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TEXT PROPOSED
BY THE COUNCILAMENDMENTS
BY PARLIAMENT

6. Any person may submit to the authority a request concerning the protection of his or her rights and freedoms as regards the processing of personal data.

The person concerned shall be informed of the action taken on his or her request.

7. The Commission shall inform the authority of the action it has taken on its opinions and recommendations. With that aim in view, it shall draw up a report which shall also be forwarded to the European Parliament and to the Council. The report shall be published.

8. The authority shall draw up an annual report on the state of protection of natural persons as regards the processing of personal data under the third pillar and shall forward that report to the European Parliament, to the Council and to the Commission. The report shall be published.

Amendment 31

Article 4g (new)

Article 4g**Reports by Europol and Eurojust**

Europol and Eurojust shall submit an annual report to the European Parliament and the Council.

P6_TA(2005)0218

Protection of the Communities' financial interests and the fight against fraud**European Parliament resolution on the protection of the financial interests of the Communities and the fight against fraud (2004/2198(INI))**

The European Parliament,

- having regard to its resolutions on previous annual reports of the Commission and of the European Anti-Fraud Office (OLAF),
- having regard to the Commission's annual report on the protection of the financial interests of the Communities and fight against fraud (COM(2004)0573), including the annexes (SEC(2004)1058, SEC(2004)1059),
- having regard to the communication from the Commission entitled 'Protecting the Communities' financial interests, Fight against Fraud, Action Plan for 2004-2005' (COM(2004)0544),
- having regard to the activity report of OLAF for the year ending June 2004 ⁽¹⁾,
- having regard to the activity report of the OLAF Supervisory Committee for the period between June 2003 and July 2004 ⁽²⁾,

⁽¹⁾ http://europa.eu.int/comm/anti_fraud/reports/olaf/2003-2004/en2.pdf

⁽²⁾ The document was forwarded to the committee secretariat in electronic form in January 2005 and can be downloaded in French from the OLAF website.

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- having regard to the annual report of the European Court of Auditors concerning the financial year 2003 ⁽¹⁾,
- having regard to Article 276(3) and Article 280(5) of the EC Treaty,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinions of the Committee on Agriculture and Rural Development and the Committee on Regional Development (A6-0151/2005),

Scale of the irregularities and cases of fraud reported

1. Notes that in 2003, in the areas of own resources, agricultural expenditure and structural actions, irregularities and cases of fraud totalling some EUR 922 million were reported by the Member States; the figures forwarded to Brussels by the Member States can be broken down as follows:

- own resources: EUR 269.9 million (2002: EUR 341.9 million),
- EAGGF Guarantee Section: EUR 169.7 million (2002: EUR 198.1 million),
- structural actions: EUR 482.2 million (2002: EUR 614.1 million);

2. Notes that the total loss reported in 2002 was EUR 1.15 billion and was thus higher than in 2003; points out that the importance of such year-on-year fluctuations should not be overestimated and that they may be affected by a wide variety of factors;

3. Notes, however, that taken over a longer period the trend in the area of the EAGGF is clearly downward, whereas in the area of the Structural Funds a substantial increase has been seen; in the year 2000, for example, the loss reported in the area of the EAGGF still totalled EUR 474.6 million, whereas the loss in the area of the Structural Funds in the same year totalled no more than EUR 114.3 million; since then, the proportions of the fraud statistics accounted for by the two areas have almost been reversed;

4. Invites the Member States to take appropriate measures to improve systems for the control and management of the structural funds and to ensure both that the risk of fraud is reduced significantly and that the provisions of Regulation (EC) No 1681/94 ⁽²⁾ are applied fully, particularly with regard to the procedure for timely, clear and full notification;

5. Notes that during the period covered by the report OLAF registered 637 new cases and that the financial impact of all cases still under investigation on 30 June 2004 was put at EUR 1.37 billion;

6. Notes, further, that the loss to the budget resulting from all cases in respect of which OLAF had initiated follow-up measures at the end of the period covered by its report (July 2003-June 2004) totalled EUR 1.76 billion ⁽³⁾;

7. Notes that at the end of the period covered by the OLAF report 55 investigations were under way in the new Member States and accession countries; most of those investigations were concentrated in the external aid, cigarette and agriculture sectors; emphasises, in that connection, the valuable role played by the Anti-Fraud Coordination Service;

8. Regrets the fact that the reports submitted by the Commission and OLAF have hitherto not been sufficiently comparable and welcomes the intention to harmonise the reporting periods;

⁽¹⁾ OJ C 293, 30.11.2004, p. 1.

