
VISITING EXPERTS' PAPERS

FIGHTING FRAUD AND CORRUPTION: HOW THE EUROPEAN UNION PROTECTS ITS PUBLIC FUNDS

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I. INTRODUCTION

The Millennium Development Goals which have been agreed among the world's leading development institutions set very ambitious targets and challenges for the international donor community, to be achieved by the year 2015. The European Union, as one of the key players in the field of external aid, is actively participating in this unprecedented effort to meet the needs of the world's poorest peoples by stimulating, supporting and financing numerous development projects. This constantly growing development effort, which aims to distribute the development funds coherently, transparently and in the most effective way, aggravates at the same time the risk of fraud and irregularities, since in parallel the number of payments of development aid is also steadily rising.

The European Anti-Fraud Office, OLAF, was created with the aim of helping the European institutions fight fraud and financial irregularities, which also occur with funds paid out as development assistance. At the same time, one of its major tasks is to ensure that the contributions made by the Member States in the framework of the European Union's development assistance are properly spent. OLAF plays an active role in the field of administrative investigations, and in performing its investigations it co-operates with the Member States concerned. Moreover, in the field of external aid, it requests the assistance of and seeks to enhance its co-operation with multiple actors, including the international donors, auditors, international investigative bodies and authorities of the states benefiting from the EU's external aid.

Aware of the complexity of development assistance policies and based on its operational experience, OLAF acknowledges the problems resulting from different legal systems in the beneficiary countries and the difficulties generated by insufficient collaboration between the investigative services of the countries concerned. Last but not least, OLAF emphasizes the urgent need for enhanced co-operation between the donor institutions, in order to exchange data, share know-how (i.e. regarding observed and discovered *modi operandi*) and put strong emphasis on training and mutual, joint co-operation.

This article will present OLAF's overall structure, legal basis, competencies and operational network, and will also give an insight into day-to-day investigative activities. Given that our team performs investigations in the external aid field we will try to present an outline of its activities and challenges in the field of development and humanitarian aid as well as to indicate the problems that OLAF is currently facing in investigations in this area.

We hope that this article will make a modest contribution to the task in hand and serve as an invitation to co-operate with the European Union departments in the fight against fraud in the field of development and humanitarian aid.

II. OLAF'S MISSION

From the moment of its creation on 1 June 1999, OLAF was given a hybrid status. It is formally part of the European Commission, enabling it to exercise Commission powers, but it enjoys budgetary and administrative autonomy, designed to make it operationally independent. Its mission is to protect the financial and other interests of the Community against fraud and irregular conduct liable to result in administrative or criminal

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proceedings. To that end, the Office exercises in complete independence the powers of investigation conferred on the Commission by Community legislation. It conducts administrative investigations.

EU Regulation 1073/99 provides that OLAF is to exercise the powers conferred on the Commission in order to step up the fight against fraud, corruption and any other illegal activities detrimental to the Communities' financial interests. This remit covers all Community revenues and expenditures. It includes the general budget, budgets administered by the Communities or on their behalf and certain funds not covered by the budget, administered by the Community agencies for their own account. It also extends to all measures affecting or liable to affect the Communities' assets. Finally, it covers other, non-financial interests.¹

A. OLAF's Powers and Tasks

OLAF's core activity is performing administrative investigations; it conducts internal and external administrative investigations, as defined in Article 2 of Regulation 1073/99. It may also perform its co-ordination and assistance tasks by conducting criminal assistance cases, co-ordination cases, and monitoring cases. Moreover, OLAF assigns priority to developing effective co-operation with the Member States, making them more aware of their responsibilities and encouraging them to develop their own controls for combating fraud. It offers them assistance in conducting investigations by providing them with information gathered at Community level and co-ordinates the operational activities of the national authorities in transnational cases. It maintains direct contact with national judicial, law-enforcement and administrative authorities. OLAF has established the Anti-Fraud Information System (AFIS), a secure network for corresponding with the Member States and providing mutual assistance. Co-ordination is also facilitated by the Advisory Committee for the Co-ordination of Fraud Prevention (COCOLAF). Regarding intelligence, OLAF provides support at both Member State and Community level. It provides assistance with respect to specific operations and strategic analysis and risk assessment in order to target resources at the area of greatest risk.²

In addition, OLAF has started entering into what are referred to as "co-operation agreements" with other international investigation services, such as the Integrity Department of the World Bank, but also with authorities in non-EU countries that have responsibility for controlling/monitoring/auditing/investigating financial crime and incoming donor funds.

B. Staffing of OLAF

The Director-General of OLAF exercises the functions of appointing authority (AIPN) under the Staff Regulations of officials of the European Communities, and of the authority authorized to conclude contracts of employment under the conditions of employment of other servants. OLAF staff comprise Commission employees who are subject to the Staff Regulations and other general rules applicable to Commission staff. In mid-2007, there were approximately 420 persons employed at OLAF, of whom nearly 120 were employed as investigators working in diverse fields of EU expenditure.

