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**Annex to the 2008 Report from the Commission on the protection of the European
Communities' financial interests and the fight against fraud
STATISTICAL EVALUATION OF IRREGULARITIES- OWN RESOURCES,
AGRICULTURE, STRUCTURAL MEASURES, PRE-ACCESSION FUNDS AND
DIRECT EXPENDITURE -YEAR 2008**

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1. THE SITUATION IN 2008

1.1. Introduction

According to article 274 of the Treaty on the European Community, the European Commission shall implement the budget. Council Regulation (EC, Euratom) No 1605/2002¹ of 25 June 2002 on the Financial Regulation (FR) applicable to the general budget of the European Communities indicates that the Commission implements the budget:

- on a centralised basis: implementation tasks are performed either directly by its departments or indirectly by executive agencies created by the Commission, bodies set up by the Communities - provided that this is compatible with the tasks set out in the basic act - and, subject to certain conditions, national public-sector bodies or bodies governed by private law with a public-service mission;
- on a shared or decentralised basis: implementation tasks are delegated to the Member States (shared management) or third countries (decentralised management); the Commission applies clearance-of-accounts procedures or financial correction mechanisms enabling it to assume final responsibility for the implementation of the budget;
- by joint management with international organisations: certain implementation tasks are entrusted to international organisations.

Community legislation provides for the protection of the Community's financial interests in all areas of activity². The FR sets the principles and rules for the correct implementation of the budget. Member States are required to notify the Commission of evidence of fraud and other irregularities. 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 must inform the Commission of all irregularities involving more than €10,000 of community finances. This applies at all stages in the procedure for recovering monies unduly paid or not received.

¹ Official Journal L 248 of 16.09.2002

² 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 (OJ L 178 of 12.7.1994), as amended by Regulation (EC) No 2035/2005 of 12 December 2005 (OJ L 328 of 15.12.2005), and No 1831/94 of 26 July 1994 (OJ L 191, 27.7.1994), as amended by Regulation (EC) No 2168/2005 of 23 December 2005 (OJ L 345 of 28.12.2005), for expenditure, and Article 6(5) of Council Regulation (EC, Euratom) No 1150/2000 for traditional own resources.

Regulation No. 1848/2006³ specifies the requirement for the agriculture sector, Regulations Nos. 1681/94⁴ and 1831/94⁵, as amended, respectively by Regulations Nos. 2035/2005 and 2168/2005, for structural measures and Regulation No. 1150/2000 for own resources. In the case of pre-accession funds the obligation to report irregularities is specified in Community legislation and in the Pre-Accession and Accession Agreements the European Community and the Candidate and Acceding States.

The European Parliament and the Council adopted a series of Regulations introducing a new system for the Structural Funds for the new 2007-2013 programming period⁶. The rules on reporting irregularities to the Commission have been retained, but the communication procedure is now part of the implementing Regulations⁷ rather than a separate Regulation, as was previously the case. The old Regulations have been repealed, but will continue to apply with reference to former programming periods.

The provisions to be followed are mostly based on the Commission Regulation (EC) No 1681/1994. 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. For agriculture, the relevant provisions are contained in article 3) 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.

³ As of 1st January 2007, also the threshold for the agriculture sector has been increased to €10,000 following the provisions contained in article 6(1) of Regulation (EC) 1848/2006 of 14 December 2006 (OJ L 355 of 15.12.2006).

⁴ 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).

⁵ Regulation 1831/94 applies to the Cohesion Fund.

⁶ Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999; Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999; Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999; Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94, OJ L 210, 31.7.2006.

⁷ Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund, OJ L 371, 27.12.2006. This repeals Regulations (EC) No 1681/94 and (EC) No 1831/94. Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund.

The distinction between irregularities and fraud is that fraud⁸ is a criminal act that can only be determined by the outcome of judicial proceedings. As such, it is only when the judicial procedure has come to an end that the actual amount of fraud can be determined. While awaiting the results, the Commission works on the basis of the information supplied by Member States concerning cases of irregularities some of which, in the opinion of the reporting Member States, give rise to suspicions of fraud. The Commission's statistical assessment of and ability to respond to, irregularities are influenced by the accuracy and timeliness of the notifications made by the Member States.

The practices of the national administrations still vary, though improvements have been achieved thanks to the efforts made to harmonise their approaches. The data communicated by Member States is sometimes incomplete. Furthermore, the distinction between “suspected frauds” and other irregularities is not consistent as Member States do not always have the same definition of criminal risk. Consequently, a significant proportion of communications received by the Commission do not distinguish between suspected fraud and irregularity.

The Commission works in close cooperation with the Member States to improve the notification system for irregularities, in particular to clarify the concepts of “fraud” and “irregularity”⁹ and as a result of this, attempts to measure the possible economic impact of fraud in certain sectors have been made. However, for the reasons outlined above, the figures presented below should be interpreted with caution. It would be particularly inappropriate to draw simple conclusions about the geographical distribution of fraud or on the efficiency of the services which contribute to the protection of financial interests.

The present document is divided in two parts.

⁸ According to the definition provided for in Article 1 of the Convention on the protection of the Community's financial interests of 26 July 1995 (OJ C No 316 of 27.11.1995), which entered into force on 17 October 2002, “[...] fraud affecting the European Communities' financial interests shall consist of:

- a) in respect of expenditure, any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;
 - non-disclosure of information in violation of a specific obligation, with the same effect;
 - the misapplication of such funds for purposes other than those for which they were originally granted;
- b) in respect of revenue, any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;
 - non-disclosure of information in violation of a specific obligation, with the same effect;
 - misapplication of a legally obtained benefit, with the same effect.”

⁹ 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.

The first is dedicated to the analysis of irregularities reported in the area of the Traditional Own Resources (Revenues). The implementation mode for this part of the budget is that described under letter b. – shared management.

The second is composed of 5 chapters dedicated, respectively, to Agricultural expenditure, European Fishery Fund, Structural measures (for these three sectors the management mode is that indicated under letter b. – shared management), Pre-accession Assistance (the implementation mode for this sector is indicated under letter b. – decentralised management) and Direct expenditure (whose implementation mode is that described under letter a.).

1.2. Key Facts

Annex 22 gives an overview of all irregularities communicated by Member States under Regulation No. 1848/2006 for the agriculture sector, Regulations Nos. 1681/94, 1831/94 and 1828/2006 for structural measures and Regulation No. 1150/2000 for own resources.

In general, the number of irregularities notified for the year 2008 has decreased by 2%.

The following paragraphs will provide details concerning the different sectors of the budget analysed in this document.

The total number of irregularities has increased for traditional own resources and structural funds. It has also increased for the pre-accession funds. It has decreased for the cohesion fund and agriculture.

However, the total financial amounts affected by irregularities notified for the year 2007 has increased/decreased by 23.6%.

The total amounts affected by irregularities have increased for traditional own resources and the pre-accession funds. They have decreased for agriculture, structural and cohesion funds.

1.2.1. Traditional Own Resources

In 2008, the number of cases of irregularities communicated by the Member States decreased from 6,097 to 5,344. Consistently, the amount of TOR decreased from EUR 401 million to EUR 351 million.

Of all the cases registered in 2008 20% (1,073 out of 5,344 registered cases) are categorised as frauds.

1.2.2. Agriculture

Member States reported 1,133 new irregularities compared with 1,548 in 2007. The total amount affected in 2008 was about EUR 102.3 million, as against approximately EUR 155 million in 2007.

Irregularities notified in this sector represent 0.21% of the agricultural budget (see annexes 11 and 12).

1.2.3. European Fishery Fund

No irregularities have yet been reported concerning the European Fishery Fund on the basis of Commission Regulation (EC) No 498/2007.

1.2.4. Structural Measures

In 2008 Member States reported 3,960 irregularities under Regulation (EC) No 1681/94 which covers the four Structural Funds and 140 under Regulation (EC) No 1831/94 (on the Cohesion Fund). The total amount affected by irregularities in 2008 was almost EUR 585 million, EUR 528.6 million of which was from the Structural Funds and EUR 56.3 million from the Cohesion Fund. Irregularities reported in this sector were equivalent to 1.25% of the budget allocated to structural measures in 2008.

In 2007, Member States reported 3,858 irregularities under Regulation (EC) No 1681/94 which covers the four Structural Funds and 140 under Regulation (EC) No 1831/94 (on the Cohesion Fund). 9 irregularities were reported under Regulation No 1828/2006, which covers the programming period 2007-2013. The total amount affected by irregularities in 2008 was about EUR 585.2 million, EUR 528.9 million of which was from the Structural Funds and EUR 56.3 million from the Cohesion Fund. Irregularities reported in this sector were equivalent to 1.25% of the resource allocations for 2008.

For the first time irregularities related to the programming period 2007-2013 (whose reporting is disciplined by Regulation (EC) No 1828/2006) were reported to the Commission.

1.2.5. Pre-accession Funds

In 2008 the Commission/OLAF received 2,133 reports on pre-accession funds (PHARE, SAPARD, ISPA, Transition Facility (TF), CARDS, Turkish pre-accession instrument (PA)) from the Member states and Candidate countries. The received information consists of 523 new cases detected by the national authorities in 2008 and 1,610 follow-up reports on the previously reported cases. The number of new cases received on pre-accession assistance is the highest since the reporting obligation started to be fulfilled by the reporting countries.

The total amount affected by irregularities in 2008 was EUR 60,782,354 where PHARE accounts for EUR 26,731,257 (183 cases), SAPARD – EUR 29,046,300 (213 cases), ISPA – EUR 4,055,042 (99 cases), TF – EUR 545,822 (4 cases), PA – EUR 314,763 (18 cases), CARDS – EUR 89,170 (6 cases).

PART I - REVENUES

2. TRADITIONAL OWN RESOURCES (ANNEXES 1-10)

2.1. Management of Traditional Own Resources (TOR)

The Community must have access to Traditional Own Resources ('TOR')¹⁰ under the best possible conditions. In conformity with Regulation (EC, Euratom) 1150/2000¹¹ Member States are responsible for making available to the Commission, within the deadlines set, TOR that they have established. Established amounts of customs or agricultural duties that have been recovered and debts that are guaranteed and not under appeal are to be made available via the *A-account*. However, where TOR have been established by a Member State but not yet recovered and where no security has been provided or the established amount has been disputed Member States may enter these TOR amounts in the *B-account*. These amounts of TOR are not then made available until actually recovered. Most fraud and irregularity cases relate to B-account items.

2.1.1. *Monitoring of establishment and recovery of TOR*

In order to get the right picture of Member States' TOR recovery activity it is important to keep in mind that over 95% of all amounts of TOR established are subsequently recovered without any particular problem. These amounts are entered in the A-account and made available to the Commission. This covers most of the 'normal' import flows where release for free circulation gives rise to a customs debt. The remaining exceptional items are entered in the B-account. This proportion should be borne in mind when evaluating Member States' recovery activity.

In return for their collection task, and to support sound and efficient management of public finances, Member States may keep 25% of the amounts involved. In its capacity as Authorising Officer responsible for executing the EU budget, the Commission (DG Budget as delegated Authorising Officer) monitors Member State activity concerning establishing and recovering TOR.

The following three methods are used:

1. Overall monitoring of recovery of TOR via the write-off procedure;
2. Regular inspection in Member States of the establishment and recovery of TOR, and B-account entries;
3. Specific monitoring of Member States' follow-up of recovery in individual cases which have a significant financial impact and involve Mutual Assistance. This particular task is performed in close co-operation with the European Anti-Fraud

¹⁰ These are mainly customs and agricultural duties.

¹¹ Regulation 1150/2000 of 22 May 2000.

Office (OLAF) where OLAF has issued the Mutual Assistance message in question and/or has an operational interest in the case concerned.

These three methods allow the Commission to monitor Member States' performance without interfering too much in their day-to-day operations.

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

Member States must take all requisite measures to ensure that amounts corresponding to the entitlements established are made available to the Commission. This requirement is in Article 17(1) of Regulation 1150/2000. Article 17 also provides that a Member State may only be released from its obligation where established entitlements prove irrecoverable either:

(a) for reasons of *force majeure*; or

(b) for other reasons which cannot be attributed to that Member State.

Amounts of established entitlements become irrecoverable by one of two routes. The first is by a decision of a Member State *declaring* that they cannot be recovered — this declaration may be made at any time. However, TOR must be *deemed* irrecoverable by a Member State at the latest five years from the date on which the amount was established, or in the event of an administrative or judicial appeal, the final decision was given, or the last part-payment of an established amount was made, whichever is the later. Where the irrecoverable amount of TOR exceeds a threshold of €50 000 the write-off must be reported to the Commission. For amounts under €50 000, Member States do not have to communicate the case to the Commission unless the Commission makes a specific request.

A 2004 amendment to Regulation No 1150/2000¹² introduced the five-year timeframe within which a Member State has to provide the Commission with information on amounts of established entitlements of TOR deemed irrecoverable. In 2008 the already expected marked increase in requests by Member States to write off established TOR amounts deemed irrecoverable indeed occurred. Compared with 2007 the number went up from 100 to 589 requests. This effect will probably continue in 2009. The increase primarily consisted of old cases not yet reported to the Commission, but meeting the five-year deadline triggering application of the write-off procedure.

A new IT application called WOMIS¹³ will be introduced in 2009 to support Member States and DG Budget in managing write-off requests.

In 2008 589 write-off requests amounting to €188 760 951.04 were communicated to the Commission by 13 Member States. In total, 465 requests were processed in 2008¹⁴ with the following result¹⁵:

¹² Regulation No 2028/2004, amending Regulation No 1150/2000.

¹³ WOMIS: Write-Off Management and Information System.

¹⁴ Origin of the cases: 1 case from Austria, 1 from Belgium, 1 from the Czech Republic, 341 from Germany, 13 from Denmark, 18 from Spain, 1 from Finland, 1 from Ireland, 66 from Italy, 108 from the Netherlands, 2 from Portugal, 4 from Sweden and 32 from the UK.

¹⁵ The breakdown between the amounts for each of the positions is, at present, only an estimate because sometimes elements from the same case may be partly accepted, considered not suitable or refused. Additional information from the Member States (in particular on the proportion covered by guarantee) is then needed to provide the final classification and quantification of the amounts concerned.

TABLE OR 1

Commission position	cases	% cases	€	% amount
UNSUITABLE EXEMPTION REQUEST	2	0.43%	41,339.05	0.05%
WRITE-OFF ACCEPTED	132	28.39%	17,338,091.14	13.63%
ADDITIONAL INFORMATION REQUIRED	299	64.3%	92,320,654.22	72.61%
WRITE-OFF REFUSED	32	6.88%	17,434,228.42	13.71%
TOTAL	465	100%	127,134,312.83	100%

Examination of Member States' diligence in these cases constitutes a very effective mechanism for gauging their activity in the field of recovery. It encourages national administrations to step up the regularity, efficiency and effectiveness of their recovery activity, since any lack of diligence leading to failure to recover results in individual Member States having to foot the bill. During 2008 over €14 million was paid by Member States because of refused write-offs.

2.1.3. Particular cases of Member State failure to recover TOR

Where TOR is not established because of an administrative error by a Member State the Commission applies the principle of financial liability¹⁶. As a result up to 2008 over €70 million was paid by Member States, aside from interest on late payment¹⁷.

Altogether the cases of financial liability dealt with by DG Budget up until the end of 2008 total nearly €260 million. The main objective of this procedure is to encourage individual Member States to improve their administrations' performance and to address weaknesses leading to a loss of TOR and national taxes. This money is in effect transferred back to the Member States in proportion to their contribution to the EU budget as it reduces their contributions via the GNI resource.

2.2. Reporting discipline

Under Article 6(5) of Regulation 1150/2000, Member States are required to communicate to the Commission, via the OWNRES system¹⁸, cases of fraud and irregularity where the TOR amount exceeds €10 000. The requirement to report such cases is designed to inform the Budgetary Authority of the state of play relating to fraud and irregularities in TOR. This political dimension is a clear signal to all stakeholders of the importance of prompt, accurate and complete reporting. The OWNRES database is a key tool for obtaining data for global analyses of fraud and irregularities, and presents valuable information to the Budgetary Authority.

¹⁶ Case C-392/02 of 15 November 2005. These cases are identified on the basis of Articles 220(2)(b) (administrative errors not detectable by the operator) and 221(3) (time-barring resulting from Customs' inactivity) of the Community Customs Code; Articles 869 and 889 of the Provisions for application of the Code; or on the basis of non-observance, by the customs administration, of articles of the Community Customs Code giving rise to legitimate expectations on the part of an operator.

¹⁷ In such a situation there is no registration in OWNRES of the fraud or irregularity.

¹⁸ OWNRES is an abbreviation for Own Resources.

Because all TOR amounts exceeding €10 000 in the B-account represent an irregularity (fraud included) by definition the match between the two from the standpoint of the B-account should be 100%¹⁹. This match is checked during the regular inspections in the Member States; however, no significant shortcomings have been found in recent years.

OWNRES is not a reliable source of data on fraud alone, isolated from irregularity. This is because (until a court judgment is obtained) the distinction between fraud and irregularity is usually made on subjective grounds. These grounds vary greatly between national administrations and so the results cannot be relied upon. Please bear these considerations in mind when looking at the following analysis of OWNRES data.

2.2.1. *Year of discovery versus year reported*

Cases should be included in OWNRES upon the initial discovery of the irregularity or fraud case. As a result the year of the customs operation and the year of discovery of the irregularity or fraud can diverge. Member States are continually adding new cases and updating existing items. So the information generated by OWNRES represents the situation on the date of the query. For instance, the number of irregularities and frauds concerning 2007 in last year's report was 5 321 cases whereas the number of cases now shown for 2007 is 6 097 cases²⁰. This continuing development is inherent to the system.

2.3. **General trends**

The number of cases communicated to OWNRES for 2008 is currently 12.5% lower in comparison with 2007 (from 6 097 to 5 344), and the amount of TOR involved is likewise 12.5% smaller (from €401 million to €351 million)²¹. The trend for the number of belatedly discharged Community Transit operations to decrease continued²², and the amount involved decreased as well. In the case of Transit practice shows that up to 90% of the initially established debts are ultimately cancelled, because of proof of regular discharge after all.

While the number of communications from the ten new Member States showed continued growth since their accession in 2004 until 2007, in 2008 this growth stopped. 2008 shows 3% less cases when compared with 2007 whereas when 2007 was compared with 2006, it showed growth of 16%. If the comparisons are made using the amounts of TOR, the rates are -8% and 28% respectively.

¹⁹ Items registered in OWNRES are not necessarily also in the B-account. Where a debt has been paid or not established (for instance where goods have been seized and confiscated) the amounts should not be entered in the B-account.

²⁰ The information generated by OWNRES used to produce the figures in this chapter was all obtained from queries made on 6 March 2009.

²¹ See Annex 1 (table) and Annex 2 (chart).

²² In 2005 the number of cases of belatedly discharged Transit was 2 374, being 38.3% of the total number of cases registered and 28% of the total amount initially established. In 2006 there were 1 478 cases (24.5% of cases and 19.5% of the total amount) and in 2007 there were 1 390 cases (22.8% of cases and 16.7% of the amount). In 2008 the figures are respectively 1 048, 19.6% and 14.7%.

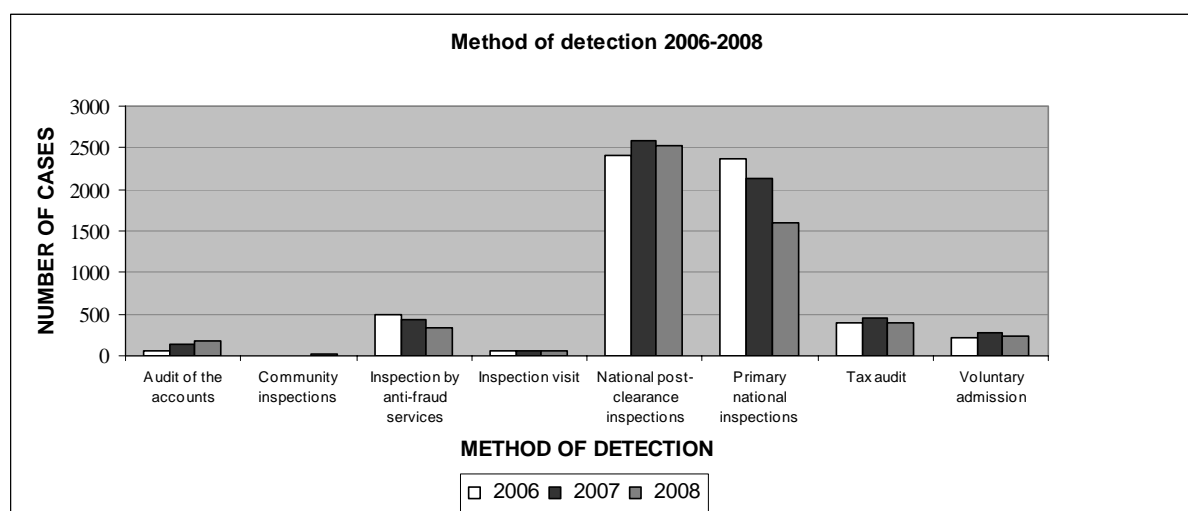
The OWNRES database now contains 51 412 cases in total (1989-2008), showing an increase of nearly 14% during 2008²³. Significant changes in the number of registrations in 2008 compared with 2007 can be seen for Romania (+ 103%), Malta (- 70%), Sweden (+ 63%), Greece (- 44%) and Slovakia (- 43%). Significant changes in amounts can be seen in Estonia (+ 221%), Sweden (+ 173%), the Czech Republic (+ 119%), Romania (+ 90%), the Netherlands (+ 82%) and Austria (- 86%)²⁴.

2.3.1. Method of detection

A variety of detection methods can reveal irregularity or fraud. Judging from the 2008 data the most fruitful methods are *national post-clearance inspections* and *primary national inspections* (either physical inspections or inspections of documents — the latter category featuring most frequently). Post-clearance inspections feature in 47% of the cases discovered whereas primary national inspections cover 30%.

It is clear that the shift which could already be seen in previous years from primary to post-clearance inspections continued in 2008. It marks the beginning of a trend related to ongoing changes in declaration and control procedures. The relative importance of inspections by anti-fraud services was stable with 6% in 2008 compared to 7% in 2007. Since the final results of such inspections take more time than regular inspections, a (slight) increase in the percentage for 2008 may be expected in future registrations.

CHART OR 1: Methods of detection 2006-2008



²³ This percentage will gradually decrease since the cumulative number of existing cases in OWNRES will exceed the number of new cases added every new reporting year (last year this percentage was 16%).

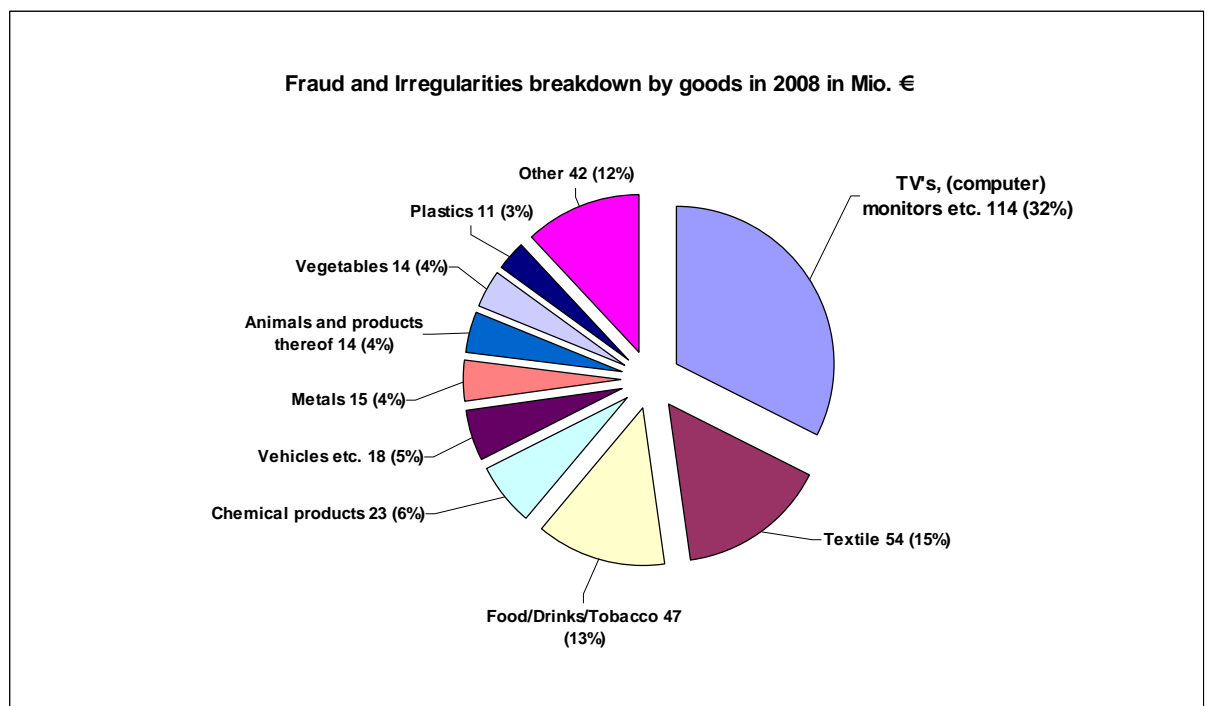
²⁴ Significant changes in amounts involved generally relate to one or a few (very) big cases, e.g. Netherlands: 1 case of €15 million; Romania: 1 case of €2.8 million; Czech Republic: 1 case of €1.8 million.

2.3.2. Types of irregularity and fraud

A breakdown of frauds and irregularities by *customs procedure* and by *mechanism type* confirms that *release for free circulation* is the procedure most commonly specified (67% of cases²⁵). False declarations (misdescription, incorrect value, origin and preferential arrangements) and formal shortcomings (failure to fulfil obligations or commitments) are the mechanisms most frequently mentioned, but also smuggling is highly placed.

The goods (defined by the first two numbers of the CN code²⁶) most affected by fraud and irregularities in 2008, as in previous years, are TVs/monitors etc. (CN 85) and tobacco products (CN 24). Clothing (CN 61-62) increased in importance when compared to 2007 as did machines (CN 84), plastics (CN 39) and meat (CN 02), whereas (parts of) cars and motors (CN 87) remained relatively stable and vegetables (specifically garlic) (CN 07) went down²⁷. Footwear (CN 64), first placed in 2007, has completely disappeared out of the top 25 in 2008²⁸. The variety of goods in the top 25 (defined by the first two numbers of the CN code) is stable at 14 to 15 types since 2006.

CHART OR 2²⁹: Fraud and irregularities breakdown by goods in 2008 in MEUR



²⁵ See Annex 3. In 2005 there was a decrease in importance of the customs procedure release for free circulation (53% of cases) which was linked to an improvement in registering those cases.

²⁶ Combined nomenclature or CN — nomenclature of the Common Customs Tariff.

²⁷ See Annexes 4 and 5.

²⁸ In 2007 MA 2007/015 was communicated signalling risks with textiles and shoes from China.

²⁹ The product description in the chart is a generic description of the goods involved. See Annexes 4 and 5 for detailed analyses.

Analysis of the *origin* of goods subject to fraud and irregularity³⁰ reveals that, just as in 2007, goods originating from China, Japan, the US, South Korea, Bangladesh and Brazil remain very much affected. The number of cases in the origin category *non-specified* decreased, as in previous years, in parallel with the decrease in Transit cases.

2.3.3. *Data main sectors TOR*

See Annexes 1-10.

2.4. **Specific analysis**

2.4.1. *TOR and cigarettes*

In 2008 there were 255 cases registered of seized and confiscated cigarettes (CN code 24 02 20 90) involving estimated³¹ TOR of over €22 million. In 2007 the number of registered cases concerning seized and confiscated goods was 188, totalling over €16 million. The growth of the number of cases is related to the EUR-15, of which the UK shows the most significant increase, from 42 cases in 2007 up to 100 cases in 2008. This is primarily caused by improvements in registration.

2.4.2. *Classification of irregularities and fraud by Member States*

OWNRES cases concern customs operations involving irregularity or fraud. Of all the cases registered in 2008 20% (1 073 out of 5 344 registered cases) are categorised as frauds, which is a slightly smaller proportion than in 2007 (1 404 out of 6 097 registered cases)³². However, differences between Member States in the proportion so categorised are relatively large. For instance, in 2008 the United Kingdom categorised 93 out of 1 023 cases as fraud (equivalent to 9.09%) whereas Greece so categorised 100% (32 out of 32 cases communicated), Latvia 0.00% (0 out of 40 cases) and France 39.55% (123 out of 311 cases notified). For 2007 the figures were for the UK 9.70% (104 out of 1 072), for Greece 100% (57 out of 57), for Latvia 0.00% (0 out of 25 cases) and for France 46.79% (153 out of 327). These figures demonstrate that the categorisation of irregularity and fraud in OWNRES is not fully reliable.

2.5. **Recovery**

Member States have to recover established amounts including those they register in OWNRES. In OWNRES cases are registered as open or as closed. A case is registered as closed when all (legal) procedures have come to an end and the debt is paid or further recovery measures by the Member States' authorities are deemed

³⁰ See Annex 6.

³¹ See Annex 8. The numbers for this year differ significantly from last year's report in an effort to correct for variations between Member States' methods of registering these cases.

³² See Annex 10.

exhausted. Also cases of smuggled and seized goods (usually cigarettes) are registered as closed³³.

A case is registered as open when recovery measures are still ongoing. This means that either legal procedures (administrative and judicial appeal) are still ongoing, which may lead to a correction of the established amount, or to success or failure to obtain payment of the debt, whether or not after coercive recovery.

2.5.1. *Corrections to established amounts*

For a variety of reasons an established amount may not be completely recovered, despite Member States' efforts. The proportion varies from Member State to Member State.

Amounts established may change because of additional information or judicial procedures when, for instance, revision shows that there was no customs debt after all or the value or origin of the goods is different than initially thought.

OWNRES shows — for all closed cases — that approximately 50% of the initial establishment amount is corrected (cancelled). For closed cases related to Community Transit this may reach up to 90%. As a consequence, Belgium and the Netherlands show more corrections than average, because establishments related to Community Transit likewise occur more. This is due to the ports of Antwerp and Rotterdam.

2.5.2. *Recovery rates*

Differences in recovery results arise from factors such as the type of fraud or irregularity or the type of debtor involved. The debt may also be deemed irrecoverable because of the debtor's financial problems. There are different definitions expressing the results of recovery of a debt.

2.5.2.1. Recovery rate (RR)

In previous reports the term Recovery Rate (RR) was used. It expressed — for all cases (open and closed) in OWNRES — the percentage that is recovered by obtaining payment. The formula for the RR is:

$$RR = \frac{\text{Recovered amount because of payments obtained (all cases)}}{\text{Established amount (all cases) minus processed corrections (all cases)}} \times 100\%$$

The outcome is a snapshot of the average recovery situation at the moment of the query. The established amount minus processed corrections can change, because further corrections (cancellations) are still possible³⁴. As a result, when the

³³ Cases involving seized and confiscated goods are registered as closed, even though OWNRES indicates that an amount is still to be recovered. This method of registration has been agreed for this particular situation.

³⁴ In paragraph 2.5.1. it is explained that OWNRES shows that corrections may be significant.

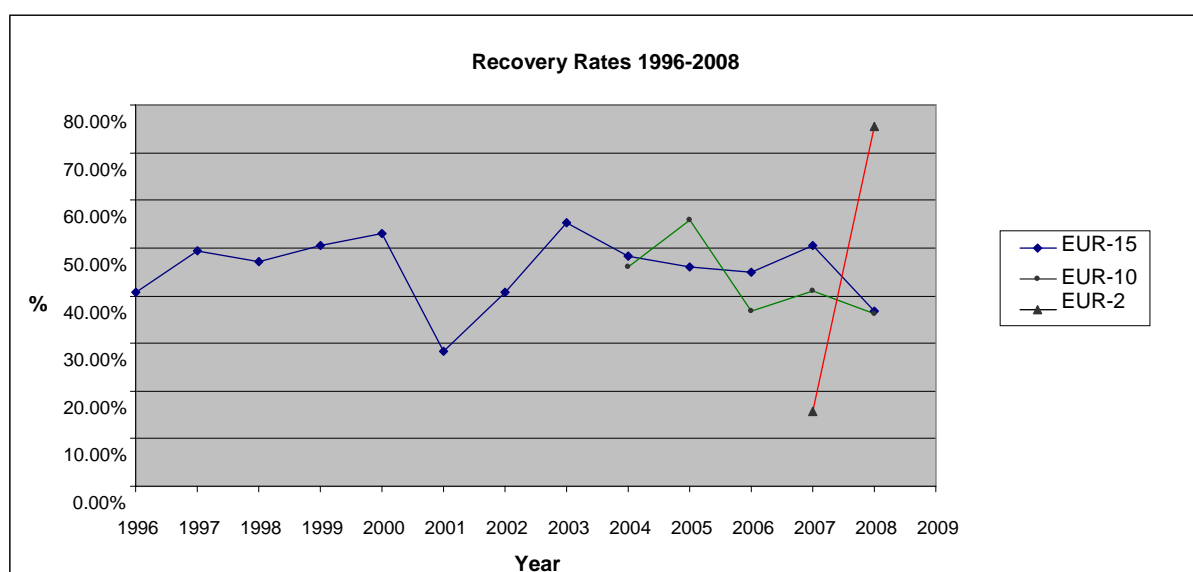
denominator decreases in value, the percentage of the RR goes up, even without having more actual payments. Because recovery is ongoing, the RR is constantly changing (payments are obtained, new establishments are made and corrections are taken into account). The RR for all years (1989-2008) is 42.8%³⁵.

The overall RR for 2007 recorded in last year's report was 39.9% although it has since climbed to 49.7%. At present the RR for 2008 is 37.5%³⁶, which is an average starting position, although less good than last year's 40%. Over the last decade the RR has varied between 40% and 55% (see *OR: Chart 3*).

The 10 Member States which acceded in 2004 are now carrying out post-clearance controls, audits and inspections covering longer periods after their accession. For establishments following these controls recovery is generally more problematic. As a result the rates of the EUR-15 and EUR-10 are now growing closer to each other.

The RR for Romania and Bulgaria is high when corrected for cases of smuggled and seized cigarettes. Currently it is significantly above the average rate of the EUR-27. This is primarily the result of recovery in one big case by Romania. It may be expected that in time the RR for the EUR-2 will also grow towards the average of the other Member States.

CHART OR 3: Recovery rates 1996-2008



* For 2001 the average RR is only 28%, because of the impact of Italy's RR, which is 2.2 % on an established amount of €3 million.

2.5.2.2. Historical recovery rate (HRR)

The RR mentioned in paragraph 2.5.2.1. does not reflect the percentage of the actual debt for which payment is obtained by the Member States. For that, the rate of

³⁵ This calculation is based on 51 412 cases, an established amount of €4 billion (after already processed corrections) and a recovered amount of €1.7 billion.

³⁶ See Annex 7.

recovery of the actual amount to be paid after all corrections (revisions because of appeal procedures, requests for repayments or remissions, etc.) should be taken into account (hereafter: HRR — historical recovery rate).

To determine the HRR, only closed cases³⁷ should be analysed, since for those the Member States have brought all their recovery efforts to an end. The formula for the HRR is:

$$\text{HRR} = \frac{\text{Recovered amount because of payments obtained (closed cases)}}{\text{Established amount (closed cases) minus processed corrections (closed cases)}} \times 100\%$$

The HRR is around 80% according to OWNRES³⁸. In other words, of every €10 000 of duties operators really and ultimately have to pay for OWNRES cases, approximately €8 000 is collected. The amount not collected relates to either amounts written off or amounts involved in seized and confiscated goods.

2.5.3. Recovery indicators

Success in recovery depends on many factors. OWNRES provides categories of information that may be useful as indicators to forecast such success by means of extrapolation, since the recovery rate by (combination of) indicator(s) appears relatively constant over time.

Useful recovery indicators in OWNRES are fraud, type of customs procedure, the presence of an MA communication, method of detection and origin of the product. Combinations of these indicators improve the accuracy of the prognosis further. Of course the final outcome of an individual case will always depend on its unique particulars.

2.5.3.1. Recovery rates in case of fraud

OWNRES shows that the amount of TOR due in fraud cases decreased in 2008. As part of the overall amount of irregularities and fraud cases registered the share of fraud was €75 million compared to €131 million in 2007³⁹. This amount includes duties involved in cases of seized and confiscated cigarettes.

The RR for fraud provides insight into the immediate effect of fraud on today's recovery. The amount recovered in fraud cases was €19 million in 2008, which gives a fraud RR of 25.9%. For 2007 the total has reached €35 million, which gives an RR of 26.6%. The result for 2008 is good compared with the previous years. For

³⁷ Closed cases, excluding cases of seized and confiscated goods (usually cigarettes) which are registered in OWNRES as closed cases with an amount to be recovered, but for which amount no recovery is required. This HRR rate should express the recovery result in complex and easy cases. Established and closed cases from 2006 onwards are excluded, because these are predominantly easy (complex cases generally cannot be closed within 3 years).

³⁸ This calculation is based on 24 748 cases (approximately 50% of all OWNRES cases currently registered), an established amount of €1.3 billion (after corrections) and a recovered amount of €1 billion.

³⁹ See Annex 10. For the delay in registration see the paragraph on reporting discipline.

instance, 2006 currently shows an RR for fraud cases of 22.8%. As mentioned before, the recovery rates change as time passes (paragraph 2.5.2.1.). The RR in fraud cases is clearly much lower than that for irregularities since the RR in 2008 for those cases is 40.7%. The RR for all years (1989-2008) for fraud and irregularity combined is 42.8%.

Also in the long term, the HRR indicates an equally strong relation, showing that recovery in fraud cases is generally much less successful than in cases of irregularity (see table below). Classification of a case as fraud is thus a strong indicator for forecasting short- and long-term recovery results.

TABLE OR 2: Historical Recovery Rate 1989-2005

	HRR 1989 – 2005
Fraud	43%
Irregularity	89%
Total	82%

2.5.3.2. Recovery rates in case of MA communications

Establishments following an MA communication display higher recovery rates. OWNRES shows that the HRR is over 90% for cases with an MA reference, whereas for establishments without such reference the output is just over 80%. Based on these figures it may be concluded that Member States are more alerted in the case of such communications than in normal situations.

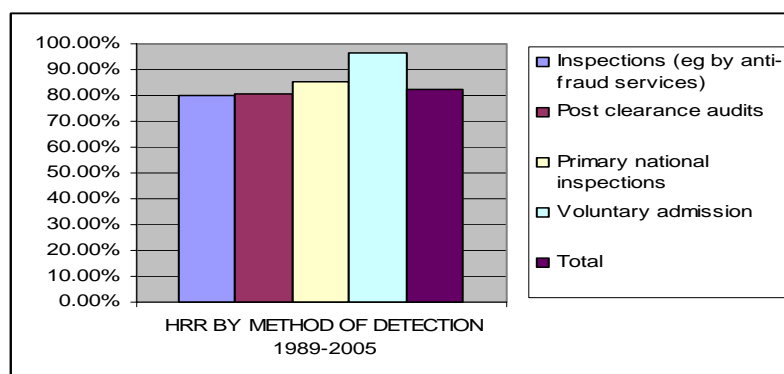
TABLE OR 3: Historical Recovery Rate for MA communications

	HRR 1989 – 2005
No MA reference	81.5%
With MA reference	92.5%
Total	82.2%

2.5.3.3. Recovery rates by method of detection

The relation between the recovery rates and the methods of detection may be considered significant when there is a voluntary admission / correction by the importer, or when the case is discovered during primary national inspections. In those circumstances the HRR is over 95% respectively 85.2%. When the establishment is the result of inspections (e.g. by anti-fraud services) the HRR drops to 79.7% thus only being slightly lower than in the case of regular post-clearance audits (80.8%). Also when the method of detection is combined with the types of cases discovered (fraud or irregularity), the ratios do not change significantly.

CHART OR 4: Recovery Rate by method of detection



2.5.3.4. Recovery rates by category of amount

The RR is strongly influenced by the amounts involved, whereas for the HRR this relationship is no longer significant. The figures for the last five years show that bigger amounts result in a lower RR. For amounts below €50 000 the RR is up to 75%, for amounts up to €500 000 the RR of 50% to 60% is normal, whereas for higher amounts the RR falls back to only 30%.

TABLE OR 4: Recovery Rate by category of amount

RR BY AMOUNT - CATEGORY					
Amount (€)	2004	2005	2006	2007	2008
0 - 50 000	73.54%	73.94%	74.26%	74.94%	61.44%
50 001 - 500 000	55.26%	56.59%	53.45%	59.80%	47.24%

> 500 000	30.22%	24.80%	21.88%	30.52%	15.86%
Total	48.18%	46.34%	44.41%	49.67%	37.55%

2.5.3.5. Recovery rates by origin

Concerning the origin countries most frequently mentioned (see paragraph 2.3.2.) the RR indicates more success in the case of imports from the US or Japan than for China or Bangladesh, irrespective of whether the case is registered as fraud or irregularity⁴⁰. This relationship is not equally strong or constant for other countries. For the RR changing patterns of irregularity influence the outcome strongly, especially since open cases with ongoing judicial procedures and recovery are also included. For the HRR the difference in origin no longer appears to be significant.

2.5.4. *Write-down and write-off of established amounts*

Member States inform the Commission about the recovery of established entitlements on the basis of two different legal obligations: under Article 6(4) of Regulation 1150/2000⁴¹ the Member States annually communicate amounts for which recovery is unlikely, whereas on the basis of Article 17(2) of Regulation 1150/2000 they communicate certain cases where the debt is deemed irrecoverable.

