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**COMMISSION STAFF WORKING DOCUMENT**

**Implementation of the Commission Anti-Fraud Strategy (CAFS)**

*Accompanying the document*

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**Protection of the European Union's financial interests - Fight against Fraud  
Annual Report 2014**

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## LIST OF ABBREVIATIONS

TFEU	Treaty on the Functioning of the European Union
EUR	Euro
DG	Directorate General
EAGF	European Agricultural Guarantee Fund
EAFRD	European Agricultural Fund for Rural Development
EFF	European Fishery Fund
CAP	Common Agricultural Policy
CAFS	Commission Anti-Fraud Strategy
AAR	Annual Activity Report
MoU	Memorandum of Understanding
CED	Central Exclusion Database
REGIO	Directorate-General for for Regional and Urban Policy
HOME	Directorate-General for Home affairs
CNECT	Directorate-General for Communication Networks, Content and Technology
ENV	Directorate-General Environment
COMP	Directorate-General Competition
NR	Natural Resources
EC	European Commission
CFP	Common Fishery Policy
ERDF	European Regional Development Fund
ESF	European Social Fund
CF	Cohesion Fund
SME	Small and Medium Sized Enterprise
CP	Cohesion Policy
OLAF	European Anti-Fraud Office ( <i>Office pour la Lutte Anti-Fraude</i> )

## 1. INTRODUCTION

On 24 June 2011 the Commission adopted the Commission Anti-Fraud Strategy (CAFS)<sup>1</sup> with the following objective:

*To improve prevention, detection and the conditions for investigations of fraud and to achieve adequate reparation and deterrence, with proportionate and dissuasive sanctions, and respecting the due process, especially by introducing anti-fraud strategies at Commission Service level respecting and clarifying the different responsibilities of the various stakeholders.*

The aim is to reinforce the entire anti-fraud cycle in the Commission, in particular via the introduction of anti-fraud strategies at Commission Service level.

Last year, for the first time, the Commission reported on the implementation of the anti-fraud strategy, in accordance with its obligation established in the CAFS. This Commission Staff Working Document is therefore the second report that provides an overview of the state of play.

By adopting the CAFS, the Commission envisaged reaching the referenced objective without creating additional layers of control and administrative burden. That is also why this report is integrated into the Article 325 report of the Commission on the Protection of the Financial Interests of the EU, as an annex.

## 2. PRIORITIES

The CAFS provided for anti-fraud measures in the areas of prevention and detection, investigations, sanctions, recovery and other horizontal fraud prevention policies. Last year's report on the implementation of the CAFS focused primarily on the three priority actions established in the CAFS. The priorities established by the Commission were focused on fraud prevention and had to be addressed by the end of 2013:

- (1) Adequate anti-fraud provisions in Commission Proposals on spending programmes under the new multi-annual financial framework, in light of impact analyses.
- (2) The development of anti-fraud strategies at Commission Service Level, with the assistance of OLAF and of the central services, and their implementation.
- (3) The revision of the public procurement directives with a view to addressing the need for simplification while limiting the risks of procurement fraud in the Member States.

These priority actions were completed by the end of 2013, as was reported last year. In 2014, the activities deployed under these priorities developed further and a short description of the latest developments will be presented below.

### 2.1. Adequate anti-fraud provisions

In 2014, DGs continued to include anti-fraud provisions in new legislative proposals and related documents.

For example, in the area of the Common Agriculture Policy (CAP) secondary legislation (delegated and implementing regulations) was adopted in 2014. Delegated

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<sup>1</sup> COM(2011) 376 final

Commission Regulation (EU) No 907/2014 and Commission Implementing Regulation (EU) No 908/2014 contain specific anti-fraud provisions complementing Art. 58 of Regulation (EU) No 1306/2013. The anti-fraud provisions address the Paying Agencies for CAP funds in the Member States and cover all areas of CAP expenditure.

In addition to 'fraud-proofing' legislative proposals by adding efficient anti-fraud clauses to them, guidelines and policy documents were also fraud-proofed. An example is the Financial Regulation of the European Schools that was redrafted in 2014. The resulting Decision of the Board of Governors on this matter means that as from 1st January 2015, OLAF acquired the authority to investigate suspected fraud in the European School system.

## **2.2. Anti-fraud strategies for Commission Services**

In last year's report, the Commission reported that all Commission services (Directorates-General and executive agencies), except one, had developed an anti-fraud strategy. The last Commission service also adopted its anti-fraud strategy in 2014.