OLAF is divided into four Directorates: Directorates A and B perform operational and investigative activities, Directorate C is charged with intelligence and follow-up of OLAF investigations (disciplinary, financial, judicial and administrative), and Directorate D incorporates conceptualization of the policy work, preparation of anti-fraud legislation and provision of logistical support to other units of OLAF. Many of the investigators and other OLAF employees are former prosecutors, judges, police investigative officers, tax inspectors, auditors or representatives of other anti-fraud investigative or supervisory organizations from the Member States. Contrary to other Commission DGs, where usually permanent officials are in the majority, many OLAF colleagues work on a temporary basis: as temporary agents, contract staff or seconded national experts. This situation is due to the very specific tasks performed by the investigators and the qualifications required, which cannot be easily found among regular EC staff. Nevertheless, a trend can currently be observed whereby the investigative experience of OLAF colleagues is being retained in-house, and simultaneously the number of the permanent OLAF staff is steadily growing.

¹ OLAF Manual, p. 13.

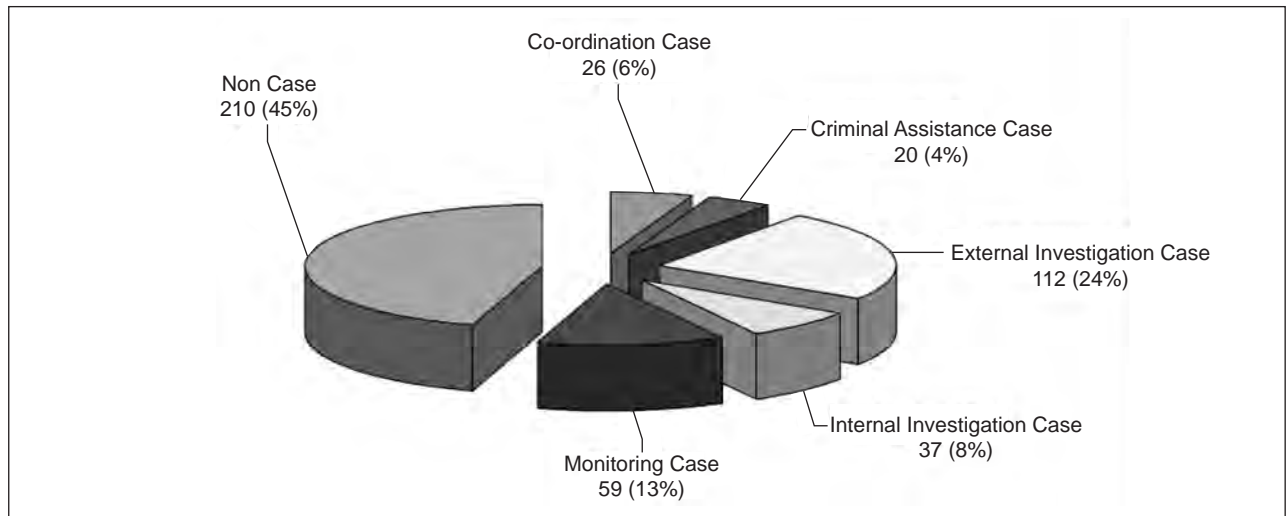
² OLAF Manual, p. 16.

III. TYPES OF OLAF CASES, FIELDS OF INVESTIGATION AND OPERATIONS IN WHICH OLAF IS ACTIVE

As already explained above, OLAF undertakes investigations when it discovers that the financial interests of the EU are endangered. OLAF classifies its cases under four administrative categories: internal investigations, external investigations, co-ordination cases and criminal assistance cases. If the recommendation is not to open a case, the matter should be classified in one of three categories: monitoring cases, non-cases, and prima facie non-cases.³

As shown below (Fig. 1), much of the information received by OLAF is classed within the category of non-cases (45%), whereas decisions to open, for instance, an external investigation account for 24% of the decisions undertaken.

Figure 1: Decisions taken in 2006⁴



A. Internal Investigations

Internal investigations are administrative investigations within the Community bodies for the purpose of detecting fraud, corruption or any other illegal activity affecting the financial interests of the European Communities. Additionally, internal investigations cover serious matters relating to the discharge of professional duties that constitute a dereliction of the obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies, or members of staff, liable to result in disciplinary or criminal proceedings. (Individuals who work inside Community bodies but are not subject to the Staff Regulations, such as temporary agency staff, cannot be the subject of an internal investigation.) Units A1 and A2 are in charge of internal investigations. In addition, Unit A2 has a special assignment to deal with most cases related to financing by the European Investment Bank (EIB).

B. External Investigations

External investigations are administrative investigations outside the Community bodies for the purpose of detecting fraud or other irregular conduct by natural or legal persons. They may be carried out under either horizontal or sectoral legislation. Such cases are classified as external investigations where OLAF provides most of the investigative input.

There are various ways in which OLAF can undertake its anti-fraud activities. As it cannot carry out preventive checks on EU-funded projects on its own initiative, OLAF has to start looking into a matter in response to information or allegations indicating the possible existence of a serious irregularity or fraud.

This kind of information can be received by OLAF in various ways: it can for example reach OLAF in the

³ OLAF Manual, p. 75.