⁽²⁾ Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organization of an information system in this field (OJ L 178, 12.7.1994, p. 43).

⁽³⁾ The financial loss resulting from all the cases investigated by OLAF and its forerunner organisation is estimated at EUR 5.34 billion (see SEC(2004)1370, Annex II).

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Recovery of amounts paid in excess or in error

9. Points out that in the areas of own resources, agricultural expenditure and structural actions a total of EUR 3 billion from 2003 and earlier financial years needs to be recovered ⁽¹⁾;
10. Argues in favour of simplifying definitions of types of fraud and methods of detection; calls on the Commission and OLAF to agree on a division of labour in the agricultural sector, following which OLAF will, in future, be responsible for investigations, whereas DG AGRI will be responsible for recoveries;
11. Draws attention, further, to the European Court of Auditors' Special Report No 3/2004 on recovery of irregular payments under the Common Agricultural Policy ⁽²⁾; according to that report, between 1971 and September 2004 irregularities involving a total of EUR 3.1 billion were reported in the sector; of that sum, EUR 626 million (20.2 %) has been recovered from recipients and EUR 156 million (5 %) and EUR 144 million (4.6 %) has had to be paid by the EAGGF and the Member States respectively; accordingly, there should still be EUR 2.2 billion (70 %) to be recovered;
12. Emphasises that the Member States bear primary responsibility for the prompt and efficient recovery of lost budget appropriations; regrets the fact that hitherto the Member States have failed to discharge this responsibility adequately and, in particular, have been sloppy in carrying out their reporting duties vis-à-vis the Commission;
13. Welcomes the work of the 'Recovery' Task Force set up to deal with sums outstanding in the agricultural sector, which is due to settle some 4 000 cases by March 2005; in that connection, welcomes the European Court of Auditors' Special Report No 3/2004 on recovery of irregular payments under the Common Agricultural Policy;
14. Welcomes the progress made in the meantime by the 'Recovery' Task Force; for example, it has established that, of the total of EUR 2.18 billion, EUR 812 million is blocked as a result of ongoing legal proceedings and EUR 247 million is regarded by the Member States as irrecoverable (e.g. as a result of bankruptcies); these figures imply that, as things stand, a sum of EUR 1.12 billion needs to be recovered;
15. Welcomes the fact that detailed consideration of individual cases has further reduced the sum to be recovered from EUR 1.12 billion to EUR 765 million (e.g. by avoiding the duplication of reports);
16. Notes that, on the basis of the analysis drawn up by the Task Force, of the stated figure of EUR 765 million, EUR 115 million should be recovered from the EAGGF, as against EUR 650 million from the Member States; the Member States have already been informed of this state of affairs by letter;
17. Criticises the fact that it is often those countries whose reported irregularities represent the greatest loss to the budget (2003: Spain EUR 112 367 457, Italy EUR 16 896 556, and France EUR 12 221 826) which also have the lowest recovery rates (2003: Spain 4.9 %, Italy 13.9 %, and France 15.6 %); in the case of export refunds, Spain accounted for almost 50 % of the total loss (2003: EUR 8 694 350 out of a total of EUR 17 514 557), but recovered only 9.3 %;
18. Hopes that the task force set up in 2003 to examine pre-1999 cases will make it possible to recover a proportion of the arrears;
19. Draws attention, once again, to the case-law of the Court of Justice of the European Communities ⁽³⁾, which, in a judgment delivered as long ago as 11 October 1990 (Case C-34/89, Italian Republic v Commission) ⁽⁴⁾, warned the Member States to observe their general duty of care;

⁽¹⁾ OLAF's Case Management System reveals that between 1999 and 2004 EUR 100 million was recovered, a sum equivalent to 1.87 % of the total loss to the budget over the same period, which is put at EUR 5.34 billion.

⁽²⁾ OJ C 269, 4.11.2004, p. 1.

⁽³⁾ See paragraph 22 of Parliament's resolution of 30 March 2004 on the protection of the financial interests of the Communities and fight against fraud — Annual report 2002 (OJ C 103 E, 29.4.2004, p. 435).

⁽⁴⁾ ECR 1990, I-3603.