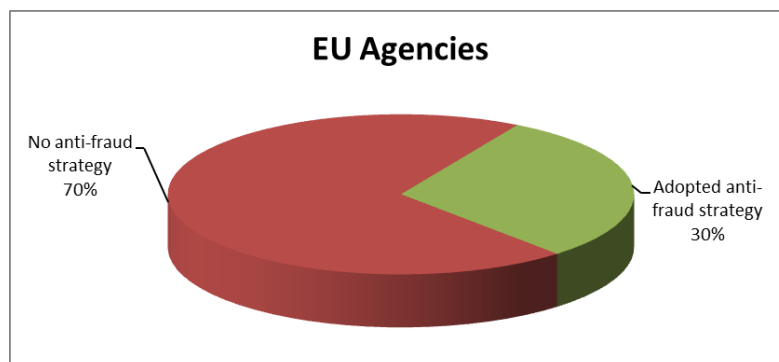
The focus of the Commission services has shifted from the development to the implementation of their anti-fraud strategies and to updating these strategies. Some Commission services had already adopted an anti-fraud strategy well before the deadline of 31 December 2013 and felt the need to update their strategy to reflect the latest developments in their policy areas.

An example of such an update is the new common anti-fraud strategy for the Research family (the "RAFS"). The RAFS was adopted by the Research Common Support Centre's Steering Board on 18 March 2015. This anti-fraud strategy reflects the integrated approach of the Commission in the research policy area as it is valid for the spending research Directorate-Generals in the research domain, and also for 4 executive agencies (ERCEA, REA, INEA, EASME) and 5 Joint Technology Initiatives (JTI), namely IMI, Clean Sky, FCH, BBI, ENIAC.

The Commission services that are working together with EU agencies have brought the concept of anti-fraud strategies to the attention of their partner EU agencies. Through the network of EU agencies' correspondents in Directorates-General and horizontal services, as well as the network of Commission representatives in the agencies' management boards, the commission services, together with the EU agencies, have been working on the implementation of the commitments stemming from the 2012 Roadmap in respect of agencies' anti-fraud activities.

As a result, the second progress report on the implementation of the common approach of EU decentralised agencies contains a reference to those decentralised agencies that have already adopted anti-fraud strategies.

Around 30% of the EU agencies have now developed and adopted such a strategy. Although there is no such legal obligation, the Commission services remain committed, to have all EU agencies develop and adopt an anti-fraud strategy.



### 2.3. Reporting on the anti-fraud strategies in the Annual Activity Reports

In line with the revised Standing Instructions for the Annual Activity Report (AAR) for the year 2013 following Article 66 (9)<sup>2</sup> and Article 32(2) point d<sup>3</sup> of the financial regulation that relates to the prevention, detection, correction and follow-up of fraud and irregularities as one of the internal control objectives, the authorising officers by delegation had to report on their anti-fraud strategies.

All Commission Services have developed an anti-fraud strategy in which they propose anti-fraud activities specific to their policy area; the state of play in terms of implementation and identified outstanding measures are made public, in so far as it does not endanger their effectiveness. Quantified indicators reported were essentially the number of fraud suspicions transferred to, or being investigated by, the European Anti-Fraud Office (OLAF).

### 2.4. Audit on the implementation of the CAFS

In 2015 the IAS finalised an audit on the adequacy and effective implementation of DGs anti-fraud strategies. The audit broadly acknowledges the positive steps already taken by OLAF and the five sampled DGs both in the overall management and oversight of the implementation of the CAFS and in the preparation, or revision of their anti-fraud strategies. With regard to individual DGs selected for the audit the IAS acknowledges that all of them have developed or have continued to improve their AFS, using the guidelines, support and expertise of OLAF.

The report encourages OLAF to go on strengthening its guidance to further improve the effectiveness of DGs' AFS.

## 3. PREVENTION AND DETECTION OF FRAUD

The CAFS dedicated much attention to the prevention and detection of fraud. It underlined the importance of an integrated approach by emphasising that the objectives of the CAFS should be achieved through the internal control process of the Commission, applicable at all management levels. The Commission has performed

<sup>2</sup> The Authorising Officer by delegation shall report to his or her institution on the performance of his or her duties in the form of an annual activity report declaring that, he or she has reasonable assurance that: (a) the information contained in the report presents a true and fair view; (b) the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management; (c) the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

<sup>3</sup> For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives: [...] (d) prevention, detection, correction and follow-up of fraud and irregularities'.

several actions aimed at the improvement of prevention and detection of fraud which are described in this paragraph.