⁴ OLAF Seventh Activity Report, http://ec.europa.eu/anti_fraud/reports/olaf/2006/summary_en.pdf.

form of a letter or an e-mail from a concerned citizen or anonymous informant. Sometimes it can come from a whistleblower working in one of the EU institutions or agencies. It can furthermore be information discovered by the media, or simply any information picked up by OLAF in the course of its duties. It should be stressed that information indicating serious irregularities in the field of external aid is often discovered primarily by other Commission bodies, i.e. EuropeAid (AIDCO) or an EU Delegation in the country concerned, which manages the project and maintains contact with the beneficiary. In such cases EuropeAid or the EU Delegation forwards information once it becomes aware of the irregularities during the implementation of the project (for example serious irregularities or mismanagement that comes to light thanks to the audits performed). Apart from audit results, there are other symptoms indicating that there is a serious problem with the funding disbursed. The EU as a contracting authority can also encounter problems with communication and interim or final reports which should prove that the activity financed by the EU has taken place. Cases of NGOs that fail to submit any data or report after having received funding, by simply “vanishing into thin air”, are also referred to OLAF. It is worth mentioning that there is also a special telephone number in every EU Member State, called the “OLAF Freephone”, which allows EU citizens to report fraud to the Commission departments.

Once an allegation is received by OLAF, the information is registered and then forwarded to the competent investigation unit. The Head of Unit appoints one or two evaluators who are from then on responsible for evaluating and presenting an assessment of the initial information. During the assessment phase, which initially lasts two months (but can be extended if necessary), the evaluators undertake various activities, one of the most important of which is checking whether EU finances are concerned. Subsequently, they communicate with the source of the information in order to verify the facts and obtain any clarifications that are needed and at the same time request the files concerning the projects in question from the EU bodies managing and supervising them (AIDCO, ECHO, EU Delegations). In some specific cases, the evaluator also contacts the OLAF Intelligence Unit in order to request background, supplementary information and data analysis from the operational intelligence analysts.

Once the evaluator has gathered all the necessary information related to the allegation and project in question, he or she proceeds to draft the initial assessment. In this internal OLAF document the evaluator describes the allegation, assesses its importance and financial impact, gauges the reliability of the source, and puts forward a proposal as to whether or not an investigation should be opened. Where opening of an investigation is proposed, the evaluator also presents a workplan setting out the steps to be taken in the future investigation, the legal basis applicable, and suggestions for the staffing of the investigation team.

The assessment of the initial information is discussed and appraised by the OLAF Board, which makes recommendations to the Director, who decides whether or not to open an external investigation.

1. Types of External Investigation

The Directorates for Investigations and Operations (Directorates A and B) are responsible for carrying out investigations and other operational tasks at OLAF. They are headed by Directors, who, in addition to their standard managerial roles, also chair the weekly meetings of the Executive Board. The Directorates are organized according to a flexible arrangement in which the teams (within the EU institutions referred to as “units”) are in charge of specific areas of investigative and operational activity. Within the team structure, Heads of Unit (HoUs) are responsible for ensuring the quality and effectiveness of work carried out under their authority by teams or individuals. A Head of Unit may also carry out other activities, or manage such activities, if empowered to do so by senior management. Heads of Unit may appoint Heads of Operations to assist them in their operational work and represent them as required. While they may at times be required to carry out some managerial tasks, Heads of Operations are essentially investigators and continue to handle their own casework.

The main role of investigators is to conduct investigations and other operational activities on behalf of OLAF and under the responsibility of the Heads of Unit. Investigators carry out the work provided for in the case workplan in accordance with the applicable rules and regulations, including the receipt and assessment of information, investigation activities, make contact at appropriate level with relevant authorities and the preparation of notes and reports. They also make recommendations as to follow-up, lessons learned and fraud-proofing.

An overview of the investigative and operational units, broken down by the field of activities related to the part of the EU budget concerned with their investigations, is presented below.

(i) Direct Expenditure

Unit A.3 is responsible for investigations and operational activities in relation to direct expenditure and external *Phare* and *Tacis* aid (enlargement cases and financial aid to the former Soviet republics). The activity of the Unit is divided approximately equally between these two areas.

Cases in the external *Phare* and *Tacis* aid sector are allocated on the basis of specified geographic areas. This is designed to ensure that expertise is developed in the specific geographic area, a consistent approach is taken, contacts and information flow are facilitated and working priorities and investigation strategies are established.

(ii) External Aid

Unit A.4 is responsible for investigations and operational activities in relation to external aid except *Phare* and *Tacis*. Its activities include investigations relating to EU humanitarian and development aid to non-EU countries (Asia, including the Middle East, Africa, Latin America, and the Pacific). Such aid may fall prey to complex and well organized financial fraud, facilitated by the large number of public and other institutional donors, the lack of co-ordination in their planning, monitoring and auditing activities, and complexity in their accounting and reporting. The investigators working in this unit possess extensive knowledge in the field of external aid funds and development financial mechanisms, as well as a good command of several languages; moreover, they spend approximately 60 days per year performing missions and on-the-spot checks in the countries concerned. Since the aim of this article is to present the activities of OLAF in the field of external aid, these matters will be discussed in detail in part IV, below.

(iii) Structural Funds

OLAF's Unit B.4 is responsible for investigations and operational activities in relation to "structural actions", for which management is shared with the national authorities in Member States. The Funds concerned are:

- the European Regional Development Fund (ERDF);
- the European Social Fund (ESF);
- the Financial Instrument for Fisheries Guidance (FIFG);
- the Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF — Guidance);
- the Cohesion Fund.

The main responsibilities for managing and monitoring structural funds expenditures remain with the Member States. When allegations of serious irregularities or fraud are brought to OLAF's knowledge, the Office may, after careful assessment, decide to intervene. Unit B.4 works closely with the Commission departments performing checks on the systems established by the Member States to comply with the principles of sound financial management (DG REGIO, DG EMPL, DG AGRI, DG FISH), as well as with the management and supervisory authorities in the Member States.