2.5.4.1. Written down when recovery is unlikely

Annually Member States communicate amounts in the separate account (B-account) for which recovery has become unlikely. This estimation is used for accounting purposes. The Member States communicate — on average — that recovery of around 60% to 65% of the established amount is unlikely and may need to be written down⁴².

2.5.4.2. Written off when the debt is deemed irrecoverable

When part of the debt over €50 000, after all recovery measures are exhausted, is still unpaid, the Member State has to communicate their decision to write the amount off to the Commission. The Commission will then assess the recovery efforts and decide whether the Member State involved has acted diligently and taken all the necessary measures or should be considered responsible for the loss and compensate the Community budget⁴³.

⁴⁰ See Annex 6.1.

⁴¹ Article 6(4) of Regulation 1150/2000 of 22 May 2000 as amended by Regulation 2028/2004 of 16 November 2004.

⁴² Annual Accounts of the European Communities. Financial Year 2007. Consolidated Financial Statements and Consolidated Reports on Implementation of the Budget (OJ C 287,10.11.2008, p. 1). The percentage is based on the average of the years 2006-2008, also using the provisional figures for 2008.

⁴³ In paragraph 2.1.2. the procedure for managing Member States' requests for write-off is explained in detail. TOR must be deemed irrecoverable by a Member State at the latest five years from the date, on which the amount was established, or in the event of an administrative or judicial appeal, the final decision was given, or the last part-payment of an established amount was made, whichever is the later.

The figures in OWNRES showing written-off amounts are not reliable yet. This is mainly due to the awaited catch-up effect for cases before 2004⁴⁴ and the related differences in Member States' method of registration. Currently OWNRES indicates for cases from 1989 until 2006 that around 20% is written off⁴⁵. For the EUR-15 the figures vary between 0% and 8%, which can be explained by the fact that the five-year period has not yet elapsed and recovery of outstanding debts is generally still ongoing.

TABLE OR 5: Average write-off rate for closed cases

AVERAGE WRITE-OFF RATE – CLOSED CASES - 1989-2006 (excluding smuggled/seized goods)					
Initially established €	Correction €	Established after correction €	Recovery rate %	Written-off amount €	Write-off rate %
3 199 840 405	-/ 1 578 796 920	1 621 043 485	79%	334 090 575	21%

2.5.4.3. Estimation of the recovery of established amounts

Comparing the annual communication by Member States mentioned in paragraph 2.5.4.1. with the figures in paragraphs 2.5.2. and 2.5.4.1., it appears that the annual estimation of amounts unlikely to be recovered in the separate account (60% to 65%) matches relatively closely the data in OWNRES. For the latter the amount unlikely to be recovered may be defined as the sum of the average amount corrected (50%) plus the percentage written off (around 20% of the amount after corrections⁴⁶). Thus, of a random establishment registered in OWNRES around 40% is recovered, in other words, of every €10 000 of duties initially established approximately €4 000 is actually paid.

2.5.5. Impact on the budget

The amounts that were registered in OWNRES for 2008 have a financial impact of €351 million. Over the last decade the value of amounts has ranged from €200 million up to €401 million (year 2007). The amounts change continuously, as the figure is based on established amounts registered in OWNRES which are updated with corrections that can be significant⁴⁷.

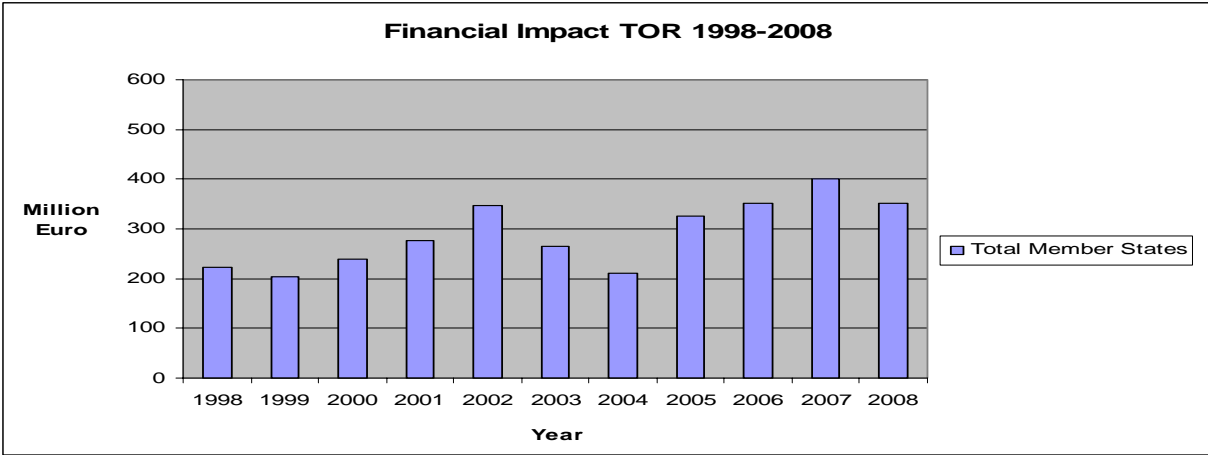
CHART OR 5: Financial impact TOR1998-2008

⁴⁴ The five-year deadline for sending in such cases — introduced in 2004 — expires in 2009

⁴⁵ The period 1989-2006 is selected because write-offs for very recent establishments are not common and thus not a representative reference.

⁴⁶ This figure has to be corrected by the backlog of old write-off cases which still have to be processed by Member States.

⁴⁷ E.g. for the year 2007 the maximum impact was initially €541 million. Corrections of over €140 million changed it to €401 million at present;



2.6. Conclusions

In its capacity as Authorising Officer, the Commission (DG Budget is the delegated Authorising Officer) monitors the establishment and recovery of TOR by Member States in various ways. The monitoring is carried out in partnership with different Commission departments, including the European Anti-Fraud Office (OLAF) where OLAF has issued an associated Mutual Assistance message and/or has an operational interest in the case concerned.

Once a debt is established a Member State can only be discharged from the obligation to make the TOR available to the Commission because of *force majeure* or for reasons which cannot be attributed to the Member State concerned. As Member States are responsible for making TOR available to the EU Budget, should they wish to be released from their obligation in a particular instance they need to prove that one of these circumstances exists. Where debts are not established although they should have been, Member States are held liable for the TOR foregone (these cases are not registered in OWNRES). As a result Member States have been held financially liable for over €43 million in 2008 and have made available over €15 million. Some actions are still ongoing and new cases are being given appropriate follow-up.

Because of the particular interest the Budgetary Authority has in recovery, reliable information regarding the number of cases of irregularity and fraud and their development must be entered in OWNRES. Member States have a special responsibility to ensure that appropriate statistical information on irregularity and fraud is provided to the Commission. In 2007 Member States were requested to address the shortcomings in the registration in OWNRES of cases where no debt needed to be established (usually smuggled cigarettes), resulting in visible improvements in 2008.

Regarding the reliability of information in OWNRES, making a distinction between irregularity and fraud or analysing fraud separately is risky and the outcome is not very useful. Only court decisions make it certain whether a case is one of irregularity or fraud, whereas within OWNRES this distinction is usually based on a prognostication made by Member States' administrations. The figures in OWNRES showing marked differences in the proportions of cases denoted as frauds or irregularities between Member States point this out clearly. OWNRES can only be used for global analysis and monitoring.

The goods involved in irregularities and frauds demanding Member States' attention are very diverse, notably TVs and monitors, clothing and of course tobacco. TVs and monitors keep their relevance in 2008, being once again (one of the most) important goods involved in registered cases of irregularity (or fraud), just like in previous years, whereas vegetables, especially garlic, went down in importance and footwear even disappeared.

The origin of the goods concerned is likewise varied, although some countries remain continuously at the top of the rankings (such as China, the US, Japan). When irregularity or fraud is discovered by a Member State it is mostly in the customs

procedure of *release for free circulation (false declarations, formal shortcomings or simply smuggling)*, as in previous years.

The amounts of TOR at stake in irregularity and fraud are, according to OWNRES, up to €51 million in 2008. Of the amounts initially established, approximately 50% is later cancelled and in the case of establishments related to Community Transit up to 90% of the established amount may be cancelled later. And payment is required only for the part which is not cancelled. The initial recovery figures for 2008 are comparable to those of previous years.

Analysis shows that certain particulars of a case may be used as indicators for forecasts of recovery. Cases related to fraud decrease the chance of successful recovery, whereas for instance cases related to MA communications may arrive at better results.

Member States are currently communicating an increased number of write-off cases, because of a change in legislation intended to clear the backlog of old cases dating back to before 2004. Based on the data available so far, it may be estimated that around 10% of the established amounts, equivalent to 20% of the final debts after all corrections, remain unpaid.

In conclusion, it appears that of the amounts initially established around 40% is actually recovered, 10% is written off and 50% is cancelled. After further harmonising the methods of registration and the processing of the backlogs in write-offs, further fine-tuning of this percentage may be expected.

The Commission encourages Member States to continue their activities in the field of recovery and providing statistical information. The Budgetary Authority is entitled to have available the best possible information when monitoring TOR and recovery issues.

PART II - EXPENDITURE

3. AGRICULTURAL EXPENDITURE (ANNEXES 11-12)

Introduction of a new reporting system

In 2008, a new irregularity reporting system was introduced: Pre-IMS Module 1848. The abbreviation IMS stands for Irregularity Management System. Module 1848 is a web based application which implies that it can be accessed via internet. Member States however, still need to use AFIS (Anti Fraud Information System) to get access to Pre-IMS Module 1848. AFIS is a secured network provided by the Commission. Access via internet is foreseen for summer 2009. Pre-IMS Module 1848 will then be renamed into IMS Module 1848. The reporting module itself will not change.

Germany is already using IMS Module 1848 to submit irregularities. Users in Germany get access to Module 1848 via a secured internet connection. It is a pilot which offers the possibility to test all features of the web based application. The results of the pilot will be used to improve and fine tune IMS Module 1848 before it will be officially released for all users in all Member States. A pilot is an effort demanding activity for all involved parties but especially for the Member State involved. Germany offered great support during 2008.

In June 2008, trainers of all Member States (EU-27) attended a 2-day-training in OLAF to get acquainted and familiar with the new reporting module. The Member States' trainers will train the users in the Member States. A maximum of 4 trainers per Member State attended the training.

Module 1848 was officially launched on 7 November 2008.

The introduction of a new reporting system leads always to some starting-up problems. This counts for the users in the Member States as well as the developers and users on the side of the Commission. The year 2008 should therefore, be seen as a transition year: users needed to get familiar with Module 1848.

All Member States started to use, directly or indirectly⁴⁸, the new reporting module and tried to report as complete and detailed as possible. All Member States had a critical but above all positive approach towards the new reporting system. Member States were cooperative and provided the developers and managers of the new reporting system with the necessary feedback to improve the reporting system. This willingness to cooperate has to be kept in mind when reading the paragraph on reporting discipline and compliance.

⁴⁸ Not all Member States have access to AFIS/CCN-gateway and used MS Access version of Pre-IMS Module 1848. These Member States wait for the introduction of IMS;

General introduction

The analysis is a descriptive analysis based on the communications forwarded by Member States under Commission Regulation (EC) No. 1848/2006 in the budget year 2008. The budget year 2008 runs from 16 October 2007 – 15 October 2008.

It should be noted that not all irregularities have to be reported. Under Reg. 1848/2006, Member States must only inform the Commission of irregularities involving more than EUR 10,000.

The threshold of EUR 10,000 was introduced by Reg. 1848/2006 that came into force on 1 January 2007. Reg. 1848/2006 replaced Reg. 595/91. Under Reg. 595/91, the threshold was EUR 4,000. The increase of the threshold from EUR 4,000 to EUR 10,000 has to be taken into account when this report is compared with reports of years before 2007. The number of reported irregularities in 2008 is approximately one-third (1/3) of the number of reported irregularities before 2007. The descriptive analysis of this report therefore, cannot be right away compared with the results of previous years.

The expectation is that the number of reported irregularities will decrease even more in the coming years. A rather large amount of subsidies (per beneficiary and per support measure) is below EUR 10,000 therefore, irregularities for these cases will never exceed the threshold of EUR 10,000.

Member States reported 1,142 new irregularities under Reg. 1848/2006 compared with 1,577 irregularities in 2007. During 2008, Member States reclassified 9 of these irregularities as non-irregularities. The total number of new irregularities is therefore 1,133⁴⁹. The total amount affected in 2008 was about EUR 102 million, as against approximately EUR 155 million in 2007.

Irregularities notified in this sector represent 0.21% of the agricultural budget. Annex 11 provides an overview of the financial impact for the period 2000 - 2008.

Annex 12 gives an overview per Member State, indicating the number of irregularities, the amounts involved and the percentage of agricultural expenditure.

Cyprus and Romania did not report any irregularity in 2008.

3.1. Reporting discipline

Article 3 and article 5 of Reg. 1848/2006 lay down the reporting obligations of Member States. The reporting obligations as stipulated in article 3, paragraph 1, letters a – p of Reg. 1848/2006 are used to determine the reporting discipline and the level of compliance of the Member States. The focus however, will be on those obligations that are crucial for (strategic) analysis and can be summarised with the typical questions that are used in every (fraud) investigation: who, what, when, where, why and how.

⁴⁹ Member States reported in 2006 still 3,249 cases;

The main purpose of forwarding information is to enable the Commission to perform risk analyses (see art. 10 Reg. 1848/2006⁵⁰). For that purpose, OLAF needs to receive reliable, consistent and complete data and as early as possible (timely!).

Table AG1 contains an overview of the compliance rate per reporting obligation. Member States are ranked in order of compliance. The table focuses on reporting obligations that have a high added value for analysis purposes. The letters above the columns refer to the reporting obligations of Art. 3(1) of Reg. 1848/2006. The third column from the right hand side shows the compliance rate per Member State for the budget year 2008. The second column from the right hand side contains the 2007 compliance rates to make it possible to make a comparison between 2008 and 2007.

Cyprus and Romania had no irregularities to report and are therefore considered to be 100% compliant. The rates of Cyprus and Romania have not been taken into account to calculate the EU-27 compliance rate.

Table AG1: compliance per Member State year 2008

table AG1 COMPLIANCE budget year 2008									
MS	timely reporting	personal data (who)	measure affected (what)	date committed (when)	practices employed (how)	financial impact (why)	compliance		MS
							2008	2007	
CY	120%							97%	CY
RO	110%								RO
LV	100%	100%	100%	100%	100%	100%	100%	85%	LV
MT	100%	100%	100%	100%	100%	100%	100%	100%	MT
SI	100%	100%	100%	100%	100%	100%	100%	96%	SI
IE	95%	100%	100%	100%	100%	95%	98%	64%	IE
PL	91%	100%	97%	91%	100%	100%	97%	83%	PL
PT	80%	100%	100%	100%	100%	99%	97%	72%	PT
FR	89%	99%	100%	93%	99%	98%	96%	90%	FR
BE	97%	100%	97%	97%	95%	94%	96%	74%	BE
ES	95%	85%	100%	100%	93%	100%	96%	49%	ES
EE	100%	100%	69%	100%	100%	100%	95%	81%	EE
UK	71%	100%	100%	100%	95%	100%	94%	88%	UK
BG	100%	100%	67%	100%	100%	100%	94%		BG
CZ	73%	100%	98%	100%	98%	95%	94%	90%	CZ
IT	83%	94%	95%	95%	84%	99%	92%	77%	IT
DK	70%	100%	93%	100%	87%	100%	92%	85%	DK
LT	96%	100%	25%	100%	100%	100%	87%	81%	LT
NL	70%	100%	68%	97%	84%	100%	86%	63%	NL
EL	92%	82%	70%	90%	94%	87%	86%	73%	EL
AT	5%	100%	100%	100%	100%	100%	84%	85%	AT
SE	20%	98%	100%	100%	87%	100%	84%	83%	SE
LU	0%	100%	100%	100%	100%	100%	83%		LU
HU	17%	100%	78%	100%	89%	100%	81%	85%	HU
DE	96%	2%	93%	99%	86%	99%	79%	39%	DE
FI	75%	3%	100%	100%	92%	100%	78%	67%	FI
SK	55%	98%	24%	100%	67%	100%	74%	83%	SK
total	86%	85%	93%	97%	93%	99%	92%	78%	total

Art. 3 (1) a - p Reg. 1848/2006
key elements for (performing) risk analysis
download 19 March 2009 / updated 6 May 2009 (HU-correction)

A first conclusion is that the overall reporting discipline improved. This is thanks to a positive attitude of all Member States and the introduction of a new reporting system.

⁵⁰

Art. 10 Reg. 1848/2006: Without prejudice to Article 11, the Commission may use any information of a general or operational nature communicated by Member States in accordance with this Regulation to **perform risk analyses**, using information technology support, and may, on the basis of the information obtained, produce reports and develop systems serving to identify risks more effectively.

15 Member States have a compliance rate above 90%. 7 Member States have a compliance rate between 80% and 90% as 3 Member States has a compliance rate below 80%.

Germany and Finland could improve their compliance rate by reporting personal data. The non-reporting of personal data led to a relatively low compliance rate.

Slovakia is the Member State with the lowest compliance rate: 74%. Slovakia could improve its compliance rate by reporting more timely and by indicating in more detail the support measure affected by the irregularity.

The compliance improved strongly in comparison with 2007. It went up from 78% to 92%. Member States that made a big step forward are Spain (+47%), Germany (+40%), Ireland (+34%), Portugal (+25%) and the Netherlands (+23%). Some Member States had a small setback and need to pay some extra attention to their compliance.

Overall compliance rate is 92% (2007: 78%).

3.1.1. *Timely reporting (Art. 3(1) Reg. 1848/2006)*

2008 was a transition year: Module 1848 replaced Module 595. The reporting format changed completely therefore cases reported via Module 595 needed to be transferred into "1848-format". This took place in the period April 2008 – October 2008. During that period, Member States could not submit communications via the electronic reporting system. The latter had to be taken into account when the compliance rate for timely reporting was determined. Normally, Member States would have forwarded in 2008 cases discovered in 2008 and late 2007. To determine the level of compliance, all cases discovered (PACA)⁵¹ in 2007 and 2008 were considered as being reported on time. Cases discovered before 2007 were considered as reported too late.

Member State reported 133 cases (11.7%) too late. Austria especially is late with the reporting of cases. 12 cases (60%) were already discovered in 2002. Sweden had also difficulties to report timely, only 20% of its cases were reported timely⁵².

Member States did not indicate a date of discovery in 28 cases (2.5%). The latter concerns mainly cases reported by Hungary (33.3%) and Italy (10%).

The EU-27 compliance rate is 86% (2007: 87%).

3.1.2. *Budget year, budget line and product affected (Art. 3(1) (a) Reg. 1848/2006)*

Member States are obliged to report the common market organizations (CMO) affected and the sectors and products concerned.

⁵¹ Member States indicate in field 4.5. "Date of discovery (PACA)" of Module 1848 the so called PACA (Premier Acte de Constat Administratif). The PACA is the first written assessment of a competent authority, either administrative or judicial, concluding on the basis of actual facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be adjusted or withdrawn as a result of developments in the course of the administrative or judicial procedure;

⁵² Sweden informed the Commission that the non-timely reporting was caused by a backlog. New recruited staff took care of the backlog;

Expenditure is based on the appropriations for a given year. As far as the EAGF⁵³ and EAFRD⁵⁴ are concerned, the budget year does not coincide with the calendar year. Therefore, Member States should indicate the budget year as well as the appropriation in their communications so that the correct support measure (budget line) affected by the irregularity can be identified.

Each support measure is based on a budget line therefore it should be no problem to indicate the appropriate budget year and budget line. All paying agencies can provide the reporting authorities with the necessary information.

A large number (12) of Member States comply fully (100%) with the obligation to indicate the common market organisations affected, the sectors and products concerned. 6 Member States have a compliance rate higher than 90%. For all other 7 Member States⁵⁵, attention needs to be paid to indicating the budget year and the measure affected.

Member States reported 61 cases (5.4%) in which the expenditure took place before 2000. It concerns mainly cases from Austria, Greece and Italy with 19, 11 respectively 15 cases⁵⁶.

Member States with a low compliance rate are Lithuania (25%) and Slovakia (24%).

The EU-27 compliance rate is 93% (2007: 86%).

3.1.3. *The moment at which the irregularity was committed (Art. 3(1) (i) Reg. 1848/2006)*

Member States are obliged to indicate the period during which or the moment at which the irregularity was committed. Member States indicated in 97% of the cases the date at or period during which the irregularity was committed. A large number (18) of Member States fully complied with this obligation. All other Member States have a compliance rate higher than 90%.

The EU-27 compliance rate is 97% (2007: 86%).

3.1.4. *Practices employed and classification (Art. 3 (1) (e) (f) Reg. 1848/2006)*

The practices employed (modus operandi) can be indicated by code as well as with text. The codes are in a pick list that contains a collection of different types of irregularity, clustered by topic as for instance "request for aid" and "accounts".

Member States indicated in 99.7% of the cases the type of irregularity by code.

Slovenia and Finland reported code 1999 ("other irregularities") in a rather high percentage of cases: 100% respectively 63%. The added value of code 1999 ("other irregularities") is rather low therefore it should only be used in case it is impossible

⁵³ EAGF = European Agricultural Guarantee Fund;

⁵⁴ EAFRD = European Agricultural Fund for Rural Development;

⁵⁵ Bulgaria, Estonia, Greece, Hungary, Lithuania, the Netherlands and Slovakia;

⁵⁶ Art. 32(5) Reg. 1290/2005: If recovery has not taken place within four years of the primary administrative or judicial finding or within eight years where recovery action is taken in the national courts, 50 % of the financial consequences of non-recovery shall be borne by the Member State concerned and 50 % by the Community budget.

to use a code of one of the clusters. Member States should use for these cases also the text field to explain how the irregularity was committed. Unfortunately, that was not the case for a large number of these cases.

As already mentioned, Module 1848 offers the possibility to use written text to describe more precisely the practices employed (*modus operandi*). The added value of describing the *modus operandi* in words is rather high. It provides a more in-depth insight. A more precise description of the irregularity helps to improve the quality of the analysis therefore Member States are requested to forward more detailed information on the *modus operandi*. Copying the findings of the audit report directly into the reporting module would already improve the quality of the reporting. More and more Member States make use of this facility and describe in more detail the practises employed in committing the irregularity.

Art. 3 (1) (f) Reg. 1848/2006 obliges Member States to indicate if the practice amounts to a suspected fraud or not. Member States classified approximately 93% of the reported cases, of which 7% (78 cases) were classified as "suspicion of fraud" or "established fraud"⁵⁷.

22 Member States classified all cases. Germany and Spain did not classify cases in respectively 36% (40 cases) and 16% (38 cases) of their cases. The Netherlands did not classify 2 cases (7%).

The EU-27 compliance rate is 93% (2007: 74%).

3.1.5. *Legal/natural persons identification (Art. 3 (1) (l) Reg. 1848/2006)*

Member States are also required to give detailed information on the identity of the natural and legal persons involved.

The added value of personal data for performing risk analyses is high. Irregularities and frauds are committed by persons and not by products, support measures or budget lines, therefore, it is necessary to know the person behind the irregularity.

Finland and Germany indicated in respectively 88% and 41% of their cases that no personal data could be forwarded. Finland indicated that the forwarding of personal data had no added value for the fight against fraud^{58,59} as Germany indicated that due to data-protection-reasons no personal data could be revealed⁶⁰. Germany provided personal data in 2% of its cases.

The EU-27 compliance rate is 85% (2007: 68%).

⁵⁷ Fraud level rate is based solely on the classification by Member States. Cases that have not been classified have not been taken into account. The average level of (suspected or established) fraud cases (7%) is calculated on the basis of the number of classified cases.

⁵⁸ Explanation for non-disclosure of personal data: tiedosta ei ole hyötyä sääntöjenvastaisuuden ehkäisyssä;

⁵⁹ Finland informed the Commission on 22 April 2009 that due to national (data protection) legislation no personal data can be submitted. Finland however, does report personal data for "structural funds"-cases (see table SF1: compliance rate of 100%);

⁶⁰ Explanation for non-disclosure of personal data: wird aus datenschutzrechtlichen Gründen nicht mitgeteilt;

3.1.6. *Financial impact (Art. 3 (1) (n) Reg. 1848/2006)*

Member States reported 1,133 cases. The amount affected by irregularities was indicated in 1,118 cases, which is 99%. Only in a small number of cases, the amounts affected by irregularities could not (yet) be indicated.

Member States do not always indicate the total amount of expenditure on the operation at issue and, where appropriate, the distribution of its co-financing between Community, national, private and other contributions although a clear obligation to report this information can be found in art. 3(1) m Reg. 1848/2006. This obligation will be taken into account in next years report.

The EU-27 compliance rate is 99% (2007: 96%).

3.2. General Trends

This analysis is a descriptive analysis, the aim of which is to provide feedback to the Member States on the communications that were received by the Commission in the budget year 2008 and to give an overall view for the period 1971 - 2008.

One should bear in mind that Member States must only inform the Commission of irregularities involving more than EUR 10,000.

3.2.1. Amounts affected

Table AG2 provides an overview per Member State of the irregularities reported and the amounts affected by these irregularities in the budget year 2008.

Table AG2: Irregularities reported in the budget year 2008

Table AG2 irregularities reported and amounts affected budget year 2008								
MS	reported	cases		irregularity	amounts in €			MS
		no irregularity (IRQ 0)	irregularity		total expenditure	amount affected by irregularity	detected before payment	
AT	21	1	20	341,716	311,608	26,548	285,060	AT
BE	31	0	31	3,965,698	1,605,690	11,373	1,605,137	BE
BG	2	0	2	144,336	119,470	119,470	0	BG
CY	0	0	0	0	0	0	0	CY
CZ	24	2	22	784,573	764,680	0	780,024	CZ
DE	111	0	111	13,071,488	3,816,771	1,129,128	2,699,404	DE
DK	10	0	10	463,671	445,241	246,595	198,646	DK
EE	13	0	13	408,189	278,131	0	278,131	EE
EL	43	4	39	4,010,046	4,010,046	0	4,010,046	EL
ES	245	0	245	34,405,603	14,924,635	695,410	14,229,225	ES
FI	8	0	8	983,842	983,842	863,259	120,583	FI
FR	129	0	129	179,078,475	11,763,441	352,165	11,411,276	FR
HU	6	0	6	255,826	747,522	0	747,522	HU
IE	22	0	22	416,234	397,497	0	397,497	IE
IT	211	0	211	109,105,752	53,969,740	43,795	53,990,037	IT
LT	24	0	24	1,815,034	803,754	680,201	123,553	LT
LU	1	0	1	13,375	13,375	0	13,375	LU
LV	13	0	13	208,144	208,144	0	208,144	LV
MT	1	0	1	37,814	37,814	0	37,814	MT
NL	30	0	30	5,932,786	1,183,639	150,692	1,032,947	NL
PL	46	0	46	1,554,599	1,126,137	778,272	347,863	PL
PT	121	1	120	10,213,256	3,629,928	26,203	3,603,725	PT
RO	0	0	0	0	0	0	0	RO
SE	11	1	10	693,386	214,065	35,321	178,744	SE
SI	1	0	1	38,808	38,808	0	38,808	SI
SK	11	0	11	1,636,361	639,613	0	0	SK
UK	7	0	7	445,234	225,775	0	225,775	UK
total	1,142	9	1,133	370,024,245	102,259,365	5,158,432	96,563,335	total

Art. 3(1) m, n Reg. 1848/2006
download 19 March 2009 / updated 6 May 2009 (HU-correction)

Member States reported initially 1,142 cases. During 2008, 9 cases were reclassified as “non-irregularity” (IRQ0). These non-irregularity-cases are not taken into account for the analysis.

The total number of irregularities reported in the budget year 2008 was 1,133. These 1,133 cases amount to approximately EUR 102 million.

Member States reported 18 cases with an amount affected below the reporting threshold of EUR 10,000. It concerns mainly cases reported by France, United Kingdom, Italy and Lithuania. Cases below the threshold of EUR 10,000 should only be reported if there is a specific reason to report these cases, as for instance fraud or a clear link with other cases. For all these cases counts that no specific reasons were given why these cases were reported.

Member States did not indicate an amount affected by the irregularity in 15 cases.

Member States which reported the highest number of cases in 2008 were Spain, Italy, Portugal and Germany with 245, 211, 120 and 111 cases respectively.

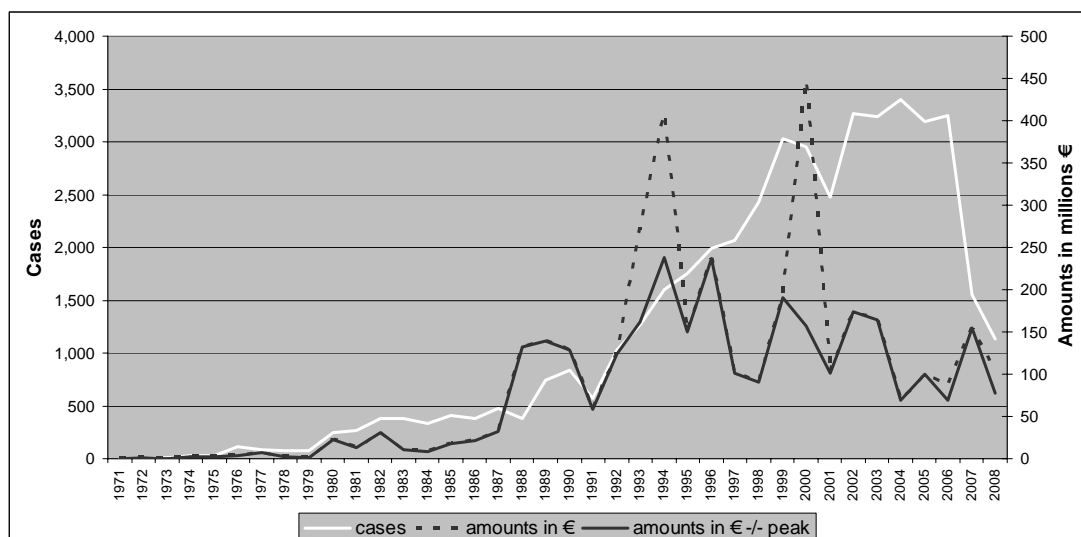
In monetary terms, Italy reported the highest amounts affected by irregularities, more than EUR 54 million, followed by Spain which reported a total amount of approximately EUR 15 million. Italy reported 1 case for the sector "fruits and vegetables" in which the total amount affected was approximately EUR 25 million.

The number of reported cases decreased in 2008 by approximately 28% compared with 2007. The decrease can be partly explained by the coming into force of Reg. 1848/2006 and the introduction of the new threshold of EUR 10,000. In 2007, the decrease was more than 50%⁶¹.

In 2008, the amounts affected by reported irregularities decreased with 34% to approximately €102 million. It should however, be taken into account that the amount affected by irregularities is still higher than in the period 2004 – 2006.

Chart AG1 reflects these trends (see also annex 11).

Chart AG1: Irregularities communicated by Member States (1971-2008)



The “amounts in EUR” line shows three peaks, one in 1994, a second one in 2000 and a third one in 2008. These peaks are the result of three Italian cases in 1994, two Italian cases in 2000 and 1 Italian case in 2008. Leaving aside these exceptional cases, since 1994 there has been a clear steady downward trend in the total amounts affected by irregularities. This can be explained by the introduction of the direct aid/payment section, the introduction of the integrated administration and control system (IACS), the move towards direct aid and payments decoupled from production and the introduction in 2007 of a threshold of EUR 10,000 to report irregularities.

Annex 12 gives an overview for each Member State.

⁶¹ The number of reported cases for the years 2006, 2007 and 2008 was respectively 3,249, 1,577 and 1,133.

3.2.2. Impact on the budget

The total expenditure is approximately EUR 48.6 billion⁶². Table AG3 provides an overview of the total expenditure in 2008 per budget chapter.

Table AG3: Expenditure and irregularities per budget chapter

Table AG3 EXPENDITURE AND IRREGULARITIES PER BUDGET CHAPTER budget year 2008				
budget chapter	description	total amount expenditure in €	total amount irregularity in €	irregularity in % of expenditure
050208	Fruit and vegetables	1,144,640,280	39,760,133	3.474%
050405	Rural development (EAGF) (2000 to 2006)	6,094,061,034	18,413,647	0.302%
050404	Rural development (EAGF) (2004-2006) transitional instrument new MS	454,286,155	991,110	0.218%
050401	Rural development (EAFRD) (2007 to 2013)	-11,139,905	257,735	-2.314%
050209	Products of the wine-growing sector	1,095,054,040	12,715,832	1.161%
050206	Olive oil	45,144,030	5,182,753	11.480%
050205	Sugar	494,476,319	4,082,708	0.826%
050212	Milk and milk products	147,095,719	3,758,382	2.555%
050201	Cereals	48,982,356	3,708,306	7.571%
050213	Beef and veal	46,975,754	2,893,569	6.160%
050215	Pigmeat, eggs and poultry, bee-keeping and other animal products	258,766,474	2,086,940	0.806%
050211	Other plant products/measures	375,132,868	1,309,853	0.349%
050301	Decoupled direct aids	31,419,056,452	1,206,684	0.004%
050302	Other direct aid	5,631,638,059	905,356	0.016%
050214	Sheepmeat and goatmeat		536,467	
050203	Non-Annex 1 products	118,115,879	407,264	0.345%
050204	Food programmes	323,924,980	286,547	0.088%
050210	Promotion	49,411,561	65,223	0.132%
050216	Sugar restructuring fund	1,285,984,432		
050303	Additional amounts of aid	532,953,260		
050207	Textile plants	20,912,415		
050701	Audit - Control of agricultural expenditure	13,376,669		
670300	Superlevy from milk producers - Assigned revenue	-44,853,191		
670200	EAGF irregularities - Assigned revenue	-114,874,340		
670100	Clearance of EAGF accounts - Assigned revenue	-198,483,323		
680100	Temporary restructuring amounts - Assigned revenue	-602,030,989		
050202	Rice			
050402	Completion of the EAGGF Guidance Section, completion of Leader			
050702	Audit - Settlement of disputes			
680200	revenue			
combi	combination of different support measures		1,079,798	
blank	no information provided by Member States		2,611,057	
total		48,628,606,986	102,259,365	0.210%

download 19 March 2009
amount irregularity updated 6 May 2009 (HU-correction)
source "total amount of expenditure": CATS-database (31 March 2009)

The highest expenditure concerned budget chapter 050301: decoupled direct aids. Decoupled direct aids (chapter 050301) were introduced in 2006. The total expenditure was about EUR 31.4 billion, which is 65% of the total expenditure in the agricultural sector. Member States reported for a total amount affected by irregularities of approximately EUR 1.2 million. It concerns 65 cases. France received the highest sum of approximately EUR 5.7 billion, followed by Germany that received approximately EUR 5.3 billion. France reported in 2008 no irregularities concerning “decoupled direct aids”. Germany reported 17 cases with a total amount affected of approximately EUR 0.3 million. The low number of irregularities for decoupled direct aids (chapter 050301) can be partly explained by the fact that the expenditure per beneficiary and per support measure does not exceed the threshold of EUR 10,000 in a large number of cases. For these cases count that irregularity reports will never be submitted.

The highest amount affected by irregularities were reported for the budget chapters concerning "fruit and vegetables" (050208), “rural development (EAGF)” (050405)

⁶² Expenditure figures are based on CATS-database (download : 31 March 2009 (table 106))

and "products of the wine-growing sector (050209) with a total amount affected of EUR 39.8 million, EUR 18.4 respectively EUR 12.7 million.

In percentage of the total expenditure per budget chapter, the highest amounts were reported for the budget chapter concerning "olive oil" (050206) with 11.5%.

Table AG4 shows the relationship, in percentages, between the total amount allocated per Member State, the total amount affected by irregularities per Member States and the total number of irregularities per Member State.

Table AG4: Expenditure and irregularities per Member State

Table AG4 EXPENDITURE AND IRREGULARITIES PER MS budget year 2008								
MS	expenditure		irregularities			irregularities		MS
	total	in % of total expenditure	total amount affected	in % of total amount affected	in % of MS' expenditure	total cases	in % of total cases reported	
FR	9,715,529,160	20.0%	11,763,441	11.5%	0.12%	129	11.4%	FR
DE	6,344,224,320	13.0%	3,816,771	3.7%	0.06%	111	9.8%	DE
ES	6,261,663,422	12.9%	14,924,635	14.6%	0.24%	245	21.6%	ES
IT	5,603,988,857	11.5%	53,969,740	52.8%	0.96%	211	18.6%	IT
UK	3,565,614,301	7.3%	225,775	0.2%	0.01%	7	0.6%	UK
EL	2,687,254,393	5.5%	4,010,046	3.9%	0.15%	39	3.4%	EL
PL	2,414,751,681	5.0%	1,126,137	1.1%	0.05%	46	4.1%	PL
IE	1,786,625,512	3.7%	397,497	0.4%	0.02%	22	1.9%	IE
DK	1,123,719,453	2.3%	445,241	0.4%	0.04%	10	0.9%	DK
AT	1,114,613,971	2.3%	311,608	0.3%	0.03%	20	1.8%	AT
NL	1,035,364,976	2.1%	1,183,639	1.2%	0.11%	30	2.6%	NL
PT	974,366,033	2.0%	3,629,928	3.5%	0.37%	120	10.6%	PT
SE	941,831,232	1.9%	214,065	0.2%	0.02%	10	0.9%	SE
HU	900,016,606	1.9%	747,522	0.7%	0.08%	6	0.5%	HU
FI	787,088,826	1.6%	983,842	1.0%	0.12%	8	0.7%	FI
BE	756,952,211	1.6%	1,605,690	1.6%	0.21%	31	2.7%	BE
CZ	688,544,920	1.4%	764,680	0.7%	0.11%	22	1.9%	CZ
RO	474,789,773	1.0%						RO
SK	332,392,068	0.7%	639,613	0.6%	0.19%	11	1.0%	SK
LT	313,730,455	0.6%	803,754	0.8%	0.26%	24	2.1%	LT
BG	231,447,678	0.5%	119,470	0.1%	0.05%	2	0.2%	BG
LV	197,702,985	0.4%	208,144	0.2%	0.11%	13	1.1%	LV
SI	182,119,725	0.4%	38,808	0.0%	0.02%	1	0.1%	SI
EE	89,853,642	0.2%	278,131	0.3%	0.31%	13	1.1%	EE
CY	55,603,003	0.1%						CY
LU	43,844,738	0.1%	13,375	0.0%	0.03%	1	0.1%	LU
MT	4,973,044	0.0%	37,814	0.0%	0.76%	1	0.1%	MT
total	48,628,606,986	100.0%	102,259,365	100.0%	0.21%	1,133	100.0%	total

download 19 March 2009
source "total amount of expenditure": CATS-database (31 March 2009)
total amount affected by irregularities updated on 6 May 2009 (HU-correction)

Member States are ranked in order of their budget allocation, starting with the Member State receiving the highest amount. France received the highest amount (EUR 9.7 billion) whilst Malta received the lowest amount (EUR 0.5 billion).

Together France, Germany, Spain, Italy, the United Kingdom, Greece and Poland receive more than 75% of the total agricultural budget. These 7 Member States receive approximately EUR 36.6 billion (total expenditure: EUR 48.6 billion).

In 2008, France received approximately EUR 9.7 billion, which is approximately 20% of the total agricultural budget. The reported French cases were responsible for 11,5% of the amounts affected by irregularities, which is rather low in comparison to the expenditure. The same counts for the number of reported irregularities. France was only responsible for 11.4% of the total number of reported cases.

The rather low percentage of cases reported could be the result of good management and control, but could also indicate underreporting.

Some Member States report (far) more irregularities than others. Portugal for instance, reports approximately the same number of cases as France, 120 cases respectively 129 cases. France however, receives 10 times as much as Portugal from the agricultural-budget. France received EUR 9.715 billion as Portugal received EUR 0.974 billion.

Also of interest is the level of reported irregularities as a percentage of agricultural-expenditure per Member State. Italy has the highest percentage with 0.96%, followed by Malta and Portugal with 0.76%, and 0.37% respectively. Rather low are the percentages of United Kingdom, Slovenia, Ireland and Sweden with 0.01%, 0.02%, 0.02% respectively 0.02%. Annex 12 gives an overview of these percentages.

Spain and Portugal reported also in the period 2004-2007 a relatively high number of irregularities as well as a relatively high amount affected by irregularities.

3.2.3. *Method of detection*

*Controls by national authorities*⁶³

Under the common agricultural policy, according to the principle of shared management, the Member States are responsible for paying the agricultural subsidies to the final beneficiaries through paying agencies⁶⁴, accredited by the competent authorities of the Member States. They are responsible in particular for checking the admissibility of claims and compliance with EU rules before payment.

For each aid scheme, the relevant sector regulations lay down detailed rules on checks to be carried out by the paying agencies or by delegated bodies operating under their supervision.

All aid applications are subject to administrative checks before any payment is made. On-the-spot checks are carried out on a sample basis which normally ranges between 5% and 100%, depending on the risk in the sector concerned.

The most important control system is the Integrated Administration and Control System (IACS). It covers all direct payments to farmers. IACS includes a computerised database, an identification system for farmers, for agricultural parcels and for animals in case of payments linked to animals, and a system for identification and registration of payment entitlements and aid applications. For aid schemes which do not fall under the IACS such as storage of products or export refunds, complementary checks must be carried out after the payment to the beneficiary has been made.

At the end of each financial year, the certification body draws up a certificate stating whether it has gained reasonable assurance that the accounts transmitted to the Commission are true, complete and accurate and that the internal control procedures have operated satisfactorily.

⁶³ Text provided by DG AGRI

⁶⁴ Regulation (EC) No 1290/2005 (OJ L 209, 11.8.2005)

Member States must send to the Commission the annual accounts of each paying agency, accompanied by a statement of assurance signed by the paying agency's director. The statement of assurance may be qualified by reservations, which must quantify their financial impact. In that case, it must include a remedial action plan and a precise timetable for its implementation. The statement of assurance must be based on an effective supervision of the management and control system in place throughout the year.

