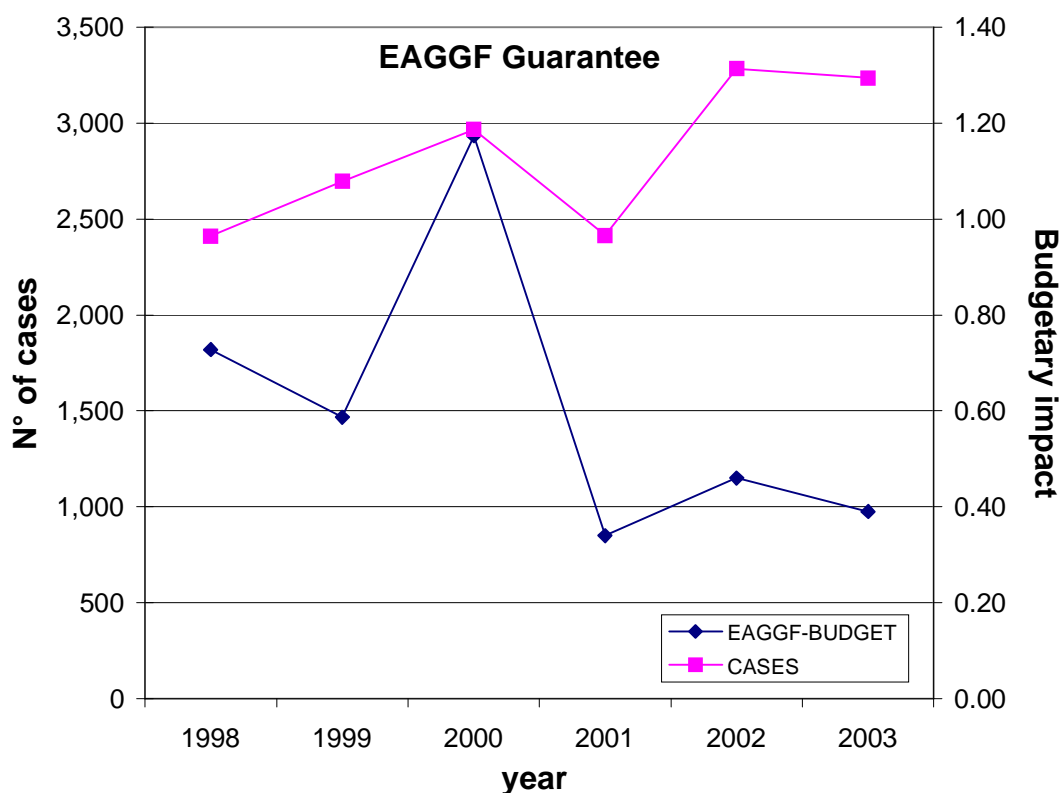
ANNEX 3

EAGGF GUARANTEE

IRREGULARITIES COMMUNICATED BY THE MEMBER STATES YEARS 1998 - 2003

(amounts in € 1.000)

YEAR	CASES	AMOUNT	% OF BUDGET	EAGGF-BUDGET
2003	3,237	169,724	0.39	43,606,858
2002	3,285	198,079	0.46	42,781,898
2001	2,415	140,685	0.34	41,866,940
2000	2,967	474,562	1.17	40,437,400
1999	2,697	232,154	0.59	39,540,800
1998	2,412	284,841	0.73	39,132,500



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

ANNEX 4

EAGGF GUARANTEE

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

2003

(amounts in € 1.000)

<i>Member States</i>	<i>Number of cases</i>	<i>Amounts</i>	<i>% of EAGGF expenditure</i>
B	38	1.843	0,18
DK	82	1.605	0,13
D	663	7.614	0,14
EL	35	1.836	0,07
E	777	113.687	1,74
F	729	11.849	0,11
IRL	103	864	0,04
I	124	16.902	0,31
L	3	78	0,18
NL	106	2.226	0,17
A	57	665	0,06
P	136	3.289	0,38
FIN	10	399	0,05
S	104	1.531	0,17
UK	270	5.336	0,14
TOTAL	3.237	169.724	0,39

ANNEX 5

EAGGF GUARANTEE

SITUATION OF RECOVERY IN CASES COMMUNICATED UNDER REGULATION No. 595/91

(amounts in €1.000)

<i>Member States</i>	<i>To be recovered cases communicated before 2003</i>	<i>To be recovered cases communicated in 2003</i>	<i>In Justice before 2003²⁸</i>	<i>Amounts "irrecoverable" before 2003</i>
B	71.350	1.115	21.431	722
DK	3.183	977	0	207
D	160.929	3.911	30.374	10.906
EL	72.377	1.587	33.326	5.744
E	183.855	109.169	70.824	58.009
F	64.133	9.633	39.724	2.688
IRL	3.312	326	888	609
I	1.439.883	14.497	532.743	145.337
L	25	73	0	0
NL	19.468	764	3.830	2.398
A	3.935	381	0	569
P	28.371	2.877	26.197	730
FIN	140	44	16	0
S	361	671	11	184
UK	35.019	2.199	12.366	6.240
TOTAL	2.086.341²⁹	148.224³⁰	771.730	234.343³¹

²⁸ Awaiting outcome of judicial proceedings in national courts

²⁹ As recovery actions are ongoing, it would be wrong to conclude that the still outstanding amount of €2.086.341 represents a loss to the community budget.