(iv) Agriculture

Unit B.1 is responsible for investigations and operational activities in relation to:

- application of the agricultural legislation and all activity in the framework of the common organization of agricultural markets with implications for the EU budget (agricultural trade as well as agricultural aid and subsidies). Agricultural trade cases concern import activities (related to the payment of customs duties) and/or export operations (involving customs activities and financial responsibility in the area of export refunds);
- the application of customs legislation concerning specified products;
- food aid for non-EU countries;
- application of the Washington Convention (CITES);
- public and animal health matters.

(v) Customs

Units B.2 and B.3 are responsible for investigations and operational activities, undertaken in co-ordination with partners in the Member States and non-EU countries, to combat fraud in the areas of customs, cigarettes, VAT, alcoholic beverages, mineral oils and the diversion of precursor chemicals. The customs investigations shared by the two units tackle fraud relating to:

- customs and precursors: all types of customs fraud related to industrial products, textile products and fish, including smuggling, false declaration of goods or value, false declaration of origin, and evasion of anti-dumping duties. These units are also responsible for combating attempts to obtain illegal supplies of precursor chemicals;
- cigarettes and alcohol: smuggling, diversion and counterfeiting of these products;
- VAT and mineral oils: international VAT carousel fraud and other intra-Community VAT fraud. Units B.2 and B.3 also provide assistance in combating the smuggling, mis-description and diversion of mineral oils.

Where the OLAF Board decides not to open either an external or an internal investigation, it can decide to deal with the matter in one of the following ways:

(a) Co-ordination Cases

Co-ordination cases are cases that could be the subject of an external investigation, but cases in which OLAF's role is to contribute to investigations being carried out by another national or Community body by, among other things, facilitating the gathering and exchange of information and ensuring operational synergy among the relevant national and Community departments; the main investigative input is provided by other authorities. OLAF's role includes facilitating contacts and encouraging the responsible authorities to work together.

(b) Criminal Assistance Cases

Criminal assistance cases are cases within the legal competence of OLAF in which the competent authorities of a Member State, candidate country or non-EU country carry out a criminal investigation and request OLAF's assistance or OLAF offers its assistance.

C. Monitoring Cases, Non-Cases and Prima Facie Non-Cases

1. Monitoring Cases

These are cases where OLAF would be competent to conduct an external investigation, but in which a Member State or other authority is in a better position to do so (and is usually already doing so). Monitoring cases are passed directly to the authority deemed competent to handle them. No OLAF investigation resources are required, but, as the interests of the EU are at stake, OLAF will follow up the case, via the appropriate follow-up unit.

2. Non-Cases

A matter is classified as a non-case where there is no need for OLAF to take any investigation, co-ordination, assistance or monitoring action. Non-cases result from assessments that conclude that EU interests appear not to be at risk from irregular activity, or other relevant factors indicate that no case should be opened. This would occur, for example, if only one Member State is concerned, and is already dealing with a matter in a satisfactory manner or where an irregularity observed does not have any impact on the finances of the EU. This process may result in the transmission to Member States of information about possible offences not related to the protection of EU interests.

3. Prima Facie Non-Cases

This is where information is received which clearly and unequivocally does not fall within the competence of OLAF, and the responsible Head of Unit proposes not to refer the information for assessment.⁵

D. Sanctioning and Recommendations Resulting from OLAF Actions

OLAF has no powers to impose sanctions. At the closure of an investigation, and even in the course of an

⁵ OLAF Manual, p. 75.

investigation, OLAF can make recommendations, based on its findings, to those authorities that have the necessary powers to impose sanctions. These recommendations may be of a financial nature (e.g. a recommendation to recover funds), administrative (i.e. a recommendation to improve contractual provisions or legislation, a recommendation to change and improve distribution of the funds or a suggestion as to how to improve overall control and effectiveness), disciplinary (i.e. a recommendation to the competent EU body that a disciplinary procedure be launched against a staff member), or judicial (e.g. a recommendation to transmit the relevant facts to a judicial/law-enforcement service in a Member State or non-EU country with a view to launching criminal proceedings against individuals or companies).

IV. OLAF AND EXTERNAL AID INVESTIGATIONS

A. Introduction: Importance of EU Development and Humanitarian Aid

By providing almost 10 billion euros worth of aid each year, the EC is one of the most important players in the field of development and humanitarian aid. Moreover, Europe has expressed a strong commitment to increase and strengthen its involvement in the years ahead.

Whereas in the past aid was often project-based, the future will see a move towards targeted and non-targeted budget assistance for the countries concerned.