Member States with more than one paying agency must also draw up at the end of the financial year an annual summary report (synthesis) covering the statements of assurance and certificates issued by the certification bodies. Coming on the top of the statements of assurance and certification, this is designed to strengthen the chain of responsibility between the Member States and the Commission.

*Controls by the Commission*⁶⁵

The Commission verifies, firstly, the completeness, accuracy and veracity of the paying agencies' accounts (clearance of accounts) and, secondly, mostly by means of on-the-spot audits, whether the expenditure has been effected by Member States in conformity with the Community rules. Where this is not the case, it excludes the expenditure concerned from Community financing (financial corrections). This latter mechanism, called "conformity clearance", has over the years proven to be a very effective means of protecting the Community's financial interest.

Conformity clearance shields the Community budget from expenditure which should not be charged to it. It is not a mechanism by which irregular payments to final beneficiaries are recovered, something which, according to the principle of shared management, is the sole responsibility of the Member States. Its purpose is to examine the management and control systems implemented by the Member States and to recover from national authorities any expenditure which is not in conformity with Community law. Financial corrections are determined on the basis of the nature and gravity of the infringement and the financial damage caused to the Community. The amount is calculated on the basis of the loss actually caused or on the basis of an extrapolation. Where this is not possible, flat-rates are used which take account of the severity of the deficiencies in order to reflect the financial risk for the Community. In the calendar year 2008 the Commission excluded approximately EUR 1,022 million from Community financing under the EAGF and the EAFRD⁶⁶ on grounds of its non-compliance with Community rules.

Where individual irregular payments are or can be identified as a result of the conformity clearance procedures, Member States are required to follow them up by recovery actions against the final beneficiaries. However, even where this is not possible because the financial correction relates exclusively to deficiencies in the Member State's management and control system, the correction remains an important means of improving the functioning of that system and thus of preventing or detecting and recovering irregular payments to final beneficiaries. The conformity

⁶⁵ Text provided by DG AGRI

⁶⁶ Decisions 2008/321/EC (OJ L 109, 19.4.2008), 2008/582/EC (OJ L 186, 15.7.2008, with corrigendum OJ L 194, 23.7.2008) and 2008/960/EC (OJ L 340, 19.12.2008).

clearance thereby contributes to the legality and regularity of transactions at the level of the final beneficiaries.

Irregularity reports

Member States are not only required to follow irregular payments up by recovery actions but are also obliged to submit irregularity reports. In these reports, Member States are required to indicate the manner in which the irregularity was discovered. Member States provide detailed information on the reason why an audit, check or scrutiny was performed and how it was performed.

Table AG5 gives an overview why a control was performed as table AG6 gives an overview how the control was performed.

In the European Union, all IACS aid applications are processed and checked administratively. These checks are complemented by on-the-spot controls, selected on the basis of risk analysis. In the budget year 2008, approximately 87.5% of agricultural expenditure under EAGF was processed through IACS.

Member States indicated that in 56 cases (2007: 54 cases) the irregularity was discovered thanks to a check or audit performed on basis of IACS. This is approximately 5% of the total number of reported irregularities (1,133).

In 54 cases, Member States did not indicate the reason why an audit, check or scrutiny was performed, which is also approximately 5% of the total amount of reported irregularities (1,133).

Member States are also under an obligation to perform certain controls on the basis of Council Regulation (EEC) No 485/2008⁶⁷ and Council Regulation (EEC) No 386/90.

Council Regulation (EEC) No 485/2008 relates to the scrutiny of the commercial documents of entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

Member States indicated that in 173 cases the irregularity was discovered thanks to an audit performed on basis of Reg. 485/2008. This is approximately 15% of the total number of reported irregularities (1,133).

Council Regulation (EEC) No 386/90 lays 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. Member States indicated that in 8 cases (2007: 9 cases) the irregularity was discovered thanks to a check performed on basis of Reg. 386/1990. This is less than 1% of the total number of reported irregularities (1,133).

Table AG5: Reasons for performing an audit, control, scrutiny

⁶⁷ Reg. 485/2008 repealed Reg. 4045/1989

Table AG5 DETECTION OF THE IRREGULARITY budget year 2008				
reason for performing a control, audit, scrutiny etc.	alone*)	shared**)	total	in %
administrative enquiry	219	36	255	23%
other occasions (described in field 5.8.)	147	80	227	20%
scrutiny on basis of Reg. 485/2008 (replaced 4045/1989)	145	28	173	15%
routine	103	16	119	11%
judicial enquiry	79	9	88	8%
random check	83	1	84	7%
comparison of data	10	68	78	7%
scrutiny on basis of Reg. 3508/1992 & 1782/2003 (IACS)	49	7	56	5%
risk analysis	31	7	38	3%
information and/or request from EU-body	7	12	19	2%
tip from informant, whistleblower, etc.	13	4	17	2%
chance	12	0	12	1%
review of conditions	10	2	12	1%
spontaneous confession	8	2	10	1%
control on basis of Reg. 386/1990	8	0	8	1%
complaint	2	3	5	0%
probability checks	1	4	5	0%
release of guarantee	5	0	5	0%
refusal to accept controls	2	0	2	0%
existing doubts	2	0	2	0%
payment of balance	1	1	2	0%
information published in the media	1	0	1	0%
suspicious conduct	1	0	1	0%
statistical analysis	0	1	1	0%
no information provided by Member States	55	0	55	5%
total	994	281	1275	
*) alone = only 1 reason for performing a control etc. was indicated				
**) shared = more than 1 reason for performing a control etc. was indicated				
Art. 3(1) g Reg. 1848/2006				
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Administrative enquiry was in 255 cases (23%), the reason for performing a control, audit or scrutiny.

In 227 cases (20%) Member States indicated "other occasions". Unfortunately, Member States only described in 27 cases what the other occasion was.

In 88 cases (2007: 175 cases), the reason to perform a control was based on a judicial enquiry. This is approximately 8% of the total amount of reported irregularities (1,133). Member States classified 4 of these cases (2007: 15 cases) as suspected fraud (IRQ3).

Table AG5 provided an overview of the reason why a control was performed. On the next page provides table AG6 an overview how an audit or check was performed.

Approximately 60% of the irregularities were detected via controls of documents (24%), ex post controls (20%) and controls on the premises of the company (15%).

Member States did not provide any information on the type of control, audit or scrutiny in 157 cases, which is 14% of the total amount of reported irregularities (1,133). In more than 8% of the cases, Member States indicated "other methods (described in field 5.8)". Unfortunately, in a large number of cases there was no description in field 5.8. This means that in more than 20% of the cases no clear description is given of the type and/or method of control.

Table AG6: type/method of control

Table AG6 DETECTION OF THE IRREGULARITY budget year 2008				
type of control, audit, scrutiny etc.	alone ^{*)}	shared ^{**)}	total	in %
control of documents	214	63	277	24%
ex post control	202	19	221	20%
control on the premises of the company	117	55	172	15%
control of accounts	93	24	117	10%
other methods (described in field 5.8.)	96	0	96	8%
analysis of samples	51	6	57	5%
on the spot control of achievement of project or action	54	0	54	5%
face vet / documentary check	33	3	36	3%
initial enquiry	21	1	22	2%
other Customs controls, checks, audits, scrutinies etc.	4	6	10	1%
preventive check	4	0	4	0%
control of production	2	1	3	0%
control of products	2	1	3	0%
physical check of goods	2	0	2	0%
control of product in intervention	2	0	2	0%
other controls, checks etc. concerning production or products	1	0	1	0%
control of movement	0	1	1	0%
teledetection	0	0	0	0%
border control	0	0	0	0%
no information provided by Member States	157	0	157	14%
total	1,055	180	1,235	
*) alone = only 1 type of control etc. was indicated				
**) shared = more than 1 type of control etc. was indicated				
Art. 3(1) g Reg. 1848/2006				
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As in 2007, teledetection did not lead to the discovery of any irregularities.

3.2.4. Types of irregularity

Member States are also obliged to report and to describe the practices employed (modus operandi) of the detected irregularity (see art. 3(1)e Reg. 1848/2006). A clear overview of the (most recently used) modus operandi in committing irregularities will support the Member States and the Commission in their fight against fraud and help to reduce the number of irregularities.

Member States have improved their reporting of the type of irregularity and the modus operandi. The EU-27 compliance rate on type of irregularity is almost 100%, as the compliance rate on the practices adopted (modus operandi) is 86%.

Module 1848 introduced 9 main groups of types of irregularity (see table AG7)⁶⁸. Each main group contains specific types of irregularities and a code "other" for each group. The latter makes it possible to link the (type of) irregularity to a specific main group. In case it is not possible to link an irregularity to a main group, the code "other other" can be used (code 1900). A text field offers the possibility to describe more in detail the practices adopted (modus operandi).

Table AG7 gives an overview of the types of irregularity most frequently reported by Member States. The types of irregularity are clustered by main group.

Table AG7: Irregularities and frequency of used types of irregularities

⁶⁸ Recommendations of the European Court of Auditors have led to revised pick lists;

Table AG7 TYPE OF IRREGULARITY PER GROUP budget year 2008					
group	description	number *)	cases		
			in %	amount in €*)	in %
1100	request for aid	201	18%	12,366,987	12%
1200	beneficiary	47	4%	2,424,332	2%
1300	accounts and records	12	1%	602,939	1%
1400	documentary proof	199	18%	9,511,437	9%
1500	product, species and/or land	247	22%	14,169,356	14%
1600	(non-)action	449	40%	63,553,947	62%
1700	customs - movement of goods	16	1%	1,151,304	1%
1800	bankruptcy / bribes / corruption	2	0%	644,253	1%
1900	other	70	6%	4,457,054	4%
	no information provided by Member States	3	0%	491,696	0%
total *)		1,246		109,373,306	

Art. 3(1)g Reg. 1848/2006
 *) an irregularity report can contain sometimes more than 1 type of irregularity therefore total amounts can be higher than the real number of cases and real total amount affected by irregularities
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Only in 3 cases (<1%), no type of irregularity was indicated. It concerns 2 cases reported by Hungary and 1 case reported by Greece.

In 70 cases, Member States indicated "other irregularities, to be specified". Finland indicated "other irregularities, to be specified" in more than 60% of its cases. In 2007, Finland reported also in more than 60% of its cases "other irregularities". The added value of the indication "other irregularities, to be specified" is rather low. Finland should pay some attention to this reporting obligation.

Group 1100 request for aid

In 18% of the reported irregularities it concerned cases in which the irregularity was already committed during the request phase. As example, can be mentioned an "incorrect or incomplete request for aid". These cases could normally be discovered before payment.

Member States indicated in all cases (100%) if an irregularity took place before payment or after payment. Discovered before payment means that no payment has been made, therefore, no recovery action has to be undertaken. Discovered after payment means that the beneficiary received the subsidy and that the unduly paid amount needs to be recovered.

The overall rate of irregularities detected before payment is approximately 10%, e.g. 116 cases out of 1,133.

Table AG8 focuses on the group "request for aid". The table shows per type of irregularity if the case was discovered before or after payment. Especially for the group "request for aid" counts that the irregularity can be discovered before payment.

The table shows that only in 23 cases out of 201 cases (=23+178), the irregularity was discovered before payment. This is 11.4%.

The most frequent type of irregularity was "product, species, project and/or activity not eligible for aid". Member States indicated this type of irregularity in 82 cases. Only in 7 cases, the irregularity was discovered before payment. In 75 cases, recovery actions needed to be started.

Table AG8: Irregularities concerning the request for aid

Table AG8 TYPE OF IRREGULARITY - REQUEST FOR AID budget year 2008					
code	description	before payment		after payment	
		cases	amounts in €	cases	amounts in €
1100	incorrect or incomplete request for aid	10	232,593	25	840,593
1101	false or falsified request for aid	2	27,204	10	637,048
1102	product, species, project and/or activity not eligible for aid	7	193,629	75	4,471,922
1103	incompatible cumulation of aid			2	84,015
1104	several requests for the same product, species, project and/or activity			2	43,238
1199	other irregularities concerning the request for aid	4	126,425	64	5,698,946
total *)		23	579,851	178	11,775,762

Art. 3(1)e Reg. 1848/2006
 *) an irregularity report can sometimes contain more than 1 type of irregularity, therefore, total amounts can be higher than the real number of cases and real total amount affected by irregularities
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In 35 cases, Member States described the type of irregularity as “incorrect or incomplete request for aid”. Despite the incorrect or incomplete request for aid, Member States granted in more than 70% of these cases the subsidy.

Denmark, Germany, Spain and Italy indicated in respectively 3, 1, 1 and 7 cases that the applied modus operandi was “false or falsified request for aid”. Germany classified its 2 cases as "established fraud (IRQ5) as Spain classified its case as "suspicion of fraud". All other 9 cases were classified as irregularity (IRQ2).

Group 1400 documentary proof

Table AG7 showed that in 199 cases (18%) the irregularity concerned documentary proof. The largest amount (95 cases) concerns "documents missing and/or not provided". This type of irregularity can normally be considered as an error or mistake which can be repaired. Almost all of these cases are classified as "irregularity" (IRQ2). Only for 2 cases count that Member States classified the irregularity as "suspicion of fraud" (IRQ3). In these 2 cases, more than 1 type of irregularity was indicated.

Member States indicated in 12 cases, with a total amount affected of EUR 1.4 million that it concerned "documents false and/or falsified". 7 of these cases were classified as "suspicion of fraud" (IRQ3) as 4 cases were classified as "irregularity" (IRQ2). 1 case was not classified.

Group 1500 product, species and/or land

In almost 22% of the cases, representing 14% of the total amount affected by irregularities, the irregularity concerned the product, species (animals) or land for which the subsidy was granted. As example, can be mentioned "over-declaration of land" and "declaration of fictitious land". Especially in the sector “rural development”, irregularities were committed by an over-declaration of land. In some cases it even concerned the declaration of fictitious land. Over-declaration can be considered as an error or mistake as declaration of fictitious land needs to be considered as (suspected) fraud.

Member States did not always use the correct code to describe the type of irregularity. The type "inexact quantity" was used in a rather large number of cases to report an overdeclaration of land for which the description "overdeclaration and/or declaration of fictitious product, species and/or land" can be used. Member States probably still have to get used to the new reporting system.

Member States reported in 63 cases "incorrect classification (incl. incorrect tariff heading)". These cases concern mainly the export of pig- and poultry meat. Member States classified 61 of these cases as "irregularity" (IRQ2). 2 cases were not classified.

In 23 cases, Member States classified the cases as "suspicion of fraud" (IRQ3). It concerned in 21 cases "overdeclaration and/or declaration of fictitious land".

Group 1600 (non-) action

In almost 40% of the reported irregularities it concerned cases in which the irregularity was directly linked to an action performed or not performed by the involved persons. For most cases counts, that the beneficiary did not make the deadline to implement, complete or finalise the action.

Table AG9: Type of irregularity – (non) action

Table AG9 TYPE OF IRREGULARITY - (NON-)ACTION budget year 2008			
code	description	cases	
		number	amount in €
1600	action not implemented	37	1,265,776
1601	action not completed	30	1,938,278
1602	operation prohibited during the measure	30	1,173,291
1603	failure to respect deadlines	48	5,928,640
1604	irregular termination, sale or reduction	23	1,225,013
1605	absence of identification, marking, etc.	0	0
1606	refusal of control, audit, scrutiny etc.	3	37,364
1607	control, audit, scrutiny etc. not carried out in accordance with regulations, rules, plan etc.	3	487,776
1608	infringement of rules concerned with public procurement	0	0
1609	infringements with regard to the cofinancing system	3	42,141
1610	other actions not carried out in accordance with regulations, rules, contract conditions, etc.	274	51,455,668
total *)		451	63,553,947

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In a rather high number of cases (274), Member States indicated "other actions not carried out in accordance with regulations, rules, contract conditions, etc." The total amount affected is EUR 51.5 million. It concerns in 113 cases the rural development sector. The total amount affected is EUR 4.3 million. Member States reported 32 cases for the fruits and vegetables sector and 23 cases for the wine growing sector. The amounts affected for these 2 sectors are respectively EUR 33.2 million and EUR 8 million.

Member States classified 35 as fraud (IRQ3 or IRQ5) and 375 as irregularity (IRQ2). 41 cases were not classified. Germany and Spain were responsible for the reporting of the non-classified cases. The applied modus operandi in 26 of the fraud cases (72%) can be summarized as "operation prohibited during the measure".

3.3. Specific Analysis

Member States inform the Commission of the common market organisations affected, the sectors and products concerned by irregularities. The new reporting Module 1848 offers Member States the possibility to use the official DG AGRI nomenclature to indicate the budget lines affected by the irregularities.

3.3.1. Analysis of support measures

Table AG10 gives an overview of the irregularities reported per main category of support measure. The division into the different types of measures is based on the indications given by Member States of the measures affected, regulations infringed and modus operandi.

Table AG 10: Irregularities per main category of support measure

Table AG10 IRREGULARITIES PER BUDGET CHAPTER BUDGET YEAR 2008					
group	description	cases	amounts in €	average amounts in €	in % of total
050208	Fruits and vegetables	92	39,760,133	432,175	38.9%
050401	Rural development (EAFRD) (2007 to 2013)	12	257,735	21,478	0.3%
050404	Rural development (EAGF) (2004-2006) transitional instrument new MS	64	1,357,842	21,216	1.3%
050405	Rural development (EAGF) (2000 to 2006)	361	18,413,647	51,007	18.0%
050209	Products of the wine-growing sector	138	12,715,832	92,144	12.4%
050206	Olive oil	38	5,225,808	137,521	5.1%
050205	Sugar	34	4,391,995	129,176	4.3%
050212	Milk and milk products	59	3,992,477	67,669	3.9%
050201	Cereals	39	3,838,617	98,426	3.8%
050213	Beef and veal	56	3,176,032	56,715	3.1%
050215	Pigmeat, eggs and poultry, bee-keeping and other animal products	63	2,138,052	33,937	2.1%
050301	Direct aids of a horizontal nature	65	1,585,977	24,400	1.6%
050211	Other plant products/measures	28	1,309,853	46,780	1.3%
050302	Other direct aids	36	1,215,330	33,759	1.2%
050203	Refunds on non-Annex 1 products	12	643,543	53,629	0.6%
050214	Sheepmeat and goatmeat	18	631,915	35,106	0.6%
050204	Food programmes	3	329,602	109,867	0.3%
050303	Additional amounts of aid	2	67,036	33,518	0.1%
050210	Promotion and information measures	2	65,223	32,611	0.1%
blank	no information provided by Member States	57	2,611,057	45,808	2.6%

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As in 2007, the sector “fruits and vegetables” (group 050208) scores high. Member States reported 92 cases involving approximately EUR 39.8 million, which is almost 39% of the total amount affected by irregularities. Italy reported 1 case in which the total amount affected was approximately EUR 25 million.

The highest number of irregularities reported related to “rural development”. The budget chapters 050401, 050404 and 050405 have been taken together to determine the impact of irregularities for the sector "rural development". Member States reported a total of 437 cases involving rural development measures (group 0504). These cases alone amount to approximately EUR 20 million, which is almost 20% of the total amount affected by irregularities. The vast majority of these cases concern the programming period 2000-2006.

Member States reported also for the wine sector (group 050209) a rather high number of irregularities and amounts affected by the irregularities: 138 cases and an amount affected by irregularities of approximately EUR 12.7 million, which is more than 12% of the total amount affected by irregularities.

More than 70% of the total amounts affected by irregularities concern the sectors:

- fruits and vegetables 40%

- rural development 20%
- wine 12%

Fruit and vegetables (group 050208)

Table AG11 shows the measures which were hit by irregularities, indicating the number of cases, the total amounts and the average amount per irregularity.

Table AG 11: Fruit and vegetables: measures affected by irregularities

Table AG11 FRUITS AND VEGETABLES BUDGET YEAR 2008			
description	cases	amounts in €	average
Compensation to encourage processing of citrus fruits	22	27,634,043	1,256,093
Compensation and buying-in - lemons	5	5,672,234	1,134,447
Production aid for processed tomato products	12	3,061,956	255,163
Operational funds for producer organisations	38	2,347,184	61,768
Compensation aid - bananas	6	532,747	88,791
Production aid for fruit-based products	4	337,804	84,451
Aid to producer groups for preliminary recognition	3	89,700	29,900
Export refunds - fresh fruits & vegetables	1	52,678	52,678
Special measures for nuts	1	31,787	31,787
total	92	39,760,133	432,175
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Member States reported a total of 92 cases affecting measures to support the fruit and vegetables sector. These cases alone add up to approximately EUR 39.8 million, which is approximately 39% of the total amount affected by irregularities.

France and Italy reported 3 cases in which the total amount affected by the irregularity was more than EUR 1 million per case. Italy reported 2 cases of which 1 case had a total amount affected of more than EUR 25 million and concerned the support measure "compensation to encourage processing of citrus fruits".

In recent years, Member States have consistently reported a relatively high amount affected by irregularities for the measure "compensation to encourage processing of citrus fruits". In 2008, Member States reported fewer irregularities concerning citrus fruits. The amounts increased but mainly due to 1 Italian case of more than EUR 25 million. The 22 cases were reported by two (2) Member States. Italy reported 2 cases with a total amount affected of EUR 25.3 million as Spain reported the other 20 cases with a total amount affected of EUR 2.3 million. All cases were classified as "irregularity" (IRQ2).

Member States reported 5 cases for the measure "compensation and buying-in lemons". The total amount affected is rather high: EUR 5.7 million. In 2 cases, the total amount affected was higher than EUR 2 million. It concerned 1 case reported by France and 1 case reported by Italy. Greece indicated in 1 case that it concerned "suspicion of fraud".

Cases in which the measure "production aid for processed tomato products" was affected by irregularities were reported by Spain, Hungary and Italy with respectively 1 case, 1 case and 10 cases. All cases were classified as irregularity (IRQ2) although in 4 cases the practices adopted was described as "fictitious processing".

Member States classified in 89 cases (97%) the irregularities as irregularity or as (suspected) fraud.

The reported level of (suspected or established) fraud is 3.5%.

Rural development (group 0504)

Member States reported a total of 437 cases affecting rural development measures. 425 cases concerned EAGF⁶⁹ as 12 cases concerned EAFRD. These cases alone amount to approximately EUR 20 million, which is approximately 19.6% of the total amount affected by irregularities (see table AG10).

Table AG12 shows the measures that were mostly affected by irregularities, indicating the number of cases, the total amounts and average amount per irregularity.

Table AG 12: Rural development: measures affected by irregularities

Table AG12 RURAL DEVELOPMENT BUDGET YEAR 2008			
description	cases	amounts in €	average
agrienvironment	100	2,460,358	24,604
forestry	79	4,554,850	57,656
transitional instrument for the new Member States	64	1,357,842	21,216
promoting the adaptation and the development of rural areas	51	2,919,646	57,248
improving the processing and marketing of agricultural products	45	5,012,609	111,391
setting-up of young farmers	31	341,232	11,007
reimbursement not related to irregularities	16	390,289	24,393
investments in agricultural holdings	14	1,981,495	141,535
EAFRD - rural development	12	257,735	21,478
early retirement scheme	11	327,853	29,805
less favoured areas	4	142,781	35,695
other - not specified	10	282,534	28,253
total	437	20,029,224	45,833
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The largest number of irregularities related to "agrienvironment". Member States reported 100 cases in which the support measure "agrienvironment" was affected by irregularities. The average amounts affected per case are rather low.

The highest amount affected by irregularities is reported for the support measure "improving the processing and marketing of agricultural products". Member States reported 45 cases with a total amount affected of more than EUR 5 million. Member States classified 96% of the cases. All these cases were classified as "irregularity" (IRQ2). Spain did not classify 2 cases. Most frequently type of irregularity is "product, species, project and/or activity not eligible for aid" and occurred already in the request phase. France described in 1 case the practices adopted as "documents false and/or falsified". This case was also classified as "irregularity" (IRQ2).

As in 2007, the support measure "forestry" has a rather high amount affected by irregularities. Member States reported 79 cases with a total amount affected of approximately EUR 4.5 million. Most frequently occurring type of irregularity is "failure to respect deadlines". In almost 29% of the reported cases, beneficiaries are

⁶⁹ EAGF – rural development concerns the programming period 2000-2006 and the transitional instrument for new Member States (see table AG10);

not able to make the deadlines. It concerns in all cases Spanish beneficiaries. Member States classified more than 91% (72) of the forestry cases as "irregularity" or "suspicion of fraud". Spain did not classify 6 cases as Germany did not classify 1 case. Spain classified 2 cases as "suspicion of fraud". The practices adopted for these 2 cases can be summarized as "false and/or falsified request for aid" and "operation prohibited during the measure".

The support measure "promoting the adaptation and the development of rural areas" has also a rather high total amount affected by irregularities. The total amount affected is approximately EUR 2.9 million. The total number of reported cases is 51. Most frequently applied modus operandi is "over declaration" and/or "fictitious declaration" of land. Member States classified 3 cases as "suspicion of fraud" (IRQ3) as all other cases were classified as "irregularity" (IRQ2).

Member States reported 14 cases for the support measure "investments in agricultural holdings". The total amount affected was rather high: EUR 2 million. The latter was caused by 1 Italian case in which the total amount affected was more than EUR 1.5 million. Member States classified 10 of these cases as "irregularity" (IRQ2), 1 case as "suspicion of fraud" (IRQ3) and 1 case as "established fraud" (IRQ5). 2 cases were not classified. It concerns Spanish cases. The modus operandi in the "suspicion of fraud" case concerns "false and/or falsified documents". The "established fraud" case concerned actions that were not carried out in accordance with the regulations and conditions under which the subsidy was granted.

The reported level of (suspected or established) fraud is 8.5%.

Wine (group 050209)

Member States reported a total of 138 cases affecting wine measures. These cases amount to approximately EUR 12.7 million. It concerns cases reported by Spain, Portugal, Italy, Greece and France with respectively 58, 44, 20, 11 and 5 cases. Table AG13 shows the measures that were mostly affected by irregularities, indicating the number of cases, the total amounts and average amount per irregularity.

description	cases	amounts in €	average
permanent abandonment premiums	1	7,245,007	7,245,007
restructuring and conversion of vine yards	115	3,048,474	26,508
distillation	12	1,999,327	166,611
storage	5	289,282	57,856
aid for the use of must	4	81,818	20,455
export refund	1	51,924	51,924
total	138	12,715,832	92,144

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Italy reported 1 case in which the total amount affected by the irregularity was more than EUR 7.2 million. It concerned the support measure "permanent abandonment premiums for areas under vines. The case was classified as "irregularity" (IRQ2). The amounts affected for all other cases vary between EUR 0 and EUR 0.8 million.

The highest number of cases were reported for the support measure "restructuring and conversion of vineyards". Member States reported 115 cases with a total amount affected of more than EUR 3 million. Member States classified 102 cases out of 115 as "irregularity" or "suspicion of fraud". Spain classified 25 cases as "suspicion of fraud" (IRQ3). All other cases were classified as "irregularity" (77) or were not classified (13). The modus operandi of the fraud cases can be described as "operation prohibited during the measure". Unfortunately, Member States did not describe in more detail the applied modus operandi.

Member States reported 12 cases for the support measure "distillation". The total amount affected is approximately EUR 2 million. The applied modus operandi differs per case which makes it difficult to indicate a modus operandi that is occurring more frequently. None of these cases was classified as "suspicion of fraud" (IRQ3) or "established fraud" (IRQ5).

The reported level of (suspected or established) fraud is 18.1%.

3.3.2. Irregularity versus suspected fraud

With the introduction of the electronic reporting system in mid-2001, Member States were asked to classify the irregularities reported. To assist them, an extra field was added to the module offering four possibilities: mistake, irregularity, (suspected) fraud and organised crime. The field was modified in 2004 and 2006 and now offers four possibilities:

- IRQ 0 = no irregularity
- IRQ 2 = irregularity
- IRQ 3 = suspicion of fraud
- IRQ 5 = established fraud

Reg. 1848/2006 introduced the obligation to identify fraud cases. Member States comply rather well with this obligation; the overall compliance rate is 93%. Germany and Spain should pay some extra attention to this obligation. The Netherlands did not classify 2 of its cases (7%). Table AG14 gives an overview of the classification of irregularities by Member States and by OLAF.

Table AG 14: Classification of irregularities by Member States

MS	total	IRQ2	IRQ3	IRQ5	blank	compliance	fraud in %			MS
							2008	by OLAF	2007	
AT	20	20				100%	0%	0%	0%	AT
BE	31	26	5			100%	16%	16%	0%	BE
BG	2		2			100%	100%	100%		BG
CY									0%	CY
CZ	22	22				100%	0%	0%	0%	CZ
DE	111	67	3	1	40	64%	6%	5%		DE
DK	10	10				100%	0%	30%	0%	DK
EE	13	12	1			100%	8%	8%	0%	EE
EL	39	38	1			100%	3%	5%	5%	EL
ES	245	180	27		38	84%	13%	13%		ES
FI	8	8				100%	0%	0%	0%	FI
FR	129	125	4			100%	3%	6%	3%	FR
HU	6	6				100%	0%	0%	8%	HU
IE	22	22				100%	0%	0%	0%	IE
IT	211	209	1	1		100%	1%	7%	6%	IT
LT	24	24				100%	0%	0%	0%	LT
LU	1	1				100%	0%	0%		LU
LV	13	13				100%	0%	0%	64%	LV
MT	1	1				100%	0%	100%		MT
NL	30	27	1		2	93%	4%	3%	22%	NL
PL	46	17	29			100%	63%	63%	90%	PL
PT	120	118	2			100%	2%	2%	2%	PT
RO										RO
SE	10	10				100%	0%	0%	0%	SE
SI	1	1				100%	0%	0%	0%	SI
SK	11	11				100%	0%	0%	0%	SK
UK	7	7				100%	0%	14%	12%	UK
total	1,133	975	76	2	80	93%	7%	9%	10%	total

IRQ2 = irregularity
 IRQ3 = suspicion of fraud
 IRQ5 = established fraud
 blank = not classified by Member State
 fraud = (IRQ3 + IRQ5) / total
 art. 3 (1) f Reg. 1848/2006
 download 19 March 2009 / updated 6 May 2009 (HU-correction)

Classification of irregularities by Member States

Fraud as a percentage of the total number of reported cases involved in irregularities is about 7%. The term fraud includes “suspicion of fraud” (IRQ3) and “established fraud” (IRQ5). The non-irregularities (IRQ0) have not been taken into account for the analysis. As mentioned earlier, Module 1848 was introduced in 2008 which implies that Member States needed to get used to the new reporting system, therefore the figures shown in the table should be treated with caution.

Fraud as a percentage of the total amount of reported cases affected by irregularities is about 4%.

Classification of irregularities by OLAF

In the period 2000 – 2007 the percentage of irregularities classified as “suspected frauds” varied between 10% and 13% of the total number of irregularities reported.

In case OLAF would classify the 2008-irregularities by applying the same method as used for the period 2000 - 2007, the irregularities to be classified as “suspected frauds” would be 9% of the total number of reported irregularities and 10% of the total amount affected by irregularities.

The classification by OLAF is based on the classification by Member States, the types of irregularities (codes) as indicated by Member States, the modus operandi as described by the Member States, sanctions imposed (administrative or penal) and additional comments made by Member States.

The higher fraud rate can be explained by the reclassification of cases from Member States that did not classify any cases as "suspicion of fraud". The latter concerns mainly cases reported by Denmark and the United Kingdom. Some of the Danish, French, Italian and United Kingdom cases would be reclassified from “irregularity” (IRQ2) into “suspicion of fraud” (IRQ3), based on the modus operandi applied in these cases. The practices employed for a large number of these cases can be summarised as “false and/or falsified request for aid”, "false and/or falsified documents", "fictitious use or processing" or "refusal of inspection". OLAF would classify these cases as “suspicion of fraud” (IRQ3). The Maltese case was also reclassified in to "suspicion of fraud" now a penal sanction was imposed.

The classification of the non-classified German and Spanish cases did not lead to an increase of the fraud percentage. Germany did not classify 40 cases. OLAF would classify only 1 of these cases as "suspicion of fraud" (IRQ3). For Spain counts that all non-classified cases would be classified as "irregularity" (IRQ2).

As said, table AG14 and the OLAF-rate should be treated with caution. Member States still need to improve their reporting due to the introduction of the new reporting system.

Estimated level of fraud

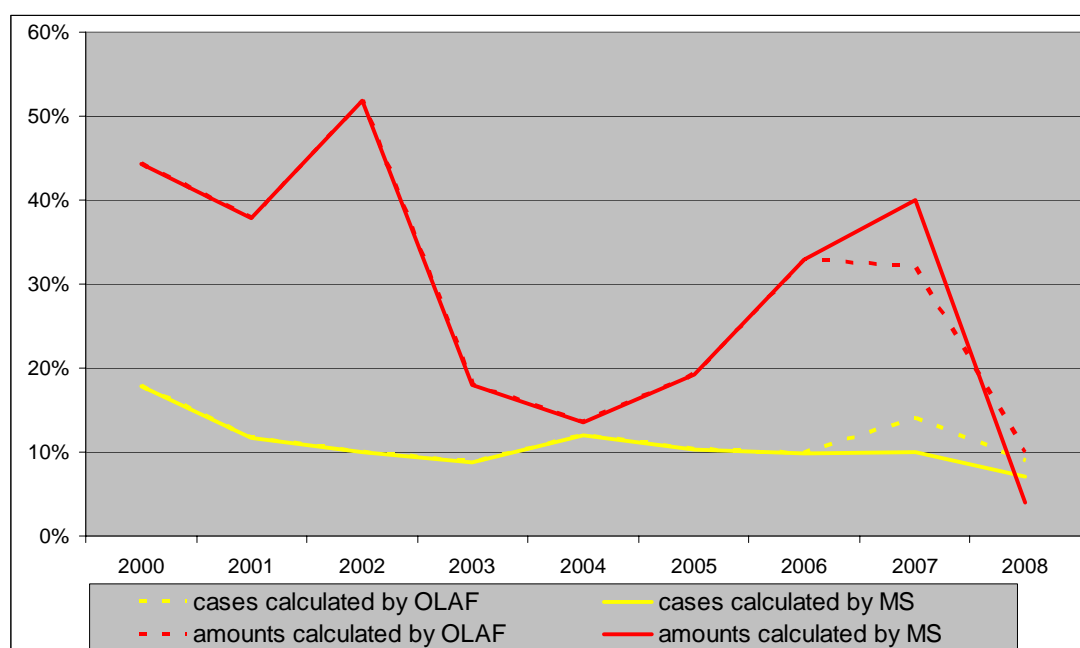
On the basis of the irregularities reported in the period 2000-2008 an attempt has been made to estimate the level of “suspected fraud” in the agricultural sector. Chart AG2 reflects the results of this analysis and shows the percentage of irregularities which can be classified as “suspected fraud” and/or “established fraud” cases, both in terms of the number of cases and the amounts affected by the irregularities.

One early conclusion is that, as a percentage of the total number of reported irregularities, “suspected fraud” is approximately 10% in the period 2000–2008. The

chart shows that the level of “suspected fraud” cases, as a percentage of the total number of irregularities reported, is relatively stable.

“Suspected fraud” as a percentage of the total amounts affected by the irregularities reported varied between approximately 3% and 45% during the period 2000–2008. A greater difference between the percentage of “suspected fraud” cases based on the amounts and the percentage based on the number of “suspected fraud” cases was to be expected; amounts vary more and differ per irregularity reported. The amounts affected of one single fraud case can already give a complete different and often a distorted picture.

Chart AG 2: Irregularities and “suspected fraud”



It should be reiterated that the obligation to indicate “fraud” was introduced by Reg. 1848/2006, which came into force on 1 January 2007. The figures therefore, should be interpreted cautiously.

3.4. Recovery and sanctions⁷⁰

3.4.1. Recovery

Article 32 of Council Regulation (EC) No 1290/2005 provides for an automatic clearance mechanism for unsuccessful recoveries of unduly paid amounts. If a Member State fails to recover an unduly paid amount from the beneficiary within four years of the primary administrative or judicial finding (or, in the case of proceedings before national courts, within eight years), 50% of the non-recovered amount is charged to the budget of the Member State concerned within the framework of the annual financial clearance of the EAGF and EAFRD accounts. Even after the application of this mechanism, Member States are obliged to pursue their recovery procedures and to credit 50% of the amounts effectively recovered to the Community budget. If they fail to do so with the necessary diligence, the

⁷⁰ The analysis, text and table concerning recovery are provided by DG AGRI. Under Reg. 1848/2006 Member States are not required to indicate the amounts to recover to OLAF.

Commission may decide to charge the entire outstanding amounts to the Member State concerned.

As of financial year 2008, where the undue payments are the result of administrative errors committed by the national authorities, the entire amount involved is deducted from the annual accounts of the paying agencies concerned and, thus, excluded from Community financing.

For EAGF, this mechanism was applied for the second time by the financial clearance decision for the financial year 2007⁷¹ which cleared all pending non-recovered cases dating from 2003 or 1999 (cases which were four or eight years old respectively) by charging €31.4 million to the Member States. For those paying agencies for which the 2007 accounts were disjoined from the financial clearance decision, a further €0.05 million was charged by a subsequent decision⁷², and a further €6.2 million still remains to be charged.

Table AG15 provides an overview of the recovery, the irrecoverable declared cases and the outstanding amounts at the end of 2008.

Regarding the financial year 2008, the Member States recovered €108 million, €32.2 million was declared irrecoverable and the outstanding amount still to be recovered from the beneficiaries at the end of that financial year was €1 246 million for EAGF. The financial consequences of non recovery for cases dating from 2004 or 2000 were determined according to the "50-50 rule" mentioned above by charging €31.4 million to the Member States in the financial clearance decision for the financial year 2008 adopted by the Commission on 29 April 2009⁷³. A further €0.8 million will be charged by subsequent decisions. Due to this "50-50" clearance mechanism that was applied in the last years by charging some of the non-recovered amounts to the Member States the outstanding amount towards the EU budget was reduced to around €900 million.

Regarding the EAFRD and the Transitional rural development instrument the clearance mechanism set out above did not apply yet. For these funds the amount outstanding at the end of the financial year 2008 was €7.9 million. €7.2 million was recovered and €0.2 million was declared irrecoverable during the financial year 2008.

⁷¹ Decision 2008/396/EC (OJ L 139, 29.5.2008)

⁷² Decision 2009/87/EC (OJ L 31, 3.2.2009)

⁷³ Decision 2009/367/EC, (OJ L 111, 5.5.2009)

Table AG15: financial information on recovery (EAGF, EAFRD, TRDI)

Table AG15 Financial information on recovery cases Tables 1-4 of Annex III of Regulation (EC) No 885/2006 Financial year 2008				
MS	recovered during FY 2008	declared irrecoverable during FY2008	outstanding at the end of FY 2008	in % of total
AT	5,811,335	400,234	5,037,038	0.40%
BE	5,052,848	2,202	60,042,515	4.79%
BG	0	0	0	0.00%
CY	33,677	0	0	0.00%
CZ	886,067	0	220,386	0.02%
DE	15,811,493	899,459	58,125,985	4.63%
DK	3,673,520	37,704	11,330,845	0.90%
EE	829,704	34,599	304,072	0.02%
EL	1,276,545	56,056	50,239,133	4.01%
ES	25,581,930	25,070,499	177,283,110	14.13%
FI	929,786	0	737,319	0.06%
FR	19,173,737	3,919,214	146,586,954	11.69%
HU	2,909,026	0	1,613,141	0.13%
IE	4,310,922	62,967	10,149,974	0.81%
IT	11,858,824	876,018	622,054,576	49.60%
LT	632,473	33	1,053,585	0.08%
LU	83,610	1,948	69,900	0.01%
LV	1,451,180	26,227	557,504	0.04%
MT	48,390	6,570	39,737	0.00%
NL	4,684,273	60,073	19,924,025	1.59%
PL	4,678,701	466	2,298,822	0.18%
PT	8,791,585	365,679	51,569,720	4.11%
RO	0	0	0	0.00%
SE	2,033,769	21,858	1,218,498	0.10%
SI	1,862,283	3,636	888,093	0.07%
SK	104,416	141,697	1,972,812	0.16%
UK	2,550,844	424,970	30,902,485	2.46%
Total	125,060,937	32,412,108	1,254,220,230	100.00%

data provided by DG AGRI on 31 March 2009

3.4.2. Sanctions

The agricultural sector is renowned for its severe penalty system. Community legislation provides a mandatory system for imposing penalties. Reg. 1848/2006 obliges Member States to report details concerning the initiation or abandonment of any procedures for imposing administrative or criminal sanctions as well as the main results of such procedures.

Module 1848 offers the possibility to report more in detail if sanctions are imposed and, if positive, which kind of sanctions are imposed. As already indicated, Module 1848 was introduced in 2008 therefore Member States still need to get used to the new way of reporting. The figures concerning sanctions therefore need to be read with the necessary caution.

In 2008, Member States reported 1,133 cases. In 220 cases, Member States indicated that for:

- 14 cases a decision still needed to be taken (pending);
- 49 cases no sanctions would be imposed;
- 33 cases a sanction would be imposed but the sanction itself still needs to be determined;

- 121 cases an administrative sanction had been imposed;
- 3 cases a penal sanction had been imposed.

In all other 913 cases (81%), no information was received from Member States.

Member States indicated in 188 cases the type of sanctions imposed. Member States indicated that in 130 cases a "community administrative sanction" was imposed. In 11 cases, penal sanctions were imposed. It concerns 2 cases in which imprisonment less than 1 year was imposed and 9 cases in which a financial sanction was imposed.