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20. Takes the view that the non-recovery of irregular payments within four years (by means of administrative measures) or eight years (through the courts) represents a serious breach of the duty of care; the country concerned should then be required to settle the debt itself; in this way, Member States could be encouraged to take responsibility at an early stage and adopt a proactive approach to remedying errors; a procedure of this kind would also facilitate the work of the Commission, which is accountable to Parliament; welcomes, therefore, the Commission proposals along these lines ⁽¹⁾;
21. Welcomes, further, the Commission's intention to improve the 'black list' system; calls on the Commission to examine all possible ways of developing this instrument into an effective means of combating fraud and, if appropriate, extending its scope beyond the agricultural sphere; Germany, France, Austria, the Netherlands, Spain and the United Kingdom are already making use of this possibility;
22. Reiterates its call on the Commission to report on the inadequacies of the 'blacklist' system (Council Regulation (EC) No 1469/95 of 22 June 1995 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF ⁽²⁾);
23. Calls for discussions to be embarked on, on the basis of that report, either to make significant changes to that system or to replace it by a more effective instrument;
24. Expresses concern at the fact that a number of Member States, in particular Germany, France and Spain, are failing in their duty to report irregularities within the time-limits set; 90 % of cases are reported to the Commission only within two years, which reduces the prospects for recovering sums paid in error;
25. Points out that the most recent OLAF activity report reveals that investigators have put the total loss to the budget resulting from all the cases dealt with by OLAF over the last five years at EUR 5.34 billion; notes that, of that sum, roughly EUR 100 million has been recovered; this represents only 1.87 % of the estimated total loss; looks to OLAF to draw up an analysis of the causes of this paltry recovery rate in respect of cases it handles;

Fraud involving adulterated butter

26. Points out that the financial loss to the Community resulting from the Italburro case (adulterated butter) brought to light in 1999 is put at over EUR 100 million and is concerned that, to date, less than 10 % of the estimated EUR 100 million loss has been recovered by the Member States concerned (Belgium, Germany and France); this could represent a serious breach of the Member States' duty of care;
27. Criticises the fact that the true nature of the possible health risks resulting from the butter adulteration scandal has still not been established; points out, further, that the adulteration was essentially discovered coincidentally, in the course of investigations into Mafia murders, and that clearly no routine checks are carried out with a view to preventing products from being manipulated in this way; looks to the Commission to put forward proposals as to how the health risks resulting from the adulteration of foodstuffs can be curbed effectively;
28. Calls on the Commission, therefore, to submit, by 31 October 2005 at the latest, a report on the stage reached in the criminal law proceedings and recovery procedures and the possible health risks stemming from the butter adulteration, a report which should also contain proposals for effective ways of curbing the health risks resulting from the adulteration of foodstuffs; points out that, when the case came to light in the year 2000, the Member States refused to disclose those findings to the Commission;
29. Notes with amazement that the German authorities have issued a recovery order for only EUR 141 737 against the firms concerned, which have now challenged that order, and that five years after the case came to light the Belgian and French public prosecutor's offices have not yet opened criminal proceedings;

⁽¹⁾ COM(2004)0489.

⁽²⁾ OJ L 145, 29.6.1995, p. 1.

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Measures to combat cigarette smuggling

30. Points out that in 2003, according to estimates drawn up by the Member States, cigarette smuggling cost the EU some EUR 200 million in own resources and that the total loss is in all probability very much greater;

31. Warmly welcomes, in this context, the agreement on combating cigarette smuggling concluded between the Commission (together with Belgium, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and Finland) and Philip Morris International (PMI); in that connection, applauds the successful way in which the Commission has cooperated with OLAF and welcomes the decisive operational support provided by OLAF's Task Force on combating cigarette smuggling; the agreement provides for measures to prevent cigarette smuggling in the long term and seeks to settle the disputes between the Community and the undertaking; in addition, over a 12-year period PMI will pay a sum of roughly US \$1 250 000 000 to the Community and the Member States; calls on the Member States and the Commission to use these payments to fund measures to prevent and combat cigarette smuggling, including anti-counterfeiting activities; calls on the Commission to make proposals on the use of a substantial part of these revenues, and if necessary to present a preliminary draft amending budget and proposals for a legal basis;

32. Welcomes the fact that Ireland, Malta and Austria, have also joined the agreement; calls on all the remaining Member States to join the agreement; calls on the Commission to seek to conclude similar agreements with other cigarette manufacturers; Member States themselves should refrain from negotiating their own agreements with manufacturers, given that the Commission has greater freedom to negotiate;

33. Warns that rising duties on cigarettes may prompt consumers to change their behaviour (e.g. by switching to cheap products) and that high tobacco tax rates offer an additional incentive for criminal actions (e.g. smuggling or counterfeiting);