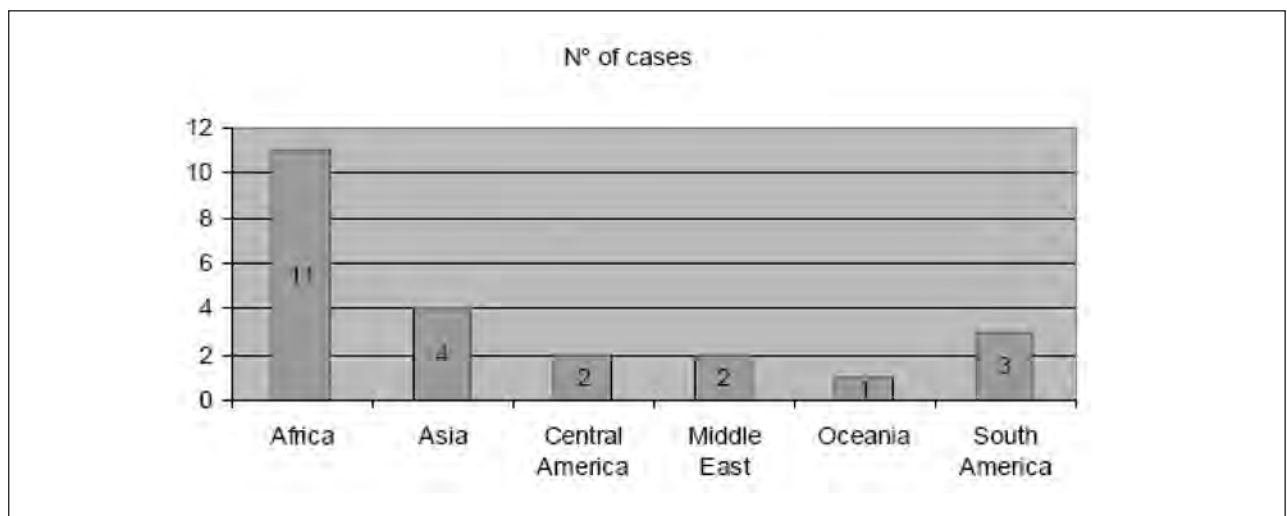
The aid is channelled via a variety of financial instruments, including the financing of charities, associations and NGOs, financing via other international donors like the UN or the World Bank, or as budget aid: directly to the country concerned.

While at the beginning of 2000 only a very few cases were reported to OLAF, we currently have a case-load of some 58 ongoing investigations and 46 initial assessments of information, covering all developing regions and countries receiving aid funds from the EU.

In view of this situation, OLAF is reinforcing its contacts with the EU bodies concerned, especially EuropeAid, but also with the monitoring bodies of other major donors. These may be agencies in Member States, non-EU countries, or other international institutions.

It is indeed our belief, based on experience, that only by working together will we be able to tackle major fraud in this area. To be an investigator in the field of development and humanitarian aid requires substantial financial investigative training and experience. Such an investigator also needs to have intuitive, communication and diplomatic skills allowing him or her to discuss very sensitive issues and to facilitate discussions at technical level but very often at the highest political level too. Colleagues boasting these qualities are welcome to join us.

Figure 2: External aid cases opened in 2006 by geographic region⁶



⁶ Source: OLAF Seventh Activity Report, http://ec.europa.eu/anti_fraud/reports/olaf/2006/report_en.pdf.

B. Types of Financing Mechanisms

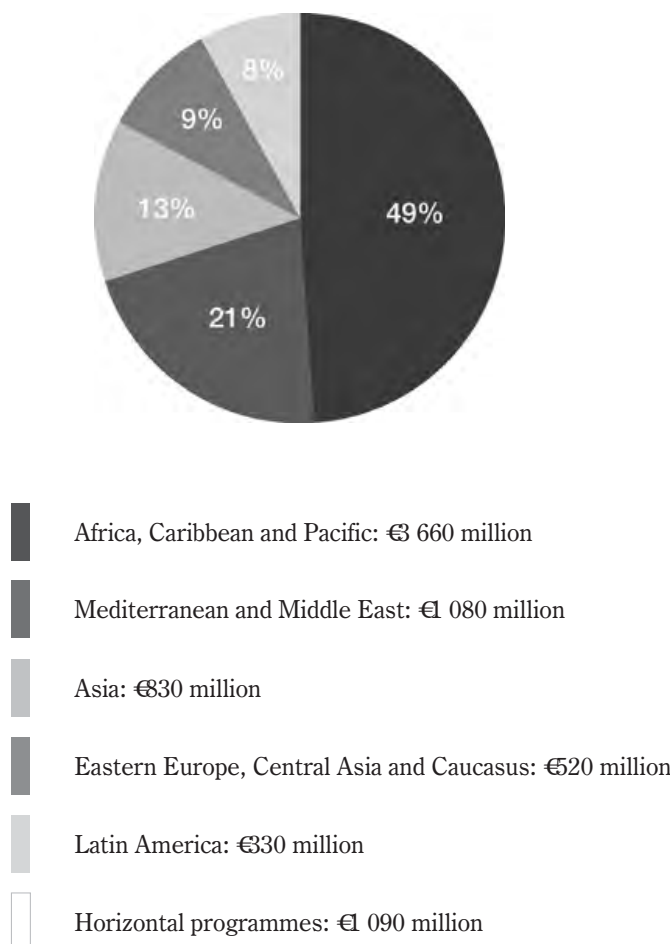
1. European Development Fund (EDF)

The European Development Fund (EDF), created by the Treaty of Rome in 1957, is the main instrument providing Community aid for development co-operation in the ACP (African, Caribbean and Pacific) States and Overseas Countries and Territories (OCT). The EDF is currently not under the Community’s general budget. Funded by the Member States, it is subject to its own financial rules and is managed by a specific committee. It consists of several instruments, including grants, risk capital and loans to the private sector. The ninth EDF has been allocated 13.5 billion euros for the period 2000-2007, and for the period 2008-2013 the aid granted to ACP States and OCTs will continue to be funded by the EDF.