The total amount of penalties imposed is 1.4% of the total amount affected by irregularities reported. The percentage is rather low despite the fact that Austria and Poland reported a relatively high percentage of financial penalties, 28.4% respectively 38.4%. All other Member States reported a zero or a rather low amount of penalties imposed.

Member States report only in a very limited number of cases the sanctions applied and penalties imposed, therefore, these figures should be read with the necessary caution.

3.5. Conclusions

Introduction

- a new reporting system was introduced in 2008: Module 1848;
- successful IMS-pilot Germany thanks to the efforts of all involved parties;

Reporting discipline:

- reporting discipline of Member States improved in 2008 (78% ⇒ 92%);
- all Member States used the electronic 1848-format⁷⁴ to submit irregularities;
- timely reporting should be improved by Austria, Sweden and Slovakia;
- reporting of personal data is an attention point for Germany and Finland;
- budget lines (DG AGRI nomenclature) need to be indicated in full detail, especially by Lithuania and Slovakia;
- practices employed should be described in more detail by Slovakia;
- date on which the irregularity was committed should be better indicated, especially by Hungary;
- the compliance rate per key-element for performing risk analysis:
 - timely reporting: 86% (2007: 87%)
 - personal data: 85% (2007: 68%)
 - measure affected: 93% (2007: 86%)
 - date irregularity committed: 97% (2007: 86%)
 - practices employed: 93% (2007: 47%)
 - financial impact: 99% (2007: 96%)
- the EU-27 compliance rate is 92% (2007: 78%)

General trends:

- total expenditure in 2008 was about €48.6 billion;
- Member States reported 1,133 new irregularities in 2008;
- total amount affected by irregularities was about EUR 102 million;
- introduction of a threshold of €10,000 has led to a decrease of more than 65% of the total number of cases reported in 2008 compared to 2006;
- the number of cases and the amounts affected are not equally spread over all Member States:

⁷⁴ Pre-IMS Module 1848, IMS Module 1848, access database 1848 or excel format 1848

- Belgium, Spain, Italy and Portugal reported a relatively high amount of irregularities and/or a relatively high total amount affected by irregularities;
- Germany, France, Ireland and United Kingdom reported a relatively low amount of irregularities and/or a relatively low total amount affected by irregularities;
- 18% of the irregularities concern the request for aid;
- Most frequently occurring type of irregularity (40%) concerned the action or non-action of a beneficiary;
- 10% of the irregularities were detected before payment;

Specific analysis:

- the three main categories most affected by irregularities are:
 - fruit and vegetables: 92 cases involving EUR 40 million
 - rural development: 437 cases involving EUR 20 million
 - wine sector: 138 cases involving EUR 12 million;
- the budget lines most affected by irregularities are:
 - fruit and vegetables: compensation to encourage processing of citrus fruits
 - rural development:
 - improving the processing and marketing of agricultural products
 - investments in agricultural holdings
 - wine: restructuring and conversion of vine yards

Irregularity vs suspected fraud:

- “suspected fraud” and “established fraud” cases, as a percentage of the total number of irregularities reported, vary between 7% (classification by MS) and 9% (classification by OLAF).

Recovery⁷⁵:

- € 125 million was recovered during 2008 by the Member States from beneficiaries;
- €32 million was declared "irrecoverable" during 2008;
- €1,254 million is outstanding at the end of 2008 at the level of the beneficiaries;

⁷⁵

Information is based on the financial information transmitted by the Member States to DG AGRI in the context of Annex III of Reg. 885/2006

Penalties:

- 188 cases (17%) in which sanctions were imposed;
- 11 penal sanctions were imposed, including 2 cases of imprisonment;
- Austria and Poland reported more financial penalties than other Member States.

4. EUROPEAN FISHERY FUND

Commission Regulation (EC) No 498/2007 of 26 March 2007⁷⁶ lays down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 which establishes the European Fisheries Fund (EFF) and defines the framework for Community support for the sustainable development of the fisheries sector, fisheries areas and inland fishing.

Chapter VIII of Regulation (EC) 498/2007 contains the relevant provisions for the reporting of irregularities to the Commission, establishing a set of rules that are very similar to those foreseen for the Structural Funds.

During 2008, no irregularities have been reported by the Member States concerning this Fund.

⁷⁶ OJ L120, 10.05.2007.

5. STRUCTURAL MEASURES (ANNEXES 13-17)

In 2007, Member States reported 3,858 irregularities under Regulation (EC) No 1681/94 which covers the four Structural Funds⁷⁷ and 140 under Regulation (EC) No 1831/94 (on the Cohesion Fund). 9 irregularities were reported under Regulation No 1828/2006, which covers the programming period 2007-2013⁷⁸.

The total amount affected by irregularities in 2008 was about EUR 585.2 million, EUR 528.9 million of which was from the Structural Funds and EUR 56.3 million from the Cohesion Fund. Irregularities reported in this sector were equivalent to 1.25% of the resource allocations for 2008.

Since the information system of irregularities was established, Member States have reported 28,627 irregularities, of which 27,619 related to the Structural Funds and 1,008 to the Cohesion Fund.

5.1. Reporting Discipline

In 2008, the Commission received 8,401 communications⁷⁹ under Regulations (EC) Nos 1681/94⁸⁰, 1831/94⁸¹, and 1828/2006 of which 4,331 were updates of cases that

⁷⁷ For the programming period 2000-2006, the four Structural Funds are:

- a) The European Regional Development Fund (ERDF), supporting primarily productive investment, infrastructure and development of SMEs;
- b) The European Social Fund (ESF), supporting measures to promote employment (education systems, vocational training and recruitment aids);
- c) The Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF-Guidance), supporting measures for the adjustment of agricultural structures and rural development;
- d) The Financial Instrument for Fishery Guidance (FIFG), supporting measures for the adjustment of the fisheries sector and the 'accompanying measures' of the common fishery policy.

⁷⁸ For the programming period 2007-2013, the Structural Funds are:

- a) the ERDF;
- b) the ESF;
- c) the European Fishery Fund (EFF - see chapter 4).

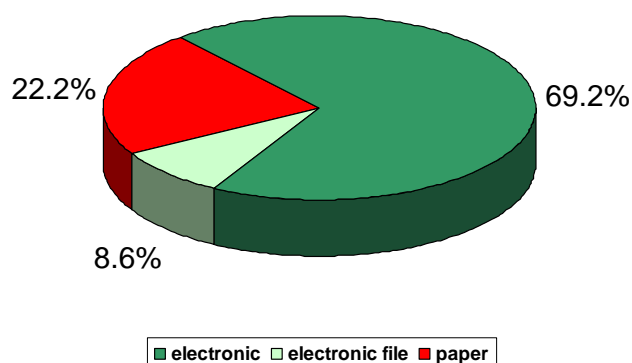
⁷⁹ Commission Regulations foresee four different types of communications:

- a) initial communication: this is the communication with which a new irregularity is reported to the Commission services. The legal basis for these communications is contained in articles 3 of Regulations 1681/94 and 1831/94; article 28 of Commission Regulation 1828/2006;
- b) update communication: with this type of communication, Member States update, integrate, modify the irregularities notified with the communication under a). The legal basis for this type of communications is contained in articles 5§1 of Regulations 1681/94 and 1831/94 and article 30§1 of Regulation 1828/2006;
- c) urgent cases: this type of communication is (very seldom) used by Member States when they want to inform, without any delay, the Commission and other Member States of new malpractices that they have detected or about irregularities which may affect other Member States. The legal basis for this communications are articles 4 of Regulations 1681/94 and 1831/94 and article 29 of Regulation 1828/2006;
- d) special report: more than a different type of communication this is a special report that may integrate some of the communications described under b). Where a Member State considers that an amount cannot be recovered or is not expected to be recovered, it shall inform the Commission, in a special report, of the amount not recovered and of the facts relevant to the decision on apportionment of the

had been previously reported. For the first time, irregularities concerning the new programming period 2007-2013 were received from Bulgaria, the Czech Republic and Slovenia.

During 2008 the use of the electronic facility put at disposal of the Member States has seen a further increase; as a result, almost 78% of the communications has been reported through electronic means as showed in Chart 1.

Chart SF 1: Reporting of irregularities – used formats



The increased use of the electronic reporting system led to an improvement in data quality and in timeliness of reporting. It also reduces different understanding and interpretations of the reporting system and, therefore, improves the consistency of the information submitted to the Commission.

Though not all Member States have been using the electronic facility provided through the AFIS-ECR platform, all of them have been trained for the new reporting system IMS and showed their willingness to use it as soon as it will become operational in the course of 2009.

In relation to 2007 the situation has been improving under almost all respects. Table SF1 shows a summary of the major elements that have been taken into account for evaluating the compliance of Member States with the reporting obligations. Member States are ranked in decreasing order of overall compliance. The elements that have been examined for producing this table are the following:

- (1) timely reporting: it calculates the percentage of the communications that has been transmitted within the foreseen deadlines;
- (2) time gap: indicates the percentage of irregularities that has been communicated within 24 months following detection;

loss. The legal basis is contained in articles 5§2 of Regulations 1681/94 and 1831/94 and article 30§2 of Regulation 1828/2006.

⁸⁰ As amended by Regulation (EC) No 2035/2005.

⁸¹ As amended by Regulation (EC) No 2168/2005.

- (3) programme number: indicates the percentage of irregularities for which the indication of the numbers identifying the programme interested by the irregularity is provided;
- (4) practises adopted: shows the percentage of irregularities for which the description of the practises adopted has been indicated;
- (5) classification: indicates the percentage of the irregularities for which Member States indicated whether they constituted an "administrative irregularity", a "suspected fraud" or an "established fraud";
- (6) date established: shows the percentage of the irregularities for which the date in which the irregularity has been established has been provided;
- (7) personal data: indicates the percentage of the reported irregularities for which the data identifying the legal entities or natural persons have been provided;
- (8) compliance: is calculated as the average of all the values indicated in columns from a) to g).

Table SF1: compliance per Member State year 2008

MS	timely reporting	time gap	programme number	practises employed	classification	date established	personal data	compliance	MS
SE	30%	58%	100%	99%	10%	99%	99%	71%	SE
FR	97%	73%	100%	100%	0%	100%	99%	81%	FR
ES	100%	83%	100%	100%	0%	98%	100%	83%	ES
SK	52%	86%	86%	92%	73%	98%	100%	84%	SK
DK	100%	100%	100%	100%	0%	100%	100%	86%	DK
EL	30%	86%	96%	100%	91%	97%	100%	86%	EL
IE	100%	100%	100%	100%	0%	100%	100%	86%	IE
DE	100%	93%	100%	100%	100%	100%	23%	88%	DE
AT	35%	89%	100%	100%	100%	95%	100%	88%	AT
IT	99%	49%	100%	99%	99%	99%	100%	92%	IT
HU	77%	92%	100%	100%	100%	90%	100%	94%	HU
PT	75%	92%	100%	100%	100%	100%	100%	95%	PT
FI	100%	75%	100%	96%	96%	100%	100%	95%	FI
PL	72%	99%	100%	100%	100%	100%	99%	96%	PL
CZ	94%	99%	100%	100%	93%	100%	100%	98%	CZ
BE	100%	94%	100%	100%	100%	91%	100%	98%	BE
UK	98%	98%	100%	99%	99%	93%	100%	98%	UK
LT	91%	100%	100%	100%	100%	100%	100%	99%	LT
NL	99%	93%	100%	100%	100%	100%	100%	99%	NL
CY	100%	100%	100%	100%	100%	100%	100%	100%	CY
EE	100%	100%	100%	100%	100%	100%	100%	100%	EE
LV	100%	100%	100%	100%	100%	100%	100%	100%	LV
MT	100%	100%	100%	100%	100%	100%	100%	100%	MT
SI	100%	100%	100%	100%	100%	100%	100%	100%	SI
BG	100%	100%	0%	100%	100%	100%	100%	86%	BG
LU	-	-	-	-	-	-	-	-	LU
RO	-	-	-	-	-	-	-	-	RO
total	86%	90%	95%	99%	78%	98%	97%	92%	total

The average compliance level has increased from 84% of 2007 to 92% of 2008, underlying the commitment undertaken by the Commission and the Member States for improving the situation. It also confirms that the increase of use of the electronic reporting facilities had a positive effect on the quality of the information submitted.

Only two elements of the communications of irregularity still present a level of compliance which deserves some further attention:

- (9) classification: though the compliance with this obligation is increasing in relation to 2007 (from 67% to 73%), this remains the weakest element in the implementation of the regulation⁸²;
- (10) time gap: still 18% of the irregularities are reported with a time gap greater than 2 years from the moment of detection. 16% of the irregularities are reported between 12 and 24 months after detection.

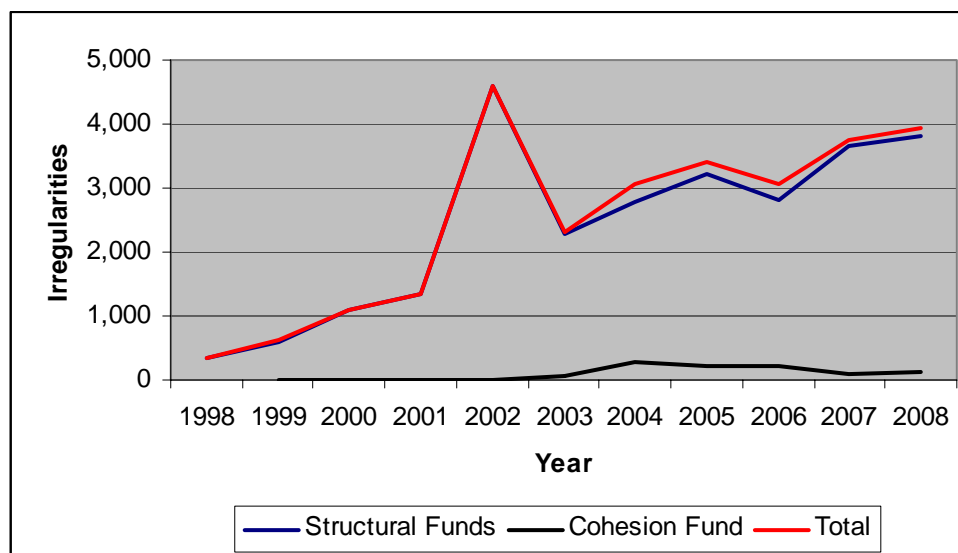
Apart from these two elements, the situation can be considered satisfactory, with a compliance rate of 92%.

5.2. General Trends

5.2.1. Overall trends

In 2008 the number of irregularities reported increased by around 6.7% as compared to the year before. However, the related irregular amounts decreased of about 27.2%, from EUR 804.1 million (including the Cohesion Fund) to EUR 585.2 million. As far as the number of irregularities communicated is concerned, it has reached its peak in 2002 with more than 4,500 irregularities notified. This situation was due to the closure of the programming period 1994-1999. As shown in Chart SF2, since then the number of reported irregularities has been increasing with the only exception of 2006.

Chart SF 2: 1998-2007 trend concerning number of reported irregularities for the Structural Funds, the Cohesion Fund and in total



In 2008, the number of irregularities kept on rising, up to 4,007 (including the Cohesion Fund). The number of irregularities reported from the new Member States (EU10) increased by 52.4%, while those reported by the old Member States decreased by 1%; Bulgaria reported its first irregularities in 2008.

⁸² With the introduction of the new reporting system, the problem will be entirely solved, as the field will become compulsory.

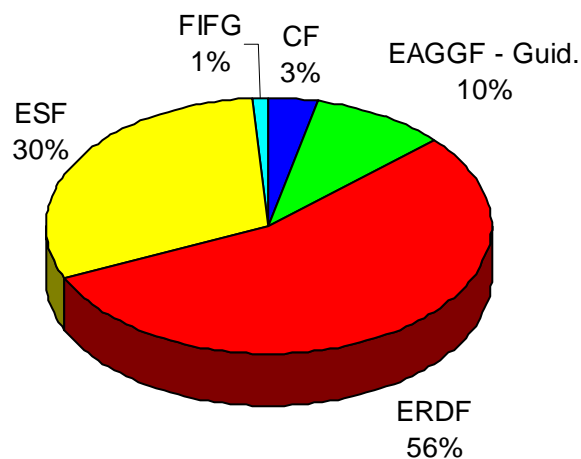
Among the EU10, with the sole exceptions of Malta (-67%) and Estonia (-12%), the increases varied between +25% (Poland) and +386% (Lithuania).

Among the EU15, the most significant decreases were those of Luxembourg (no reported irregularities) and Ireland (-85%), while the most significant increases were those of Sweden (+97%) and the Netherlands (+75%).

5.2.1.1. Trends related to the Funds

Irregularities affecting projects financed through the ERDF remain the most frequently reported, as showed in Chart SF 3.

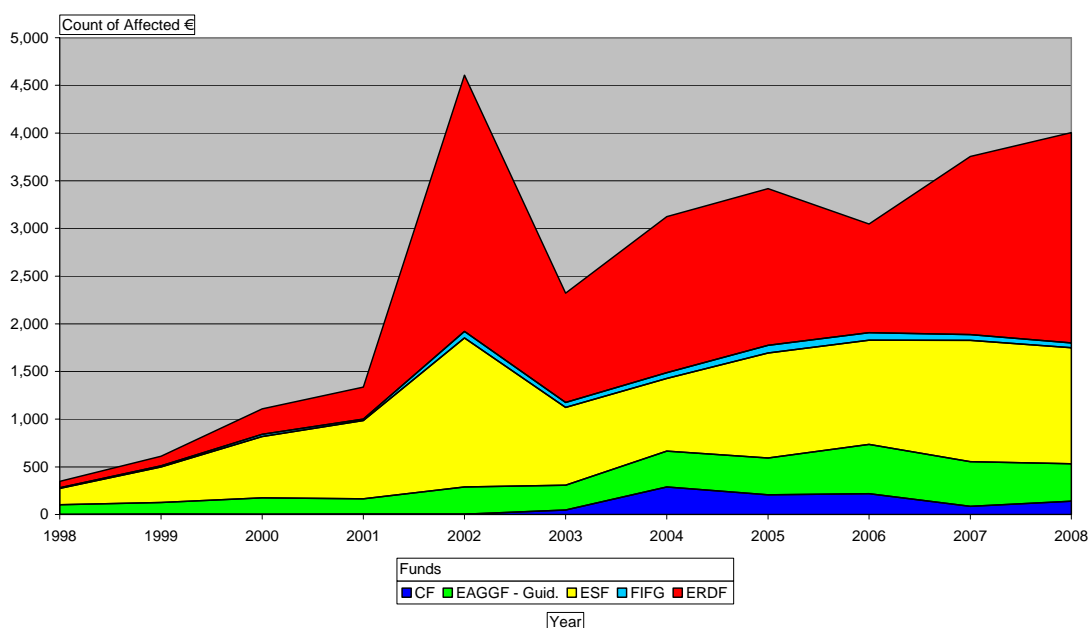
Chart SF 3: Distribution of irregularities among the Funds - 2008



The trend per Fund showed in Chart SF 4 confirms the overall increase of irregularities related to the ERDF in the last years with the exception of the years 2003 and 2006.

Chart SF 4: Overall trend by Fund – 1998-2008

Control Obj (All) no irregularity (All)



Since 2003, the other three Structural Funds remain quite stable. In comparison to 2007, irregularities referred to the Cohesion Fund and the ERDF increased by 63% and 18% respectively. Those related to the ESF, EAGGF – Guidance and FIGF decreased by 4%, 17% and 17% respectively.

5.2.1.2. Trends related to Member States

Like in previous years, the irregularities are not distributed equally among Member States.

Taking into consideration how the irregularities are distributed among Member States, like in previous years the biggest countries and those with the highest overall funding from the Cohesion policy report the most irregularities. In 2008, the highest number of irregularities was reported by Italy (802, +24%), Spain (552, -14%), the United Kingdom (483, -3%), Portugal (425, -22%), and Poland (337, +25%).

In the analysis of the particular funds, the irregularities are split differently among the Member States than in the total number of cases.

For example, in the European Social Fund (ESF) irregularities, the Netherlands is the country having reported the highest number of irregularities (208), followed by Portugal (162), Germany (157), Sweden and Spain (121).

In the European Regional Development Fund (ERDF) the countries reporting the most irregularities are Italy (589), the United Kingdom (348), Spain (307) and Poland (197).

In the European Agriculture Guarantee and Guidance Fund – Guidance section (EAGGF-Guidance), Italy reported the highest number of irregularities (102), followed by Poland (73), Portugal (61), and Spain (54).

In the Financial Instrument for Fishery Guidance (FIFG), irregularities from Greece and Italy (12), and the United Kingdom (9) account for more than 67% of the total number of reported irregularities affecting this Fund.

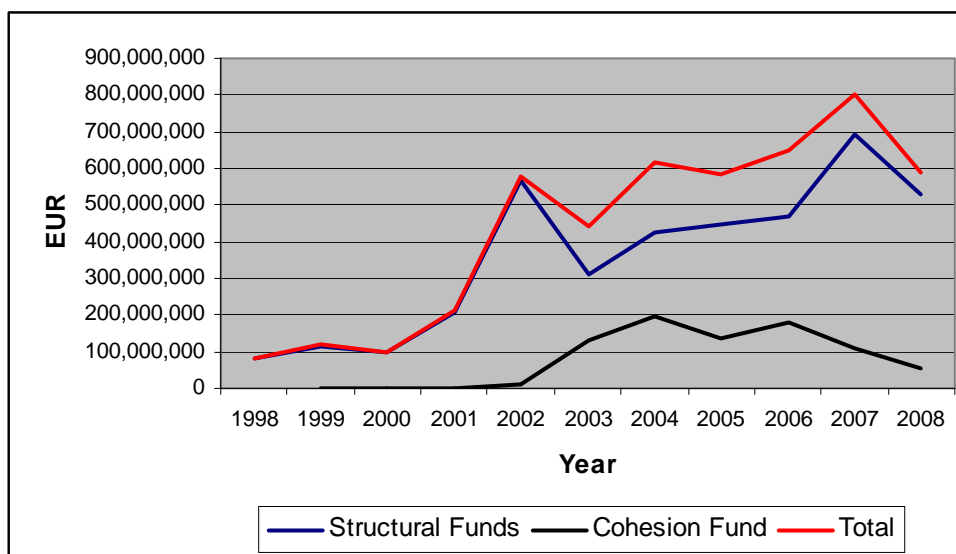
Finally, concerning the Cohesion Fund, Spain reported almost 47% of the received irregularities (64) for this fund, followed by Portugal (22) and Hungary (13). Greece, which in the previous years had reported the greatest share of the irregularities affecting this Fund, comes in fourth place (12) Concerning this Fund a certain concern remains as to the reliability of the reported information, as the number of reported irregularities appears too low in relation to the other funds and the allocated resources.

5.2.2. Amounts involved

The irregular amounts decreased significantly (-27.2%). It is difficult to explain this variation also in relation to the increased number of reported irregularities. It can happen, however, that in certain years some irregularities involving great amounts are detected and that can greatly influence the overall situation.

Chart SF5 shows the trend of the irregular financial amounts since 1998.

Chart SF 5: 1998-2008 trend concerning irregular financial amounts for the Structural Funds, the Cohesion Fund and in total



The irregular financial amounts related to the reported irregularities increased by 165.3% for the EU10 and decreased by 35.1% for the EU15.

The possible explanation for the difference between the EU10 and EU15 could be that the implementation of the programmes financed under the Cohesion policy only started in 2004 for the new Member States and, consequently, they needed some time for a full implementation of the system and an improved compliance with the reporting obligations.

It seems also premature to indicate whether the decrease in terms of irregular financial amounts represents an inversion of the general tendency that for the last ten years (1998-2007) has seen an upward trend.

It should also be stressed that, as of 2007, the new programming period 2007-2013 comes into relevance. The first irregularities related to the new programmes have been reported in 2008.

Only a part of these irregularities have real financial consequences and constitute a specific potential loss to the European budget. In fact, some irregularities are detected before any payment is made and the question of recovery does not arise; others are corrected at the closure of the relevant programming period (for more details see *infra* paragraph 5.3.3).

Moreover, the majority of irregularities having a real financial impact are not fraudulent and, once an irregular situation has been identified, corrective measures are adopted and recovery procedures started. These may take some time. In cases of suspected fraud, however, penal or judicial procedures are activated and longer delays can be expected.

As far as amounts per country are concerned, Spain has reported the highest irregular amounts (EUR 165.5 million; -22% in relation to 2007), followed by the United Kingdom (EUR 123.3 million; -24%), Italy (EUR 75 million; -52%) and Poland (EUR 35.6 million; +91%). This "ranking" follows the same pattern as last year, with the exception of Poland.

Table SF2 summarises the number of irregularities and related amounts reported by each Member State.

The huge differences between Member States in terms of number of irregularities and amounts affected do not necessarily mean that one country is more fraudulent than another. The reason for the high number of irregularities in the given country could be as well a higher number of controls carried out in the analysed year, while the reason for a lower number in another could be also related to a restrictive interpretation of the reporting obligation.

*Table SF2: Number of cases and amounts affected by irregularities per Member State*⁸³

⁸³ Number of irregularities and related irregular financial amounts may vary in relation to those published in the Statistical Annex to the 2007 Report. This is the result of updates received in 2008, which may have altered the implicated financial amounts or specified that, at the end of the relevant procedures, it was decided that a previously reported case did not constitute an irregularity.

MS	N° of irregularities			Irregular amounts (in EUR)		
	2007	2008	Variation	2007	2008	Variation
	N	N	%	EUR	EUR	%
AT	28	37	32%	4,693,512	2,862,186	-39%
BE	28	35	25%	1,509,381	1,543,157	2%
BG	0	4	#DIV/0!	0	804,317	#DIV/0!
CY	1	4	300%	1,924	172,298	8855%
CZ	36	82	128%	4,843,686	14,016,754	189%
DE	398	372	-7%	39,981,097	20,985,235	-48%
DK	8	7	-13%	174,560	678,343	289%
EE	33	30	-9%	1,301,384	2,182,511	68%
EL	88	108	23%	94,431,569	24,692,137	-74%
ES	643	552	-14%	211,547,204	165,579,427	-22%
FI	41	28	-32%	2,482,502	1,813,410	-27%
FR	140	98	-30%	6,179,164	4,998,359	-19%
HU	37	52	41%	3,319,853	4,698,975	42%
IE	33	5	-85%	8,720,548	14,801,190	70%
IT	646	802	24%	156,459,194	74,918,714	-52%
LT	7	34	386%	439,974	11,528,487	2520%
LU	8	0	-100%	248,458	0	-100%
LV	9	27	200%	1,915,523	944,019	-51%
MT	3	1	-67%	138,032	410,761	198%
NL	150	262	75%	26,553,667	28,722,509	8%
PL	269	336	25%	18,631,502	35,558,898	91%
PT	542	425	-22%	52,386,787	35,124,176	-33%
SE	74	146	97%	3,399,715	3,718,729	9%
SI	4	13	225%	128,793	430,933	235%
SK	30	64	113%	2,251,790	10,742,355	377%
UK	500	483	-3%	162,362,258	123,321,443	-24%
TOTAL	3,756	4,007	7%	804,102,077	585,249,322	-27%

5.2.2.1. The four Structural Funds

As not all Member States benefit of the resources coming from the Cohesion Fund, Table SF3 presents the same information as in Table SF2, but limiting it to the four Structural Funds.

Table SF3: Number of cases and amounts affected by irregularities per Member State limited to the four Structural Funds

MS	N° of irregularities			Irregular amounts (in EUR)		
	2007	2008	Variation	2007	2008	Variation
	N	N	%	EUR	EUR	%
AT	28	37	32%	4,693,512	2,862,186	-39%
BE	28	35	25%	1,509,381	1,543,157	2%
BG	0	4	#DIV/0!	0	804,317	#DIV/0!
CY	1	4	300%	1,924	172,298	8855%
CZ	34	80	135%	4,843,686	13,928,544	188%
DE	398	372	-7%	39,981,097	20,985,235	-48%
DK	8	7	-13%	174,560	678,343	289%
EE	31	28	-10%	1,234,469	2,052,897	66%
EL	63	96	52%	27,172,119	19,754,366	-27%
ES	609	488	-20%	178,961,878	140,751,472	-21%
FI	41	28	-32%	2,482,502	1,813,410	-27%
FR	140	98	-30%	6,179,164	4,998,359	-19%
HU	34	39	15%	2,688,597	3,298,037	23%
IE	32	2	-94%	2,082,358	5,303,050	155%
IT	646	802	24%	156,459,194	74,918,714	-52%
LT	4	26	550%	110,823	3,247,919	2831%
LU	8	0	-100%	248,458	0	-100%
LV	8	22	175%	1,869,769	857,740	-54%
MT	3	1	-67%	138,032	410,761	198%
NL	150	262	75%	26,553,667	28,722,509	8%
PL	261	329	26%	18,040,864	35,344,144	96%
PT	538	403	-25%	51,521,352	29,468,297	-43%
SE	74	146	97%	3,399,715	3,718,729	9%
SI	4	13	225%	128,793	430,933	235%
SK	27	62	130%	1,524,686	9,533,552	525%
UK	500	483	-3%	162,362,258	123,321,443	-24%
TOTAL	3,670	3,867	5%	694,362,858	528,920,411	-24%

The overall picture varies only partly in relation to Table SF2, with Spain still reporting the highest irregular financial amounts (140 MEUR, -21% in relation to the year 2007), followed by the United Kingdom (123 MEUR, -24%), Italy (75 MEUR, -52%) and Poland (35 MEUR, +96%).

Concerning the ERDF, Spain, the United Kingdom and Italy are the countries which reported the highest irregular financial amounts, followed by Portugal.

In the ESF, the United Kingdom and the Netherlands are followed by Italy and Portugal like in 2007. The first of the EU10 is Poland.

In the EAGGF section Guidance, the highest irregular financial amounts have been reported by Italy, Portugal and Spain. Poland is the Member State of the EU10 group with the highest reported irregular amounts.

In the FIFG, Italy is the country having reported the highest amounts, followed by Greece.

The details of the irregular financial amounts reported by each Member State by Fund are showed in Annex 15, Part 2.

5.2.2.2. The Cohesion Fund

For the Cohesion Fund, Spain is the Member State having reported the highest irregular amounts (almost 25 MEUR), though with a significant decrease in relation to 2007 (-24%); it is followed by Ireland (9.5 MEUR; +43%) and Lithuania (8.2 MEUR; +2,416%). Table SF4 shows the details for this Fund by Member State.

Table SF4: Number of cases and amounts affected by irregularities per Member State – Cohesion Fund

MS	N° of irregularities			Irregular amounts (in EUR)		
	2007	2008	Variation	2007	2008	Variation
	N	N	%	EUR	EUR	%
CZ	2	2	0%	0	88,210	#DIV/0!
EE	2	2	0%	66,915	129,614	94%
EL	25	12	-52%	67,259,450	4,937,771	-93%
ES	34	64	88%	32,585,326	24,827,955	-24%
HU	3	13	333%	631,256	1,400,938	122%
IE	1	3	200%	6,638,190	9,498,140	43%
LT	3	8	167%	329,151	8,280,568	2416%
LV	1	5	400%	45,754	86,279	89%
PL	8	7	-13%	590,638	214,754	-64%
PT	4	22	450%	865,435	5,655,879	554%
SK	3	2	-33%	727,104	1,208,803	66%
TOTAL	86	140	63%	109,739,219	56,328,911	-49%

Values related to the Cohesion Fund still appear to be unreliable to allow a convincing analysis of the related trends.

Further information concerning the irregularities related to the Cohesion Fund by Member State is showed in Annexes 14 and 17.

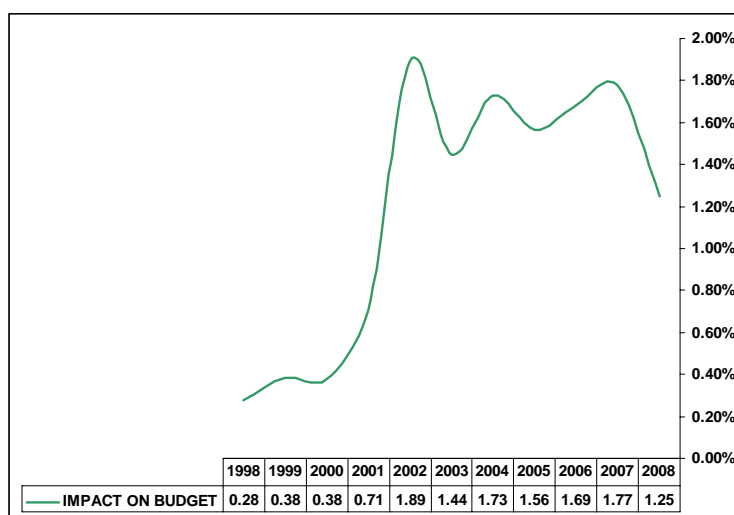
5.2.3. Impact on budget

Since 2002, the impact of reported irregularities on the Structural measures budget has been oscillating between 1.9% (in 2002) and 1.25% (in 2008), as showed in chart SF6.

Chart SF 6: Impact of irregularities on SF budget⁸⁴

⁸⁴

Figures may vary in relation to those published in the Statistical Annex to the 2007 Report. This is the result of updates received in 2008, which may have altered the implicated financial amounts or specified that, at the end of the relevant procedures, it was decided that a previously reported case did not constitute an irregularity.



In particular, in the period between 2003 and 2007, the impact on the budget of the reported irregularities has remained rather stable.

On the one hand, this supports the conclusion that a certain consistency and continuity have been achieved in the reporting of irregularities by Member States.

However, on the other hand, there is a great difficulty in analysing correctly this information. The reported irregularities refer to programmes and projects that are of a multi-annual nature and, furthermore, a part of the reported irregularities refers to a different programming period (for more details see paragraph 5.3 below). Furthermore, the budget for the year 2008, on which the impact of irregularities reported by the Member States has been calculated, is indicating the resources allocated to the second year of the programming period 2007-2013, while only a very limited number of the reported irregularities are referred to it.

This implies that a correct estimation of the impact of irregularities and suspected frauds on the part of the European budget dedicated to the Cohesion policy is possible only by analysing irregularities by programming period. Paragraph 5.3 will deal with these specific issues.

5.2.4. *Detection methods*

Table SF5 shows the most frequent detection methods and the related detected amounts.

Table SF5: detection methods

Code	Description	Frequency	Detected amounts	Average detected amounts
		N	EUR	EUR
206	Control of documents	992	101,897,516	102,719
101	National administrative or financial control	596	98,899,271	165,938
999	Other facts	480	154,813,939	322,529
161	Additional control on request by the Commission	352	16,060,958	45,628
230	On the spot control of achievement of project or action	265	21,824,978	82,358
209	Control on the premises of the company	238	21,772,159	91,480
208	Documentary check	159	13,228,962	83,201
199	Other controls	154	24,751,604	160,725
307	Routine	144	26,045,849	180,874
320	Ex post control	133	9,556,766	71,855

The amounts indicated are indicative insofar as several detection methods may be reported in connection with a single irregularity and therefore be double counted in the table.

The main two types of controls emerging from the table are documentary checks and on-the-spot controls.

Particularly significant is the high number of detections that followed “Additional control on request of the Commission”. This “source” of detection is observed exclusively in Italy (341 cases) and the Czech Republic.

It should also be emphasised the excessive use of generic codes such as "Other facts" and “Other controls”. The lack of further information on these methods is particularly regrettable, as these "categories" presents high average detected amounts.

Contrary to previous years, documentary checks present a higher average detected amount than on-the-spot controls.

The highest average detected amounts, however, are not displayed in Table SF5, as they refer to “methods of detection” that have been reported less frequently, namely: “control by police” (EUR 524,565 as average detection on 15 occurrences); “initial enquiry” (EUR 468,628 in average on 37 occurrences); and “Community control” (with an average of EUR 335,239 on 20 occurrences).

5.2.5. *Types of irregularity*

Differences remain among Member States as to the types of irregularities reported and, for a great part, these are consistent with last year. The majority of cases involve irregularities of an “administrative” nature that are normally detected in the course of the routine documentary checks which are conducted before any payment of European money is made. To demonstrate this, among the most frequent types of irregularity reported by Member States are the “not eligible expenditure” and “missing or incomplete supporting documents”.

Falsifications of documents were detected in Italy, Poland, Germany, the United Kingdom, Portugal, Latvia, Lithuania, Greece, Estonia, France and Cyprus.

Table SF6 shows the most frequent types of irregularities together with the amounts involved and the indicative average amount⁸⁵:

Table SF6: Most frequent types of irregularities reported by Member States

Code	Description	Frequency	Irregular amounts	Average irregular amounts
		N	EUR	EUR
325	Not eligible expenditure	1186	208,040,494	175,414
614	Infringement of rules concerned with public procurement	534	169,461,168	317,343
999	Other irregularities	510	54,499,725	106,862
210	Missing or incomplete supporting documents	356	51,077,689	143,477
201	Missing or incomplete documents	341	32,564,153	95,496
612	Failure to respect other regulations / contract provisions	215	34,221,421	159,169
812	Action not carried out in accordance with rules	175	34,673,676	198,135
601	Failure to respect deadlines	123	12,834,889	104,349
811	Action not completed	107	8,094,489	75,649
741	Failure to fulfill commitments entered into	107	8,919,288	83,358

It is important to underline that the most frequent types of irregularities are almost the same as in the last four years confirming a certain consistency in patterns and trends relating to structural measures and consistency in reporting by the Member States.

The consistent pattern across all the funds is that the “not eligible expenditure” is the most reported typology. In the second place, “infringement of rules concerned with public procurement” is the second most reported typology for the ERDF and the Cohesion Fund.

“Missing or incomplete supporting documents” is the second most reported typology for the ESF and FIFG.

It should be underlined that the generic code “other irregularities” is still the third most used typology.

5.2.6. Suspected frauds

First estimations of which proportion of the reported irregularities could be defined as “suspected frauds” were presented in the Annual Reports since 2004. These attempts were mainly based on specific analyses of the information reported by the Member States concerning the *modus operandi*, the type of irregularity, the administrative state of an irregularity and the additional information given in text fields.

⁸⁵ Both the irregular amounts and the average irregular amounts are to be considered only as indicative, in consideration of the fact that more than one typology of irregularity may be reported in the same communication of irregularity. This may lead to double or triple counting of the same communication in the column frequency and irregular amounts.

After the modifications introduced by Regulations Nos 2035/2005 and 2168/2005 to the basic Regulations Nos 1681/94 and 1831/94, as of January 1st 2006, Member States have to “qualify” the reported irregularity, indicating whether the reported irregularity is a “suspected fraud” or not. The concept of “suspected fraud” is necessary, because a given situation can be defined as fraudulent only after a sentence is issued by a competent court.

As already indicated in Table SF1, Member States classified 78% of the reported irregularities (that is to say that they indicated whether the reported situation was evaluated as an administrative irregularity or a suspected fraud). It is an encouraging progress in relation to the previous year, when 67% of the reported cases provided for this indication, but it also shows that there is still room for improvement, in particular from certain Member States (4 Member States have still not provided any qualification at all; another could provide the classification only for 10% of the reported irregularities. For more details, see *supra* par. 5.1).

About 8.3% of the 2,916 irregularities for which qualification has been provided, were qualified as “suspected frauds”. This result is lower than last years’ estimations.

Furthermore, by applying the same analytical techniques of the previous years⁸⁶ to the data set classified by the Member States, the results obtained are rather consistent with those obtained on the portion of information received from the Member States as indicated in table SF7. In fact, the results differ in only 1.47% of the cases. However, all these differences are related to cases that according to the analysis by the Commission should have been classified as cases of suspected frauds.

Table SF7: Comparison between Commission and Member State classification of irregularities

Classification	Different	Same	Total	Difference as % of total
suspected fraud	43	243	286	15.03%
irregularity		2,630	2,630	0.00%
Total	43	2,873	2,916	1.47%

It should be also highlighted that from a very detailed analysis of the cases where differences exist, elements provided by the Member States induce to consider correct the re-classification operated by the Commission⁸⁷.

⁸⁶ The estimation method has remained basically the same, with some minor variations, following the lessons “learned” in analysing the cases directly classified by the Member States. This slightly “revised” method has been applied again to the entire database of reported irregularities for the years 2000-2007 in order to produce Chart SF15. The different method used explains the different values showed on that chart in comparison with similar charts appeared on the statistical annexes to the annual reports for the years 2005 and 2006.

⁸⁷ The descriptions provided by the Member States of the *modus operandi* linked to these communications of irregularity show that falsified documents, declarations of certificates were used. Under these circumstances, the Commission believes that those communications of irregularities should have been classified as “suspicion of fraud”.

Despite the consistent and positive results showed above in terms of comparability and compatibility of the two approaches (the Member States' and the Commission's), still some caution is recommended in assessing the meaning of these figures. A 100% qualification from the Member States would remove this caution, but these results are, indeed, encouraging.

Chart SF7⁸⁸ presents the trend of the percentage of suspected frauds on the total reported irregularities in the last eight years calculated according to Commission's estimations and Member States' classifications.

Table SF 8 shows the values represented on the chart.

