EUROPEAN
COMMISSION

Brussels, 20.7.2017
COM(2017) 383 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Protection of the European Union's financial interests — Fight against fraud
2016 Annual Report

{SWD(2017) 266 final}
{SWD(2017) 267 final}
{SWD(2017) 268 final}
{SWD(2017) 269 final}
{SWD(2017) 270 final}

TABLE OF CONTENTS

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Protection of the European Union's financial interests — Fight against fraud 2016 Annual Report

EXECUTIVE SUMMARY

The 2016 annual report on the Protection of the European Union's Financial Interests (PIF Report') is presented by the Commission in cooperation with the Member States under Article 325 of the Treaty on the Functioning of the European Union (TFEU).

The report covers measures taken by the Commission and the Member States in the fight against fraud and presents their results. The Treaty requires close and regular cooperation between Member States and the Commission, and allows specific measures to be taken in order to provide equivalent and effective protection of the EU's financial interests. The Commission and the Member States protect the EU's financial interests from undue or irregular expenditure and from evasion of customs duties or other levies mainly via:

(a) preventive actions;
(b) investigative actions;
(c) corrective mechanisms;
(d) repressive measures.

Where analysis of this information has identified problems or risks, recommendations are made to address those issues.

Anti-fraud measures at EU level

In 2016, a large number of measures were taken to improve the legal and administrative framework for protecting the EU's financial interests:

- the Council, the European Parliament and the Commission reached political agreement on a proposal for a Directive on the fight against fraud to the Union's financial interests by means of criminal law;
- in the absence of unanimity on setting up a European Public Prosecutor's Office (EPPO), a large number of Member States decided at the beginning of 2017 to proceed with it in enhanced cooperation;
- the Commission launched an evaluation on the application of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by OLAF;
- the European Partners Against Corruption (EPAC)/the European Contact-Point Network against corruption (EACN) anti-corruption network adopted the Riga Declaration, aiming at strengthening the fight against corruption;
- sixteen Commission departments updated their Anti-Fraud Strategy;
- OLAF successfully negotiated anti-fraud provisions in EU international agreements;
- the Hercule III financing programme helps to boost the operational and administrative capacity of Member States' customs and other authorities.

On the expenditure side of the EU budget, significant progress was made in 2016 on further protecting the EU's financial interests:

- the Early Detection and Exclusion System (EDES) to protect the EU's financial interests started to apply on 1 January 2016;
- the Commission proposed to revise the Financial Regulation and specific sectoral financial rules (via the 'Omnibus' Regulation) with a view to making them simpler and more flexible;

- important guidance documents were prepared in the framework of the Advisory Committee for Coordination of Fraud Prevention (COCOLAF).

On the revenue side of the budget, the measures taken in 2016 further protected the EU's financial interests:

- the revised Regulation 515/97 on mutual administrative assistance in customs provides for two centralised databases containing information on container movements and on goods entering, leaving and transiting the EU;
- mutual assistance notices issued following Joint Customs Operations conducted by OLAF remained an important source of information for detecting irregularities in transactions involving certain types of goods;
- the fight against illicit trade in tobacco products remained a high priority for the EU and the Member States;
- the Commission adopted an action plan on VAT *Towards a single EU VAT area — Time to decide*, setting out measures to tackle the VAT gap and step up the fight against fraud.

Anti-fraud measures taken by Member States

Member States reported adopting 80 major measures to protect the EU's financial interests and fight fraud. Member States were invited to report **a maximum of three anti-fraud measures**. These measures, covering the entire anti-fraud cycle, mainly relate to funds under shared management and cover the following areas:

- public procurement;
- organised crime and corruption;
- conflicts of interest;
- AFCOS;
- the definition of fraud;
- anti-fraud strategy;
- anti-smuggling;
- whistle-blowers.

By the end of 2016, nine Member States had adopted a National Anti-Fraud Strategy. Two more Member States adopted their strategy at the beginning of 2017.

Public procurement was also the topic of many measures taken, as Member States had to transpose the 2014 Directives into their national law by April 2016.