### **3.1. Systematic controls and risk analyses**

In last year's report, the IT tool ARACHNE was briefly mentioned. In 2014, the Commission continued its efforts to make the tool operational in the Member States that are implementing the European Structural and Investment Funds. DG EMPL has promoted the use of the risk scoring tool ARACHNE by the Member States and has provided training for the use of the tool. So far, 16 Member States have sent programme data and the roll out of the system is continuing. Eight Member States already use the ARACHNE tool and DG EMPL continues to monitor its use.

In 2014, a new IT-tool was made available to improve transparency in relations between external parties and Commission officials. The Commission uses the BASIS-tool (Briefing And Speeches Information System) to manage requests for meetings with external stakeholders. DG FISMA has enhanced the BASIS tool with an event management module. Through this module it is possible to keep track of contacts and meetings with external parties.

This tool contributes to the newly established EC approach on transparency and relations with external stakeholders. The tool aims at promoting more transparency with external stakeholders and coordinating a common approach on topics vis-à-vis external stakeholders to:

- a) give a clear and unambiguous signal against fraud, corruption and bribery;
- b) promote an open and structured approach vis-à-vis external stakeholders and lobbyists;
- c) ensure that a Commission service coordinates its messages and positions on the policy areas under its responsibility.

The use of this recently developed tool will be promoted within the Commission to include more Commission Services.

Lastly, the Irregularity Management System (IMS) must also be mentioned. Last year's report outlined the update of the IMS. In 2014, the DGs that implement the ESI funds have indicated that they have standardised the use of IMS during audits.

### **3.2. Awareness raising and training**

One of the actions in the CAFS aimed at raising awareness and training was the creation of the Fraud Prevention and Detection Network (FPDNet). This network met four times in 2014 (and met 14 times in total from September 2011 until December 2014). The aim of the FPDNet, to share best practices, was pursued with presentations from various Commission services on their anti-fraud activities, such as IT-tools, experience with the Early Warning System (see also the paragraph 'sanctions' in this report) and anonymised fraud cases.

Apart from the FPDNet, in which all Commission Services participate, individual Commission services have been engaged in training and awareness raising actions in 2014. Fraud related topics such as ethics training for newcomers, fraud risk workshops to include staff in the risk awareness of the DG, and specific training on financial processes were given. The Commission services organised about 50 training sessions the topics mentioned above, which involved more than 1500 commission staff.

Under the umbrella of the Committee for Fraud Prevention (COCOLAF), the Commission and Member States' experts cooperated on fraud prevention in the ESI Funds. For this purpose, a subgroup of the COCOLAF was created which was tasked with the development of two guidance documents in 2014 (as was the case in 2013). In November 2014, two guidance documents were presented to the COCOLAF subgroup. The first guidebook explains the role of auditors in fraud prevention and detection and a second guidebook provides guidance on the creation of a national anti-fraud strategy.

## **4. INVESTIGATIONS**

### **4.1. OLAF investigations**

In 2014, the Commission and OLAF worked on the conclusion of Administrative Arrangements on co-operation and a timely exchange of information. These administrative arrangements were signed on 29 January 2015.

The Arrangements concern internal and external investigations, and clarify the flow of information received from OLAF, as well as the flow and modalities of access to the information given by the Commission in the framework of OLAF investigations.

### **4.2. Whistleblowing**

The guidelines on whistleblowing, issued in December 2012, provide ample guidance on how and when to report serious irregularities. They highlight the protection afforded to whistleblowers<sup>4</sup> acting in good faith. This protection includes the confidentiality of the identity of the whistleblower. The guidelines also include provisions on the consequences of malicious denunciations.

In line with the guidelines, which stipulate a review three years after adoption, the guidelines will be reviewed in the autumn of 2015 in a combined effort of DG HR and OLAF.

## **5. ADMINISTRATIVE SANCTIONS**

One of the key actions regarding administrative sanctions in the CAFS is the use of the Central Exclusion Database (CED). The CED contains the information related to economic operators which have been excluded from obtaining EU funds for a determined duration on the basis of the Financial Regulation. The CED is linked to the Commission's Early Warning System (EWS). On 14 November 2014, the Commission adopted a new decision<sup>5</sup> on the EWS. This is one of the main tools the Commission uses to minimise risks to the Union's financial interests and reputation. The system identifies entities which might pose such a risk.

The Decision makes the rules simpler. It reduces the number of warning categories from five to two: one for verification, one for exclusion. The aim of the verification warning is to increase the monitoring of the identified entity. Exclusion warnings are automatically reflected in the Commission's CED which identifies entities and/or their management proven to be unreliable or fraudulent. This means they are no longer entitled to obtain EU funds.

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<sup>4</sup> A whistleblower is a member of staff, acting in good faith, who reports facts discovered in the course of, or in connection with his or her duties, which point to the existence of serious irregularities. The reporting should be done in writing and without delay.