Chart SF 7: Level of "suspected frauds" on total reported irregularities from 2000 to 2008

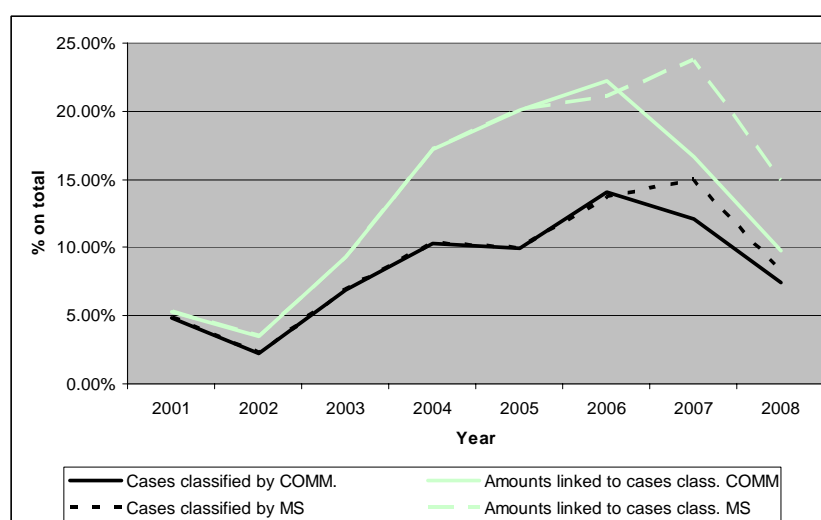


Table SF 8: Level of "suspected frauds" on total reported irregularities from 2000 to 2008

Classification	2001	2002	2003	2004	2005	2006	2007	2008
Cases classified by EC	4.9%	2.2%	6.9%	10.3%	10.0%	14.1%	12.1%	7.4%
Cases classified by MS	4.9%	2.2%	6.9%	10.3%	10.0%	13.7%	15.0%	8.3%
Amounts linked to cases class. EC	5.3%	3.5%	9.3%	17.2%	20.1%	22.2%	16.7%	9.8%
Amounts linked to cases class. MS	5.3%	3.5%	9.3%	17.2%	20.1%	21.1%	23.7%	15.0%

Chart SF7 also witnesses the caution undertaken by the Commission to provide a classification of the irregularities compatible with that provided by the Member States.

The percentage of suspicions of fraud on the total reported irregularities, according to Commission's estimations was about 7.4%. As percentage of the irregular amounts, this share raises to 9.8%. According to Member States' classifications, these percentages are, respectively 8.3% and 15%.

⁸⁸ As data referred to the Cohesion fund are considered not entirely reliable for this type of estimation, they have been excluded from this chart. See also footnote 51 for more details about data showed on this chart.

The different results between the two analyses depend almost exclusively on the fact that the analysis by the Commission makes use of the entire data set of irregularities, while that based on the classification by the Member States uses a smaller data set (due to not complete compliance with the reporting obligations as explained under paragraph 5.1).

The analysis of the Commission highlights a decreasing tendency of the reported suspicion of frauds and related amounts (expressed as percentage of the total reported irregularities and irregular amounts) from 2006 to 2008. It is premature to conclude about a diminution of fraud in the sector, as results may be easily influenced by the detection of cases of suspicion of fraud with bigger or smaller amounts involved, but it is worth monitoring it in the coming years.

On the basis of this estimation, in 2008, reported “suspected frauds” affect about 0.11% of the annual budget for the Cohesion Policy.

However, this does not mean that this amount turns out into a loss for the European budget. In fact, these amounts relate to suspected fraudulent behaviours that have been detected by national authorities and for which recovery procedures are ongoing. Moreover, when these situations were detected in early stages of the process, the “potential” loss is even decreased, because no payments or only interim payments have been granted.

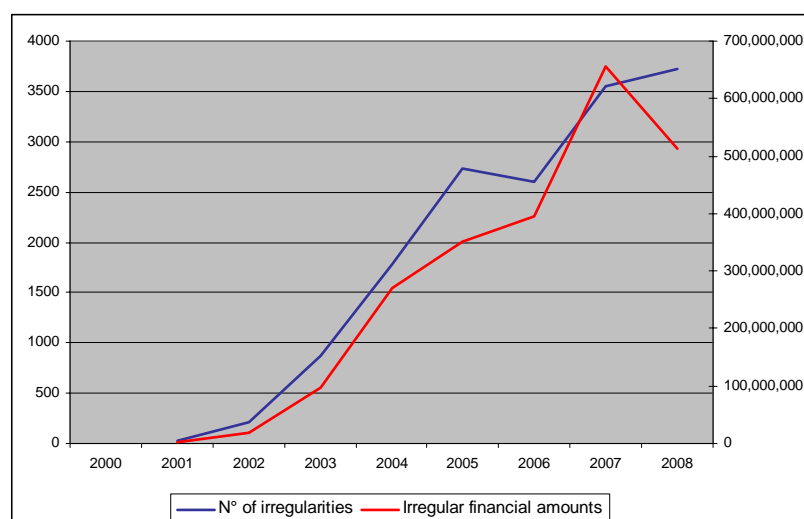
By analysing only the cases estimated to be considered as “suspected frauds”, the amounts still to be recovered related to them impacts on the EU budget for 0.07%.

5.3. Specific analysis – Irregularities related to the programming period 2000-2006

The specific analysis focuses on the programming period 2000-2006; the data set is composed of all the irregularities related to it reported until the fourth quarter 2008. In order to improve the comparability among the different Member States, the irregularities referred to the Cohesion Fund are not included.

Chart SF8 shows the trend of reported irregularities (both in terms of numbers and financial amounts involved) referred to the programming period 2000-2006 as from the year 2000.

Chart SF8: 1998-2008 trend concerning number of reported irregularities and irregular amounts – Programming Period 2000-2006



Irregularities related to this programming period have been steadily increasing year after year. This is due to the fact that controls on the projects also progressed with the advancing of the financed operations. It is worth remembering that the projects financed through the Structural Funds are implemented during several years.

Table SF 9 shows the data displayed on Chart SF 8 and also includes the amounts of annual payments from the Commission to the Member States indicating the related irregularity rate.

The irregularity rate is calculated by dividing the irregular financial amounts by the payments.

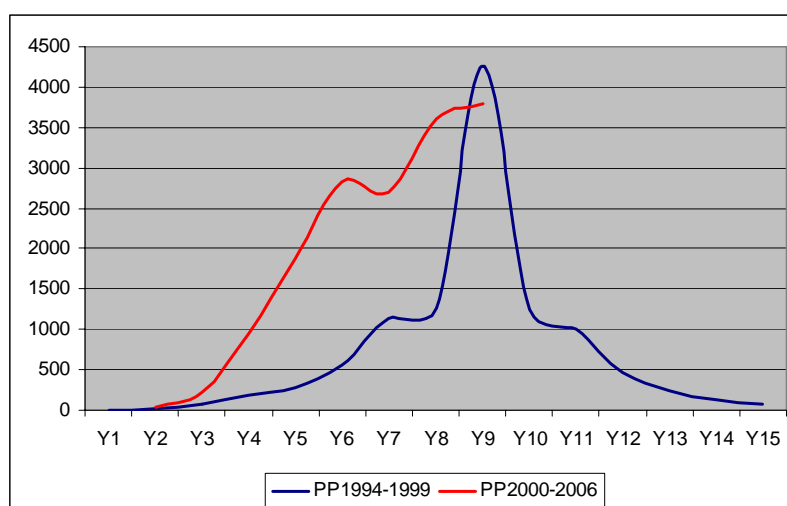
Table SF 9: number of reported irregularities, irregular amounts, payments and irregularity rate – Programming Period 2000-2006

	N° of irregularities	Irregular financial amounts	Payments	Irregularity rate
Year	N	in €	in €	%
2000			5,896,617,764	0.00%
2001	28	2,555,203	14,637,640,421	0.02%
2002	215	17,380,656	19,012,125,217	0.09%
2003	872	97,224,524	22,614,405,912	0.43%
2004	1,784	269,104,738	27,843,965,869	0.97%
2005	2,736	352,331,283	29,492,375,271	1.19%
2006	2,601	394,036,559	29,006,976,704	1.36%
2007	3,547	655,384,790	31,253,098,906	2.10%
2008	3,791	516,308,646	23,777,411,214	2.17%
TOTAL	15,574	2,304,326,399	203,534,617,279	1.13%

The irregularity rate is continuously increasing and it is expected to increase even more in the coming years when the payments for the programming period 2000-2006 will be over but irregularities will keep on been reported.

Chart SF9 puts in comparison the trend related to the programming period 2000-2006 with that of the previous round in terms of numbers of reported irregularities, in order to show that even after the year of closure of the period 1994-1999 (Year 9), irregularities keep on being communicated.

Chart SF 9: 1998-2006 trend concerning number of reported irregularities and irregular amounts – Programming Period 2000-2006



The chart clearly shows that the number of irregularities related to the current programming period reported in the first 8 years from its beginning are many more than those related to the previous.

This is due to a number of reasons. The increased resources allocated to the structural measures, the higher number of Member States that benefit from them, a better understanding of the reporting obligations from national authorities, but also, probably, a growing attention to this sector.

5.3.1. Irregularities affecting the different funds

Table SF10 summarises, in relation to each of the Structural Funds, the number of irregularities, the related irregular financial amounts, the payments and the irregularity rate calculated as the ratio between irregular financial amounts and payments. Please note that the irregularity rate results slightly lower in Table SF9 than in Table SF8 as also payments from 2009 are included.

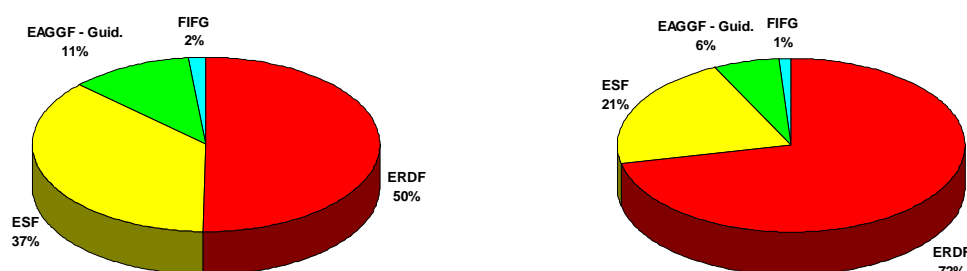
Table SF10: Irregularities, payments and irregular rate by Fund

	N° of irregularities	Irregular financial amounts	Payments	% of total payments	Irregularity rate
FUNDS	N	in €	in €	%	%
ERDF	7,821	1,650,637,971	118,209,399,770	57.65%	1.40%
ESF	5,723	489,173,068	62,361,452,725	30.41%	0.78%
EAGGF - Guid.	1,783	142,012,561	20,933,544,318	10.21%	0.68%
FIFG	247	22,502,800	3,534,788,108	1.72%	0.64%
TOTAL	15,574	2,304,326,399	205,039,184,921	100.00%	1.12%

Charts SF10 and SF11 show the distribution of the 15,495 irregularities and the related irregular financial amounts among the different Funds.

Chart SF10 (left): Distribution of irregularities by Fund

Chart SF 11 (right): Distribution of irregular financial amounts by Fund



While in terms of number of reported irregularities the ERDF seems slightly under-represented in comparison with its share of the payments (58%), the irregularities financial amounts related to Regional Development Fund have a higher relative weight that is greatly exceeding its share of the payments (72% of the total irregular amounts against 58% of the total payments). This difference may be justified by the fact that the ERDF finances projects of a higher value and therefore irregularities tend also to have a greater amount.

It is interesting to note that in Table SF 9, the other three funds have an ‘Irregularity rate’ that is very similar (between 0.64% and 0.78%), while that of the ERDF is almost double than that of the ESF.

5.3.2. Irregularities by Objective

The Cohesion policy aims at supporting the economy of regions lagging behind or in a difficult contingent economic situation. The European support; which is always accompanied by a national support, varies according to the fact that a region falls within the area of a given objective⁸⁹.

Table SF11 summarises, in relation to each of the Objective, the number of irregularities, the related irregular financial amounts, the payments and the

⁸⁹

Three general objectives are foreseen for the programming period 2000-2006:

- a) Objective 1: promote the development and structural adjustment of regions whose development is lagging behind;
- b) Objective 2: supporting the economic and social conversion of areas experiencing structural difficulties;
- c) Objective 3: supporting the adaptation and modernisation of education, training and employment policies and systems in regions not eligible under Objective 1.

Furthermore, through the Funds are also financed the so called “Community Initiatives”, aimed at intervening on specific aspects such as, for example, stimulating interregional cooperation (INTERREG); promoting the design and implementation of innovative models of development for the economic and social regeneration of troubled urban areas (URBAN).

irregularity rate calculated as the ratio between irregular financial amounts and payments. Please note that the irregularity rate results slightly lower in Table SF10 than in Table SF8 as also payments from 2009 are included.

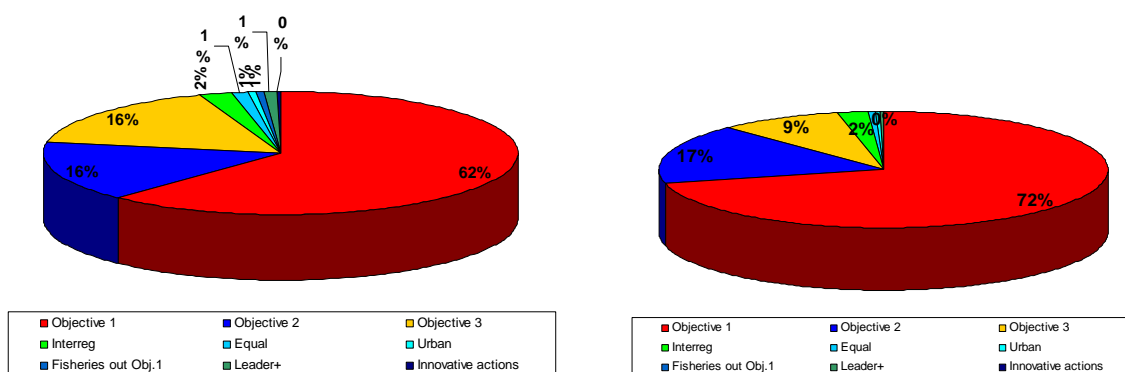
Table SF11: Irregularities, payments and irregular rate by Objective

	N° of irregularities	Irregular financial amounts	Payments	% of total payments	Irregularity rate
OBJECTIVES	N	in €	in €	%	%
Objective 1	9,637	1,635,632,923	148,048,550,689	72.21%	1.10%
Objective 2	2,486	386,877,753	22,175,231,947	10.82%	1.74%
Objective 3	2,556	207,304,061	23,564,856,681	11.49%	0.88%
Interreg	362	48,027,039	4,924,646,802	2.40%	0.98%
Equal	168	10,583,590	2,802,619,938	1.37%	0.38%
Urban	84	6,143,461	663,482,240	0.32%	0.93%
Fisheries out Obj.1	91	4,341,821	925,275,673	0.45%	0.47%
Leader+	151	4,007,210	1,934,533,899	0.94%	0.21%
Innovative actions	26	735,174	N/A	N/A	N/A
Not indicated	13	673,367	N/A	N/A	N/A
TOTAL	15,574	2,304,326,399	205,039,197,869	100.00%	1.12%

Charts SF12 and SF13 show how the irregularities related to the programming period 2000-2006 were distributed among the different objectives.

Chart SF 12 (left): distribution of irregularities (number) by objective

Chart SF 13 (right): distribution of financial irregular amounts by objective



The distribution of the irregularities is to a certain extent in line with the allocation of the financial resources among the different objectives, with an over representation of irregularities related to objective 2 programmes and an under representation of irregularities affecting objective 3 programmes.

Furthermore, the irregularity rate for the Objective 2 programmes is the highest (1.74% of the payments). The irregularity rate for the Objective 1 programmes is almost equal to the overall irregularity rate (1.10% against 1.12%), while that for Objective 3 programmes, Fisheries out of Objective 1 regions, the Equal community initiative, and Leader+ are lower or significantly lower (respectively 0.88%, 0.47%, 0.38% and 0.20%).

These elements may imply some under-reporting in relation to programmes / initiatives presenting a very low irregularity rate. The interpretation of the irregularity rate of Objective 2 programmes is more difficult as it may indicate a greater effectiveness of the control systems of these programmes in detecting the irregularities or denote some problematic aspects in the implementation of these programmes. Information currently available does not allow solving this dilemma.

5.3.3. Suspected frauds

On the basis of the method used for classifying the reported irregularities as illustrated in paragraph 4.2.6, it is possible to give an attempt of identifying the impact on the programming period 200-2006 of the suspicion of fraud calculated on the basis of the irregularities reported until the 4th quarter 2008.

Table SF12 shows an overview of the amounts related to suspicion of frauds indicated by Objective or Community Initiative (on the rows) and Fund (Columns). These financial irregular amounts have been then divided by the corresponding overall payments to obtain a “fraud rate” per objective and fund. The overall result is a fraud rate of 0.19% on the total payments.

Table SF12: Fraud rate by Objective and Fund

OBJECTIVE	FUND	ERDF	ESF	EAGGF - Guid.	FIFG	TOTAL	Payments	Fraud rate
	EUR	EUR	EUR	EUR	EUR	EUR	EUR	%
Objective 1	EUR	237,693,651	58,966,377	30,320,842	2,379,813	329,360,683	148,048,550,689	0.22%
Objective 2	EUR	13,700,075	668,295			14,368,370	22,175,231,947	0.06%
Objective 3	EUR		33,347,889			33,347,889	23,564,886,681	0.14%
Interreg	EUR	1,721,666				1,721,666	4,924,646,802	0.03%
Equal	EUR		2,422,431			2,422,431	2,802,619,938	0.09%
Urban	EUR	222,840				222,840	663,482,240	0.03%
Fisheries out Obj.1	EUR				1,061,206	1,061,206	925,275,673	0.11%
Leader+	EUR			355,985		355,985	1,934,533,899	0.02%
TOTAL	EUR	253,338,232	95,404,992	30,676,827	3,441,019	382,861,070	205,039,197,869	0.19%
Payments (EUR)	EUR	118,209,399,770	62,361,452,725	20,933,544,318	3,534,788,108	205,039,184,921		
Fraud rate (%)	%	0.21%	0.15%	0.15%	0.10%	0.19%		

Among the Objectives, programmes referred to the Objective 1 regions present a higher rate (0.22%) than the others. Objective 2 programmes present a very low rate (0.06%). Only the Leader+ initiative shows a lower rate (0.02%).

Among the Funds, the ERDF presents a rate of 0.21%, with ESF and EAGGF – Guidance on the same level (0.15%) and the FIFG just lower (0.10%).

5.3.4. Irregularities detected before payment

An interesting aspect to examine in the framework of the protection of the Communities' financial interests is what proportion of irregularities is detected before any payment is effectively made to the beneficiaries.

This aspect can provide some concrete elements also concerning Member States' capabilities to prevent irregularities.

Table SF12 shows the total number of irregularities reported by each Member State on the whole programming period 2000-2006 (column A); the number of irregularities detected before any payment is made (column B); what percentage B represents on A (column C); the financial amounts reported as irregular (column D) and those related to the irregularities detected before payment (column E); and finally what percentage of the total irregular financial amounts reported have been identified before payment (column F).

Table SF 13: irregularities detected before payments per Member States - 2006

MS	A	B	C=B/A	D	E	F=E/D
	Reported irregularities	Irregularities detected before payment	detected before payment on total	Reported irregular amounts	related to irregularities detected before	before payment on total reported
	N	N	%	EUR	EUR	%
AT	220	7	3.18%	25,120,138	721,630	2.87%
BE	123	13	10.57%	7,095,377	229,697	3.24%
CY	5	1	20.00%	174,222	273	0.16%
CZ	138	25	18.12%	25,412,375	10,306,978	40.56%
DE	3,184	119	3.74%	306,393,525	23,854,795	7.79%
DK	72	14	19.44%	3,611,554	557,370	15.43%
EE	81	15	18.52%	4,822,674	428,598	8.89%
EL	530	3	0.57%	221,118,650	244,540	0.11%
ES	2,081	8	0.38%	474,336,026	2,224,042	0.47%
FI	211	61	28.91%	9,688,513	1,710,772	17.66%
FR	531	32	6.03%	21,915,505	571,970	2.61%
HU	180	108	60.00%	12,998,773	8,371,901	64.41%
IE	55	1	1.82%	9,052,241	5,515	0.06%
IT	2,389	294	12.31%	419,599,478	148,055,552	35.28%
LT	49	26	53.06%	3,934,905	1,104,986	28.08%
LU	17		0.00%	572,506		0.00%
LV	43	10	23.26%	4,358,129	1,466,302	33.65%
MT	6		0.00%	933,543		0.00%
NL	700	559	79.86%	84,880,049	64,288,422	75.74%
PL	771	424	54.99%	110,507,373	30,270,361	27.39%
PT	1,698	6	0.35%	141,020,124	187,618	0.13%
SE	680	445	65.44%	16,778,012	9,714,484	57.90%
SI	20	1	5.00%	3,069,791	7,033	0.23%
SK	97	10	10.31%	11,616,842	1,188,085	10.23%
UK	1,693	119	7.03%	385,316,075	20,927,186	5.43%
TOTAL	15,574	2,301	14.77%	2,304,326,399	326,438,110	14.17%

Looking at column F, very high rates of detection before payment emerge especially in some of the EU10 (namely Hungary, the Czech Republic, Latvia, Lithuania, and Poland) and, among the EU15, in Sweden, the Netherlands and Italy.

Some caution is needed on these data, because some Member States may have not reported the irregularities they detected before payment.

5.4. Recovery

In 2008, Member States communicated, pursuant to Regulation No. 1681/94, 3,858 irregularities were reported for a total financial amount of EUR 528,019,117.

The situation as regards recovery in 2008 (see Annex 16) is as follows:

- Member States recovered EUR 109,902,839;
- the sum to be recovered was EUR 329,174,994;
- in the same period, the amount declared irrecoverable pursuant to Article 5, par. 2 of Regulation No. 1681/94, and which is awaiting a formal decision is EUR 16,805,607.

These figures indicate that 62% of the reported irregular amounts are to be recovered. In 2007 these amounts represented 67% of the total reported irregular

amounts. Member States are showing an increased capability of reacting to irregularities by recovering or securing the Community's financial interests in a more effective manner. It should be, however, be kept in mind that recovery procedures, especially in cases of suspicions of fraud, may take a few years before they are completed.

Pursuant to Regulation No. 1828/2006, 9 irregularities were reported for a total financial amount of EUR 901,294; of which EUR 12,864 remain to be recovered.

Pursuant to Regulation No.1831/94, Member States reported 140 irregularities for a total amount of EUR 56,328,911 (see annex 17), of which EUR 19,768,042 remain to be recovered. The amounts to be recovered are declining in relation to previous years.

5.5. Conclusions

Introduction

- Member States reported 4,007 irregularities in 2008;
- The total financial amount affected in 2008 was EUR 585.2 million.

Reporting discipline

- The number of irregularities reported through the Electronic modules AFIS/ECR has been increasing and represent now almost 80% of the total; the overall compliance of Member States has increased accordingly;
- Member States need to pay more attention to submit the irregularities within deadlines established by regulations, but the situation is improving in relation to the past;
- The time gap between detection and reporting is satisfactory for 90% of the irregularities;
- The classification of the irregularity (indicating whether or not it is a case of "suspected" fraud) is an element of the reporting that needs to be strengthened. In 2007, the classification was provided in 73% of the irregularities, increasing in comparison with 2007;
- Despite the clarifications and simplifications introduced with Regulations Nos 2035/2005 and 2168/2005, there is still need for further harmonisation of reporting between Member States.

General trends

- The number of irregularities reported to the Commission increased by 6.7% in relation to 2007;
- The irregular financial amounts related to those irregularities decreased by 27.2%;

- The impact of irregularities on the total Structural actions budget decreased in relation to the previous year (down to 1.25%);
- Italy, Spain, the United Kingdom, Portugal and Poland are the countries that reported the highest number of irregularities in 2008;
- Spain, the United Kingdom, Italy and Poland are the countries that reported the highest amounts;
- High irregular financial amounts reported do not necessarily imply that in country occur more frauds and irregularities than in the other. The reason could be a higher number of controls;
- The most frequent method for detecting irregularities is the ‘control of documents’, while ‘control by police’ proved the method with the highest average irregular amounts detected;
- ‘Not eligible expenditure’ is the most frequently reported type of irregularity. The other typologies reported are in line with previous years;
- ERDF remains the fund to which the highest number of irregularities and the highest amounts are related. This is normal considering that it is the Fund with the largest resources available.
- In 2008 “suspected frauds”, as a percentage of the total number of reported irregularities, represent around 7.4%. This share increases to 9.8% on the total irregular amounts.

Specific analysis

- The greatest majority of irregularities related to the programming period 2000-2006 are referred to Objective 1 regions which are also the regions benefiting from the greatest support. In general, there is a certain balance among the budget allocated and the irregularities reported;
- Objective 2 programmes present the highest irregularity rate, while Objective 1 programmes have the highest fraud rate;
- High rates of detection before payment emerge especially in some of the EU10 (namely Hungary, the Czech Republic, Latvia, Lithuania, and Poland) and, among EU15, in Sweden, the Netherlands and Italy.

Recovery

- In 2008, the irregular financial amounts decreased and so did the amounts to be recovered;
- 62% of the irregular amounts reported under regulation 1681/94 are to be recovered, while they represented 67% of the total reported irregular amounts in 2007. Member States are showing a better capability of reacting to the detection

of irregularities by recovering or securing the European financial resources in a more effective manner;

- The amounts to be recovered are declining for the Cohesion Fund.

6. PRE-ACCESSION FUNDS (ANNEXES 18-21)

Descriptive statistical analysis presented hereinafter relates to the enlargement context and deals with different groups of beneficiary countries benefitting from pre-accession assistance and varied periods of allocations.

Agenda 2000⁹⁰ strengthened the pre-accession strategy by setting up two financial mechanisms: a pre-accession structural instrument (ISPA) to support improved transport and environmental protection infrastructures and a pre-accession agricultural instrument (SAPARD) to facilitate the long-term adjustment of agriculture and the rural areas of the applicant countries. ISPA⁹¹ and SAPARD⁹² complement the actions of the PHARE⁹³ programme, which has been the EU aid programme for the current EU-12 since 1990.

The 10 Member States that joined the EU in 2004 received a Transition Facility in 2004-2006. Bulgaria and Romania received a Transition Facility in 2007.

Croatia received PHARE and ISPA (2005-2006), SAPARD (2006), CARDS (2001-2004) and is the only country reporting CARDS⁹⁴ irregularities since 2006⁹⁵. Turkey received pre-accession assistance via similar but separate instruments, budget lines and procedures.

Since 1 January 2007 EU pre-accession assistance has been channeled through a single Instrument for Pre-accession Assistance (IPA)⁹⁶ designed to deliver support for candidate and potential candidate countries. The preliminary allocation for IPA in the period 2007-2013 is EUR 11.5 billion (in 2008 – EUR 1.4 billion).

General overview

In 2008 the Commission/OLAF received 2,133 reports on pre-accession funds (PHARE, SAPARD, ISPA, Transition Facility (TF), CARDS, Turkish pre-accession instrument (PA)) from the Member states and Candidate countries. The received information consists of 523 new cases detected by the national authorities in 2008 and 1,610 follow-up reports on the previously reported cases. The number of new cases received on pre-accession assistance is the highest since the reporting obligation started to be fulfilled by the reporting countries.

⁹⁰ On 26 March 1999, at the Berlin European Council, the Heads of Government or States concluded a political agreement on Agenda 2000.

⁹¹ ISPA programme dealt with large-scale environment and transport investment support in candidate countries.

⁹² SAPARD programme has supported agricultural and rural development in candidate countries.

⁹³ PHARE programme applied to candidate countries, principally involving institution building measures (and associated investment) as well as measures designed to promote economic and social cohesion, including cross-border co-operation.

⁹⁴ Community Assistance for Reconstruction, Development and Stabilisation applied to Western Balkan countries

⁹⁵ Commission Decision PE/2006/148 of 07/02/2006 conferring management of aid provided under PHARE and CARDS to an Implementing Agency in Croatia

⁹⁶ Council Regulation (EC) No 1085/2006

The total amount affected by irregularities in 2008 was EUR 60,782,354 where PHARE accounts for EUR 26,731,257 (183 cases), SAPARD – EUR 29,046,300 (213 cases), ISPA – EUR 4,055,042 (99 cases), TF – EUR 545,822 (4 cases), PA – EUR 314,763 (18 cases), CARDS – EUR 89,170 (6 cases).

6.1. Reporting discipline

The obligation to report irregularities in the area of pre-accession assistance is established in the Financing Agreements/Memoranda signed between the acceding countries, Candidate countries and the European Community and is in accordance with the provisions of Commission Regulation (EC) 1681/1994⁹⁷. This obligation is yet enhanced by Commission decision granting conferral of management on extended decentralised basis (EDIS).

Pre-accession assistance related irregularities are reported using a standard paper template. The submitted information is processed and registered in the data base managed by OLAF.

In general, the quality of provided information is getting better and reporting countries are cooperative. However, insufficient or obscure reported information remains to be a challenge.

Inconsistencies and even contradictions in different sections of the same report still occur. In absolute numbers Romania has the highest number of notifications containing one or more content mistakes (44), followed by Bulgaria (32). In relative terms Slovenian notifications are the least reliable. These estimations are heavily influenced by the number of communications sent by the respective countries. Currently Romania and Bulgaria are the countries from which the highest numbers of notifications are received; therefore the number of mistakes is yet acceptable. More efforts could be put into the initial quality checks on a national level to avoid the inconsistencies.

Most common mistakes are incorrect or incomplete financial aspects of the reports, missing practices employed in committing irregularities, missing types of irregularities. The incorrect numbering remains to be a technical obstacle in cooperation with MSs' authorities on follow up related issues. Bulgaria has achieved significant improvements on that issue while Romania needs to pay more attention.

6.1.1. Timely reporting

Late reporting of irregularities poses problems for OLAF when working with analysis of the reported information. In 2008 4 countries out of 14 missed the reporting deadline⁹⁸ for at least one of the pre-accession funds. Some special cases are worth to be mentioned. Hungary failed to report on time throughout the year but improvements occurred in the last quarter. Slovakia was very late to report first and

⁹⁷ As amended by Regulation (EC) No 2035/2005

⁹⁸ Following the two months at the end of each quarter, Member states and Candidate Countries are obliged to report to the Commission any irregularities which have been the subject of initial administrative or judicial investigations.

second quarters and several reminders were sent. Bulgaria missed the reporting deadline for SAPARD in 4th quarter, so 17 new cases and last updates of previous reports could not be included in this analysis. Turkey does not follow the reporting schedule and experiences very big delays.

Table PA 1: Timely reporting

	Reported too late	Reported on time	Total
BG	103	385	488
HU	20	1	21
PL	46	364	410
SK	34	21	55

Failure to respect reporting deadlines by the Member States and Candidate Countries makes the preparation of a thorough analytical overview of detected irregular cases rather difficult. Since pre-accession assistance related irregularities are reported in paper some time is needed to process them.

6.1.2. *Time gaps*

In accordance with the Regulation 1681/94 there are some compulsory dates to be filled in (date of first information, the period of irregularity, date when the irregularity was established). The calculations in Table PA 3 estimating compliance are based on the dates presented in the first notifications sent in 2008. Failure to indicate at least one of the required dates affects the compliance. Some reporting countries tend to leave out the dates; therefore, more attention should be concentrated on this aspect.

The average time span for relevant authorities to detect an irregularity is 24 months. However, for Poland and Estonia it took 3 years, for Romania and Malta – 2 years. This time period also signals the end of the project cycle.

It takes almost 4 months on average to report the detected irregularities⁹⁹. Turkey, Slovakia, Slovenia, Hungary, and Czech Republic were late to submit the information on the detection to the Commission.

6.1.3. *Classification of irregularity*

Reporting countries are obliged to indicate whether the reported irregularity can be considered as ‘suspected fraud’ or not. When the reporting countries fail to classify the reported cases OLAF does it on the basis of the overall information provided in the report. Table PA 2 provides a rate of compliance with respect to classification of irregularity.

⁹⁹ A maximum period of 5 months (3 months + 2 months) to report a detected irregularity is established by the Commission regulation 1681/1994.

Table PA 2: Compliance in 2008 - classification of irregularities

Classification of cases by reporting countries					
Country	Blank	Suspected fraud	Irregularity	Total	% Compliance
EE			5	5	100.00%
HR		2	15	18	100.00%
BG	2	29	109	140	98.57%
HU	1		9	11	90.91%
SK	1		8	9	88.89%
TR	5	2	11	18	72.22%
RO	72	10	164	246	70.73%
LV	3		2	5	40.00%
LT	5		1	6	16.67%
CZ	16		1	17	5.88%
PL	45	1		46	2.17%
MT	1			1	0.00%
SI	1			1	0.00%
Total	152	44	325	523	70.94%

Estonia and Croatia fully complied. Malta and Slovenia did not classify any of the reported irregularities in 2008, but they reported very few. On average 71% of cases were classified. There is a visible increase in compliance with reference to 2008 so reporting countries are putting more efforts in fulfilling the necessary obligations.

6.1.4. Summary

Table PA 3 makes a summary of different aspects of compliance rate, namely dates required by the legislation, data on natural and legal persons involved, classification of cases, reporting deadlines. The countries are listed in order of compliance with the requirements established by the Regulation 1681/94. Inconsistencies for each country are more precisely seen by analysing separate columns.

The summary reveals that countries reporting few cases like Slovenia, Malta and Estonia get lower positions in the list because the mistakes get high weighting. They become 'victims of statistics' and should not be over judged. Slovakia experienced difficulties in reporting due to internal institutional changes.

Summary compliance of 91.6% has improved in comparison to 2007 (82.4%). Even so, it manifests some limitations with reference to further analysis carried out in the report. Low compliance with the reporting obligation might imply some weaknesses in the administrative set up of the reporting mechanism.

Table PA 3: Compliance per reporting country 2008

Country	Dates compliance	Personal data compliance	Classification of cases	Timely reporting	Summary compliance
HR	100.00%	100.00%	100.00%	100.00%	100.00%
BG	86.43%	100.00%	98.57%	78.89%	90.97%
RO	88.62%	99.19%	70.73%	100.00%	89.63%
EE	40.00%	100.00%	100.00%	100.00%	85.00%
LV	100.00%	100.00%	40.00%	100.00%	85.00%
LT	100.00%	100.00%	16.67%	100.00%	79.17%
SK	77.78%	100.00%	88.89%	38.18%	76.21%
MT	100.00%	100.00%	0.00%	100.00%	75.00%
PL	100.00%	100.00%	2.17%	88.78%	72.74%
TR	11.11%	94.44%	72.22%	100.00%	69.44%
HU	81.82%	90.91%	90.91%	4.76%	67.10%
CZ	58.82%	100.00%	5.88%	100.00%	66.18%
SI	100.00%	0.00%	0.00%	100.00%	50.00%
Total	85.28%	99.04%	70,94%	90.48%	91.60%

6.2. General Trends

The intention of this descriptive analysis is to provide an overview of the reported irregularities in 2008 and to compare the reporting trends observed during the period 2002-2007.

One should take into account that Member States and Candidate Countries must report to the Commission cases exceeding the established thresholds. Reports below the threshold are included in the overall analysis (see Annex 19). Since the reporting countries decided to report such cases to the Commission it is possible that irregular amounts are only indicative and will be specified. Therefore, they are likely to get higher by means of the coming follow up reports.

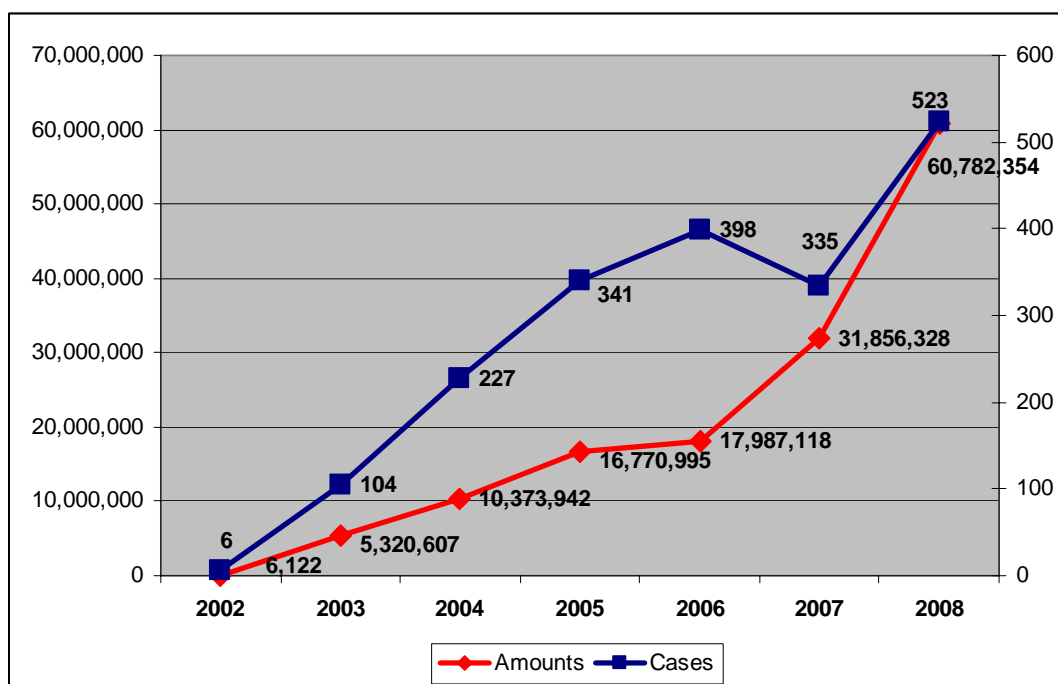
6.2.1. Overall trend

The number of cases reported (first communications) in 2008 increased by 58%, while the number of follow-up reports increased by 25% in comparison to 2007.

2008 was the year when the new cases reported to OLAF reached the peak. This could be explained by the fact that more countries benefitting from pre-accession assistance started active reporting of irregularities. Previously only 'nil reports' were received. Moreover, a wider variety of pre-accession instruments is covered due to different programming periods and phases of enlargement process.

The high number of updates illustrates that beneficiary countries are actively proceeding with administrative or judicial measures concerning the cases detected previously. However, the high number of updates is not characteristic to all the reporting countries. Some EU-10 countries are clearly phasing out. They are finalising pre-accession funded projects and the last remaining procedures. EU-2 reports very high numbers of updates as they are still in the middle of the project cycle. Turkey, however, sent very few follow-up reports and such a situation raises concerns.

Chart PA 1: Irregularities communicated by reporting countries (2002-2007)

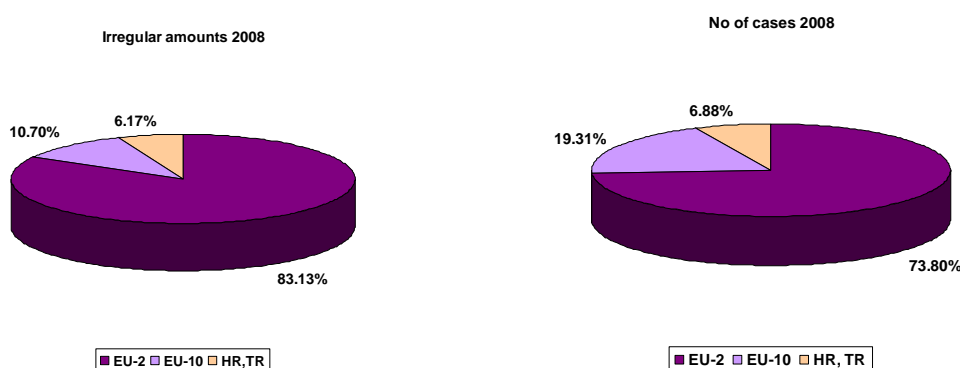


6.2.2. Trend related to Member States and Candidate countries

Irregularities are not distributed equally among the reporting countries due to different periods of eligibility of expenditure. Three groups of reporting countries can be distinguished, namely 2004 accession Member States, 2007 accession Member States, and Candidate countries – Croatia and Turkey. In 2008 EU-10 account for 19%, Bulgaria and Romania – 73%, Croatia and Turkey – 7% of the total number of cases. Talking about the total irregular amount reported EU-10 make 11%, Bulgaria and Romania - 83%, Croatia and Turkey – 6%.

This grouping is well reflected providing a breakdown in Chart PA 2:

Chart PA 2: Reporting trend EU-10 and EU-2



6.2.3. *Amounts involved*

For the purposes of this report the term eligible amount stands for the amount committed to be paid when the contract is concluded under the condition that the expenditure incurred is justified and eligible.

With regard to the amounts involved in the irregularities reported to the Commission, the total irregular amounts went up while total eligible amount went down in 2008.

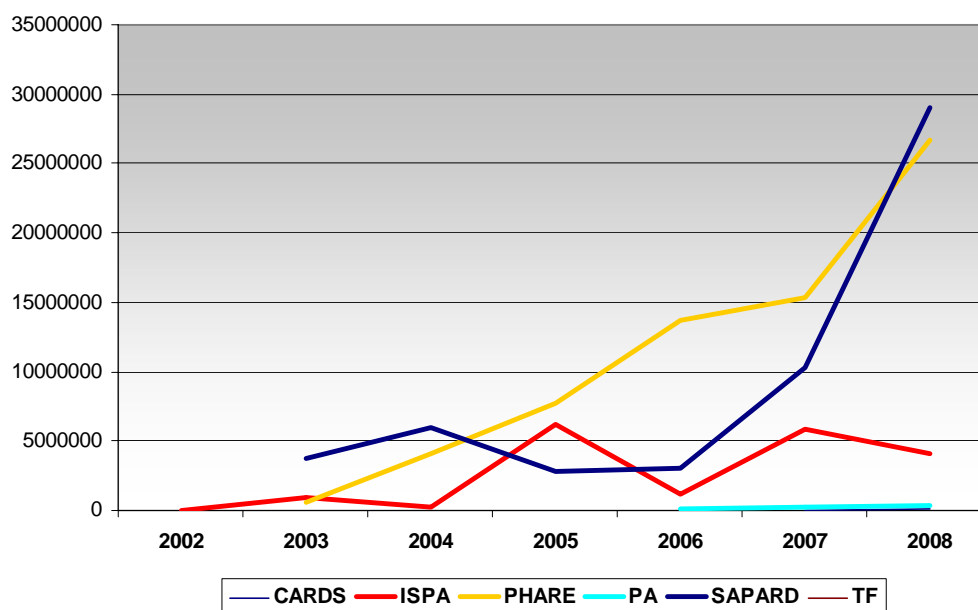
In 2008 the eligible amount decreased by 43% in comparison to 2007. This was caused by figures on ISPA expenditure; however, there are certain doubts if these figures were reported correctly both in 2007 and 2008.