Member States reported adopting measures against corruption and organised crime, plus other horizontal measures targeting tax havens, introducing e-tools for criminal proceedings, conducting anti-fraud training and raising fraud awareness.

Moreover, the majority of Member States reported on the number and nature of measures taken to follow up on the 2015 recommendations. The Commission encourages all Member States to take the recommendations of this year's report into consideration in a similar manner.

Detection and reporting of fraudulent and non-fraudulent irregularities that affect the EU budget

In 2016, **19 080 (fraudulent and non-fraudulent) irregularities** were reported to the Commission, involving a total of approximately EUR 2.97 billion. About EUR 2.43 billion concerns the expenditure sector of the EU budget.

The number of irregularities detected fell by 15 % compared with 2015, and their financial value fell by 8 %.

1 410 irregularities were reported as fraudulent in 2016, involving EUR 391 million, covering both expenditure and revenue.

Information on recoveries, financial corrections and other preventive and corrective measures is provided in the Annual Management and Performance Report, which as from 2016 includes the former annual Communication from the Commission to the European Parliament, the Council and the European Court of Auditors on the protection of the EU budget.

1. INTRODUCTION

Each year, under Article 325(5) of the Treaty on the Functioning of the European Union (TFEU), the Commission, in cooperation with the Member States, submits a report to the European Parliament and the Council on measures taken to counter fraud and any other illegal activities affecting the EU's financial interests.

The EU and the Member States share responsibility for protecting the EU's financial interests and fighting fraud. Member State authorities manage approximately 74% of EU expenditure and they collect Traditional Own Resources (TOR). The Commission oversees both of these areas, sets standards and verifies compliance. It is essential that the Commission and the Member States work closely together to ensure that the EU's financial interests are effectively protected. One of the main aims of this report is to assess this cooperation in 2016, and to see how it could be improved.

This report provides a summary of measures taken at EU and Member State level in 2016 to counter fraud. It also includes an analysis of the main achievements of national and European bodies in detecting and reporting fraud and irregularities relating to EU expenditure and revenue. The reporting system has significantly contributed to the protection of the EU's financial interests and to fighting fraud.

The report is accompanied by five Commission Staff Working Documents[1].

2. HORIZONTAL ANTI-FRAUD POLICIES, MEASURES AND RESULTS

2.1. Policy initiatives by the EU institutions

2.1.1. Proposal for a Directive on the fight against fraud to the EU's financial interests by means of criminal law

After four years of negotiation, a political agreement was reached in 2016 between the Council, the European Parliament and the Commission at a trilogue meeting on 30 November 2016. The so-called PIF Directive is expected to be adopted in 2017. Member States will have two years to transpose the Directive into national law.

The Directive will strengthen the existing legal framework by harmonising the definition of offences affecting the EU's financial interests (fraud, corruption, money laundering and misappropriation) as well as the penalties and statutes of limitations for such cases. It includes cross-border VAT fraud cases for total damages of at least EUR 10 million.

The Directive will replace the 1995 Convention on the protection of the European Communities' financial interests and its protocols (the PIF Convention)[2] for those Member States bound by the Directive[3].

---

1 (i) Implementation of Article 325 by the Member States in 2016;
(ii) Statistical evaluation of irregularities reported for 2016 own resources, natural resources, cohesion policy and pre-accession assistance;
(iii) Follow-up of recommendations to the Commission report on the protection of the EU's financial interests — fight against fraud, 2015;
(iv) Early Detection and Exclusion System (EDES) — Panel referred to in Article 108 of the Financial Regulation;
(v) Annual overview with information on the results of the Hercule III Programme in 2016.

2 Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interests, OJ C 316, 27.11.1995, p. 48.

2.1.2. Proposal for the establishment of a European Public Prosecutor's Office (EPPO)

The negotiations on the Commission's proposal for a Regulation on the establishment of the EPPO continued in 2016, under the Dutch and Slovak Presidencies. The Justice and Home Affairs Council meeting of 8 December 2016 considered the full text of the draft Regulation discussed during successive Presidencies. A majority of Member States considered the text as a good basis for further work and supported the principle of the establishment of the EPPO.