<sup>5</sup> Commission Decision 2014/792/EU of 13 November 2014, OJ L 329, 14.11.2014



The new rules ensure a coordinated approach in assessing cases of verification and exclusion. Furthermore, they detail the procedure on the right of the entities concerned to be heard. They also reinforce the cooperation between the European Anti-Fraud Office (OLAF) and other Commission departments.

The revision of the Commission's Early Warning System is paving the way for a creation of a comprehensive system of 'early detection and exclusion', already proposed by the Commission on 18 June 2014, as part of a partial revision of the Financial regulation (COM(2014)358) and on which a political agreement was reached in June 2015:

- Creation of a more transparent, better organised and more efficient system of early detection and exclusion of economic operators enhancing fraud prevention and the protection of the Union's financial interests:
- Extended and strengthened list of exclusion grounds
- Possibility to take into account the remedial measures
- Improved procedure to exclude companies and/or impose a financial penalty: a decision will be taken after a recommendation by a centralised panel
- Possibility for the Commission to intervene on grounds of strong evidence, without having to wait for a final judgment. When these procedures will be triggered by information resulting from an OLAF investigation, the service will be invited to present the evidence to the panel.
- Access for the other EU institutions, bodies, European offices and agencies to the early detection stage.

The annual report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests will contain information on the decisions taken concerning exclusion and financial penalty.

## 6. RECOVERY

The CAFS underlined the responsibility of Member States' authorities and Commission Services in the recovery of sums unduly paid.

The competent authorities of the Member States and of European institutions have to provide information on the actions they have taken following recommendations made by OLAF (Recital 32 of Regulation No 883/2013). Following this obligation, the Commission has set up a reporting system to monitor the recovery of sums unduly paid, covering both shared management and direct management. Based on the information provided by the competent authorities, OLAF reports the amounts recovered following investigations in its annual report.

*Table 2 Amounts recovered (\*) by the relevant authorities following OLAF's recommendations (million EUR)*

	2012	2013	2014
Customs and trade	33.9	76.5	135
Agricultural Funds	14.3	3.2	43
Structural Funds	33.4	33.7	22.7 (**)

External aid	12.8	2.5	2.5
New financial instruments	0.003	0.3	2.2
EU staff	0.05	0.8	0.9
Centralised expenditure	0.04	0	0.2
<b>Total</b>	<b>94.5</b>	<b>117</b>	<b>206.5</b>

(\*) In the context of this report, the term ‘recovery’ includes the results of recovery orders issued by the Commission or any other institution, body, office or agency, offsetting of debts, de-commitment of EU finances from projects or programmes, debt liability apportionment between the by Member States and recoveries of administrative expenditures from officials and other servants of the EU institutions, bodies, offices and agencies. Not all of these recovery transactions are individually identifiable in the institutions’ accounting systems. Commission and Member States in certain sectors and recoveries of EU funds (e.g. import duties) from economic operators

(\*\*) Of which EUR 7.1 million concerned the European Social Fund.

Source: The OLAF report 2014

## 7. OTHER PREVENTION INSTRUMENTS

As of 25 March 2015, the Transparency Register contains over 8,000 registrants (interest representatives). The revised Inter-Institutional Agreement (IIA) on the Transparency Register entered into force on 1 January 2015 and a new version of the online tool was launched on 27 January 2015. The Commission Work Programme 2015 foresees a proposal for a mandatory Register based on an IIA covering the Commission, the European Parliament and the Council.

## 8. CONCLUSION

After completing the priority actions of the CAFS in 2013, 2014 was a year of consolidation and further improvement of the anti-fraud cycle in the Commission. By completing the inclusion of anti-fraud clauses in the legal bases for financing decisions in the 2014-2020 programming period, a solid legal foundation has been established in the domain. Work continued in 2014 on the delegated and implementing acts and other proposals that touch upon the protection of the financial interests of the EU.

With the establishment of anti-fraud strategies at Commission Service level, the Commission established a central strategy in each service to address the risks of fraud. Implementation of action plans and updating of strategies continue. Best practice in fraud prevention and detection are shared between Services on a case-by-case basis and through the Fraud Prevention and Detection Network. Conditions for continuous improvement have thus been created and Commission services have embarked on this path in the implementation of anti-fraud actions and the updating of their anti-fraud strategies. Recognising these important first steps OLAF will, in line with IAS' recommendations, issue further guidance in the coming year to further improve the effectiveness of DGs' anti-fraud strategies.

Fraud training is critical in communicating anti-fraud policy and to raise fraud awareness of Commission Staff and was prominent on the agenda of the Commission in 2014.