34. Notes that illegal small-scale trading (above all in counterfeit cigarettes) is on the increase and is very difficult to combat;

35. Points out that the routes used by cigarette smugglers may equally well be used by people smuggling drugs and other items or substances;

36. Warns that the difference in cigarette prices between the old and new Member States makes smuggling attractive, particularly as, although transitional arrangements in the form of quantitative restrictions have been laid down to govern imports of tobacco products by private individuals travelling from the new to the old Member States, persons and vehicles are now subject only to spot checks;

37. Regards it as essential, therefore, that administrative assistance procedures and exchanges of information among the competent authorities in the Member States and worldwide should be further improved; in addition, staff shortages in customs investigating services should be remedied and customs offices should be provided with more mobile units, arrangements which the Member States could finance using monies obtained under the agreement with PMI;

38. Notes with regret that Member State agencies do not pass on to OLAF the information they obtain concerning counterfeit cigarettes and smuggling activities via key smuggling centres (e.g. south-east Asia); calls on the Member States to examine, on the basis of Article 280 of the Treaty, how such information can be made accessible to OLAF on the basis of administrative cooperation; asks the Court of Auditors for a prompt opinion on the proposal for improvements to administrative cooperation between OLAF and the Member States; asks it to examine, in that connection, whether it might be helpful to set up OLAF branch offices to monitor key smuggling centres;

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39. Points out that the experience gained thus far with JCOs (Joint Customs Operations) has clearly illustrated the advantages of more effective cooperation between the services of the Member States; urges that this cooperation should be placed on a more permanent footing, in the form of standing task force groups, and that Europol should be more closely involved in the fight against this form of international organised crime;

40. Calls furthermore on the Commission to consider extending the terms of reference of the EU agency for the management of operational cooperation at external borders to include the sphere of customs investigations;

Cooperation with Switzerland

41. Welcomes the conclusion of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to counter fraud ⁽¹⁾; congratulates all those, including OLAF, who were involved in drawing up the Agreement; the provisions of that Agreement cover many of the aspects dealt with in the Second Protocol to the Agreement on the protection of the Communities' financial interests, in particular those governing administrative assistance, searches, seizures, and recovery; expresses its incomprehension at the fact that this protocol, which dates from 1997, has still not been ratified by three of the old Member States, namely Italy, Luxembourg and Austria;

42. Calls on the Czech Republic, Cyprus, Latvia, Hungary, Malta, Poland and Slovenia to follow the lead given by Estonia (3 February 2005), Lithuania (28 May 2004) and Slovakia (30 September 2004) and ratify the above-mentioned protocol promptly;

43. Urges, in that connection, the prompt adoption of the Commission proposal for a European Parliament and Council regulation on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities ⁽²⁾;

Delegation to private firms of missions of the European public service

44. Points out that, in response to various affairs in which private Commission contractors, in some cases with the knowledge and approval of the officials responsible, had misappropriated funds and manipulated contract award procedures (ECHO affair, MED affair), as long ago as late 1998 the following provision was incorporated into the Financial Regulation: 'The Commission and other institutions may not, under any form or upon any basis whatsoever, delegate to outside entities or organisations tasks of implementing the budget which may give rise to missions on the part of the European public service, especially where powers to enter into public contracts are involved' ⁽³⁾;

45. Regards it as unacceptable that in November 1999 the Commission should nevertheless have adopted rules governing service, supply and works contracts in the context of cooperation to assist third countries which authorised the use of so-called procurement agencies, which then organised tender procedures, signed contracts and made payments to final recipients;

46. Looks to the Commission to submit, by 1 September 2005, a list of all the contracts concluded since 2000 with such procurement agencies; that list should also contain details of the duration of the contracts, the award procedures and the level of the payments involved;

Priorities and prospects for OLAF's work

47. Points out that the subsidiarity principle also applies to OLAF, i.e. the requirement to concentrate on those areas in which the services of the Member States have no competence or are failing to make adequate efforts;

⁽¹⁾ COM(2004)0559.

⁽²⁾ COM(2004)0509.

⁽³⁾ OJ L 320, 28.11.1998, p. 1; see also OJ L 248, 16.9.2002, p. 1, Articles 54(1) and 57(1).