EU-10 does not report ISPA irregularities any longer due to the transfer of expenditure into the Cohesion Fund. Consequently, mainly Bulgaria and Romania sent communications for ISPA in 2008 (see Annex 18) and the first ISPA case was received from Croatia.

There is still a striking difference between both the number of cases and irregular amounts reported by Bulgaria and Romania. The number of ISPA cases reported by Bulgarian authorities has increased five times combined with three time increase in the irregular amounts. A sharp increase was observed during 4th quarter 2008 when the number of new cases reported (15) is 36% higher than the total number of ISPA cases (11) reported since 2004 by Bulgaria. This is a direct outcome of Commission audits. As for Romania the number of cases remained on the same level but the irregular amount decreased by 40%. Clearly, there is a difference in the approach to irregularity reporting between those two countries.

Irregular amount reported in 2008 went up by 90% and reached roughly EUR 61 million for all funds in total. The irregular amounts went up sharply for PHARE (74%) and SAPARD (180%); for PA and CARDS a small increase is seen; for ISPA, on the contrary, the irregular amount decreased by 31%.

Chart PA 3: *Irregular amounts by fund*



The chart has to be interpreted with some caution. The number of reporting countries is growing; therefore the affected amounts are gradually increasing. What is more, pre-accession assistance funded projects run over several years while the affected amounts are calculated with reference to the reporting year. So the closing years are becoming peak years.

To be more precise, however, it is worth looking at the breakdown by groups of reporting countries. Since the greater part of the data set analysed originates from Romania and Bulgaria (see Chart PA 2), the trends are influenced by their reporting patterns.

The total irregular amount reported by EU-10 in 2008 rose by 8%. The percentage went down for PHARE (76%) and increased significantly for SAPARD (167%). There are several reasons behind it. For EU-10 many projects which did not get into the audit samples before, are being checked only when the final payment claims are submitted. SAPARD irregularities in 2008 were mostly detected by ex-post controls after the final payments had been made.

The situation for EU-2 has changed significantly. The total irregular amount reported increased by 152%; PHARE increase makes 135% and SAPARD – 173%. Enhanced Community controls in Bulgaria triggered higher detection of irregularities and it is well seen in the statistics. Big irregular amounts manifest that procurement rules/procedures were infringed, eligibility rules not followed, a number of projects failed to be implemented or contract conditions were not fulfilled, therefore, the whole value of the contract becomes irregular.

Furthermore, it is very important to differentiate between cases with potential financial impact detected before the payments and real financial impact resulting in recoveries (see 6.3.3).

The major part of irregular cases is not fraudulent and corrective measures are undertaken (see 6.3.2).

The highest number of cases in 2008 was reported by Romania, Bulgaria, and Poland (respectively 246, 140, and 46). The pattern, however, is different with reference to the irregular amounts. Bulgaria, Romania, Croatia, and Lithuania reported the highest irregular amounts. Annex 18 presents all the figures in detail per each reporting country.

6.2.4. *Impact on the budget*

Estimation of the impact on the budget is based on the information provided in the irregularity reports and is totally linked to countries' approach to reporting and cooperation with the Commission.

While estimating the impact of pre-accession assistance irregularities on the budget one needs to take into account different groups of beneficiary countries benefitting from pre-accession assistance and varied periods of allocations.

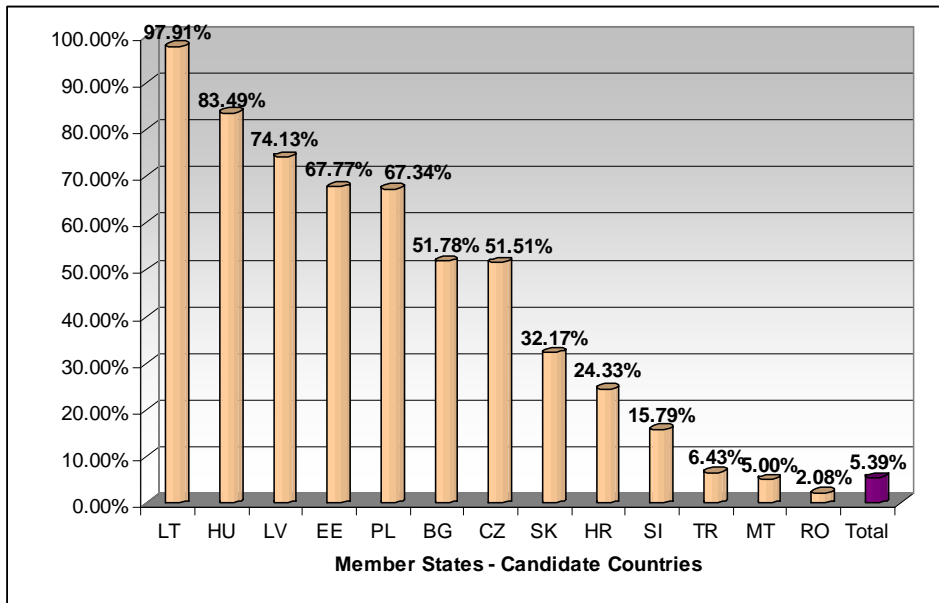
After the accession of EU-10 in 2004 no new expenditure was committed (except for SAPARD where some commitments were made up at the end of 2004). PHARE, ISPA, SAPARD, the Turkish pre-accession instrument, and CARDS projects will be gradually completed by around 2010.

As an extension of financial assistance provided under PHARE before the accession, Transition Facility was employed in 2004-2006. 2006 was the final programming year for the Transition Facility, although contracting continued until 2008 and payment of funds until 2009. In 2007 EUR 78 million were allocated to Bulgaria and Romania under TF.

With regard to SAPARD, for Romania and Bulgaria automatic period of decommitment has been extended till December 2009 so contracting continues.

2007 was the first year of commitments under IPA focusing on Candidate and Potential Candidate countries for the programming period 2007- 2013.

Chart PA 4: *Share of irregular amount in eligible amount of reported cases*



The comparison is drawn between the total values of the projects reported and the total irregular amounts per country. The share of irregular amount reached 5.4% in 2008 while in 2006 it was 1.9%. Although the figure has increased, Chart PA 4 illustrates that the share of irregular amount in relation to the total value of expenditure is relatively very little.

In comparison to the overall tendency, the share for Romania is very low and it highly influences the total figure. Lithuania, Hungary, Latvia, Estonia, and Poland report cases with rather high irregular share, which sometimes equals the total value of the project.

The impact of irregularities reported in 2008 on budgetary allocations for the same year is 4.4% (EUR 61 million on EUR 1.4 billion of allocations). However, this figure should be taken with great caution as the programming periods and also beneficiary countries are different. Since 2007 pre-accession assistance allocations are given to Candidate and Potential candidate countries in the Balkans¹⁰⁰.

It would be more precise to calculate the impact of irregularities on the whole programming period and the 'real' beneficiaries. Thus the result is 0.76% (EUR 143 million total irregular amount reported so far on the overall budget of roughly EUR 19 billion).

6.2.5. Method of detection

Reporting countries are required to indicate the manner in which the irregularity was discovered. In 2008 reporting countries put more efforts in categorizing methods of detection used on the basis of the pick list provided by OLAF. However, in a number of cases the codes were attributed by OLAF on the basis of the descriptions (frequently rather vague) presented in the reports.

¹⁰⁰ Croatia, Turkey, Bosnia-Herzegovina, Serbia (and Kosovo), and Montenegro.

Table PA 4 presents an overview of methods of detection which helped to trace most cases, the highest irregular amounts, and the highest average detected amounts. Most of the irregularities and the highest irregular amounts in 2008 were detected by means of 'Control of documents'. The same method took the lead in 2007. This method actually reflects one of the key responsibilities of the national authorities implementing EU funds under decentralised and shared management modes. Besides, this method is of a rather general nature and can be used throughout the project cycle.

On the spot controls appeared to be very effective and the same tendency is observed in the course of several years. National administrative or financial controls trigger the third highest number of detections.

Some new tendencies are spotted in 2008, namely the role of 'Community controls. Moreover, the highest average amounts were detected while carrying out controls under the request of the Commission. It needs to be mentioned that most of such cases were reported by Bulgaria in relation to the specific situation on the management of EU funds there in 2008.

Information received from whistleblowers¹⁰¹ proved to be useful and instigated the detection of high value cases (second highest average).

Several cases in the data set do not provide relevant information on the method of detection employed and state 'other'.

In general, the most frequent methods of detection imply both ex-ante and ex-post controls. It is a natural outcome since the data set involves projects under different stages of implementation (from procurement to final payments).

Table PA 4: *Method of detection in 2008 by number of cases and irregular amounts detected*

Method of detection	No of cases	Detected EC amount irregular	Average detected amount
Control of documents	186	18,216,024	97,936
On the spot control of achievement of project or action	79	8,681,197	109,889
National administrative or financial control	75	5,992,717	79,903
Community controls	25	1,387,344	55,494
Control by national anti-fraud service	24	3,913,554	163,065
Spontaneous confession	21	1,503,879	71,613
Whistle blower	18	6,508,646	361,591
Ex post control	13	670,611	51,585
Additional control on request by the Commission	10	3,838,789	383,879
Not indicated	9	216,496	24,055
Other facts	8	1,845,899	230,737
Control on the premises of the company	7	102,145	14,592

¹⁰¹ The term 'whistleblower' in this context is used in a broader sense than defined by the EU legislation and also involves anonymous sources.

6.2.6. *Types of irregularities*

Reporting countries are obliged to indicate the practices employed in committing the irregularity (*modus operandi*)¹⁰². This can be done by using the provided codes or giving a description. The list of codes provides a collection of types of irregularities. If the reporting countries do not choose the relevant code, OLAF picks the most appropriate code on the basis of the description. This is necessary to make the data reported by different countries comparable. Failure to provide clear and accurate descriptions by reporting authorities leads to difficulties in analyzing the data.

Most common type of irregularity by the number of received cases in 2008 was 'Failure to respect other regulations/contract conditions' followed by 'Non –eligible expenditure' (which was the most frequent *modus operandi* in 2007) and 'Failure to fulfil commitments entered into'. This is yet another indication that a number of projects failed to be implemented.

'Falsified supporting documents' in 2008 got into top five of the most frequent *modus operandi* and pertain to the highest irregular amount and also average irregular amount. This type of irregularity does not indicate that frauds have already been established and only refers to the element that raised suspicion of the competent national authorities. Therefore, all these cases are classified as 'suspected fraud' and are analysed in detail in 6.3.2. They were reported by Turkey, Slovenia, Croatia, Poland, Czech Republic and Bulgaria. Bulgarian cases involving allegations of falsified supporting documents account for 72% of the total cases bearing this type of infringement. 'Failure to respect deadlines' again signals problems in the project implementation with second highest average irregular amount.

For SAPARD the most frequent *modus operandi* reported in terms of the number of cases is 'Failure to fulfil commitments entered into', and in terms of the amounts detected - 'Falsified supporting documents'.

For PHARE the most frequent *modus operandi* reported in terms of the number of cases is 'Unjustified expenditure' and in terms of the amounts - 'Failure to respect deadlines'.

'Falsified supporting documents' occur in 9 PHARE cases and 25 SAPARD cases reported to OLAF.

¹⁰² Article 3 of Commission Regulation (EC)1681/94

Table PA 5: Types of irregularities by number of cases and irregular amounts

Type of irregularity	No of cases	EC amount irregular	Average irregular amount
FAILURE TO RESPECT OTHER REGULATIONS/CONTRACT CONDITIONS	82	9,055,905	110,438
NON-ELIGIBLE EXPENDITURE	79	3,062,000	38,759
FAILURE TO FULFIL COMMITMENTS ENTERED INTO	69	2,240,539	32,472
UNJUSTIFIED EXPENDITURE	50	4,608,780	92,176
FALSIFIED SUPPORTING DOCUMENTS	36	12,095,015	335,973
ACTION NOT CARRIED OUT IN ACCORDANCE WITH RULES	30	3,631,566	121,052
INFRINGEMENT OF RULES CONCERNED WITH PUBLIC PROCUREMENT	29	2,312,610	79,745
ACTION NOT IMPLEMENTED	24	2,285,114	95,213
FAILURE TO RESPECT DEADLINES	24	5,945,892	247,746
OTHER CASES OF IRREGULAR DOCUMENTS	16	1,555,020	97,189
OTHER IRREGULARITIES (TO BE SPECIFIED)	13	2,585,598	198,892
INCORRECT ACCOUNTS	12	348,343	29,029
MISSING OR INCOMPLETE DOCUMENTS	11	476,061	43,278
MISSING OR INCOMPLETE SUPPORTING DOCUMENTS	9	1,185,176	131,686
ACTION NOT COMPLETED	7	928,793	132,685

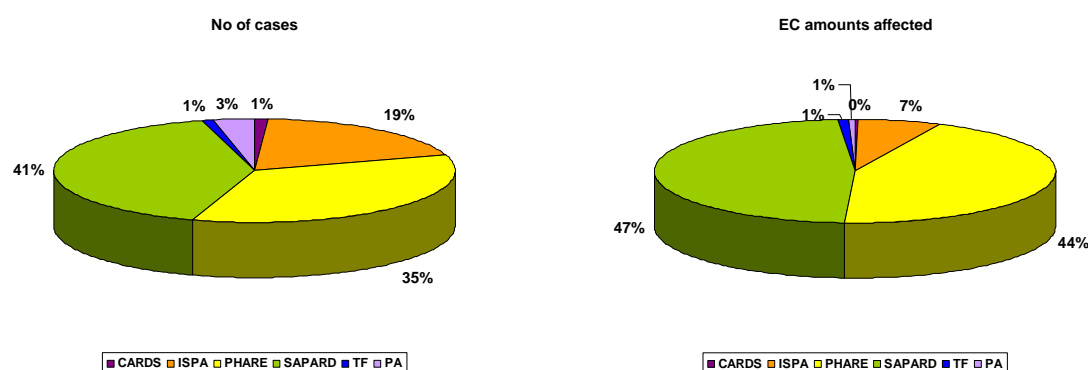
6.3. Specific analysis

6.3.1. Irregularities affecting different funds

The total number of cases reported augmented in comparison to 2007 (by 58%). Reporting tendencies noticed during the previous years did not alter and most irregularities were communicated for PHARE and SAPARD funded projects. Those two funds made 76% of the irregularities reported.

As demonstrated by Chart PA 5 the highest number of cases reported in 2008 concerned SAPARD and made almost half of the total cases reported in numbers. The biggest share of irregular amount was also reported for SAPARD (47% of the total).

Chart PA 5: Distribution of communications per fund in 2008



2008 is the year when such a wide variety of pre-accession assistance programmes was reported. The first 4 cases were reported for Transition Facility. Croatia began reporting irregularities on CARDS. Turkey started to report more on Turkish Instrument for pre-accession. Previously numbers were so low that they were not analysed separately.

Taking a closer look at ISPA reports one observes that the number of cases does not correlate with the irregular amounts reported. Usually ISPA projects are huge in

value but the irregular amounts reported are relatively little (no reporting threshold was established). A number of ISPA cases reported in 2008 do not have any financial impact indicated even though the legislation requires providing indicative figures¹⁰³.

In total, 366 projects were approved for ISPA, of which 201 were in the environment sector, 78 in the transport sector and 87 concerned technical assistance. The ISPA budget (in 2006 prices), before amendments and excluding technical assistance was 7,708 million euro¹⁰⁴.

In general, ISPA projects experienced delays, addenda, and retendering due to various infringements of procedures. Peculiarities of ISPA programming might imply that irregularities occurring during tendering procedures have not been reported especially related to the conflict of interest. Financial corrections applied on a national level before claiming the funds from the Commission were not considered as irregularities.

Situation for SAPARD is different because the amounts reported as irregular frequently coincide with the total value of the project and full recovery is imposed. Most of SAPARD cases were detected after the payments had been made. This could be related to the fact that SAPARD for EU-8 was closed in 2007, but the checks can be carried out 5 years after the final payments had been made so it is likely that some new irregularities will still be detected in the coming years.

For Romania and Bulgaria automatic period of decommitment has been extended till December 2009 so contracting continues. These two countries are reporting the highest number of SAPARD irregularities (RO - 100, BG - 56¹⁰⁵). More irregularities are likely to be detected in the contracts concluded before 2008. In 2008 Commission suspended payments for 3 major SAPARD measures in Bulgaria.

As for PHARE the situation in relation to 2007 changed and in 2008 the share of irregular amount reported increased. There is a direct link between these figures and the situation in Bulgaria as in 2008 44% of total PHARE cases and 57% of affected amount were reported by Bulgaria. Romania, respectively, accounts for 36% of cases and 34% of affected amount.

After the accession financial assistance in 2004-2006 was provided under Transition Facility. First TF cases were reported by Bulgaria, Lithuania, Latvia, and Slovenia.

¹⁰³ Commission Regulation (EC) No 1681 Article 3, Par 1 (m)

¹⁰⁴ European Court of Auditors. Special Report No 12/2008 concerning the Instrument for Structural Policies for Pre-accession (ISPA), 2000-2006

¹⁰⁵ 17 SAPARD cases are not included in this report because they were reported well after the deadline.

Chart PA 6: *Distribution of cases by number*

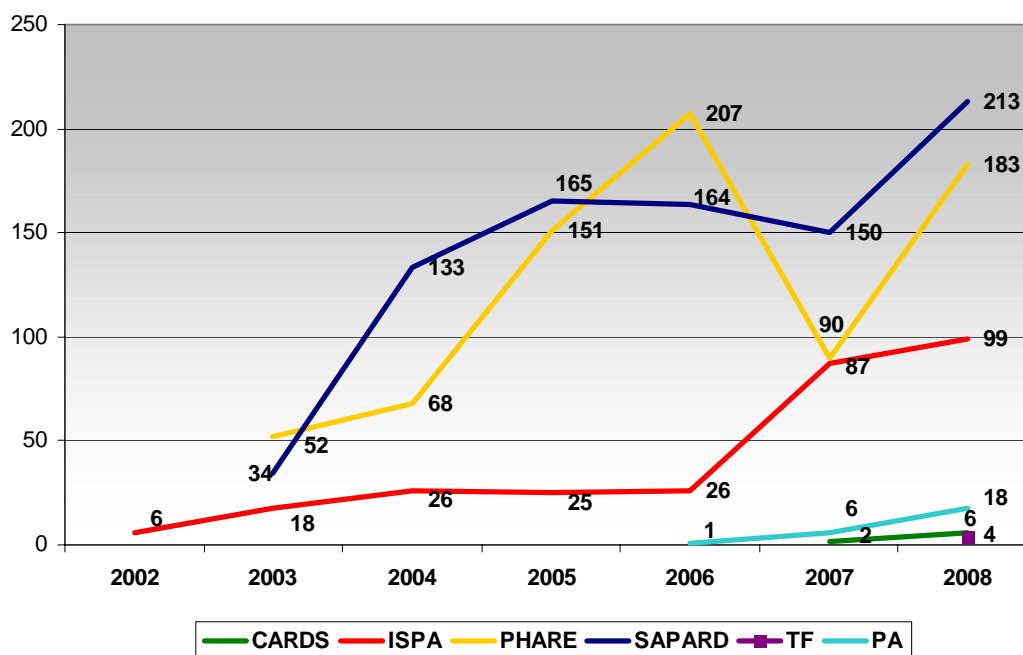


Chart PA 6 presents the fluctuation of the number of cases throughout a period of 7 years. The lowest numbers of cases, with the exception of smaller scale programmes like CARDS, TF, PA, continue to be detected in ISPA with an increasing tendency since 2007. For PHARE and SAPARD the numbers were sharply growing since 2007. The trend is still dominated by PHARE and SAPARD. For 2008 a sharp rise by 103% is observed in the number of PHARE cases, an increase of 42% in SAPARD cases, and a lower increase of 14% in ISPA cases. The greater part of ISPA cases were reported by Romania.

6.3.2. *Irregularity vs suspected fraud*

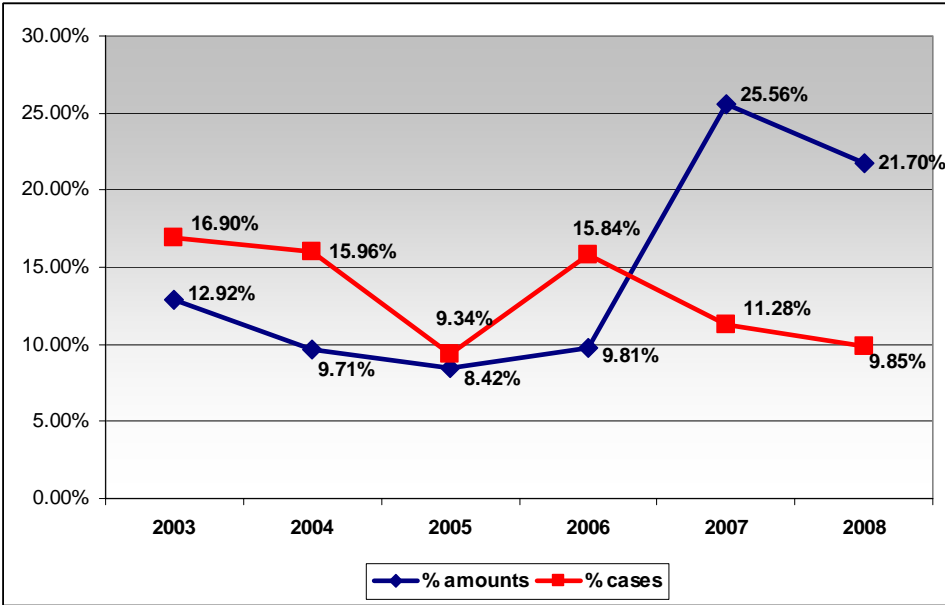
In general, reporting countries do not classify some 30% of the reported irregularities although compliance has improved in comparison to 2007.

In 2008 cases classified as suspected fraud made up 9.85% (51) of irregularities and 21.7% of irregular amount. For the sake of transparency it is worth mentioning that these figures result from OLAF classification. According to the reporting countries' classification, the share of suspected fraud is 8.5% (44).

One can notice in Chart PA 7 that the share of suspected fraud has changed for 2007. This is caused by follow up reports and reclassification of some cases after the new circumstances had been discovered.

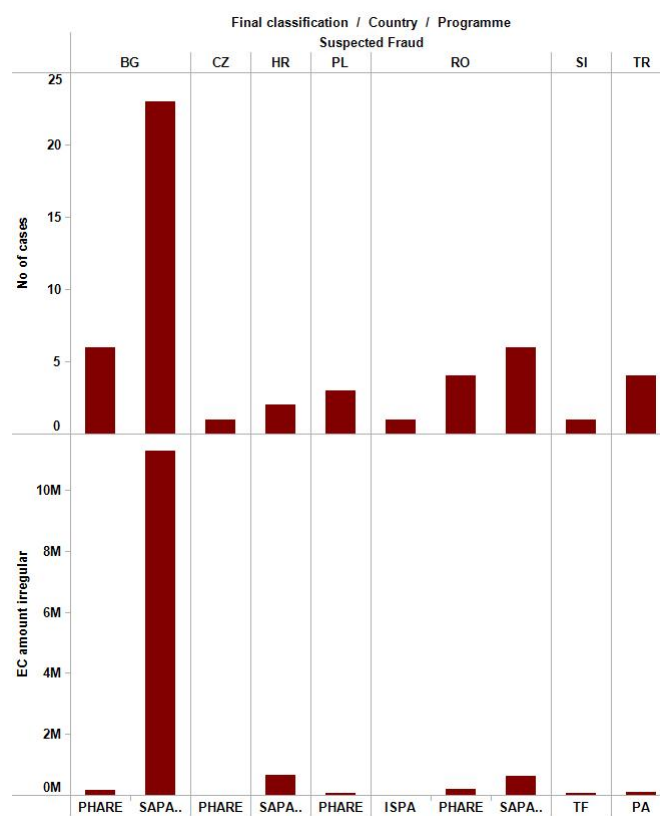
Meanwhile, it is important to note that the analysed cases are just 'suspected frauds'. They are under investigation by relevant national authorities. The final precise figures can only be presented on 'established frauds' when the court rulings are made.

Chart PA 7: Share of suspected fraud in reported cases



7 countries out of 14 reporting countries reported suspected fraud cases in 2008. As illustrated by Chart PA 8, the highest number of suspected fraud cases was reported by Bulgaria, Romania, Turkey, and Poland. The highest amounts affected by suspected fraud are reported by Bulgaria in SAPARD programme, followed by Romanian and Croatian SAPARD. So this result shows that SAPARD is the programme most affected by suspected fraud. High amounts indicate that larger scale projects were reported as allegedly fraudulent.

Chart PA 8: Suspected fraud cases by country and fund in 2008



Distribution of fraud cases across the funds is not adequate. There is one suspected fraud case in ISPA (from 2008). For SAPARD 31 suspected fraud cases were reported in 2008 and 103 for all the years. For PHARE 14 reported in 2008 and 112 in total.

6.9% of cases reported in 2008 had an element of fraud i.e. falsified supporting documents. In PHARE they make 4.9%, in SAPARD 11.7% of the reported cases. This has to be interpreted with caution as reporting countries sometimes classify the case as fraud but indicate the modus operandi which is more likely to be an administrative infringement rather than criminal offence. An in depth analysis is necessary of a case basis.

In 2008 suspected fraud value in relation to the eligible value of the reported projects made a share of 1.2%. The total irregular amount of all the reported projects in relation to the total eligible amount is 5.4%. The percentage of the sum of suspected fraud in the total allocated amount for period 2002-2007 is respectively even lower – 0.14%. The figure, however, is much higher in comparison to 2007 report data. This outcome is explained by the fact that no new allocations were given to the reporting countries for PHARE, SAPARD, and ISPA but follow up reports were received and the financial aspects were specified. In addition, a high number of new cases were detected in 2008.

Relatively low figures justify the argument that the major part of reported irregularities is not fraudulent and is undergoing corrective actions. The cases classified as suspected fraud do not imply actual losses for the EU budget. The real

pre-accession assistance related losses for EU budget could only be estimated when the programmes and the reported cases are closed (when deductions are made, recoveries are finalized, or final court rulings are published).

6.3.3. Recovery

The estimation of proportion of irregularities detected before any payments had been made reveals the extent of preventive actions taken by the reporting countries at the early stages.

Chart PA 9: *Detection after payment*

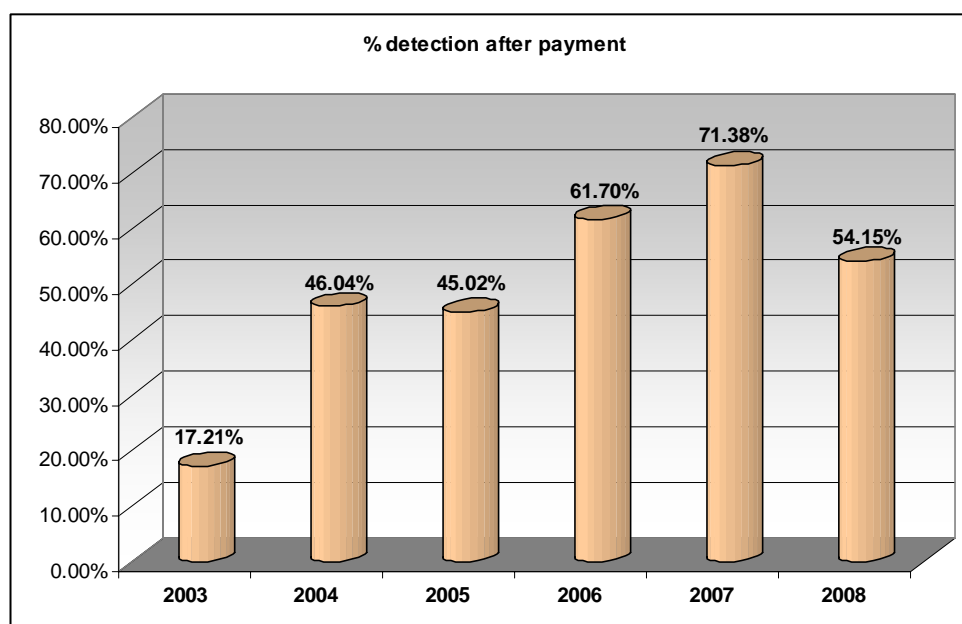


Chart PA 9 reveals the tendency that the greater of the reported irregularities were detected after the payments had been made. It is characteristic to the recent years and is a consequence of the final stages of the projects. A decrease in 2008 could be explained by Croatian and Turkish cases detected before payment during the contracting period. Some cases were also reported with indicative financial impact, therefore the result is likely to change.

In 2008 the amounts reported to be recovered increased by 107%.

Table PA 6 demonstrates the recovery situation per country. The table provides an overview for all the years and all the funds. It presents the recovery rate which is the percentage of the total amount recovered and the total amount to be recovered. Estonia has the highest recovery rate, followed by Poland.

The highest amount to be recovered in 2008 comes from SAPARD (EUR 16.5 million) just like in 2007. The amount to be recovered for PHARE is second highest – EUR 10.8 million. ISPA amount to be recovered is yet lower - EUR 1.6 million.

Romania reports the highest amounts to be recovered (EUR 7.5 million for PHARE and SAPARD each). Bulgaria reported EUR 2.7 million to be recovered in PHARE and EUR 5.9 million in SAPARD.

In general, the recovery rate got worse in comparison to 2007 (42.9%) and reached only 36.2% in 2008.

Table PA 6: *Recovery by reporting country*

Country	EC amount to be recovered	EC amount recovered	Recovery rate
BG	13,777,568	1,718,087	11.09%
CZ	1,280,939	776,055	37.73%
EE	922,875	2,652,860	74.19%
HR	472,020	28,274	5.65%
HU	1,514,045	1,412,840	48.27%
LT	855,574	437,622	33.84%
LV	906,322	53,229	5.55%
MT	233,460	33,955	12.70%
PL	1,540,929	1,992,548	56.39%
RO	25,569,349	18,347,929	41.78%
SI	58,159	0	0.00%
SK	3,361,501	1,476,274	30.52%
TR	579,679	0	0.00%
Total	51,072,419	28,929,672	36.16%

The overview in Table PA 7 points out delays in the recovery process. There are some amounts to be recovered detected in 2003 where the risk of losses is high. Actually, the rate for 2003 increased only by 3.5%. The highest recovery rate is for cases dated 2004. It might be influenced by a special procedure required by SAPARD Multiannual Financing Agreement. The situation with respect to 2006 and 2007 has improved but still more efforts need to be taken to speed up the recoveries. Reporting countries should undertake recovery measures soon after the detection of irregularities and inform the Commission about the deductions made. The figure for 2008 is very low.

Table PA 7: *Recovery rate by reporting year*

Year	EC amount recovered	EC amount to be recovered	Recovery rate
2002	6,122	0	100.00%
2003	599,981	315,782	65.52%
2004	3,648,603	1,127,745	76.39%
2005	4,589,800	2,960,149	60.79%
2006	5,392,572	5,705,526	48.59%
2007	11,155,595	11,583,732	49.06%
2008	3,536,999	29,379,485	10.75%
Total	28,929,672	51,072,419	36.16%

6.4. Conclusions

- Member States and Candidate Countries reported 523 new irregularities in 2008 where the total financial amount affected was around EUR 61 million. 2008 is the peak year as both the number of new cases and the amounts affected are the highest so far received.

Reporting discipline

- The quality of provided information is getting better and reporting countries are cooperative.
- The classification of irregularities is an element of reporting which visibly increased compliance yet more efforts could be invested for further improvement. In 2008 the compliance rate was 70.9%.
- The rate of summary compliance with the reporting obligation has reached 91.6%.

General trends

- The number of cases reported in 2008 increased by 58% and the amount affected augmented by 90%.
- Irregularities are not distributed equally among the reporting countries. Three groups of reporting countries can be distinguished, namely 2004 accession Member States, 2007 accession Member States, and Candidate countries – Croatia and Turkey. In 2008 EU-10 account for 19%, Bulgaria and Romania – 73%, Croatia and Turkey – 7% of the total number of cases.
- The total irregular amount reported by EU-10 rose by 8% and the one for EU-2 increased by 152%.
- The increase in the irregular amounts is justified by the enhanced controls at the end of the project cycle and the growing number of reporting countries.
- The highest number of cases in 2008 was reported by Romania, Bulgaria, and Poland (respectively 246, 140, and 46). The pattern, however, is different with reference to the irregular amounts. Bulgaria, Romania, Croatia, and Lithuania reported the highest irregular amounts.
- Most of the irregularities and the highest irregular amounts in 2008 were detected by means of 'Control of documents'. The same method took the lead in 2007. The increasing role of 'Community controls' is observed in 2008. The highest average amounts were detected while carrying out controls following the request of the Commission.
- Most common type of irregularity by the number of cases received in 2008 was 'Failure to respect other regulations/contract conditions' followed by 'Non – eligible expenditure' (most frequent modus operandi in 2007) and 'Failure to fulfil commitments entered into'.

Specific trends

- The highest number of cases reported in 2008 concerned SAPARD and made almost half of the total cases reported in numbers. The biggest share of irregular amount was also reported for SAPARD (47% of the total).
- 2008 is the year when a wide variety of pre-accession assistance programmes was reported i.e. the first cases on Transition Facility, CARDS, and more cases for Turkish Instrument for pre-accession.
- There is a direct link between rising SAPARD and PHARE figures and the specific situation in Bulgaria with regard to the management of EU funds. In 2008 44% of total PHARE cases and 57% of affected amount were reported by Bulgaria. Romania, respectively, accounts for 36% of cases and 34% of affected amount.
- In 2008 cases classified as suspected fraud made up 9.6% of irregularities and 21.7% of irregular amount.
- Distribution of fraud cases across the funds is not equal. There is one suspected fraud case in ISPA (from 2008). For SAPARD 31 suspected fraud cases were reported in 2008 (103 for all the years). For PHARE 14 suspected fraud cases were reported in 2008 (112 in total).
- The highest number of suspected fraud cases was reported by Bulgaria, Romania, Turkey, and Poland. The highest amounts affected by suspected fraud are reported by Bulgaria in SAPARD programme, followed by Romanian and Croatian SAPARD.
- In 2008 suspected fraud value in relation to the eligible value of the reported projects made a share of 1.17%. The total irregular amount of all the reported projects in relation to the total eligible amount is 5.4%.
- Estimation of the impact on the budget is based on reported information and is inextricably linked to countries' approach to reporting and cooperation with the Commission.

Recovery

- The highest amount to be recovered in 2008 is reported under SAPARD.
- Romania reported the highest amounts to be recovered.
- Estonia has the highest recovery rate.
- The recovery rate got worse in comparison to 2007 (42.9%) and reached only 36.2% in 2008.

7. DIRECT EXPENDITURE – CENTRALISED DIRECT MANAGEMENT

7.1. Methodology and scope

This chapter contains a descriptive analysis of the data on recovery orders issued by Commission services in relation to expenditures managed under ‘centralised direct management’¹⁰⁶, which is one of the four implementation modes the Commission can use to implement the budget. This chapter is based on data retrieved from the ABAC system, which is a transversal, transactional information system allowing for the execution and monitoring of all budgetary and accounting operations by the Commission. The system was developed by the Commission to facilitate compliance with the requirements of the Financial Regulation and its implementing rules.

One of the functionalities of the ABAC system is the ‘Recovery Context’, which gathers detailed information on recovery orders issued by the Commission services and registered in ABAC. The information introduced into the recovery context relates, amongst others, to the *qualification* of the recovery order: financial officers have to indicate for each recovery order whether it relates to an error, an irregularity or a suspected fraud that has been identified in the implementation of a grant agreement or contract. In case the recovery order is qualified as ‘suspected fraud’, OLAF has to be notified. For each recovery order, information is given on the method of detection as well as the type of irregularity or suspected fraud that constitutes the basis for the recovery.

The recovery context is a relatively new functionality within ABAC. The collection of data from the Commission services only started recently and the current data available in ABAC refer to recovery orders issued since 2008. This first exercise revealed a number of practical problems, which are related to different interpretations throughout the Commission of definitions used in ABAC; the omission of certain information in the ‘Recovery Context’ and the link of the information with other data in ABAC.

A few methodological constraints in relation to the usage of the recovery data should be mentioned as well. Irregularities detected at an early stage of the contract implementation lead to a reduction of the interim or final payments. In these cases, there is no need to issue a recovery order and the irregularity is not recorded in the recovery context. This leads to an underreporting of irregularities. On the other hand, an irregularity involving only a small amount could generate a recovery order that is substantially higher if it is combined with e.g. the recovery of payments that were not used. In the latter case, an overreporting might occur.

Nevertheless, analyses on basic financial information could be made and it is expected that the type and scope of the analyses for the next exercises can be extended after the implementation of further detailed guidelines and the improvement of IT tools.

¹⁰⁶ In accordance with Article 53a of the Council Regulation (EC, Euratom) No 1605/2002 (‘Financial Regulation’) and Commission Regulation (EC, Euratom) No 2342/2002 (‘Implementing Rules’), see also chapter XX.

For the financial analyses in this chapter, the following data were used from ABAC:

- The number and corresponding financial amounts of recovery orders, which were registered *after validation* by the authorising officer, including information on the place of residence of the contract partner of the Commission and the budget line concerned; the method of detection; the type of irregularity identified and the time span between the approval of a budget commitment, the notification of a recovery order and the return payment of the undue funds to the Commission;
- The amount of a *commitment* to which a recovery order is linked and for which a payment has been made to a beneficiary. In most cases, the commitment is higher than the amount to be recovered.

In the remainder of this chapter, the term recovery refers to the recovery order and the financial amount involved, whereas the term qualification refers to the qualification of the recovery order: irregularity or suspected fraud.

7.2. General analysis

In 2008, the Commission services registered 932 recovery orders in ABAC that were qualified as irregularities or suspected fraud. The committed budget for these 932 recoveries was EUR 580 million, of which EUR 34.7 million was identified as irregular¹⁰⁷.

7.2.1. Financial amounts involved

The financial impact of the 932 recoveries registered in 2008 was EUR 34.7 million, which includes an amount of EUR 3.2 million for the 19 recoveries qualified as suspected fraud and notified to OLAF. Table DE1 gives an overview of the aggregated financial commitments by policy domain as well as the number and financial amounts of recoveries, by qualification and policy domain. The classification into policy domain is provided for ‘internal policies’ and ‘external actions’ (table DE1). Table DE2 gives a more detailed classification of the policy area to which the recovery orders relate. The recovery orders have been issued for commitments that relate to several budget exercises, some even dating back to the 1990s, during which different budget headings were used. The budget structure of 2008 was used for tables DE1 and DE2. In cases where the budget title of a commitment from an earlier budget exercise does no longer exist, the most resembling budget title from the 2008 budget was used. The column ‘commitments’ contains the addition of all the commitments made during previous budget exercises¹⁰⁸ for which a recovery order was issued in 2008. The last column indicates the addition of the amounts to be recovered (including suspected fraud) as percentage of the aggregated commitments.

¹⁰⁷ The financial impact of a case of suspected fraud can only be determined following the conclusion of an OLAF investigation. It is only at the end of judicial proceedings (*res judicata*) that a case can be qualified as fraud and that the actual amount of fraud can be established.

¹⁰⁸ Information on the number of commitments that were not subject to a recovery order is not available as the recovery orders are related to commitments made under several budget exercises.

Table DE 1: Commitments and Recoveries (number and amounts) by policy domain.

Area	Commitments			Recoveries					Recoveries as % of commitments
	(€ 1,000)	%	Average € 1,000	N	%	€ 1 000	%	Av. € 1,000	
Internal policies	453,904	78.3	555	833	89.4	27,913	80.5	33.5	6.1%
External actions	126,134	21.7	1,274	99	10.6	6,762	19.5	68.3	5.4%
Total	580,038	100.0	622	932	100.0	34,675	100.0	37.2	6.0%

The table shows that the irregular amounts only represent 6% of the commitments *for which recovery orders were issued*. More recovery orders were issued for commitments made under the internal policies domain than the external assistance actions, but the relative share for external actions for both the number and the amounts to be recovered is substantially higher.

Table DE2 further specifies the recoveries by budget title. It should be observed that there is not always a direct link between the budget title or budget line and the Directorate General dealing with its implementation, as several DGs can share the appropriations on a budget line. The information in this table *do not* refer to the number of irregularities or suspected fraud per Directorate General.

Table DE 2: Recoveries (number and amounts) by qualification and budget title

Budget Title	Commitments 1 000 €	Recoveries					
		Irregularity				Suspected Fraud	
		Number	%	€1 000	%	Number	€1 000
Economic and financial affairs	0	1	0.1	2	0.0		
Enterprise	9,017	27	3.0	314	1.0		
Employment and social affairs	3,768	14	1.5	132	0.4		
Agriculture and rural development	3,878	16	1.8	795	2.5	1	102
Energy and transport	21,046	82	9.0	3,005	9.6		
Environment	10,959	25	2.7	2,312	7.4	5	601
Research	213,120	187	20.5	7,253	23.1	1	60
Information society and media	31,641	202	22.1	3,184	10.1		
Fisheries and maritime affairs	1,682	3	0.3	540	1.7		
Regional policy	4,528	7	0.8	996	3.2		
Taxation and customs union	9,695	2	0.2	1	0.0		
Education and culture	36,046	204	22.3	2,917	9.3		
Communication	664	5	0.5	341	1.1		
Health and consumer protection	22,670	7	0.8	3,389	10.8		
Area of freedom, security and justice	3,079	35	3.8	845	2.7		
External relations	24,567	27	3.0	1,643	5.2	9	2,270
Development and relations with African, Caribbean and Pacific (ACP) States	50,712	5	0.5	579	1.8	2	68
Enlargement	2,819	5	0.5	191	0.6		
Humanitarian aid	48,036	50	5.5	1,884	6.0	1	127
Commission's administration	73,310	1	0.1	1	0.0		
Statistics	8,801	8	0.9	1,123	3.6		
Total	580,038	913	100	31,447	100	19	3,228

7.2.2. Financial amounts involved by geographical area and Member State

Table DE3 summarizes the recoveries per geographical area, where the beneficiary of the Community funding resided. The column 'average' indicates the average amount (in EUR 1,000) per recovery.