The negotiations on setting up the EPPO through enhanced cooperation continued in 2017, in view of the lack of unanimity in the Council.

2.1.3. Evaluation of Regulation (EU, Euratom) No 883/2013

In 2016, the Commission continued the evaluation of the application of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by OLAF. The evaluation, required by Article 19 of the Regulation, has to be submitted to the European Parliament and the Council by 2 October 2017.

2.1.4. Fighting corruption in the EU

In 2016, anti-corruption remained a priority in the European Semester process of economic governance. Several Member States received recommendations to take action to improve transparency or step-up anti-corruption efforts in public administration, the judiciary and public procurement.

The Commission continued its series of workshops under the EU Anti-Corruption Experience Sharing Programme for Member States experts.[4] Three workshops were held in 2016 on themes such as corruption in public procurement at the local level, political immunities and corruption in the private sector.

OLAF contributed with its expertise to several European and international anti-corruption fora, in particular EPAC/EACN[5]. This network, chaired until November 2016 by OLAF's Director-General, adopted the 'Riga Declaration' of November 2016[6] calling on European decision-makers to strengthen the fight against corruption.

2.1.5. Commission proposal to revise the Financial Regulation and certain sectoral financial rules (Omnibus)

In September 2016, the Commission proposed in a single act an ambitious revision of the general financial rules accompanied by corresponding changes to the sectoral financial rules set out in 15 legislative acts concerning multiannual programmes[7]. In designing simpler and more flexible EU financial rules, the Commission has made sure that it does not weaken

---

3 All 28 Member States except Denmark and the United Kingdom.

4 https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/experience-sharing-programme_en.

5 European Partners Against Corruption (EPAC) / the European Contact-Point Network Against Corruption (EACN).

6 http://www.epac-eacn.org/images/EPAC_EACN_Riga_Declaration_2016_FINAL.pdf.

7 COM(2016) 605, Proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and amending Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, EU No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014,(EU) No 283/2014, (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council.

sound financial management, which remains a key objective. The proposal also strengthens rules on tax avoidance to be obeyed by EU implementing partners and clarifies that the duty to avoid conflicts of interest fully applies to all modes of implementation of EU funds (including at Member State level). It also consolidates the systems in place to protect the EU budget against fraud and financial irregularities[8]. It simplifies EU financial rules to help reduce the expense and time needed to implement EU funds to cut the number of errors. It should also increase the impact of the policies and their results on the ground.

2.1.6. International cooperation

In order to better combat fraud against the EU budget beyond the borders of the EU, OLAF also negotiates anti-fraud provisions in EU international agreements such as association agreements and partnership agreements. In 2016, anti-fraud provisions were included in the EU-Armenia Comprehensive and Enhanced Partnership Agreement. The negotiations on the anti-fraud provisions in the Political Dialogue and Cooperation Agreement between the EU and Cuba were also finalised and the agreement was initialled on 11 March 2016.

With the objective of strengthening investigative cooperation beyond the EU's borders, OLAF concluded six administrative cooperation arrangements with partner authorities from non-EU countries and international organisations in 2016[9].

2.1.7. Commission Anti-Fraud Strategy (CAFS)

The Commission is considering updating the CAFS adopted on 24 June 2011[10]. The objective of the CAFS is to improve prevention, detection and investigation of fraud and ensure that adequate sanctioning, recovery and deterrence is high on the Commission's agenda.

The strategy has now been fully implemented, which means that all actions have been finalised or are ongoing. The focus is on sectoral strategies and action plans that tackle fraud in their specific policy areas. While keeping this approach, the updated strategy would further emphasise incorporating anti-fraud measures in the Commission's internal control systems, and in particular reporting on implementation of anti-fraud measures. The updated CAFS is planned to include a specific chapter on Traditional Own Resources (TORs) as a follow-up to the results of the 2016 audit of the Commission's Internal Audit Service (IAS) on the "*Performance and Coordination of Anti-fraud activities in the Traditional Own Resources (TOR) area"*.