Most of the current caseload of OLAF’s Unit A.4 relates to projects and bodies financed by the EDF, with a strong emphasis on ACP countries.

Figure 3: How much does each region get from the EU?

The EU, including Member States’ individual disbursements, contributes approximately €30 billion per year in external assistance. This accounts for over half of global development aid. In 2005, external assistance amounted to €10.4 billion. Of this, EuropeAid managed €7.5 billion. The geographic breakdown of the aid managed by EuropeAid is as follows:⁷



⁷ http://ec.europa.eu/europeaid/promotion/know/article_3958_en.htm.

2. Neighbourhood Policy and MEDA, ALA and other Financing Instruments

The MEDA programme is the principal financial instrument of the European Union for the implementation of the Euro-Mediterranean Partnership. The programme is conducted by DG EuropeAid and offers technical and financial support measures to accompany the reform of economic and social structures in the Mediterranean partner countries.

Examples of projects financed by MEDA are: structural adjustment programmes in Morocco, Tunisia and Jordan; the Syrian-Europe Business Centre; the social fund for employment creation in Egypt; rehabilitation of the public administration in Lebanon; rural development in Morocco.

Currently OLAF cases cover most of this region, including Syria, Lebanon, the Palestinian Territories, Israel, Tunisia, Algeria and Morocco.

3. European Investment Bank (EIB)

The European Investment Bank, the financing institution of the European Union, was created by the Treaty of Rome. The members of EIB are the Member States of the European Union, which have all subscribed to the Bank's capital. The EIB enjoys its own legal personality and financial autonomy within the Community system. The EIB's mission is to further the objectives of the European Union by providing long-term finance for specific capital projects in keeping with strict banking practice. As an institution of the EU, the EIB continuously adapts its activities to developments in Community policies. As a Bank, it works in close collaboration with the banking community both when borrowing on the capital markets and when financing capital projects. The EIB grants loans mainly from the proceeds of its borrowings, which, together with "own funds" (paid-in capital and reserves), constitute its "own resources". Outside the European Union, EIB financing operations are conducted principally from the Bank's own resources but also, under mandate, from the Union or Member States' budgetary resources.⁸

C. Legal Basis for OLAF's Operations and Investigations in the Field of External Aid

OLAF must always have a legal basis for opening an investigation. Community law empowers OLAF to conduct investigations and establishes its investigative powers. OLAF undertakes administrative investigations, rather than audits. Audits are checks on the regularity and sound application of the relevant legislative provisions with the objective of detecting any administrative malfunctioning or irregularities; in contrast, administrative investigations consist of more detailed inquiries with the objective of discovering facts or irregular behaviour liable to give rise to administrative or criminal proceedings against individuals or companies, and the recovery of money evaded or unduly obtained. Anomalies detected during a routine check or audit can give rise to the need for an investigation to be conducted by OLAF.

European Parliament and Council Regulation (EC) No 1073/1999 and Council Regulation (Euratom) No 1074/1999 confer on OLAF powers to perform internal investigations, as well as all of the Commission's powers to carry out external investigations. They require OLAF to conduct investigations with full respect for human rights and fundamental freedoms, including the principle of fairness, the rights of persons involved to express their views on the facts concerning them, and the principle that conclusions of an investigation may be based solely on elements that have evidential value. The Regulations stipulate that OLAF must exercise the powers of the Commission in order to step up the fight against fraud, corruption and any other illegal activities detrimental to the Communities' financial interests.

Other legislation applies, such as Council Regulation (Euratom, EC) No 2185/96, which empowers the Commission to conduct on-the-spot external investigations on the premises of economic operators (commercial companies, charities, associations, NGOs, etc.) that may have been involved in, or concerned by, an irregularity, when "there are reasons to think that irregularities have been committed" and when (1) the presumed irregularities involve economic operators acting in several Member States, (2) the situation in the Member State requires such a check to be strengthened in a case, or (3) a Member State so requests.

As far as expenditure in the field of external aid is concerned, the EC's rights to carry out checks are regulated by the financial agreements signed with the government of the country concerned. In the

⁸ <http://www.eib.org/about/the-eib,-the-eus-financing-institution.htm>.

framework of these agreements the National Authorising Officer (NAO) manages further distribution of the EU funds, which are part of the broader legal framework (ACP multilateral agreements, e.g. Lomé Convention). These provisions allowing OLAF checks are additionally described as part of the contract between the EC and the beneficiary. The abovementioned agreements and contracts provide for OLAF investigations and for the right of access to all files connected with the EU funding. Moreover, the beneficiary consents to keep documents available for EU verifications, for a certain period depending on the provisions of the contract (i.e. up to five years from the end-date of the activity).

D. OLAF's Investigative Action: On-the-Spot Checks, Interviews, Analysis, Satellite Imaging, etc.

Once an external investigation is opened, a team of investigators is assigned to the case. The following investigative steps can be undertaken:

1. Broad Intelligence Analysis

With help of OLAF intelligence analysts, checks can be performed in various databases, both internal to the EU institutions and external ones. OLAF has access to all Commission data with regard to financing and contracts. Currently OLAF is successfully using and further developing a search tool based on Commission sources and databases, which is constantly being improved and updated by the EC's Joint Research Centre (JRC) in Ispra. This useful tool allows us also to obtain information on other possible donors (from the open sources) that could have financially supported the same project. This method has already enabled us several times to uncover situations of double financing of projects by different donors.