Table DE 3: Recoveries (number and amounts) by region of residence and qualification

Contractor place of residence	Commitments 1 000 €	Recoveries								
		Irregularity					Suspected Fraud			
		N	%	€1 000	%	Average	N	€1 000	%	Average
ACP ¹⁰⁹	11,223	12	1.3	897	2.9	75	1	1,723	53.4	1,723
Africa	2,566	2	0.2	38	0.1	19				
Asia & Pacific	70,322	22	2.4	724	2.3	33	4	408	12.6	102
EFTA	2,855	21	2.3	437	1.4	21				
EU	539,086	799	87.5	26,045	82.8	33	4	571	17.7	143
Latin America	3,228	10	1.1	177	0.6	18				
NEP & PA ¹¹⁰	8,978	30	3.3	2,071	6.6	69	7	241	7.5	34
Not indicated	20,554	17	1.9	1,059	3.4	62	3	286	8.9	95

¹⁰⁹ ACP: Africa, Caribbean and Pacific countries;

¹¹⁰ Countries benefiting from the European Neighbourhood Policies and the Pre-Accession Assistance

Total	658,812	913	100	31,447	100	34	19	3,229	100	170
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Most of the entities concerned have their residence in the European Union: 803 recovery orders (86.2% of 932) were issued for an amount of EUR 26.6 million (76.8% of EUR 34.7 million). 129 recovery orders (13.8%) were issued to entities residing outside the EU, for a total amount of EUR 8.1 million (23.2%). In the latter category, more than 30% of the amount of recoveries related to entities residing in ACP countries (EUR 2.6 million), followed by countries eligible for assistance under the neighbourhood policies and pre-accession assistance (EUR 2.3 million).

The highest number of recovery orders for suspected fraud (7 cases) concerned countries benefiting from neighbourhood and pre-accession assistance, of which 5 (worth up to EUR 127,000) were registered in Georgia. The highest recovery order was issued to a contractor in South Africa, which accounted for 53.4% of recovery orders issued to entities located outside the European Union.

Table DE4 gives an overview of the recoveries per Member State of residence of the entities in the European Union and the qualification of the recovery. This table details the findings for the European Union reported in table DE3. The 'average' column is the average amount, in EUR 1,000, per recovery.

Table DE 4: Recoveries (number and amounts) by Member State and qualification

Contractor place of origin	Commit- ments € 1 000	Recoveries						
		Irregularity					Suspected Fraud	
		N	%	€ 1 000	%	Average	N	€ 1 000
AT	6,770	23	2.9	1,115	4.3	48.5		
BE	83,654	67	8.4	717	2.8	10.7		
BU	37	6	0.8	39	0.1	6.5		
CY	213	4	0.5	43	0.2	10.8		
CZ	1,450	7	0.9	204	0.8	29.1		
DE	70,137	55	6.9	2,699	10.4	49.1		
DK	4,029	18	2.3	1,729	6.6	96.1		
EE	915	9	1.1	52	0.2	5.8		
EL	12,991	44	5.5	1,835	7.0	41.7	1	102
ES	67,606	66	8.3	3,706	14.2	56.2	2	458
FI	9,949	23	2.9	254	1.0	11.0		
FR	47,148	95	11.9	2,905	11.2	30.6		
HU	1,907	12	1.5	117	0.4	9.8		
IR	1,207	10	1.3	241	0.9	24.1		
IT	67,600	70	8.8	2,622	10.1	37.5		
LT	289	18	2.3	187	0.7	10.4		
LU	384	8	1.0	90	0.3	11.3		
LV	9,759	8	1.0	194	0.7	24.3		
MT	207	2	0.3	21	0.1	10.5		
NL	38,245	63	7.9	3,271	12.6	51.9		
PL	7,801	27	3.8	288	1.1	10.7		
PT	22,103	29	3.6	590	2.3	20.3		
RO	143	4	0.5	126	0.5	31.5		
SK	10,143	25	3.1	212	0.8	8.5		
SL	4,959	12	1.5	115	0.4	9.6		
SV	27,194	26	3.3	568	2.2	21.8		
UK	42,247	68	8.5	2,106	8.1	31.0	1	11
Total EU	539,086	799	100.0	26,045	100.0	32.6	4	571

Most of the recoveries were made concerning beneficiaries residing in 5 Member States: France (11.9%), Italy (8.8%), the United Kingdom (8.5%), Spain (8.3%) and Belgium (8.4%). Entities residing in the Member States of the EU account for almost 75% of the amount of the recoveries. Entities from whom the highest aggregated amounts have to be recovered are residing in Spain (15.6%, EUR 4.2 million), the Netherlands (12.3%, EUR 3.3 million), France (10.9%, EUR 2.9 million), Germany (10.1%, EUR 2.7 million) and Italy (9.9%, EUR 2.6 million) were above the average. These five Member States account for almost 60% of the amounts of recoveries. The high rates of Belgium can be explained by the fact that most of the European Institutions have their seats in this Member State: this leads to the conclusion of a relative higher number of contracts and grant agreements with entities residing in this country.

Recovery orders involving cases of suspected fraud from entities based in one of the Member States made up only 17.7% of the amounts of recoveries, but this figure is

strongly determined by two cases from Spain, which account for more than 80% of the suspected fraud amounts.

7.2.3. Method of detection

For each recovery order, the Commission service that issued the order has to indicate how the irregularity or suspected fraud was detected. Six different categories have been pre-defined, two of which fall under the direct responsibility of the European Commission: On-the-spot checks and the verification of documents by desk officers and financial officers responsible for the implementation of the commitment. Table DE5 gives a breakdown of the recoveries by method of detection.

Table DE 5: Recoveries (number and amounts) by method of detection

Method of detection	N	%	€ 1 000	%	Average
Community control / Check on the spot	210	22.5	7,740	22.3	36.9
Community control / Desk check documents	501	53.8	15,183	43.8	30.3
European Court of Auditors	3	0.3	85	0.2	28.3
Independent control (supervising engineers, auditors)	175	18.8	5,683	16.4	32.5
OLAF	16	1.7	1,357	3.9	84.8
Other	27	2.9	4,627	13.3	171.4
Total	932	100	34,675	100	37.2

Most of the irregularities or suspected fraud for which a recovery order was issued, were detected on the basis of Community controls: 711 recoveries (76.3%) accounting for EUR 22.9 million (66.1%). Within the ‘Community controls’ desk controls generated were more than two times recoveries than ‘on-the-spot controls’. It is interesting to note that the relatively modest share of recoveries issued on the basis of OLAF activities or detected by ‘Others’ (4.6%) account for an amount to be recovered of 17.2%. The average amount for recoveries is EUR 37,200 but two methods of detection (OLAF and Other) have a substantial higher average. There was more than one method of detection in 8 cases. Table DE6 gives a further breakdown of the recoveries by method of detection and by qualification. The last column is the average amount per recovery.

Table DE 6: Recoveries (number and amount) by method of detection and by qualification

Qualification	Method of detection	N	%	€ 1 000	%	Av.
Irregularity	Community control / Check on the spot	210	23.0	7,740	24.6	36.9
	Community control / Desk check documents	499	54.7	14,930	47.5	29.9
	European Court of Auditors	3	0.3	85	0.3	28.3
	Independent control (supervising engineers, auditors)	172	18.8	5,490	17.5	31.9
	OLAF	8	0.9	1,057	3.4	132.1
	Other	21	2.3	2,145	6.8	102.1
Total of Irregularity		913	100.0	31,447	100.0	34.4
Suspected fraud	Community control / Desk check documents	2	10.5	253	7.8	126.5
	Independent control (supervising engineers, auditors)	3	15.8	193	6.0	64.3
	OLAF	8	42.1	300	9.3	37.5

Other	6	31.6	2,482	76.9	413.7
Total of Suspected fraud	19	100.0	3,229	100.0	169.9
Total	932		34,675		37.2

Table DE6 shows the differences between irregularities and suspected fraud when it comes to their detection. ‘Community desk checks of documents’ was the most common method of detection of recoveries classified as irregularity for both the number of recoveries and the associated amounts, though the share of the latter drops slightly compared to the other methods of detection. Among the recoveries classified as suspected fraud, both OLAF and ‘Other’ were the most frequent methods of detection by number of cases (respectively 42.1 % and 31.6 %). It was only in a few recoveries that desk controls led to a ‘suspected fraud qualification’, which could imply that the design of these controls could be optimized to enhance the possibility of suspected fraud detection. The substantial higher amount per recovery for those qualified as suspected fraud compared to those qualified as irregularity must be observed.

7.2.4. Types of irregularity

The Commission services also had to indicate the type of irregularity that was detected when the recovery order was issued. The number of categories is relatively high compared to e.g. the method of detection, and the interpretation of these findings must be done with care as interpretation problems easily occur with the identification of the correct type of irregularity. It can not be excluded that the same irregularity is scored differently by different financial officers or that some of the categories used in this classification have a small overlap.

Table DE7 presents recoveries by main types of irregularities.

Table DE 7: Recoveries (number and amount) by type of irregularity

Type of irregularity	Number	%	€ 1 000	%	Average
Action not implemented	37	4.0	2,373	6.8	64
Action not in accordance with the rules	211	22.6	6,449	18.6	31
Advances not correctly reflected	1	0.1	13	0.0	13
Beneficiary ineligible	3	0.3	331	1.0	110
Calculation error	53	5.7	1,423	4.1	27
Copy documents rather than originals	3	0.3	149	0.4	50
Deadline not respected	42	4.5	762	2.2	18
Expenditure declared not related to the action	46	4.9	1,926	5.6	42
Expenditure not covered by legal base	137	14.7	4,935	14.2	36
Falsified documents	7	0.8	241	0.7	34
Inappropriate accumulation of aid	5	0.5	683	2.0	137
Incomplete Documents	32	3.4	552	1.6	17
Incorrect rates used in calculating the claim	96	10.3	3,904	11.3	41
Missing Documents	188	20.2	4,072	11.7	22
Not Applicable	13	1.4	2,184	6.3	168
Public procurement procedures not respected	6	0.6	167	0.5	28

Quality of action inadequate	22	2.4	3,667	10.6	167
Recoverable VAT, interest received not correctly reflected	30	3.2	844	2.4	28
Total	932	100	34,675	100	37

The most common type of recoveries qualified as irregularities is ‘Action not in accordance with the rules’ (211 recoveries or 22.6%) followed by ‘Missing Documents’ (188 recoveries or 20.2%). The share of the latter type falls sharply to 11.7% if the irregular amounts are considered. The third most common type is ‘Expenditure not covered by legal base’ (137 recoveries or 14.7%). The last type for which the share exceeds 10% is ‘Incorrect rates used in calculating the claim’ (96 recoveries or 11.3 %). In 316 recoveries, more than one type of irregularity was indicated. The most frequent pair of identified irregularities was ‘Recoverable VAT and interest received not correctly reflected’ combined with ‘Incorrect rates used in calculating the claim’. This pair of irregularities occurred in 30 recoveries. The second pair was ‘Incorrect rates used in calculating the claim’ combined with ‘Missing Documents’, which occurred in 24 recoveries. The pair ‘Expenditure not covered by legal base’ combined with ‘Incorrect rates used in calculating the claim’ occurred in 23 cases.

Table DE8 presents the most frequently selected pairs of irregularities. Totals are not given in this table because the table is not complete: the rows indicate all the categories, whereas the columns only represent the most frequent categories of irregularities, which led to some, but not all, cells appearing twice in the table. The most important findings in this table relate to cells with values of 10 as they could hint at a certain irregularity or fraud pattern.

Table DE 8: The most frequently indicated pairs of irregularity types

Type of irregularity	Incorrect rates used in calculating the claim	Missing Documents	Action not in accordance with the rules	Recoverable VAT, interest received not correctly reflected
Action not implemented		1	1	
Action not in accordance with the rules	6	21	N/A	22
Action not used for intended purposes	1		1	
Beneficiary ineligible		1	3	
Calculation error	5	4		5
Deadline not respected		11	9	1
Expenditure declared not related to the action	4	7	12	3
Expenditure not covered by legal base	23	7	15	5
Inappropriate accumulation of aid	3	1		1
Incomplete Documents	10	11	5	3
Quality of action inadequate			4	
Incorrect rates used in calculating the claim	N/A	24	6	30
Missing Documents	24	N/A	21	20
Recoverable VAT, interest received not correctly reflected	30	20	22	N/A
Total	106	108	99	90

The most common types of recoveries for which more than one irregularity was identified are ‘Missing documents’ in 108 cases, followed by ‘Incorrect rates used in calculating the claim’ in 106 recoveries.

Table DE9 provides an overview of the recoveries by type of irregularity, broken down by qualification of the recovery. For recoveries qualified as suspected fraud, only the categories were reported where the cells were not empty.

Table DE 9: Recoveries (number and amount) by type of irregularity by qualification

Qualification	Type of irregularity	Number	%	€ 1 000	%	Average
Irregularity	Action not implemented	36	3.9	2,296	7.3	64
	Action not in accordance with the rules	211	23.1	6,449	20.5	31
	Advances not correctly reflected	1	0.1	13	0.0	13
	Beneficiary ineligible	2	0.2	271	0.9	136
	Calculation error	53	5.8	1,423	4.5	27
	Copy documents rather than originals	2	0.2	22	0.1	11
	Deadline not respected	40	4.4	697	2.2	17
	Expenditure declared not related to the action	46	5.0	1,926	6.1	42
	Expenditure not covered by legal base	135	14.8	3,201	10.2	24
	Inappropriate accumulation of aid	4	0.4	285	0.9	71
	Incomplete Documents	32	3.5	552	1.8	17
	Incorrect rates used in calculating the claim	96	10.5	3,904	12.4	41
	Missing Documents	187	20.5	4,045	12.9	22
	Not Applicable	11	1.2	1,788	5.7	163
	Public procurement procedures not respected	5	0.5	65	0.2	13
	Quality of action inadequate	22	2.4	3,667	11.7	167
	Recoverable VAT, interest received not correctly reflected	30	3.3	844	2.7	28
Total of Irregularity		913	100	31,447	100	34
Suspected fraud	Action not implemented	1	5.3	78	2.4	78
	Beneficiary ineligible	1	5.3	60	1.9	60
	Copy documents rather than originals	1	5.3	127	3.9	127
	Deadline not respected	2	10.5	66	2.0	33
	Expenditure not covered by legal base	2	10.5	1,734	53.7	867
	Falsified documents	7	36.8	241	7.5	34
	Inappropriate accumulation of aid	1	5.3	398	12.3	398
	Missing Documents	1	5.3	27	0.8	27
	Not Applicable	2	10.5	396	12.3	198
	Public procurement procedures not respected	1	5.3	102	3.2	102
Total of Suspected fraud		19	100	3,229	100	170
Total		932		34,675		37

Among the recoveries qualified as irregularities ‘Action not in accordance with the rules’ was the most frequent identified category (211 recoveries or 23.1%). The next category was ‘Missing documents (187 recoveries or 20.5%)’. The four most frequent categories account for 68.9% of the recoveries qualified as irregularity, which shows a big variety in modus operandi used in irregular transactions. It should be observed

that the share of these categories is lower (56%) if the amounts involved in the recovery are taken into account.

Among the recoveries qualified as suspected fraud, ‘Falsified documents’ was the most frequent type of irregularity (7 recoveries or 37%). However, the amounts involved in the recovery show a different pattern: the 2 cases where the type of irregularity was ‘Expenditure not covered by legal base’ account for 54% of the amounts, whereas the category ‘Falsified documents’ only accounted for 7.5%.

7.3. Specific analysis

7.3.1. Irregularity versus Suspected Fraud

Only 2 % of the 932 issued recovery orders were qualified by the Commission services as suspected fraud, but they account for 9.3% of the amounts involved in the recoveries. Table DE10 provides an overview of these findings.

Table DE 10: Recoveries (number and amounts) by qualification

Qualification	N	%	Commitments (€ 1 000)	%	Average € 1,000	Irregular amount (€ 1 000)	%	Average € 1,000
Irregularity	913	98.0	546,784	94.3	598	31,447	90.7	34.4
Suspected fraud	19	2.0	33,254	5.7	1,750	3,229	9.3	169.9
Total	932	100.0	580,038	100.0	622	34,676	100.0	37.2

The average irregular amount per recovery was almost 5 times higher in suspected fraud recoveries than in recoveries qualified as irregularity. The average for all recoveries qualified as irregularity was EUR 34,444 compared to EUR 169,947 for recoveries qualified as suspected fraud. It should be noted that the financial impact of suspected fraud cases could be revised following OLAF's investigations.

7.3.2. Time delay

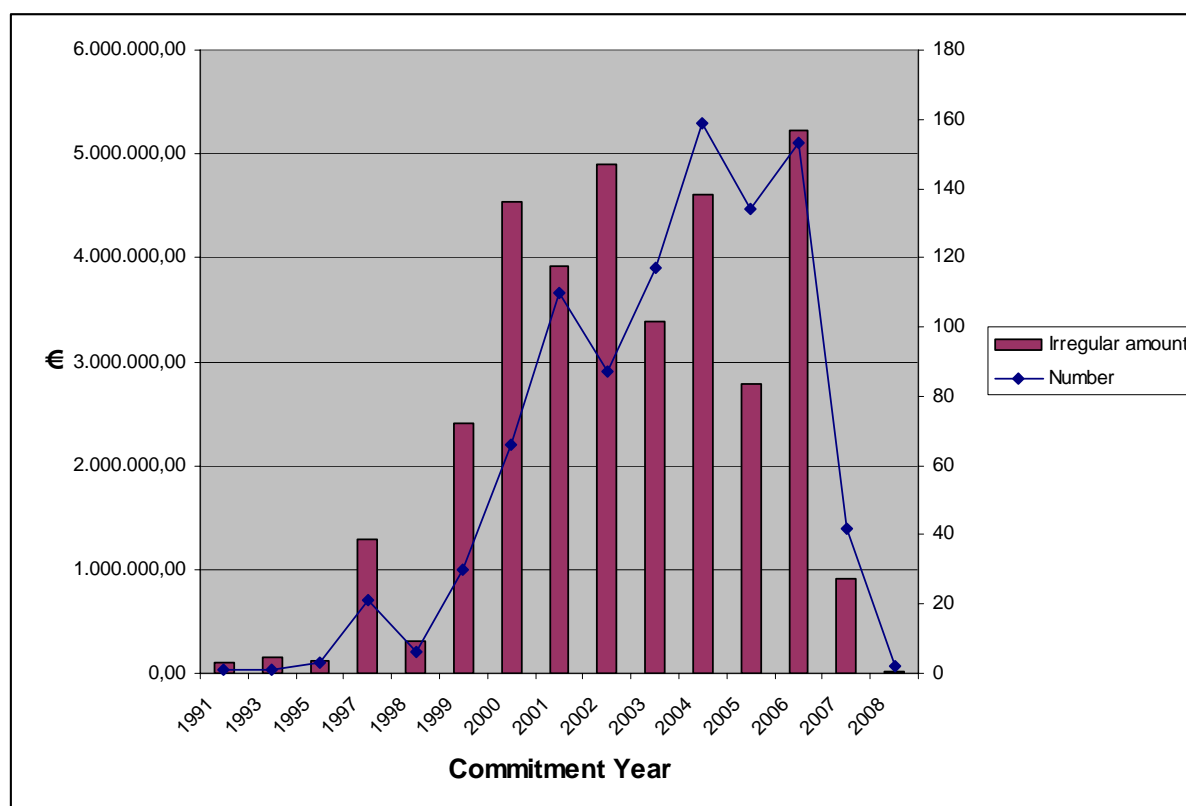
The average delay between the commitment and the issuing of a recovery order is 4 years and 8 months. Taking account of the applicable procedures from the moment of commitment through payments, controls till issuing the recovery order, the procedure is rather fast. For recovery orders in direct expenditures issued in 2008 most commitments were made in 2004 and 2006 (see graph DE1). In both years, more than 150 commitments were made for which a recovery order was issued in 2008. Almost 90% of recovery orders by number concerned commitments which were made between 2000 and 2006. Recovery orders by amounts for the same period account for almost 85% of the amounts to be recovered.

Taking account of the amounts involved and by applying the weighted average of the time delay, it can be expected that the average time between the commitment and the issuing of a recovery order will increase to 5 years and 6 months. This shows that it takes longer to issue a recovery order in cases involving higher amounts, especially in the projects in which the total amount of contract has to be recovered.

The chart below presents the recoveries registered in 2008 by number (blue line) and amounts (magenta bars) of commitments by year of the commitment was made (e.g.:

in 2008, 150 recoveries were registered in ABAC that were made in 2006. The amount to be recovered is more than EUR 5 million).

Chart DE 1: Recoveries (number and amounts) by year of commitment



7.4. Recovery

This paragraph describes the *payments made to the Commission* further to the issuing of the recovery orders. Once a recovery order is issued, the beneficiary has to pay back the undue payment. For the recovery orders issued in 2008, full or partial payment could be reported in 679 (72%) cases, which represents an amount of almost EUR 22 million (65%). 262 recovery orders (28%) were not paid yet, which account for almost EUR 13 million (35%).

Table DE 11: Recoveries (number and amount) by payment status and qualification.

Qualification	Recovered ¹¹¹		To be Recovered	
	Number	Cashed Amount (€ 1 000)	Number	Open Amount (€ 1 000)
Irregularity	665	21,387	256	10,349
Suspected fraud	14	599	6	2,631
Total	679	21,986	262	12,980

The recovery rate for all recoveries is 63.4% and is higher for irregularities (68%) than for suspected fraud (18.6%). However it is important to note that the

¹¹¹ The totals in this table exceed the total number of recoveries and recovered amounts as some partial recoveries fall into both 'recovered' and 'to be recovered'.

Commission recovered the full amount of 13 contracts out of 19 cases involving suspected fraud. In 6 cases, the full amount still needs to be recovered. Five out of these six cases account for 81.9% of the amounts to be recovered in suspected fraud cases.

7.5. Conclusions

This analysis was the first attempt to examine the data from the recovery context of ABAC. As already mentioned in the methodology paragraph of the chapter, the findings should be treated carefully as this is only the first year that a limited set of data was available. The findings should not be considered as empirical evidence of the level of fraud and irregularity. Taking account of these constraints and limitations, the following cautious conclusions can be drawn.

- Irregular amounts only represent 6% of the commitments *for which recovery orders were issued*;
- Almost 90% of the recoveries relate to commitments made for internal policies, but relative share for external actions for both the number and the amounts to be recovered is substantially higher;
- The method of detection most frequently identified in recoveries qualified as irregularity (both number and amounts) is ‘Community control’, in particular by carrying out ‘Desk check of documents’. It was only in a few recoveries that desk controls led to a ‘suspected fraud qualification’, which could imply that the design of these controls could be optimized to enhance the possibility of suspected fraud detection;
- The type of irregularity showed a large variance. In recoveries qualified as irregularity, ‘Action not in accordance with the rules’ and ‘Missing documents’ were the most frequent categories, whereas the type of irregularity most frequently observed in recoveries qualified as suspected fraud was ‘Falsified documents’;
- The aggregated amount of recovery orders issued for commitments made in the area of internal policies was four times higher than for commitments made in the external actions domain. The latter however seems to be more exposed to the occurrence of suspected fraud;
- 63.4% of the debit notes issued in 2008 was paid.

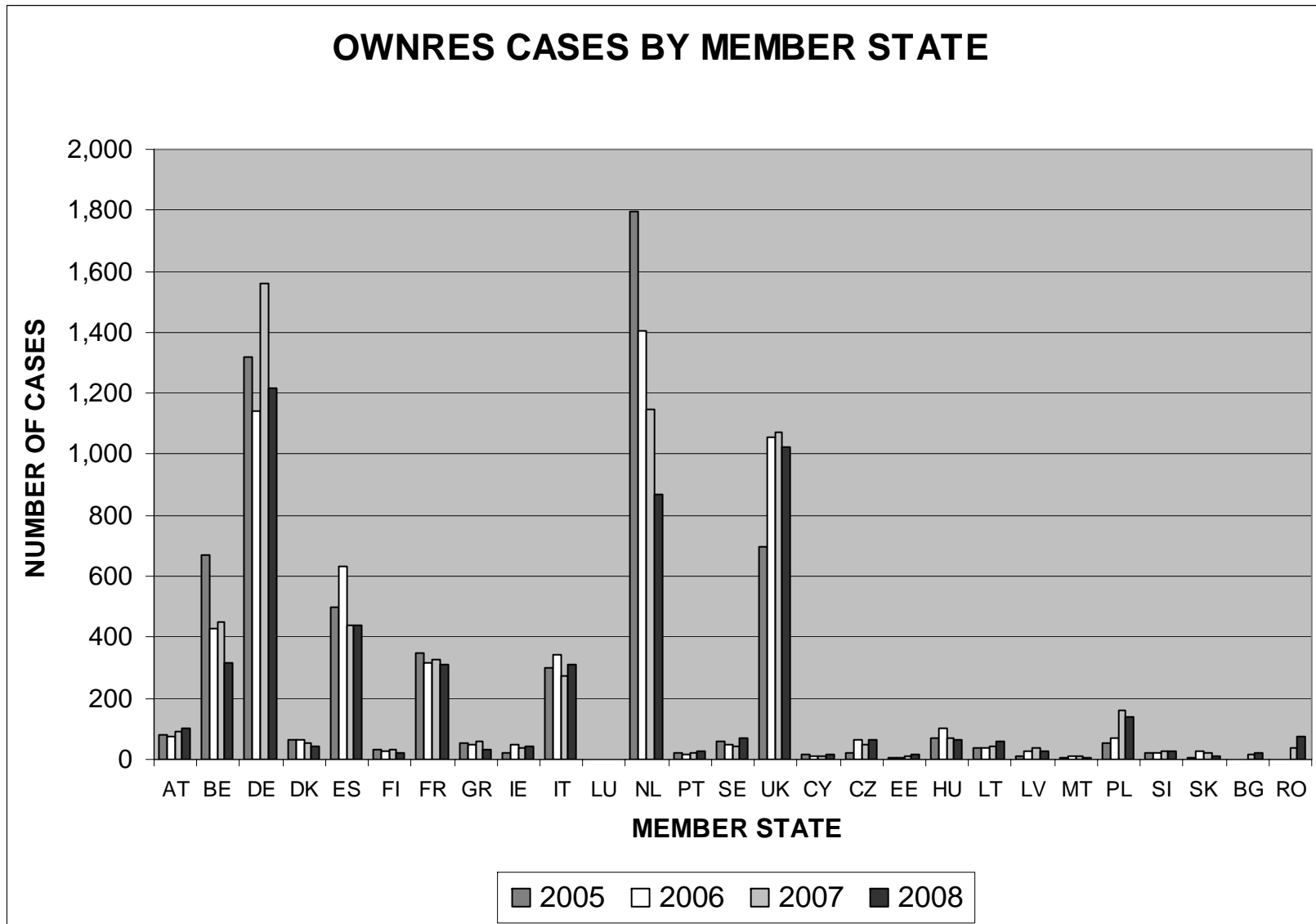
ANNEXES

ANNEX 1 – NUMBER OF CASES OWNRES AND AMOUNTS – PERIOD 2004-2007 PER MEMBER STATE

Number of OWNRES cases and amounts for the period 2005-2008 by Member State										
Member State	2005		2006		2007		2008		% Change cases 2007-2008	% Change amount 2007-2008
	Cases	Amount €	Cases	Amount €	Cases	Amount €	Cases	Amount €		
AT	83	5 153 940	75	5 937 611	93	36 518 807	103	5 028 046	10.75%	-86.23%
BE	669	9 072 828	428	12 007 783	449	22 238 675	317	12 670 490	-29.40%	-43.02%
DE	1 317	78 287 465	1 140	59 113 839	1558	77 337 728	1218	65 894 342	-21.82%	-14.80%
DK	64	6 884 838	67	6 068 078	54	7 208 999	44	3 963 276	-18.52%	-45.02%
ES	501	48 911 216	632	32 093 701	439	18 140 369	438	19 019 835	-0.23%	4.85%
FI	34	1 992 413	28	1 464 957	34	1 764 959	21	708 003	-38.24%	-59.89%
FR	349	33 837 541	314	29 109 870	327	32 981 593	311	17 548 870	-4.89%	-46.79%
GR	55	8 366 740	48	11 697 070	57	2 976 051	32	1 444 289	-43.86%	-51.47%
IE	22	671 846	48	2 864 369	35	2 482 972	43	1 645 639	22.86%	-33.72%
IT	298	31 845 317	341	65 602 399	276	23 582 174	310	31 320 103	12.32%	32.81%
LU	0	0	1	49 291	0	0	1	263 046	N/A	N/A
NL	1 794	29 912 777	1 406	37 346 132	1145	30 051 013	870	54 597 249	-24.02%	81.68%
PT	20	1 652 095	17	780 560	23	1 635 142	25	2 186 424	8.70%	33.71%
SE	60	3 250 999	47	2 164 111	43	2 318 935	70	6 331 784	62.79%	173.05%
UK	698	59 105 121	1 057	65 054 126	1072	112 872 035	1023	98 362 245	-4.57%	-12.86%
EUR-15 TOTAL	5 964	318 945 136	5 649	331 353 897	5 605	372 109 452	4 826	320 983 641	-13.90%	-13.74%
CY	16	379 977	9	192 160	11	750 964	14	787 523	27.27%	4.87%
CZ	19	531 275	63	2 302 704	50	2 290 130	64	5 025 048	28.00%	119.42%
EE	3	165 287	5	178 010	12	423 140	17	1 358 643	41.67%	221.09%
HU	70	1 986 224	103	7 805 235	69	6 265 722	64	5 852 076	-7.25%	-6.60%
LT	35	1 515 325	39	1 599 918	41	1 283 365	57	1 544 550	39.02%	20.35%
LV	10	544 854	28	1 886 378	40	2 253 690	25	944 415	-37.50%	-58.09%
MT	6	882 756	11	1 226 978	10	404 949	3	449 940	-70.00%	11.11%
PL	55	1 218 001	69	1 808 507	159	8 492 588	142	5 609 503	-10.69%	-33.95%
SI	22	618 272	24	950 848	27	1 579 108	26	915 631	-3.70%	-42.02%
SK	4	75 841	28	1 561 967	21	1 236 418	12	469 810	-42.86%	-62.00%
EUR-10 TOTAL	240	7 917 812	379	19 512 705	440	24 980 074	424	22 957 139	-3.64%	-8.10%
BG	0	0	0	0	15	456 726	19	502 373	26.67%	9.99%
RO	0	0	0	0	37	3 785 318	75	7 175 419	102.70%	89.56%
EUR-2 TOTAL	0	0	0	0	52	4 242 044	94	7 677 792	80.77%	80.99%

EUR-27 TOTAL	6 204	326 862 948	6 028	350 866 602	6 097	401 331 570	5 344	351 618 572	-12.35%	-12.39%
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ANNEX 2 – OWNRES CASES PER MEMBER STATE



ANNEX 3 – IMPACT ON CUSTOM PROCEDURE FREE CIRCULATION

IMPACT ON CUSTOMS PROCEDURE FREE CIRCULATION				
YEAR	CASES	IMPACT CASES % OF TOTAL	AMOUNTS ESTABLISHED	IMPACT AMOUNTS ESTABLISHED % OF TOTAL
2004	2256	65.01%	172 902 304	82.20%
2005	3306	53.29%	263 805 274	80.71%
2006	3860	64.03%	265 767 226	75.75%
2007	3947	64.74%	327 029 733	81.49%
2008	3601	67.38%	271 199 284	77.13%

ANNEX 4 – TOP 10 CHAPTER HEADINGS

TOP 10 CHAPTER HEADINGS											
2006				2007				2008			
CN	PRODUCT	AMOUNT €	CASES	CN	PRODUCT	AMOUNT €	CASES	CN	PRODUCT	AMOUNT €	CASES
85	TVs and parts etc.	63 260 655	1 048	85	TVs and parts etc.	86 667 729	1 062	85	TVs and parts etc.	90 487 554	809
24	Tobacco/cigarettes	43 590 444	514	64	Footwear	48 323 370	282	24	Tobacco/cigarettes	28 701 676	344
15	Oils and fats	22 403 986	86	24	Tobacco/cigarettes	29 872 956	367	84	Machines	23 351 047	367
61	Clothing	19 965 746	233	87	(Parts of) cars/motors	22 374 405	335	61	Clothing	22 098 382	395
10	Cereals	15 022 561	48	07	Edible vegetables	21 673 533	91	62	Clothing	19 638 499	437
02	Meat	14 324 372	332	84	Machines	18 135 581	386	87	(Parts of) cars/motors	15 873 280	338
07	Edible vegetables	13 883 909	122	61	Clothing	17 609 486	381	64	Footwear	10 188 686	233
73	Articles of iron & steel	13 222 296	130	62	Clothing	15 304 036	445	39	Plastics	10 179 568	214
87	(Parts of) cars/motors	11 698 920	316	63	Other textile articles	10 420 845	79	02	Meat	10 091 686	122
17	Sugar/sugar products	11 542 566	88	73	Articles of iron & steel	8 990 712	184	07	Edible vegetables	9 772 650	154

ANNEX 5 – GOOD AFFECTED BY FRAUD AND IRREGULARITY – PERIOD 2005-2007

GOODS AFFECTED BY FRAUD AND IRREGULARITY PERIOD 2006-2008								
2006			2007			2008		
TARIFF CODES	CASES	AMOUNTS €	TARIFF CODES	CASES	AMOUNTS €	TARIFF CODES	CASES	AMOUNTS €
24022090	459	35 662 152	64039998	39	30 836 774	85219000	95	28 570 466
85254099	24	15 421 737	85282190	76	23 806 063	24022090	311	24 256 682
07032000	85	13 084 516	07032000	49	20 224 990	85282190	26	18 632 857
15091010	15	11 258 441	24022090	261	17 253 111	84119100	18	9 259 219
85393190	103	9 431 755	85281298	4	13 221 267	85393190	84	7 837 683
61103099	29	8 157 065	87031018	50	9 796 834	07032000	114	7 681 578
02071410	108	7 346 237	64030000	6	6 706 330	28046900	6	5 886 029
10062098	8	7 333 377	85393190	102	6 683 582	02071410	51	5 602 979
85219000	151	6 782 215	63039118	1	6 468 283	62041100	107	5 056 821
73121071	1	6 376 418	84119190	7	5 197 247	96131000	18	4 685 240
15091090	16	6 090 434	02071410	115	4 409 392	61103099	56	4 034 071
10063000	1	5 818 641	85219000	114	4 107 588	24012010	11	3 794 514
17029099	27	5 550 293	61103099	86	3 736 346	61101190	12	3 512 930
17019910	22	5 346 516	24012010	9	3 711 817	39232100	61	3 375 377
24022000	2	5 189 984	24031010	43	3 710 185	85287220	2	2 902 796
08030019	54	5 119 457	62034231	21	3 456 608	61091000	47	2 828 342
02023090	53	5 017 135	96131000	20	3 228 490	83112000	1	2 765 919
85281294	77	4 027 664	61101190	14	3 157 134	02023090	20	2 479 389
36799690	1	3 679 969	20031030	44	3 126 633	17019999	2	2 376 061
96131000	16	3 663 965	04051000	1	3 071 722	61102099	64	2 375 301
83051000	5	2 914 700	85281294	37	2 585 595	87031018	18	2 352 256
85282190	66	2 713 408	85369010	2	2 549 674	84099100	4	2 208 179
90013000	2	2 600 076	64039938	3	2 548 693	15119019	3	2 150 803
85281220	15	2 413 933	85254091	12	2 484 027	85269120	19	2 118 755
15100010	5	2 295 170	48103900	1	2 111 908	20130001	2	2 077 722

ANNEX 6 – FRAUD AND IRREGULARITIES: BREAKDOWN BY ORIGIN OF GOODS

FRAUD AND IRREGULARITY: BREAKDOWN BY ORIGIN OF GOODS DURING 2006-2008								
2006			2007			2008		
COUNTRY	Amount €	CASES	COUNTRY	Amount €	CASES	COUNTRY	Amount €	CASES
China	90 328 190	1 516	China	169 495 156	1 718	China	133 997 371	1 659
Japan	31 347 676	297	US	44 250 023	780	US	40 397 999	620
US	28 921 543	688	Japan	26 484 283	270	Japan	18 798 783	220
Thailand	19 311 907	66	South Korea	16 965 037	168	Not specified	17 764 405	584
Not specified	18 218 201	798	Brazil	12 361 567	267	Bangladesh	14 020 461	181
Brazil	15 048 789	354	Taiwan	12 291 037	135	South Korea	13 256 416	97
Tunisia	14 126 527	47	Vietnam	9 154 388	61	Brazil	12 656 134	147
South Korea	12 093 869	151	Bangladesh	8 900 154	183	Switzerland	8 509 712	77
Turkey	10 644 686	101	Not specified	7 159 143	684	Malaysia	6 963 168	55

ANNEX 6.1: RECOVERY RATE (RR) BREAKDOWN BY ORIGIN OF GOODS 2006-2008

RECOVERY RATE (RR) BREAKDOWN BY ORIGIN OF GOODS 2006-2008								
2006			2007			2008		
COUNTRY	Recovered €	RR	COUNTRY	Recovered €	RR	COUNTRY	Recovered €	RR
China	42 690 405	47%	China	65 851 360	39%	China	39 766 265	30%
Japan	13 022 284	42%	US	34 009 628	77%	US	20 307 596	50%
US	22 863 972	79%	Japan	21 518 197	81%	Japan	16 326 518	87%
Thailand	1 852 386	10%	South Korea	6 972 683	41%	Not specified	2 073 402	12%
Not specified	5 851 802	32%	Brazil	6 717 519	54%	Bangladesh	5 380 711	38%
Brazil	6 004 188	40%	Taiwan	3 828 968	31%	South Korea	8 037 874	61%
Tunisia	440 582	3%	Vietnam	7 839 416	86%	Brazil	4 647 418	37%
South Korea	10 017 939	83%	Bangladesh	4 493 917	50%	Switzerland	1 012 284	12%
Turkey	1 703 544	16%	Not specified	4 515 313	63%	Malaysia	1 596 236	23%

ANNEX 7 – RECOVERY RATES OWNRES

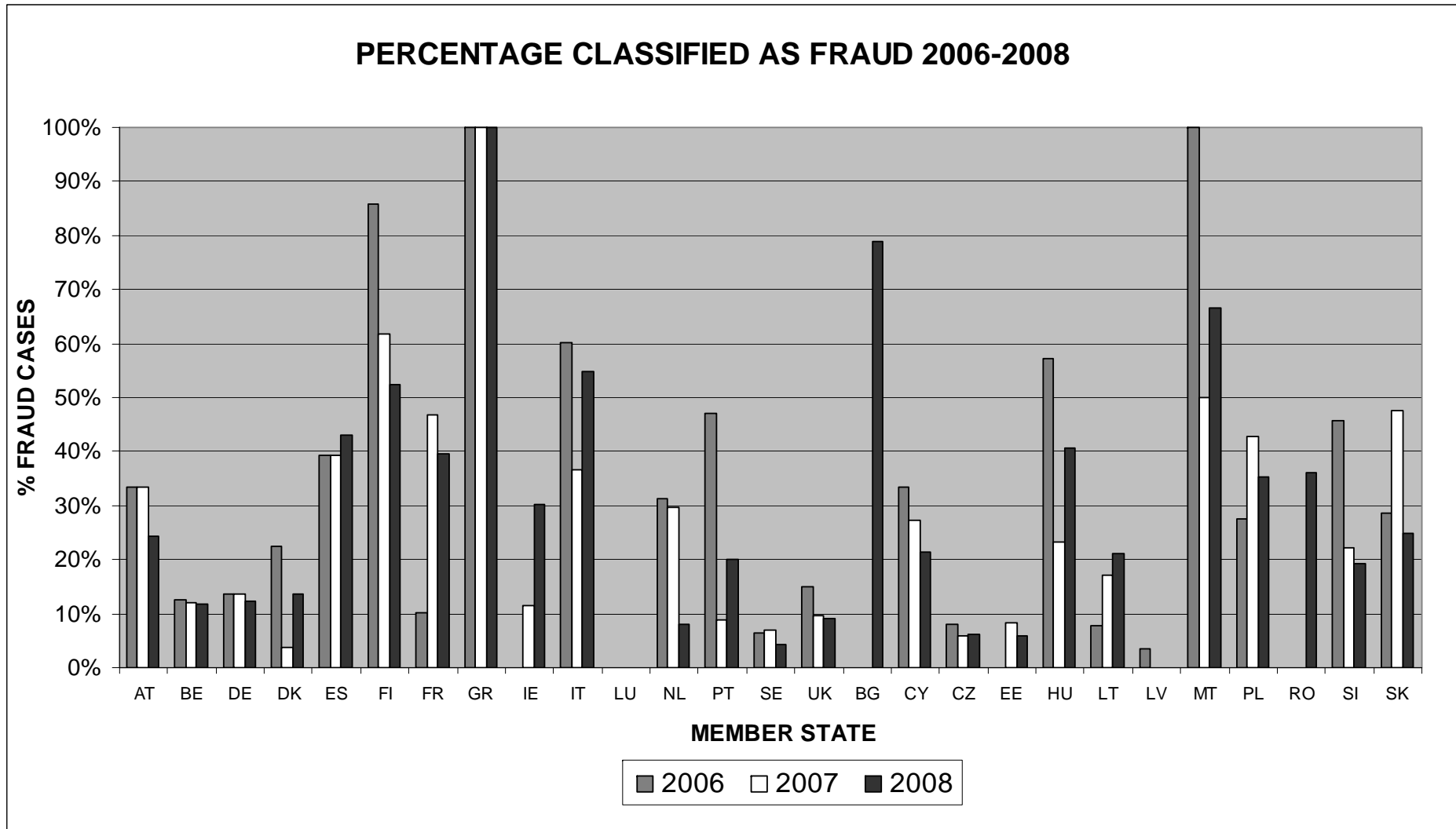
RECOVERY RATES (RR) TRADITIONAL OWN RESOURCES