All Commission departments (48 in total) have introduced sectoral Anti-Fraud Strategies (AFS) for the policy area under their responsibility. Each of these strategies must be regularly updated to reflect changes in the anti-fraud environment.

The Commission's Fraud Prevention and Detection Network (FPDNet) endorsed an updated methodology for such strategies. This consisted of further integrating anti-fraud measures into the strategic programming and planning (SPP) and monitoring cycle — from identifying the risk of fraud, to fraud control and monitoring. In this way, anti-fraud strategies form an integral part of Commission risk management, while maintaining the specific attention that fraud requires.

---

8 Extending the Commission's power to act with regard to the Early Detection and Exclusion System in direct and indirect implementation (see also section 7).

9 E.g. with the National Anti-Corruption Bureau of Ukraine and with the Belarus and Taiwanese customs authorities.

10 COM(2011) 376 final.

The 16 Commission departments that updated their strategy in 2016 reported that they had used the updated methodology and the guidance for the development of DGs' anti-fraud strategies provided by OLAF.

Example from EASME

In 2016, the Executive Agency for Small and Medium Enterprises (EASME) used the updated methodology to update its anti-fraud strategy. The agency's fraud risk assessment is now integrated in the annual risk assessment process. The main fraud risks that EASME faces are plagiarism and double funding, and intentionally inflated or false cost claims. These risks and actions to mitigate them are monitored closely in the annual risk management process.

EASME took mitigating measures and reinforced controls for these risks, while bearing in mind the principle of costs and benefits. This means that risk-based controls are applied and that high-risk projects are monitored more closely.

For certain risks (e.g. plagiarism), EASME participated in testing tools for the H2020 programmes, which are applied in all Commission departments active in research.

The implementation of the anti-fraud strategies is regularly monitored through the Commission performance cycle. Given that every policy area has specific fraud characteristics, there is no 'one size fits all' approach in anti-fraud activities. Most Commission services organise fraud awareness raising activities such as trainings and seminars.[11]

2.1.8. Implementation of the Hercule programme

The programme Hercule III[12] (2014-2020) promotes activities to counter fraud, corruption and any other illegal activities affecting the EU's financial interests. In 2016, the third year of its implementation[13], a budget of EUR 14.5 million was made available for:

- funding actions to strengthen the operational and technical capacity of customs and police forces in the Member States, as well as IT support, covering at least 70 % of the programme's budget;
- training activities and conferences, including digital forensic training for staff employed by law enforcement agencies in the Member States and partner countries, covering around 30 % of the budget.

The Commission (OLAF) started to receive the first reports, reflecting the tangible results of activities carried out since the programme started in 2014. Substantial successes were reported in relation to smuggled and counterfeit cigarettes and tobacco: seizures were made with the help of equipment and training funded under the programme[14].

[11] See COM (2017) 351 final, Part 2/2, p. 79.
[12] Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014.
[13] Commission Decision C(2016) 868 of 17 February 2016.
[14] For details, see SWD under footnote 1(v).

2.2. Measures taken by Member States

2.2.1. Summary

Member States were asked to report a maximum of three main anti-fraud measures. This summary gives a good overview of trends in and priorities for the anti-fraud measures implemented by Member States, but it is not exhaustive; many more measures have been taken which are detailed in an accompanying document[15].

In 2016, Member States reported on 80 measures to protect the EU's financial interests and fight fraud for the programming period 2014-2020.

Member States' measures covered the entire anti-fraud cycle, mostly in the area of shared management, followed by measures on public procurement, conflicts of interest, corruption, AFCOSs[16], the definition of fraud, anti-fraud strategy, organised and financial crime and whistle-blowers. Concerning the anti-fraud cycle, most of the measures concerned prevention, followed by detection, investigation and prosecution, recovery and sanctions. The majority were sectoral (73 %) rather than general (27 %). Twenty of the sectoral measures concerned revenue in the fields of tax fraud (60 %) and customs (40 %). Forty-one measures concerned expenditure, covering all areas of the budget.