³⁰ The difference between the total amount indicated in annex 4 and the total to be recovered in 2003 represents the part of money already recovered in 2003. As recovery actions may be ongoing, it would be wrong to conclude that the still outstanding amount of €148.224 represents a loss to the community budget.

³¹ The sum of €234.343 concerns cases awaiting formal decision in Clearance of Accounts procedure and is a part of the outstanding €2.086.341 indicated in the column "To be recovered cases communicated before 2003".

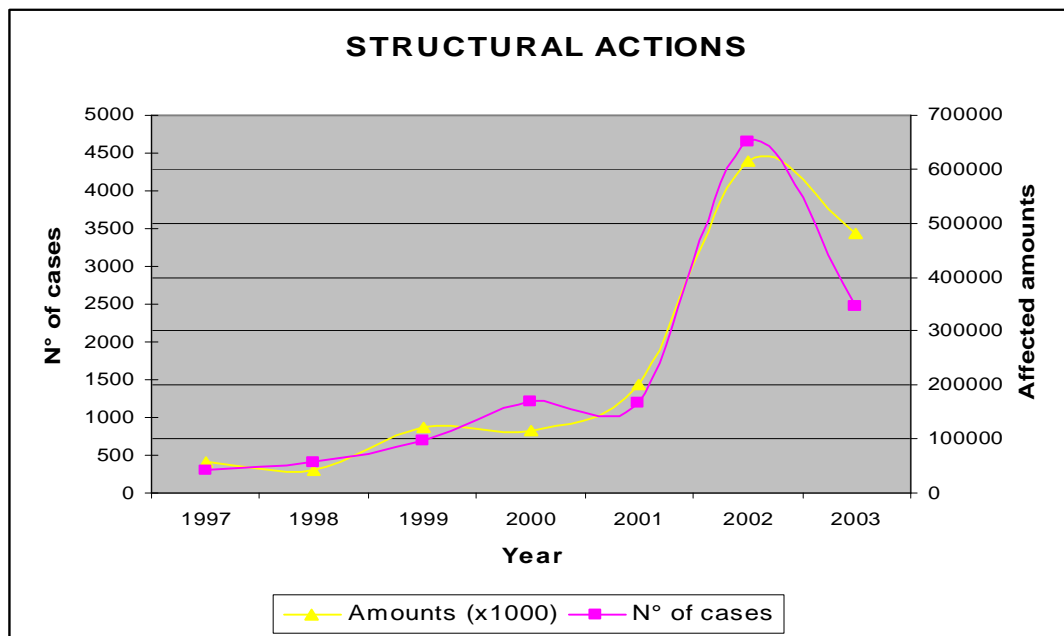
ANNEX 6

STRUCTURAL ACTIONS TREND OF THE IRREGULARITIES* COMMUNICATED BY THE MEMBER STATES UNDER REGULATIONS 1681/94 AND 1831/94 AND THEIR IMPACT ON THE BUDGET

1997-2003

Year	N° of cases	Affected amounts (x1000)	Percentage	Total affected amounts
2003	2,487	482,215	1,57%	30,763,696
2002	4,656	614,094	2,01%	30,556,348
2001	1,194	201,549	0,68%	29,829,680
2000	1,217	114,227	0,45%	25,556,000
1999	698	120,633	0,39%	30,654,450
1998	407	42,838	0,15%	28,365,990
1997	309	57,070	0,22%	26,304,900

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



ANNEX 7

STRUCTURAL ACTIONS

IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER REGULATIONS 1681/94 AND 1831/94

2003

B	8	1.742
DK	18	1.343
D	766	89.208
EL*	172	163.703
E	443	42.935
F	178	16.606
IRL	74	7.275
I	173	56.639
L	39	3.248
NL	52	9.527
A	38	3.232
P**	104	37.335
FIN	33	1.512
S	73	1.269
UK	316	46.640
Total	2487	482.215

* Includes 36 cases concerning the Cohesion Fund

** Includes 12 cases concerning the Cohesion Fund

ANNEX 8

STRUCTURAL ACTIONS

RECOVERY SITUATION FOR CASES COMMUNICATED UNDER REGULATIONS 1681/94 AND 1831/94

(amounts in 1.000€)

BELGIQUE	1.477	1.637
DANMARK	4.558	1.339
DEUTSCHLAND	333.620	65.552
ESPAÑA	43.291	14.209
FRANCE	15.056	9.062
ELLAS	7.087	9.877
IRELAND	7.363	1.352
ITALIA	132.338	38.539
LUXEMBOURG	0	9
NEDERLAND	5.194	1.888
ÖSTERREICH	416	2.162
PORTUGAL	15.447	29.370
SUOMI FINLAND	525	424
SVERIGE	311	238
UNITED KINGDOM	55.308	28.255
TOTAL	621.993³²	203.915³³

³² As recovery actions are ongoing, it would be wrong to conclude that the still outstanding amount of € 621.993 represents a loss to the community budget.

³³ The difference between the total amount indicated in annex 7 and the total to be recovered in 2003 represents the part of money already recovered in 2003. As recovery actions are ongoing, it would be wrong to conclude that the still outstanding amount of €203.915 represents a loss to the community budget.