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48. Emphasises once again, against this background, and setting aside action by OLAF, in keeping with the subsidiarity principle, in other operational sectors, the priority which must be given to investigations within the institutions and in connection with expenditure directly administered by the Commission;

49. Points out that Article III-274 of the Treaty establishing a Constitution for Europe stipulates that a European Public Prosecutor's Office from Eurojust may be established in order to combat crimes affecting the financial interests of the Union;

50. Emphasises that this prospect must be taken into account in the debate on the further development of OLAF; expects the Commission and the Council to submit, before 31 December 2005, concrete proposals concerning OLAF's future role with respect to the European Public Prosecutor and Eurojust;

OLAF investigations and the protection of fundamental freedoms

51. Draws attention to Recital 10 of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽¹⁾ ('the OLAF Regulation'), which states that OLAF investigations must be conducted with full respect for human rights and fundamental freedoms;

52. Calls on the Commission and OLAF fully to respect the freedom of the press as guaranteed by law in the Member States and by Article 10 of the European Convention on Human Rights and the relevant case-law of the European Court of Human Rights on the protection of journalists' sources;

53. Notes with concern the view expressed by the OLAF Supervisory Committee that OLAF's current, self-imposed procedural rules governing investigations (OLAF Manual) may not be sufficient to safeguard the rights of persons under investigation by OLAF and that the admissibility as evidence of the findings of investigations may be called into question; calls on the Commission, therefore, as part of the forthcoming OLAF reform to put forward corresponding legislative proposals which dispel these doubts and guarantee both legal certainty and legal protection;

OLAF and the Ombudsman

54. Emphasises the importance of the work of the Court of Justice in enforcing and interpreting Community law and by virtue of its judicial functions under Article 255 of the Treaty, and of the work of the Ombudsman in identifying and dealing with cases of maladministration in the work of the Community institutions or bodies;

55. Notes the statement made by the OLAF Director-General on 8 March 2005 to the effect that in procedure 2485/2004/GG OLAF is unable to comply with the draft recommendation issued by the Ombudsman and concede that in its submissions to the Ombudsman in connection with his investigations of complaint 1840/2002/GG it made inaccurate and misleading statements to him;

56. Looks to the Commission, in the light of the Ombudsman's special report of 12 May 2005 and Parliament's as yet unissued response to that report, to take whatever steps are required, if appropriate, to call those responsible to account and restore OLAF's credibility;

Procedure for appointing the Director-General of OLAF

57. Welcomes the Commission's decision to fill the post of Director-General of OLAF following a public call for applications in the Official Journal, so that a genuine and credible selection process can take place with a view to endowing the Director-General with a valid mandate and sufficient credibility;

⁽¹⁾ OJ L 136, 31.5.1999, p. 1.

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58. Notes the Commission's decision, taken at its 1691st meeting on 22 February 2005, to give the current Director-General responsibility for conducting routine business until the new appointment is made;
59. Takes the view that the Commission would have been better advised to appoint, by agreement with Parliament and the Council, an interim Director whose freedom of action would not have been restricted; is of the opinion that provisions for appointing an interim Director must be added to the OLAF regulation;
60. Points out that in paragraph 55 of its resolution of 4 December 2003 on the Commission report on the evaluation of the activities of the European Anti-Fraud Office (OLAF) ⁽¹⁾ it called for the post of OLAF Director-General to be advertised promptly and that responsibility for the delay which has now occurred lies solely with the Commission, which waited far too long before initiating the requisite procedures;
61. Regards it now as particularly important that no further unnecessary delays should occur and that a decision on the new appointment should be taken as soon as possible;
62. Emphasises that pursuant to Article 12 of the OLAF Regulation, the Commission can draw up the list of suitably qualified candidates only after the OLAF Supervisory Committee has given a favourable opinion, i.e. that the Supervisory Committee must be given the opportunity to consider and assess all the applications before, on that basis, the Commission draws up the list of suitable candidates;
63. Emphasises that the Commission appoints the OLAF Director-General by agreement with Parliament and the Council, i.e. that a consensus must be secured; points out that this arrangement was laid down on the grounds that the far-reaching powers enjoyed by the OLAF Director-General (initiation and conclusion of investigations, forwarding of information to national judicial authorities) cover not only Members and employees of the Commission, but also Parliament, the Council and the Community's other institutions and bodies;
64. Looks to the institutions involved to attach equal importance to neutrality, transparency and fairness when taking the decision on the appointment of the new OLAF Director-General in order to prevent any recurrence of the problems which affected the first appointment procedure ⁽²⁾;

Report and opinions of the Court of Auditors

65. Expects the long-awaited special report of the Court of Auditors to be available in good time for its findings to be taken into account at the hearings of the candidates for the post of Director-General;
66. Calls on the Court of Auditors, in its opinions on the legislative proposals which have now been submitted pursuant to Article 280 of the EC Treaty, to pay particular attention to the following questions;
- how can OLAF's independent investigatory role be strengthened?
 - can the relevant provisions laying down OLAF's investigatory powers be consolidated in a single legal text?