2.2.1.1. National Anti-Fraud Strategies (NAFS)

By the end of 2016, nine Member States had adopted a national anti-fraud strategy and sent it to the Commission[17]. This is more than in 2015, and shows the Member States' commitment to adopting a strategic approach to combating fraud and irregularities detrimental to the EU and national budgets. The Commission welcomes these developments and calls on all other Member States to draft such strategies.

2.2.1.2. Anti-Fraud Coordination Services (AFCOS)

Several Member States adopted measures to improve such coordination services, including Denmark (with an AFCOS anti-fraud manual), France (a national anti-fraud strategy), Croatia (a management methodology to promote fraud prevention), Latvia (an operational strategy and action plan for 2017–2019), Malta (fraud prevention activities with other AFCOSs), the Netherlands (the creation of an AFCOS team), and Finland (launching a national AFCOS network).

2.2.1.3. Public procurement

There were a number of measures on public procurement, as Member States were required to transpose Directives 2014/23[18], 2014/24/EU[19] and 2014/25/EU[20] into their national law by April 2016. Ten Member States[21] reported taking measures to harmonise their national law on

---

15 For details, see SWD under footnote 1(i).

16 See section 2.2.1.2.

17 The nine Member States are: Bulgaria, Croatia, Czech Republic, France, Greece, Hungary, Italy, Malta and Slovakia. In addition, Latvia and Romania adopted a NAFS and sent it to the European Commission in the first quarter of 2017. Belgium, Netherlands and Poland reported that a procedure to draft a NAFS is ongoing, while Austria and Lithuania indicated the adoption of specific strategic documents.

18 OJ L 94, 28.3.2014, p. 1.

19 OJ L 94, 28.3.2014, p. 65.

20 OJ L 94, 28.3.2014, p. 243.

21 Bulgaria, Czech Republic, Greece, Spain, France, Cyprus, Latvia, Hungary, Romania and Estonia.

public procurement with EU law. Eleven Member States have yet to transpose the three Public Procurement Directives in full.

2.2.1.4. Other

Belgium, France, Lithuania, Romania, Slovenia and the Czech Republic reported measures against corruption and organised crime in 2016.

Various other measures were reported by the following Member States: Belgium (targeting tax havens), Spain (improved fraud detection), France (protection of whistle-blowers), Croatia (anti-fraud training), Italy (inspection campaigns), Lithuania (an e-tool for criminal proceedings), Hungary (anti-fraud training and more cooperation), the Netherlands (fraud awareness) and Austria (a central register of accounts).

2.2.2. Implementation of the 2015 recommendations

In the 2015 Report[22] on the protection of the EU's financial interests, the Commission recommended that the Member States:

(a) strike the right balance between trade facilitation and the protection of the EU's financial interests; exchange experiences on detecting fraud or irregularities at clearance; cooperate closely with one another on post-clearance controls/audits and incorporate information received through the CRMS[23], AFIS[24] or OWNRES[25] systems into risk management;
(b) adapt their customs controls strategies, taking into account the outcomes of voluntary admissions;
(c) further improve the quality of irregularity reporting information via the Irregularity Management System (IMS);
(d) plan and focus their audits and controls on the basis of risk analysis and performing IT tools and use tools such as ARACHNE[26], IMS and the Fraud Risk Assessment Tool.

Some Member States[27] reported that a balance between trade facilitation and the protection of the EU's financial interests had been achieved; others[28] are implementing measures to ensure this balance.

Eighteen Member States[29] forwarded information received from other Member States or the Commission departments to their national competent bodies for risk assessment and analysis.