MEMBER STATE	2007						2008		
	AMOUNT € 2007	RECOVERED € 2007	RR 2007	AMOUNT € IN 2008	RECOVERED € IN 2008	RR for 2007 in 2008	AMOUNT € 2008	RECOVERED € 2008	RR 2008
AT	5 500 312 €	1 600 436 €	29.10%	36 518 807 €	1 956 817 €	5.36%	5 028 046 €	1 678 042 €	33.37%
BE	22 307 864 €	1 415 487 €	6.35%	22 238 675 €	5 210 766 €	23.43%	12 670 490 €	2 216 020 €	17.49%
BG	471 173 €	236 994 €	50.30%	456 726 €	253 003 €	55.39%	502 373 €	289 569 €	57.64%
CY	750 402 €	59 090 €	7.87%	750 964 €	434 503 €	57.86%	787 523 €	134 134 €	17.03%
CZ	1 424 688 €	1 080 783 €	75.86%	2 290 130 €	1 539 161 €	67.21%	5 025 048 €	1 292 086 €	25.71%
DE	54 472 872 €	39 064 385 €	71.71%	77 337 728 €	57 543 376 €	74.41%	65 894 342 €	40 753 580 €	61.85%
DK	7 256 158 €	6 334 705 €	87.30%	7 208 999 €	6 384 112 €	88.56%	3 963 276 €	3 295 562 €	83.15%
EE	455 754 €	231 635 €	50.82%	423 140 €	231 662 €	54.75%	1 358 643 €	411 651 €	30.30%
ES	12 925 302 €	9 378 359 €	72.56%	18 140 369 €	13 091 879 €	72.17%	19 019 835 €	10 662 361 €	56.06%
FI	1 714 218 €	654 884 €	38.20%	1 764 959 €	798 103 €	45.22%	708 003 €	384 491 €	54.31%
FR	33 315 774 €	11 487 611 €	34.48%	32 981 593 €	13 046 898 €	39.56%	17 548 870 €	11 235 749 €	64.03%
GR	2 744 851 €	151 948 €	5.54%	2 976 051 €	199 214 €	6.69%	1 444 289 €	387 361 €	26.82%
HU	6 027 841 €	1 283 280 €	21.29%	6 265 722 €	1 606 699 €	25.64%	5 852 076 €	2 988 620 €	51.07%
IE	2 482 972 €	1 987 124 €	80.03%	2 482 972 €	1 987 124 €	80.03%	1 645 639 €	1 544 260 €	93.84%
IT	31 048 300 €	3 528 907 €	11.37%	23 582 174 €	5 068 369 €	21.49%	31 320 103 €	2 812 556 €	8.98%
LT	1 286 472 €	408 342 €	31.74%	1 283 365 €	650 144 €	50.66%	1 544 550 €	688 732 €	44.59%
LU	0 €	0 €	N/A	0 €	0 €	0.00%	263 046 €	0 €	N/A
LV	2 254 487 €	874 726 €	38.80%	2 253 690 €	1 103 122 €	48.95%	944 415 €	73 706 €	7.80%
MT	404 949 €	156 232 €	38.58%	404 949 €	199 936 €	49.37%	449 940 €	20 319 €	4.52%
NL	57 072 423 €	8 436 879 €	14.78%	30 051 013 €	21 100 182 €	70.21%	54 597 249 €	8 289 082 €	15.18%
PL	8 569 400 €	2 430 412 €	28.36%	8 492 588 €	2 624 790 €	30.91%	5 609 503 €	1 832 197 €	32.66%
PT	393 960 €	239 516 €	60.80%	1 635 142 €	291 150 €	17.81%	2 186 424 €	328 155 €	15.01%
RO	3 837 168 €	393 829 €	10.26%	3 785 318 €	411 598 €	10.87%	7 175 419 €	5 516 513 €	76.88%
SE	2 398 254 €	1 201 561 €	50.10%	2 318 935 €	2 089 519 €	90.11%	6 331 784 €	4 501 990 €	71.10%
SI	1 589 490 €	1 299 872 €	81.78%	1 579 108 €	1 356 182 €	85.88%	915 631 €	613 472 €	67.00%
SK	1 070 723 €	300 113 €	28.03%	1 236 418 €	475 687 €	38.47%	469 810 €	236 534 €	50.35%
UK	115 284 887 €	56 252 454 €	48.79%	112 872 035 €	59 673 336 €	52.87%	98 362 245 €	29 851 886 €	30.35%
EUR-27 TOTAL	377 060 694 €	150 489 564 €	39.91%	401 331 570 €	199 327 332 €	49.67%	351 618 572 €	132 038 628 €	37.55%

ANNEX 8 – SEIZED AND CONFISCATED GOODS

SEIZED AND CONFISCATED GOODS (cigarettes CN 24022090)						
MEMBER STATES	2006		2007		2008	
	CASES	ESTIMATED OR ESTABLISHED AMOUNT €	CASES	ESTIMATED OR ESTABLISHED AMOUNT €	CASES	ESTIMATED OR ESTABLISHED AMOUNT €
AT	4	97 191 €	2	89 954 €	2	48 255 €
BE	16	876 349 €	6	365 914 €	1	200 390 €
DE	13	511 777 €	2	171 448 €	3	231 311 €
DK	3	78 122 €	0	0 €	0	0 €
ES	0	0 €	0	0 €	0	0 €
FI	7	223 516 €	8	139 145 €	7	257 448 €
FR	26	1 264 583 €	29	1 679 953 €	33	2 304 549 €
GR	15	3 214 309 €	13	2 072 640 €	9	971 125 €
IE	3	216 059 €	5	803 923 €	13	2 540 368 €
IT	0	0 €	4	345 467 €	13	1 694 276 €
LU	0	0 €	0	0 €	0	0 €
NL	0	0 €	0	0 €	0	0 €
PT	1	691 200 €	0	0 €	0	0 €
SE	3	48 760 €	3	385 600 €	3	116 014 €
UK	163	10 266 215 €	42	4 345 939 €	100	9 789 560 €
EUR-15 TOTAL	254	17 488 081 €	114	10 399 983 €	184	18 153 296 €
BG	0	0 €	0	0 €	2	52 543 €
CY	2	364 685 €	1	33 673 €	0	0 €
CZ	0	0 €	0	0 €	1	219 219 €
EE	0	0 €	1	41 304 €	0	0 €
HU	15	515 938 €	6	193 168 €	4	860 456 €
LT	5	109 526 €	0	0 €	3	78 624 €
LV	2	490 904 €	4	693 930 €	4	365 572 €
MT	7	780 914 €	2	205 013 €	0	0 €
PL	17	404 267 €	34	813 987 €	37	1 193 988 €
RO	0	0 €	19	3 219 905 €	16	1 134 311 €
SI	9	549 900 €	6	187 055 €	4	261 035 €
SK	3	397 874 €	1	144 760 €	0	0 €
EUR-12 TOTAL	60	3 614 008 €	74	5 532 795 €	71	4 165 748 €
EUR-27 TOTAL	314	21 102 089 €	188	15 932 778 €	255	22 319 044 €

ANNEX 9 – PERCENTAGE CLASSIFICATION OF FRAUD PER MEMBER STATE



ANNEX 10 – AMOUNTS INVOLVED IN FRAUD

AMOUNTS INVOLVED IN FRAUD PERIOD 2006-2008

MEMBER STATE	2006			2007			2008		
	CASES	FRAUD CASES	FRAUD IN €	CASES	FRAUD CASES	FRAUD IN €	CASES	FRAUD CASES	FRAUD IN €
AT	75	25	2 250 974	93	31	34 103 931	103	25	1 652 584
BE	428	54	3 598 030	449	54	2 286 375	317	37	2 371 821
DE	1 140	154	13 737 742	1 558	213	16 222 344	1 218	150	13 327 586
DK	67	15	3 359 960	54	2	213 813	44	6	670 840
ES	632	249	21 659 342	439	172	7 997 274	438	188	11 106 390
FI	28	24	1 267 261	34	21	1 151 960	21	11	323 853
FR	314	32	119 450	327	153	6 294 666	311	123	4 447 123
GR	48	48	11 697 070	57	57	2 976 051	32	32	1 444 289
IE	48	0	0	35	4	134 805	43	13	0
IT	341	205	57 562 427	276	101	11 918 739	310	170	18 037 668
LU	1	1	49 291		0	0	1	0	0
NL	1 406	441	34 203 951	1 145	341	23 429 524	870	69	2 361 909
PT	17	8	276 018	23	2	394 483	25	5	1 676 333
SE	47	3	0	43	3	0	70	3	0
UK	1 057	159	10 160 937	1 072	104	9 989 927	1 023	93	9 401 126
EUR-15	5 649	1 418	159 942 453	5 605	1 258	117 113 892	4 826	925	66 821 522
BG	0	0	0	15	8	228 070	19	15	447 721
CY	9	3	21 855	11	3	26 456	14	3	378 947
CZ	63	5	91 486	50	3	649 307	64	4	79 553
EE	5	0	0	12	1	41 304	17	1	100 592
HU	103	59	4 499 751	69	16	2 511 001	64	26	2 448 405
LT	39	3	414 212	41	7	77 313	57	12	428 990
LV	28	1	130 892	40	0	0	25	0	0
MT	11	11	1 226 978	10	5	285 766	3	2	429 621
PL	69	19	404 267	159	68	5 972 136	142	50	1 948 060
RO	0	0	0	37	19	3 219 905	75	27	1 521 782
SI	24	11	579 346	27	6	187 055	26	5	277 754
SK	28	8	477 049	21	10	475 316	12	3	127 700
EUR-12	379	120	7 845 836	492	146	13 673 629	518	148	8 189 125
EUR-27	6 028	1 538	167 788 289	6 097	1 404	130 787 521	5 344	1 073	75 010 647

ANNEX 11

update 06/05/2009

AGRICULTURAL SECTOR

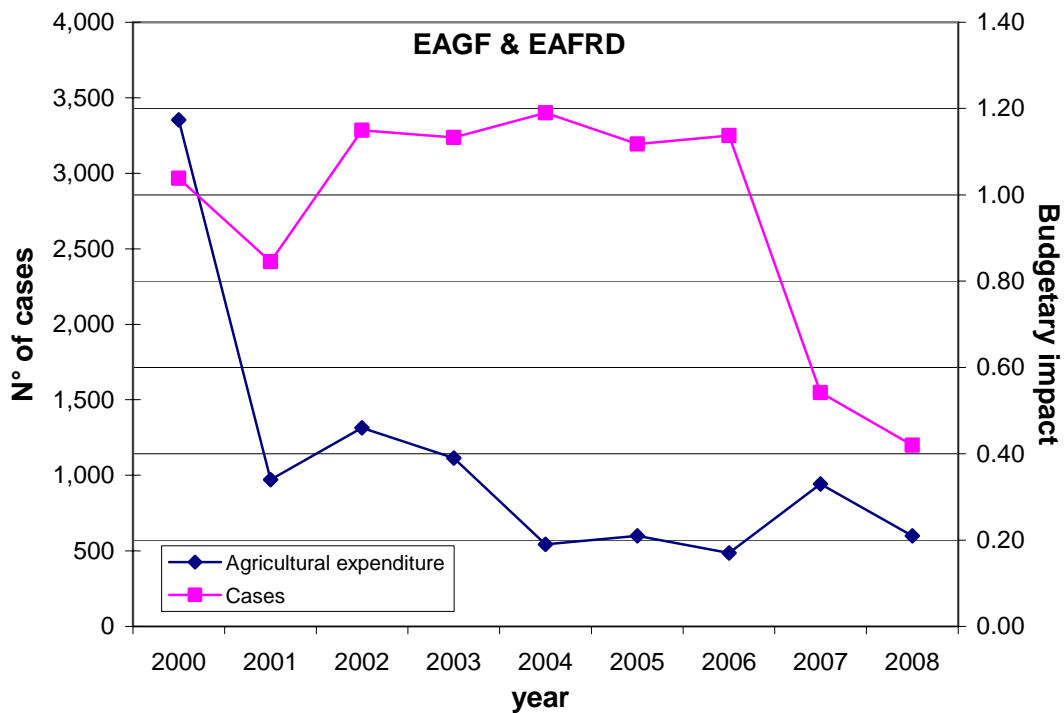
IRREGULARITIES
COMMUNICATED BY MEMBER STATES
UNDER
Reg. 1848/2006

YEARS 2000 - 2008

(amounts in €1,000)

Year	Cases	Amounts affected	% of Agricultural expenditure	Agricultural expenditure
2008	1,198	102,259	0.21	48,628,607
2007	1,548	154,993	0.33	46,920,972
2006	3,249	86,825	0.17	49,742,890
2005	3,193	102,112	0.21	47,819,509
2004	3,401	82,064	0.19	42,934,711
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

period < 2007: threshold € 4,000
period > 2006: threshold €10,000



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

ANNEX 12

update 06/05/2009

AGRICULTURAL SECTOR

IRREGULARITIES
COMMUNICATED BY MEMBER STATES
UNDER
Reg. 1848/2006

2008

(amounts in €1,000)

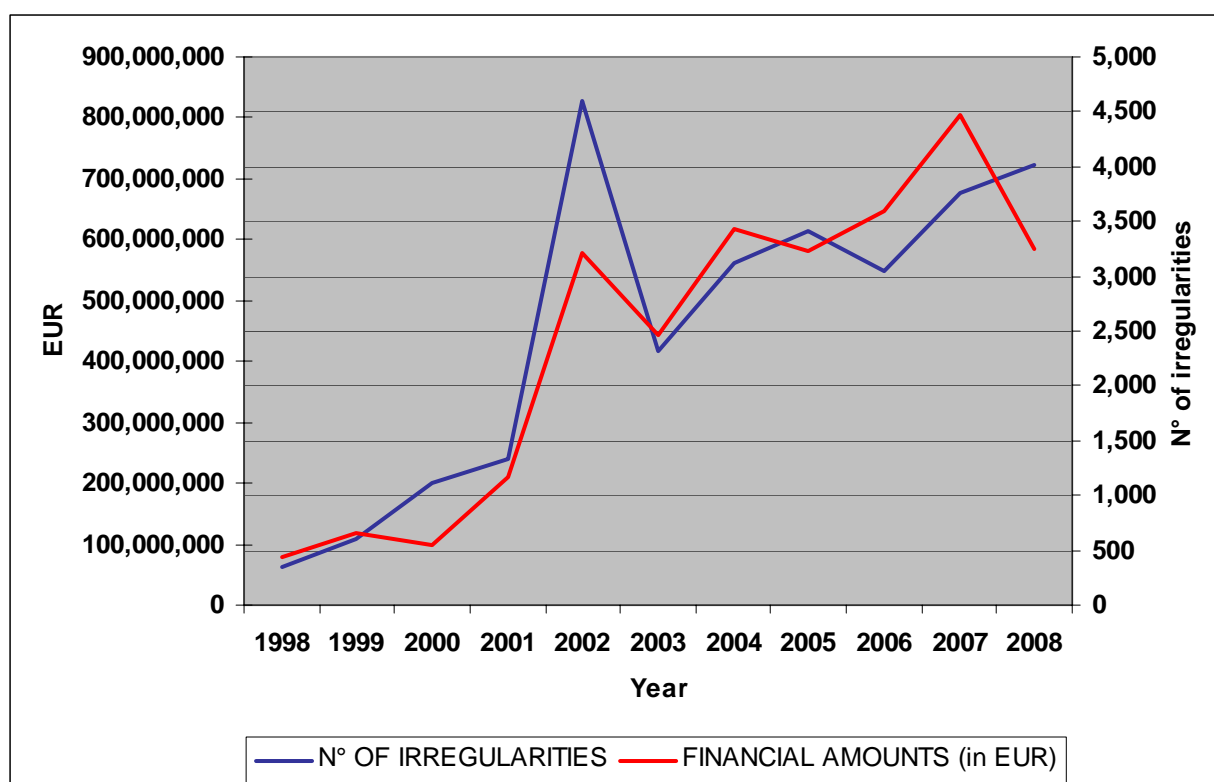
<i>Member States</i>	<i>Number of cases involved in irregularities</i>	<i>Amounts affected by irregularities</i>	<i>% of agricultural expenditure</i>
AT	20	312	0.03
BE	31	1,606	0.21
BG	2	119	0.05
CY			
CZ	22	765	0.11
DE	111	3,817	0.06
DK	10	445	0.04
EE	13	278	0.31
EL	39	4,010	0.15
ES	245	14,925	0.24
FI	8	984	0.12
FR	129	11,763	0.12
HU	6	748	0.08
IE	22	397	0.02
IT	211	53,970	0.96
LT	24	804	0.26
LU	1	13	0.03
LV	13	208	0.11
MT	1	38	0.76
NL	30	1,184	0.11
PL	46	1,126	0.05
PT	120	3,630	0.37
RO			
SE	10	214	0.02
SI	1	39	0.02
SK	11	640	0.19
UK	7	226	0.01
TOTAL	1,133	102,259	0.21

ANNEX 13

STRUCTURAL MEASURES (INCLUDE THE COHESION FUND)

IRREGULARITIES* COMMUNICATED BY MEMBER STATES 1998-2008**

YEAR	N° OF IRREGULARITIES	FINANCIAL AMOUNTS (in EUR)	TOTAL BUDGET (in MEUR)	IMPACT ON BUDGET
2008	4,007	585,249,322	46,889	1.25%
2007	3,756	804,102,077	45,327	1.77%
2006	3,047	647,773,952	38,430	1.69%
2005	3,417	581,214,090	37,192	1.56%
2004	3,123	617,099,163	35,665	1.73%
2003	2,323	444,278,642	30,764	1.44%
2002	4,607	579,010,650	30,556	1.89%
2001	1,337	210,329,680	29,823	0.71%
2000	1,109	97,160,006	25,556	0.38%
1999	611	117,563,229	30,654	0.38%
1998	347	79,102,463	28,366	0.28%



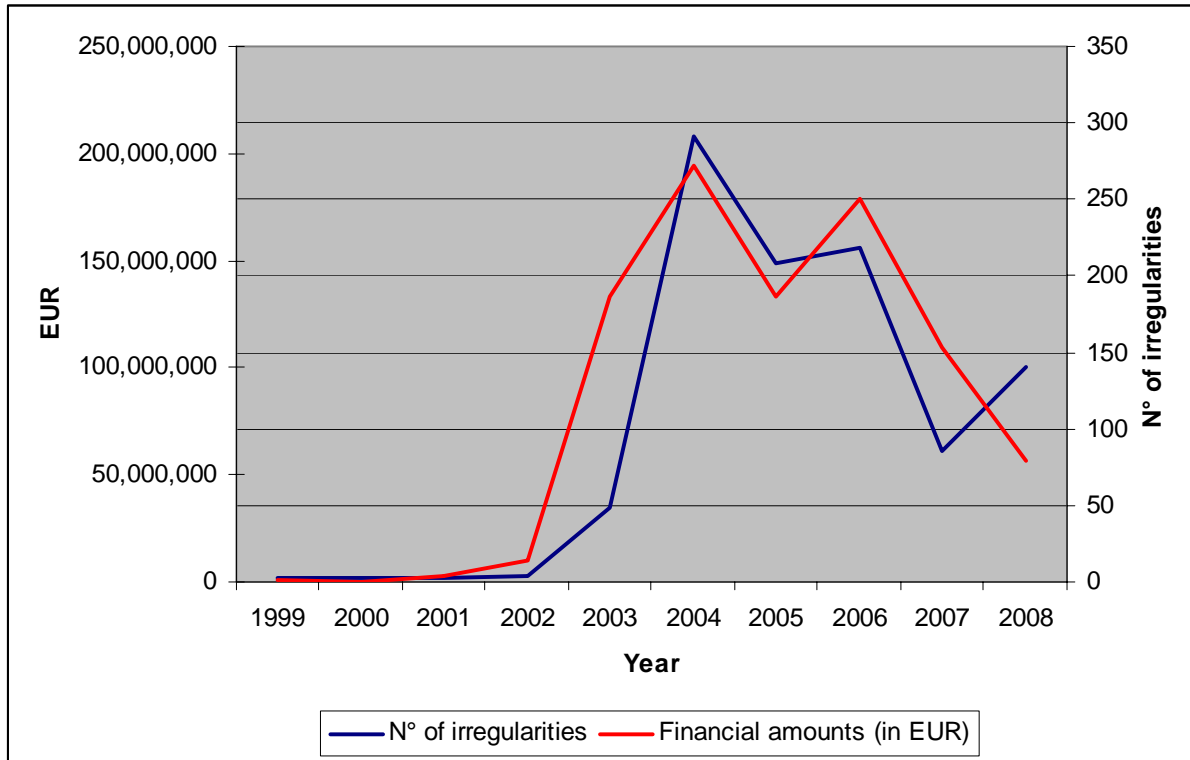
**The concept of irregularity includes fraud. The qualification as fraud, meaning criminal behaviour, can only be made following a penal procedure.*

*** Data have been updated in relation to those published in the 2007 report in order to take into account the updates sent by Member States during the reporting year 2008.*

ANNEX 14

COHESION FUND

IRREGULARITIES* COMMUNICATED BY MEMBER STATES 1998-2008



YEAR	N° OF IRREGULARITIES	FINANCIAL AMOUNTS (in EUR)
2008	140	56,328,911
2007	86	109,739,219
2006	219	178,487,134
2005	208	133,653,731
2004	291	194,285,278
2003	48	132,914,324
2002	4	9,627,540
2001	3	2,534,032
2000	2	36,278
1999	3	914,311
1998	0	0

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

ANNEX 15

PART 1

STRUCTURAL FUNDS

REGULATIONS NN. 1681/94 AND 1828/2006

a) ARTICLE 3/28 COMMUNICATIONS BY MEMBER STATE - 2008

MEMBER STATE	ERDF	ESF	EAGGF - Guid.	FIFG	TOTAL
AT	36	1			37
BE	14	19	2		35
BG	3	1			4
CY		4			4
CZ	48	30	2		80
DE	196	160	20	3	379
DK	4	3			7
EE	6	17	5	2	30
EL	50	19	18	12	99
ES	310	121	56	6	493
FI	14	12	2		28
FR	55	39	4		98
HU	20	2	20		42
IE	2				2
IT	591	100	102	12	805
LT	13	4	10		27
LV	12	7	4	1	24
MT	1				1
NL	56	208			264
PL	205	63	76	1	345
PT	178	162	61	2	403
SE	24	121		1	146
SI	13				13
SK	49	23	1		73
UK	352	113	15	9	489
TOTAL	2,252	1,229	398	49	3,928

b) NUMBER OF IRREGULARITIES REPORTED BY MEMBER STATE - 2008

MEMBER STATE	ERDF	ESF	EAGGF - Guid.	FIFG	TOTAL
AT	36	1			37
BE	14	19	2		35
BG	3	1			4
CY		4			4
CZ	48	30	2		80
DE	192	157	20	3	372
DK	4	3			7
EE	5	16	5	2	28
EL	47	19	18	12	96
ES	307	121	54	6	488
FI	14	12	2		28
FR	55	39	4		98
HU	17	2	20		39
IE	2				2
IT	589	99	102	12	802
LT	12	4	10		26
LV	10	7	4	1	22
MT	1				1
NL	54	208			262
PL	197	58	73	1	329
PT	178	162	61	2	403
SE	24	121		1	146
SI	13				13
SK	38	23	1		62
UK	348	112	14	9	483
TOTAL	2,208	1,218	392	49	3,867

ANNEX 15

PART 2

STRUCTURAL FUNDS

IRREGULARITIES REPORTED BY MEMBER STATES - 2008

REGULATIONS NN. 1681/94 AND 1828/2006

FINANCIAL AMOUNTS INVOLVED IN IRREGULARITIES

MEMBER STATE	ERDF	ESF	EAGGF - Guid.	FIFG	TOTAL
AT	2,840,773	21,413			2,862,186
BE	529,644	687,661	325,852		1,543,157
BG	791,453	12,864			804,317
CY		172,298			172,298
CZ	12,699,849	1,092,802	135,893		13,928,544
DE	12,886,220	6,810,586	1,176,796	111,633	20,985,235
DK	56,646	621,697			678,343
EE	961,051	501,796	498,010	92,040	2,052,897
EL	16,545,398	466,802	1,428,581	1,313,585	19,754,366
ES	128,313,388	6,948,077	4,965,428	524,579	140,751,472
FI	570,056	1,184,312	59,042		1,813,410
FR	3,543,349	1,414,551	40,459		4,998,359
HU	938,500	956,500	1,403,037		3,298,037
IE	5,303,050				5,303,050
IT	41,446,086	17,415,210	12,327,054	3,730,364	74,918,714
LT	1,619,414	151,033	1,477,472		3,247,919
LV	279,058	127,764	442,848	8,070	857,740
MT	410,761				410,761
NL	3,838,536	24,883,973			28,722,509
PL	23,776,954	7,946,431	3,311,170	309,589	35,344,144
PT	14,347,085	8,870,530	5,851,333	399,349	29,468,297
SE	587,225	3,109,930		21,574	3,718,729
SI	430,933				430,933
SK	8,836,492	625,131	71,929		9,533,552
UK	83,029,790	38,932,750	899,412	459,491	123,321,443
TOTAL	364,581,711	122,954,111	34,414,316	6,970,274	528,920,411

ANNEX 16
STRUCTURAL FUNDS
IRREGULARITIES REPORTED BY MEMBER STATES
UNDER REGULATIONS NN. 1681/94 AND 1828/2006
SITUATION OF RECOVERY

PART 1 – 2008

a) AMOUNTS RECOVERED BY MEMBER STATES

MEMBER STATE	ERDF	ESF	EAGGF - Guid.	FIFG	TOTAL
AT	1,465,226	21,413			1,486,639
BE	86,928	687,661	57,756		832,345
BG	0	0			0
CY		172,025			172,025
CZ	249,816	232,205	121,122		603,143
DE	5,524,778	2,019,629	360,001	12,920	7,917,328
DK	0	5,399			5,399
EE	0	304,058	0	0	304,058
EL	827,765	330,122	704,902	0	1,862,789
ES	51,729,498	1,507,037	1,397,696	0	54,634,231
FI	314,285	65,126	0		379,411
FR	1,065,976	113,533	0		1,179,509
HU	186,312	106,488	348		293,148
IE	0				0
IT	1,297,064	689,641	1,291,985	361,520	3,640,210
LT	105,094	27,516	0		132,610
LV	54,624	10,520	0	0	65,144
MT	0				0
NL	682,363	106,158			788,521
PL	1,856,197	5,390,143	98,445	0	7,344,785
PT	6,096,352	2,269,379	333,478	0	8,699,209
SE	39,767	1,016,510		0	1,056,277
SI	43,669				43,669
SK	629,615	55,200	0		684,815
UK	10,727,995	7,012,081	26,375	11,123	17,777,574
TOTAL	82,983,324	22,141,844	4,392,108	385,563	109,902,839

b) AMOUNTS TO BE RECOVERED BY MEMBER STATES

MEMBER STATE	ERDF	ESF	EAGGF - Guid.	FIFG	TOTAL
AT	1,110,073	0			1,110,073
BE	258,161	0	134,048		392,209
BG	0	12,864			12,864
CY		0			0
CZ	11,469,043	450,925	0		11,919,968
DE	6,779,749	4,071,055	699,812	82,703	11,633,319
DK	34,430	616,298			650,728
EE	921,240	197,738	284,337	79,288	1,482,603
EL	15,504,391	109,649	722,317	1,313,585	17,649,942
ES	74,646,627	5,441,040	2,539,986	524,579	83,152,232
FI	224,207	8,182	1,912		234,301
FR	1,613,719	720,640	45,973		2,380,332
HU	257,406	680,556	529,094		1,467,056
IE	0				0
IT	30,777,897	12,820,865	6,520,066	2,123,602	52,242,430
LT	1,134,909	38,333	23,854		1,197,096
LV	156,558	117,244	442,848	8,070	724,720
MT	410,761				410,761
NL	595,266	400,780			996,046
PL	7,144,500	908,195	1,360,459	0	9,413,154
PT	8,100,054	5,491,203	4,504,903	399,349	18,495,509
SE	0	643,568		21,574	665,142
SI	84,050				84,050
SK	6,909,246	275,571	71,929		7,256,746
UK	66,746,261	26,686,517	786,911	404,263	94,623,952
TOTAL	234,878,548	59,691,223	18,668,449	4,957,013	318,195,233

NB: The sum of amounts recovered and amounts to be recovered does not equal the amounts affected by irregularity indicated in PART 2 of Annex 15. The difference between those values is constituted by amounts that have been suspended before payment.

ANNEX 16

STRUCTURAL FUNDS

IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER REGULATIONS NN. 1681/94 AND 1828/2006

SITUATION OF RECOVERY

PART 2 – AMOUNTS TO BE RECOVERED

MEMBER STATE	AMOUNTS AWAITING RECOVERY	AMOUNTS IN JUSTICE*	AMOUNTS DECLARED IRRECOVERABLE**
AT	12,880,004	356,060	4,392,276
BE	15,526,195	827,278	12,399,648
BG	12,864	0	0
CY	1,282	0	0
CZ	12,848,346	865,185	0
DE	579,276,579	68,203,492	119,905,882
DK	9,651,599	110,975	4,451,300
EE	1,919,496	0	7,669
EL	45,369,687	5,125,953	524,344
ES	242,277,079	7,699,602	374,005
FI	3,244,949	889,145	593,422
FR	11,482,731	670,637	2,511,737
HU	2,016,384	1,242,372	0
IE	1,184,401	552,660	78,070
IT	409,218,510	330,936,858	102,563
LT	1,197,096	0	0
LU	52,932	0	0
LV	2,673,629	709,750	0
MT	516,492	0	0
NL	13,777,195	3,289,333	559,940
PL	12,231,729	1,030,885	0
PT	98,182,937	14,940,631	15,371,723
SE	2,323,252	11,053	515,209
SI	1,296,899	36,043	0
SK	7,556,675	4,070,529	0
UK	256,768,099	422,682	19,380,574
TOTAL	1,743,487,041	441,991,123	181,168,362

* In justice: awaiting outcome of judicial procedures in national courts.

**Amounts irrecoverable: awaiting formal decision according to the procedure set out in art. 5§2 of Regulation No. 1681/94.

ANNEX 17

COHESION FUND

**IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER
REGULATION N. 1831/94**

MEMBER STATE	N° OF IRREGULARITIES	FINANCIAL AMOUNTS (in EUR)	AMOUNTS AWAITING RECOVERY (in EUR)
CZ	2	88,210	0
EE	2	129,614	0
EL	12	4,937,771	326,398
ES	64	24,827,955	14,442,900
HU	13	1,400,938	1,033,292
IE	3	9,498,140	0
LT	8	8,280,568	47,056
LV	5	86,279	86,279
PL	7	214,754	65,550
PT	22	5,655,879	2,602,188
SK	2	1,208,803	1,164,379
TOTAL	140	56,328,911	19,768,042

Annex 18

PRE-ACCESSION ASSISTANCE

IRREGULARITIES REPORTED IN 2008

2008 all programmes				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	140	55.746.357	28.863.495	8.989.139
CZ	17	901.458	464.327	409.173
EE	5	431.751	292.599	292.599
HR	18	14.111.055	3.433.811	472.020
HU	11	998.674	833.807	774.862
LT	6	2.587.730	2.533.680	365.705
LV	5	879.753	652.138	652.138
MT	1	3.350.556	167.528	167.528
PL	46	1.046.826	704.975	525.403
RO	246	1.040.726.211	21.666.478	16.259.867
SI	1	380.000	60.000	0
SK	9	2.470.509	794.753	252.270
TR	18	4.897.518	314.763	218.781
Total	523	1.128.528.398	60.782.354	29.379.485

2008 PHARE				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	81	32.167.940	15.401.494	2.697.696
CZ	17	901.458	464.327	409.173
HR	7	2.069.912	1.044.981	0
LV	1	298.068	120.514	120.514
MT	1	3.350.556	167.528	167.528
PL	3	77.804	77.804	0
RO	67	38.649.525	9.393.954	7.476.651
SK	6	1.674.813	60.655	10
Total	183	79.190.076	26.731.257	10.871.572

2008 SAPARD				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	39	14.494.378	12.731.869	5.955.109
EE	5	431.751	292.599	292.599
HR	4	1.222.218	932.569	447.368
HU	11	998.674	833.807	774.862
LT	5	2.381.595	2.327.545	365.705
LV	3	491.937	491.937	491.937
PL	43	969.022	627.171	525.403
RO	100	36.503.894	10.074.705	7.451.312
SK	3	795.696	734.098	252.260
Total	213	58.289.165	29.046.300	16.556.555

€ 2008 ISPA				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	19	8.844.039	490.132	336.334
HR	1	9.113.943	1.367.091	0
RO	79	965.572.792	2.197.819	1.331.904
Total	99	983.530.774	4.055.042	1.668.238

€ 2008 Transition Facility				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	1	240.000	240.000	0
LT	1	206.135	206.135	0
LV	1	89.748	39.687	39.687
SI	1	380.000	60.000	0
Total	4	915.883	545.822	39.687

€ 2008 CARDS				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
HR	6	1.704.982	89.170	24.652
Total	6	1.704.982	89.170	24.652

€ 2008 Pre-accession assistance to Turkey				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
TR	18	4.897.518	314.763	218.781
Total	18	4.897.518	314.763	218.781

PRE-ACCESSION ASSISTANCE
IRREGULARITIES REPORTED IN 2008
BELOW REPORTING THRESHOLD

€ All programmes				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	15	1.893.540	64.359	35.220
CZ	4	171.226	21.513	21.513
HR	1	538.049	4.000	0
PL	3	74.236	10.930	10.930
RO	1	34.856	5.033	0
SK	1	64.039	2.441	0
TR	3	571.934	28.751	14.744
Total	28	3.347.880	137.027	82.407

€ PHARE				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	7	117.948	51.276	32.775
CZ	4	171.226	21.513	21.513
RO	1	34.856	5.033	0
TR	3	571.934	28.751	14.744
Total	15	895.964	106.573	69.032

€ SAPARD				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	8	1.775.592	13.083	2.445
PL	3	74.236	10.930	10.930
SK	1	64.039	2.441	0
Total	12	1.913.867	26.454	13.375

Annex 20

PRE-ACCESSION ASSISTANCE

IRREGULARITIES REPORTED – 2002-2008

€	All Funds			
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	280	87.635.494	44.861.716	13.777.568
CY	5	5.624.616	23.807	0
CZ	52	23.944.948	2.690.539	1.280.939
EE	41	28.364.624	6.445.889	922.875
HR	23	17.310.012	4.533.811	472.020
HU	108	16.399.538	6.512.981	1.514.045
LT	46	105.581.247	3.427.833	855.574
LV	38	3.316.018	986.154	906.322
MT	8	4.913.491	267.416	233.460
PL	304	790.760.846	4.740.872	1.540.929
RO	858	3.835.735.658	57.952.810	25.569.349
SI	38	4.052.982	1.554.244	58.159
SK	108	48.879.273	8.400.312	3.361.501
TR	25	6.298.426	699.083	579.679
Total	1934	4.978.817.172	143.097.467	51.072.419

€	PHARE			
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	134	47.056.603	21.167.615	3.301.301
CY	5	5.624.616	23.807	0
CZ	33	2.961.980	1.009.352	596.834
EE	17	11.069.315	3.027.925	149.211
HR	9	5.044.912	2.144.981	0
HU	45	12.560.823	4.126.778	652.714
LT	20	912.091	576.489	407.563
LV	19	1.157.589	214.082	161.925
MT	8	4.913.491	267.416	233.460
PL	111	353.062.660	2.401.654	339.088
RO	251	318.049.590	26.786.995	12.213.972
SI	6	2.115.972	189.006	36.079
SK	93	19.321.942	6.385.563	2.019.954
Total	751	783.851.583	68.321.663	20.112.101

€	SAPARD			
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	119	26.236.022	18.158.494	10.139.933
CZ	18	1.022.764	838.713	684.105
EE	20	4.071.817	3.247.187	604.350
HR	4	1.222.218	932.569	447.368
HU	63	3.838.715	2.386.203	861.331
LT	18	7.614.441	2.642.877	447.534
LV	18	2.068.681	732.385	704.710
PL	172	11.141.452	2.269.475	1.196.385
RO	382	186.677.407	20.549.037	9.632.458
SI	31	1.557.010	1.305.238	22.080
SK	14	2.408.131	1.965.695	1.292.493
Total	859	247.858.658	55.027.872	26.032.747

€	ISPA			
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	26	14.102.869	5.295.607	336.334
CZ	1	19.960.204	842.474	0
EE	4	13.223.492	170.777	169.314
HR	2	9.113.943	1.367.091	0
LT	7	96.848.580	2.332	476
PL	21	426.556.734	69.743	5.456
RO	225	3.331.008.661	10.616.778	3.722.919
SK	1	27.149.200	49.054	49.054
Total	287	3.937.963.683	18.413.856	4.283.553

ANNEX 21

IRREGULARITIES COMMUNICATED BY MEMBER STATES AND CANDIDATE COUNTRIES

Year	ISPA				PHARE				SAPARD			
	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
2002	6	113.406	6.122	0								
2003	18	281.347.575	893.147	0	52	320.163.309	630.939	292.379	34	5.941.751	3.796.521	23.403
2004	26	279.027.957	251.987	223.824	68	13.029.114	4.138.964	730.688	133	50.515.590	5.982.992	173.234
2005	25	165.424.740	6.160.535	476	151	65.515.872	7.784.063	2.483.164	165	53.103.936	2.826.397	476.509
2006	26	340.625.981	1.145.646	244	207	249.496.407	13.656.756	4.512.194	164	43.527.679	3.036.900	1.045.272
2007	87	1.887.893.251	5.901.377	2.390.771	90	56.456.805	15.379.685	1.222.105	150	36.480.538	10.338.762	7.757.774
2008	99	983.530.774	4.055.042	1.668.238	183	79.190.076	26.731.257	10.871.572	213	58.289.165	29.046.300	16.556.555
Total	287	3.937.963.683	18.413.856	4.283.553	751	783.851.583	68.321.663	20.112.101	859	247.858.658	55.027.872	26.032.747

ANNEX 22

IRREGULARITIES REPORTED BY MEMBER STATES IN 2008 – AGRICULTURE, STRUCTURAL AND COHESION FUNDS, OWN RESOURCES

	AGRICULTURE		STRUCTURAL FUNDS		COHESION FUND		OWN RESOURCES		ALL SECTORS	
	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS
AT	20	311,608	37	2,862,186			103	5,028,046	160	8,201,840
BE	31	1,605,690	35	1,543,157			317	12,670,490	383	15,819,337
BG	2	119,470	4	804,317			19	502,373	25	1,426,160
CY			4	172,298			14	787,523	18	959,821
CZ	22	764,680	80	13,928,544	2	88,210	64	5,025,048	168	19,806,482
DE	111	3,816,771	372	20,985,235			1,218	65,894,342	1,701	90,696,348
DK	10	445,241	7	678,343			44	3,963,276	61	5,086,860
EE	13	278,131	28	2,052,897	2	129,614	17	1,358,643	60	3,819,285
EL	39	4,010,046	96	19,754,366	12	4,937,771	438	19,019,835	585	47,722,018
ES	245	14,924,635	488	140,751,472	64	24,827,955	21	708,003	818	181,212,065
FI	8	983,842	28	1,813,410			311	17,548,870	347	20,346,122
FR	129	11,763,441	98	4,998,359			32	1,444,289	259	18,206,089
HU	6	747,522	39	3,298,037	13	1,400,938	64	5,852,076	122	11,298,573
IE	22	397,497	2	5,303,050	3	9,498,140	43	1,645,639	70	16,844,326
IT	211	53,969,740	802	74,918,714			310	31,320,103	1,323	160,208,557
LT	24	803,754	26	3,247,919	8	8,280,568	57	1,544,550	115	13,876,791
LU	1	13,375					1	263,046	2	276,421
LV	13	208,144	22	857,740	5	86,279	25	944,415	65	2,096,578
MT	1	37,814	1	410,761			3	449,940	5	898,515
NL	30	1,183,639	262	28,722,509			870	54,597,249	1,162	84,503,397
PL	46	1,126,137	329	35,344,144	7	214,754	142	5,609,503	524	42,294,538
PT	120	3,629,928	404	29,468,297	22	5,655,879	25	2,186,424	571	40,940,528
RO							75	7,175,419	75	7,175,419
SE	10	214,065	146	3,718,729			70	6,331,784	226	10,264,578
SI	1	38,808	13	430,933			26	915,631	40	1,385,372
SK	11	639,613	62	9,533,552	2	1,208,803	12	469,810	87	11,851,778
UK	7	225,775	483	123,321,443			1,023	98,362,245	1,513	221,909,463
TOTAL	1,133	102,259,366	3,868	528,920,411	140	56,328,911	5,344	351,618,572	10,485	1,039,127,260