Follow-up to remarks and calls from previous years

67. Calls on OLAF to resume the dialogue, which began in November 2004, on what information Parliament can have access to in connection with its work, with a view to finding a way of respecting Parliament's supervisory powers and, at the same time, guaranteeing the confidentiality of OLAF investigations;

⁽¹⁾ OJ C 89 E, 14.4.2004, p. 153.

⁽²⁾ Emphasises that steps must be taken to avoid any repeat of the situation which arose in 1999 when doubts were expressed regarding the fairness of the procedure and a candidate withdrew his application after the Secretary-General of the Commission had praised certain other candidates ahead of the appointment procedure.

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68. Notes that during the period covered by the OLAF report the Eurostat Task Force dealt with 14 cases, four external and 10 internal investigations, of which nine had not yet been completed in June 2004; five sets of findings have been forwarded to the Luxembourg and French criminal justice authorities, as appropriate; looks to the Commission and OLAF to submit a progress report by 1 October 2005 at the latest;
69. Notes that, according to a court ruling, employment arrangements at the Commission Representation in Vienna breached current Austrian labour and social welfare law; asks what findings the OLAF investigation has brought to light and what measures the Commission has taken; asks, further, what costs the Commission has already incurred as a result of losing these labour tribunal cases and being required to pay outstanding social security contributions; asks, finally, what further costs might still be generated;
70. Expresses its satisfaction with developments in some Member States, such as the adoption of new regulatory provisions imposing penalties in the event of irregularities;
71. Notes that the likely misuse of funds from the Leonardo da Vinci Programme has been investigated ⁽¹⁾ and that the relevant documents have been handed over to the Romanian criminal justice authorities;
72. Notes that the export of live cattle to Lebanon ⁽²⁾ has in the past given rise to the misuse of export refunds and that Germany, France and Austria have issued recovery orders;
73. Regrets the fact that the Commission has thus far failed to draw up a survey giving the names of the international consultancies which have worked for the Commission in the areas of direct and indirect expenditure ⁽³⁾; looks to the Commission to provide it with such a survey by 1 July 2005;
74. Reminds the Commission that it has been asked to submit to Parliament a communication in which it considers how the various legal instruments governing OLAF investigations could be combined to form a joint legal framework ⁽⁴⁾;
75. Notes with concern press reports claiming that OLAF has established that in-house mismanagement at the Commission in connection with the renovation of the Berlaymont Building has resulted in an alleged loss to the budget of up to EUR 180 million; calls on OLAF to clarify the exact position; looks to the Commission to give details by 1 September 2005 of the action it has taken on the basis of the relevant OLAF report;
76. Is disappointed at the Commission's negative reaction to paragraph 123 in the 2002 Commission discharge resolution of 21 April 2004 ⁽⁵⁾, which states '... that the Commission allows goods which have been incorrectly or falsely declared to be regarded as not being involved in the transit procedure, with the result that the guarantee cannot be reclaimed, that the papers have to be sent back to the country of entry into the EU, and that the campaign to combat fraud is impeded; ...'; calls again on the Commission to put an immediate end to this practice and to propose an appropriate amendment to the Customs Code;
77. Is of the opinion that it is the task of the Committee on Budgetary Control to monitor the Union's expenditure and that it should be able to determine whether payments are made in accordance with the financial regulations and to set political aims; therefore recommends that the Bureau authorise that Committee to send small delegations of its members on fact-finding missions even where, in duly justified cases, those missions are required to travel outside the Union's territory;

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78. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the Court of Auditors, the OLAF Supervisory Committee and OLAF.

⁽¹⁾ See paragraphs 13 and 14 of its above-mentioned resolution of 30 March 2004.

⁽²⁾ See paragraph 23 et seq. of its above-mentioned resolution of 30 March 2004.

⁽³⁾ See paragraph 52 of its above-mentioned resolution of 30 March 2004.

⁽⁴⁾ See paragraph 41 of its above-mentioned resolution of 30 March 2004.

⁽⁵⁾ OJ L 330, 4.11.2004, p. 82.