A number of Member States[30] reported that they have taken into consideration the Commission's recommendation to adapt their yearly planning of staff and resources required

22 COM(2016) 472 final, 14.7.2016, pages 29-31.
23 Customs Risk Management System.
24 Anti-Fraud Information System.
25 Database for irregularity reporting in traditional own resources.
26 ARACHNE is a risk scoring IT tool for the ERDF, CF and ESF, developed by the European Commission put at disposal of national authorities.
27 Belgium, Bulgaria, Germany, Spain, France, Italy, Cyprus, Hungary, Poland, Romania, Finland and Sweden.
28 Denmark and Slovenia.
29 The Czech Republic, Denmark, Estonia, Ireland, Spain, France, Croatia, Italy, Cyprus, Lithuania, Hungary, the Netherlands, Poland, Romania, Slovenia, Slovakia, Finland and Sweden.
30 Belgium, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Hungary, the Netherlands, Poland, Slovakia and Sweden.

for verifying information received in the form of voluntary admissions. Several Member States[31] reported that they have included such information in risk analysis and management to minimise risk and use it for post-clearance examination.

The six Member States[32] that were specifically recommended to strengthen their systems in relation to detection and/or reporting of fraud, reported on the progress made. France and Lithuania explained the measures it had taken to improve the reporting of irregularities. Spain noted an increase in irregularities reported due to the efficiency of the detection system.

In relation to the use of risk analysis and IT tools (ARACHNE, IMS and the Fraud Risk Assessment Tool), some Member States[33] reported that they make use of some of these tools combined with their own tools, while other Member States[34] reported that they mainly use their own alternative tools. The IMS is widely used by all Member States[35] that provided information regarding this recommendation[36].

2.3. Summary of statistics concerning detected irregularities and fraud[37]

In 2016, 19 080 irregularities (fraudulent and non-fraudulent) were reported to the Commission, 15 % fewer than in 2015. They involved a total of approximately EUR 2.97 billion, 8 % down from the previous year.

The detection of an irregularity implies that corrective measures have been taken in order to recover the irregular financial amounts involved and that criminal proceedings have been begun if fraud is suspected.

2.3.1. Detected fraudulent irregularities

The number of irregularities reported as fraudulent (which includes cases of suspected or established fraud) and the related amounts cannot be seen in correlation with the level of fraud affecting the EU budget. Irregularities reported as fraudulent rather indicate how many cases of potential fraud are being detected by Member States and EU bodies.

In 2016, 1 410 irregularities were reported as fraudulent (i.e. 6 % of all irregularities detected and reported[38]), involving EUR 391 million (representing 13 % of the total financial amounts affected by irregularities[39]), covering both expenditure and revenue. Differences exist between sectors, as shown in Table 1.

---

31 Belgium, Germany, Estonia, Spain, France, Italy, Cyprus, Hungary, the Netherlands, Poland, Sweden and the United Kingdom.

32 Spain, France, Lithuania, Austria, Finland and the United Kingdom.

33 Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia and the United Kingdom.

34 Ireland, Malta, Finland and Sweden.

35 Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and the United Kingdom.

36 For details, see the SWD, footnote 1 (iii).

37 For a detailed analysis of the reported irregularities, see the SWD, footnote 1 (ii).

38 This indicator is described as the fraud frequency level (FFL). See section 2.3.2 of the Commission staff working document *Methodology regarding the statistical evaluation of reported irregularities for 2015* SWD(2016) 237 final.

39 This indicator is described as the fraud amount level (FAL). See footnote 38.

Table 1: Irregularities reported as fraudulent in 2016

Budget sector (expenditure)	N° of irregularities reported as fraudulent	Variation in relation to 2015	Involved amounts (in million EUR)	Variation in relation to 2015	As % of payments
Natural resources	**413**	**-3%**	**61.8**	**-13%**	**0.11%**
Agriculture market support and direct payments	*128*	*-29%*	*12.4*	*-68%*	*0.03%*
Rural development	*284*	*22%*	*49.4*	*72%*	*0.44%*
Both	*1*	*-92%*	*0.0*	*-99%*	*n/a*
Cohesion Policy & Fisheries	**407**	**4%**	**236.9**	**-51%**	**0.48%**
ESIF 2014-20	*3*	*200%*	*0.9*	*497%*	*0.00%*
Cohesion 2007-2013	*390*	*8%*	*234.3*	*-45%*	*n/r*
Structural and cohesion funds before 2007-2013	*4*	*-60%*	*0.8*	*-98%*	*n/r*
Fisheries	*10*	*-47%*	*0.9*	*-71%*	*0.10%*
Internal Affairs	**0**	**-**	**0**	**-**	**0.00%**
FEAD, AMIF	*0*	*-*	*0.0*	*-*	*0.00%*
ISF	*0*	*-*	*0.0*	*-*	*0.00%*
Pre-accession	**28**	**-3%**	**3.0**	**-62%**	**0.19%**
Pre accession assistance (2000-2006)	*3*	*-67%*	*1.8*	*-70%*	*n/r*
Instrument for Pre-Accession (2007-2013)	*25*	*25%*	*1.2*	*-31%*	*n/r*
Instrument for Pre-Accession (2014-2020)	*-*	*-*	*-*	*-*	*0.00%*
Direct expenditure	**49**	**880%**	**6.3**	**3025%**	**0.03%**
Total expenditure	**897**	**6%**	**308.0**	**-45%**	**0.21%**