2. Verifications with the Donor Agencies

Apart from the abovementioned method, if double financing is suspected OLAF contacts other donor agencies, foundations or governments and proposes that they cross-check information on financing disbursed for the activities of the beneficiary in question in order to determine whether a particular donor has financed an activity similar to or the same as the EU.

3. Satellite Imaging

Again thanks to co-operation with the JRC, investigators are able, when circumstances so require, to use satellite images, something which is especially useful when for example a number of direct beneficiaries need to be assessed (i.e. within the area of humanitarian aid) and the investigators want to scrutinize and examine the data provided to the EC.

4. Co-operation with Investigative Bodies in Member States and Non-EU Countries

Whenever possible OLAF seeks the co-operation of investigative bodies in the country concerned. This is especially vital and crucial in countries where civilization, cultural and linguistic barriers might seriously hamper the investigative process. Familiarity with and understanding of the local realities as well as knowledge of local criminal law prove to be indispensable assets on which OLAF can rely while co-operating with the authorities of the country concerned. In cases of parallel ongoing investigations in several countries, co-ordination of the investigative activities is often proposed, providing information for the law-enforcement agency/prosecutor body which is investigating the entity in question.

5. Co-operation with Auditors and Additional Audits

When an audit precedes the investigation, additional analysis and collaboration with the auditor who performed the audit is usually sought. Joint analysis of the findings by the investigators and auditors increases the effectiveness of the investigation as such. Additional or forensic audits can be also requested and they can be financed from OLAF's budget. When the OLAF investigation concludes that certain tenders were forged by using false bids, the auditors will be tasked to look into all contracts (often numbering several hundred) in order to check for the existence of fraud. In the framework of their investigation OLAF investigators can accompany the auditors while they perform their duties; such joint actions prove extremely effective thanks to the combined experience of the auditors and investigators.

6. On-the-Spot Checks

According to Regulation 2185/96 on OLAF's powers in the field of on-the-spot checks, OLAF investigators in co-operation with the authorities of the Member State can perform checks in the premises of the beneficiary or economic operator receiving EU funds. Such checks prove to be a very effective investigative

tool since they can allow the investigators to seize documents and hard disks and analyse paper and electronic data and other information related to the case involving the EU funds.

7. Other Direct Investigative Activities

These include interviews with different persons involved: informants, persons concerned, witnesses and any other person in possession of information or knowledge relevant to the case under investigation. Moreover, on the basis of the verification of the invoices and other financial documentation, visits to the companies which issued them can be carried out by the investigator in order to verify their reliability and validity.

It has to be stressed that OLAF's coercive powers, especially in non-EU countries, are fairly limited and cannot be compared to those enjoyed by the mainstream investigative bodies in the Member States. However, the fact that any lack of co-operation with OLAF investigations may eventually lead to freezing of EC financing and possibly recovery of funds prompts a rather high level of access and co-operation. Furthermore, as an administrative investigating body, OLAF is not bound by unwieldy mutual legal assistance arrangements, but can speak directly to government representatives and private partners. This facilitates and speeds up considerably OLAF's operations on the spot.

E. OLAF's Operational Networks

Not being bound by sometimes cumbersome arrangements for co-operation with law-enforcement bodies and judicial authorities, OLAF manages to build its own networks in the law-enforcement community in general.

The basic text creating OLAF provides for the possibility of direct contact with law-enforcement and justice officials, and OLAF therefore works closely on a daily basis with prosecution offices, investigating judges, police and customs bodies both in Member States and in non-EU countries.

Development agencies and foreign ministries in some Member States have identified, together with OLAF, the need for a joint rethink of what we do, what we can do better if we work together and how to find long-term solutions to problems. An informal group of interested partners will meet for the first time in autumn 2007 to launch a brainstorming exercise. OLAF has entered into co-operation agreements with Interpol, Europol and Eurojust and is a full member of the European Judicial Network (EJN).

What is less widely known is that, for several years now, there has been closer co-operation between what are called "international investigators". Investigative services of the UN, the World Bank, the EIB, the regional development banks and OLAF meet on a regular basis to improve co-operation both in the sharing of information and with regard to the creation of Joint Investigation Teams. OLAF recently took part in such a joint team with investigators from the UNDP in an African country and the experience was successful. An annual conference of international investigators looks into common subjects and potential solutions. Staff are exchanged between OLAF and the UN and World Bank. OLAF provides the permanent secretariat for this co-operation.

Looking at the challenges ahead, OLAF has started, in close co-operation with EuropeAid and the EIB, to build its own network of partners in Africa. With the co-operation of the Inspectorate General of Finance of Morocco, a meeting of attorney generals, presidents of Courts of Auditors, state inspectors and finance inspectors, as well as specialized anti-fraud bodies of 27 southern Mediterranean and sub-Sahara countries, took place for the first time in May 2007 in Morocco. These authorities have competence at national level for verifying, monitoring, auditing and investigating incoming donor money. This will be the start of a strong partnership between national administrative, law-enforcement and judicial bodies and OLAF. Networks of inspectors, such as the Association of State Inspections (FIGE), which currently represents ten African nations, as well as individual countries, will very soon enter into co-operation agreements with EuropeAid and OLAF, providing each other with the required mutual assistance in order to achieve successful optimization of public spending in those countries. OLAF and EuropeAid are committed to continuing this effort, already in spring 2008, with the other African nations. Subsequently, similar partnerships will be proposed to the countries of Latin America and Asia benefiting from EU development aid.