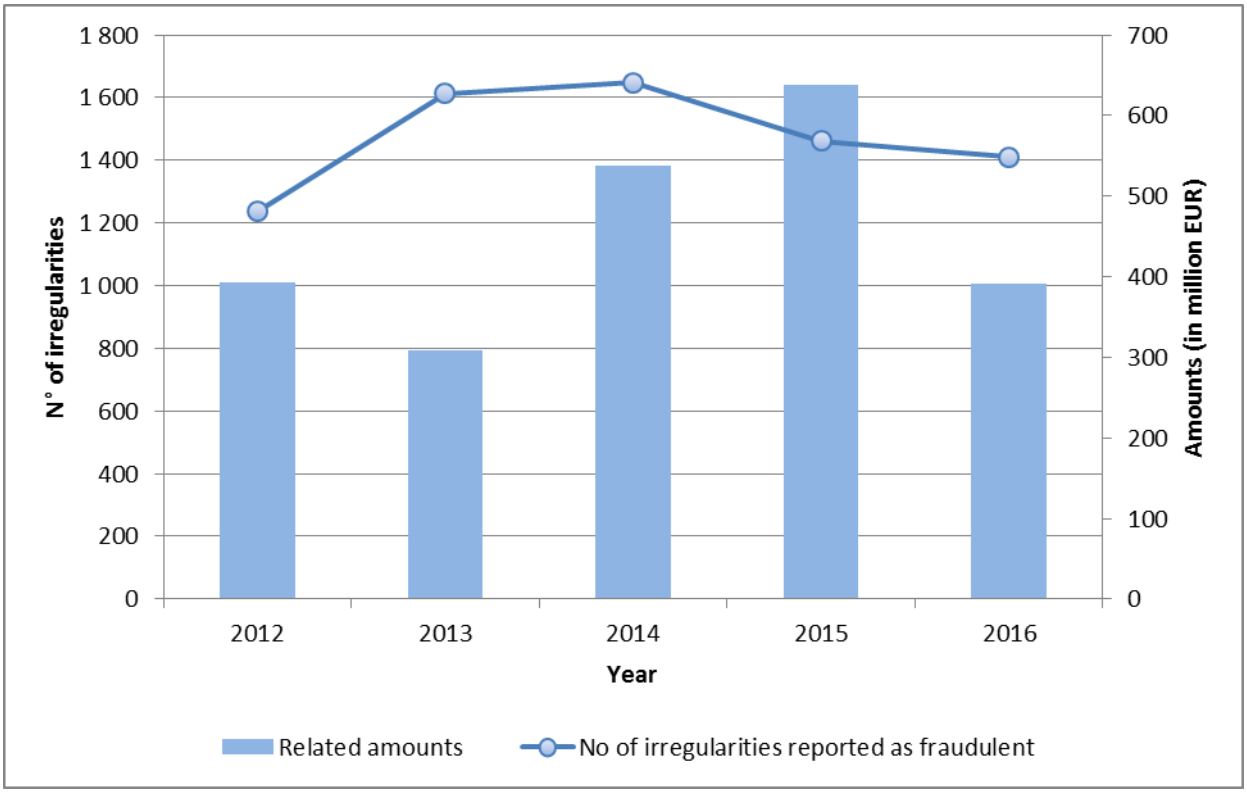
Budget sector (revenue)	N° of irregularities reported as fraudulent	Variation in relation to 2015	Involved amounts	Variation in relation to 2015	As % of gross amount of TOR collected for 2016
Revenue (traditional own resources)	**513**	**-16%**	**83**	**6%**	**0.33%***
TOTAL	**1 410**	**-3%**	**391.0**	**-39%**	**/**