It is worth mentioning that several prosecution offices in Latin America have already signed or asked to

sign similar agreements with OLAF. Together with the anti-corruption prosecutors of Argentina, in November 2007 OLAF will host a regional conference for prosecutors.

F. Problems and Solutions

1. Multiple *Modi Operandi*: Double Funding and Need for Enhanced Donor Co-operation

There are some typical modus operandi encountered by OLAF investigators in certain cases in the field of external, development and humanitarian aid that display the features and characteristics of organized fraud. One of the biggest problems that make this fraud possible is the shortcomings in and sometimes total absence of co-ordination of grant award procedures, auditing, monitoring, evaluation and early warning systems between the different, global and international donor organizations. The abundance of different projects, programmes and beneficiaries combined with the large number of different legal environments and financial systems makes it a very challenging task to co-ordinate and supervise the donation and spending of the funds. Moreover, the fact that the same projects obtain financing from multiple sources creates a risk of abuse. Unfortunately, there are no standardized, universal and commonly approved ways of reporting or any stable verification systems that would prevent the donor organizations from over-funding the same activity.

OLAF will therefore engage actively in looking for long-term solutions with the aim of improving the exchange of information, enhancing co-ordination and adopting joint approaches to tackle all the problems.

2. On-the-Spot Checks in Non-EU Countries: Need for Administrative Co-operation with Countries Receiving EU Aid

One of the key problems that emerge when investigating fraud in non-EU countries (especially countries in more distant regions such as Africa) is the fact that the European Commission, and OLAF in particular, are not very well known. This might cause difficulties for performing on-the-spot checks. The EU inspectors perform the checks at the premises of the beneficiaries according to the contractual provisions and the clauses included in the financial agreements. However, as experience has shown in the past, these checks are not fully effective unless performed in close co-operation with the authorities of the beneficiary country. In order to overcome this problem it is necessary to establish a network of operational relations (the current co-operation in investigations and controls with the Moroccan authorities serves as a perfect example). This process is currently ongoing and considerable results have already been achieved so far, mainly thanks to the three international conferences devoted to fraud involving aid funds held in recent years.

3. Administrative Issues

OLAF A.4, as a unit dealing with investigations into external aid funds, is situated at the centre of a very complex institutional environment. Interacting on a daily basis with several EU bodies (AIDCO, ECHO, Delegations, RELEX, Cabinets), the authorities of Member States and non-member countries, beneficiaries of development aid, donor agencies, diplomatic representations and other investigative bodies, OLAF is well placed to co-ordinate its administrative investigations. Alas, the fact that there are so many actors involved often risks causing considerable delays that would slow down the pace of the investigation. To that end, it should be stressed that the OLAF team dealing with external aid handles an impressive amount of investigative work (58 active investigations and 46 evaluations). These figures are even more remarkable when it is borne in mind that this team's investigative activities (including missions and on-the-spot checks) cover Africa, South America, Oceania, Asia and the Middle East. In order to improve this situation certain measures concerning staffing have already been implemented.

Another important issue is the need for OLAF to explain and provide information on its activities and competences to other colleagues within the European institutions in order to ensure proper and effective co-operation in the framework of investigations already at internal level. This is why OLAF also actively participates in training for other EU officials dealing with external aid and colleagues posted to EU Delegations in the countries receiving EU development aid.

V. CONCLUSIONS

Development and humanitarian aid investigations currently receive a great deal of attention. A lot still needs to be achieved, starting with better communication and joint co-operation among all actors (not only investigators). This collaboration, as well as mutual trust, openness and understanding, are important pre-conditions for success.

Based on its operational experience, OLAF will endeavour to help colleagues in this process to build a true partnership. The fact that within the relatively short period of its existence OLAF has managed to lay the foundations for broad international co-operation in the fight against fraud involving aid funds is a promising development.

Future developments will include co-operation agreements, as well as technical support for our partners. This technical support may take the form of better training or provision of the necessary tools and conditions to help our partners pursue their investigations and act in accordance with their mandate. Last but not least, we will work closely with our colleagues in the planning and contracting units in order to transform our operational experience into better fraud-proofing of aid.

OLAF is at all times open to any kind of mutual collaboration. OLAF colleagues at all levels are committed to enlarging and strengthening their network of operational partners and contacts. We hope that this article will serve as an incentive for prospective partners to set up the basis for our future co-operation.

USEFUL LITERATURE

A considerable amount of material used in the above article was based on the OLAF Manual: the set of internal rules of the European Anti-Fraud Office (OLAF) which govern its investigations and operations. An electronic version of the OLAF Manual is available free of charge on the EU Bookshop website (<http://bookshop.europa.eu>).

Additional information regarding OLAF, its foundation, structure and competences can be found on OLAF's website: http://ec.europa.eu/anti_fraud/index_en.html.

Readers who are particularly interested in OLAF's current activities and its achievements are referred to OLAF's Seventh Activity Report covering the year 2006:
http://ec.europa.eu/anti_fraud/reports/olaf/2006/report_en.pdf.