Compared to 2015, the number of fraudulent irregularities reported in 2016 fell slightly, by 3 %, while their financial impact decreased by 39 %. Looking at the last 5 years (2012-2016), the number of irregularities reported as fraudulent has changed little since 2013: it was 14 % higher in 2016 than in 2012, 4 % below the five-year average. The financial impact, however, fluctuates greatly, as the amounts at stake can be affected by individual cases involving very large sums.

Chart 1 shows the overall trends over the last five years.

There are some minor differences in the year-to-year variations between **revenue** and **expenditure**.

Chart 1: Irregularities reported as fraudulent and their related amounts, 2012-2016



A breakdown of all fraudulent irregularities reported in 2016, by Member State and by budget sector, is set out in Annex 1.

2.3.2. Detected and reported non-fraudulent irregularities

In 2016, the Commission was notified of 17 670 irregularities not reported as fraudulent (about 15 % less than in 2015). The figures fell for all sectors except direct expenditure. The financial impact was almost unchanged at approximately EUR 2.58 billion, as shown in Table 2.

Annex 2 shows a breakdown of all non-fraudulent irregularities reported in 2016 by Member State and by budget sector.

Table 2: Irregularities not reported as fraudulent in 2016

Budget sector (expenditure)	N° of irregularities not reported as fraudulent	Variation in relation to 2015	Involved amounts (in million EUR)	Variation in relation to 2015	As % of payments
Natural resources	**3 489**	**-17%**	**211.2**	**-35%**	**0.39%**
Agriculture market support and direct payments	*1056*	*-15%*	*74.9*	*-43%*	*0.17%*
Rural development	*2409*	*-16%*	*134.7*	*-28%*	*1.21%*
Both	*24*	*-72%*	*1.6*	*-69%*	*n/a*
Cohesion Policy & Fisheries	**8 090**	**-23%**	**1 826.2**	**2%**	**3.74%**
ESIF 2014-20	*111*	*11000%*	*6.0*	*37702%*	*0.00%*
Cohesion 2007-2013	*7670*	*-21%*	*1 785.0*	*6%*	*n/r*
Structural and cohesion funds before 2007-2013	*50*	*-92%*	*8.0*	*-91%*	*n/r*
Fisheries	*259*	*42%*	*27.2*	*40%*	*2.89%*
Internal Affairs	**4**	**-**	**0.7**	**-**	**0.00%**
FEAD, AMIF	*3*	*-*	*0.5*	*-*	*0.00%*
ISF	*1*	*-*	*0.2*	*-*	*0.00%*
Pre-accession	**92**	**-6%**	**7.6**	**45%**	**0.49%**
Pre accession assistance (2000-2006)	*5*	*-29%*	*0.3*	*-75%*	*n/r*
Instrument for Pre-Accession (2007-2013)	*86*	*-5%*	*7.1*	*75%*	*n/r*
Instrument for Pre-Accession (2014-2020)	*1*	*-*	*0.2*	*-*	*0.00%*
Direct expenditure	**1861**	**16%**	**78.0**	**-30%**	**0.42%**
Total expenditure	**13 536**	**-17%**	**2 123.7**	**-5%**	**1.48%**

Budget sector (revenue)	N° of irregularities not reported as fraudulent	Variation in relation to 2015	Involved amounts	Variation in relation to 2015	As % of gross amount of TOR collected for 2016
Revenue (traditional own resources)	**4 134**	**-8%**	**454**	**30%**	**1.81%***
TOTAL	**17 670**	**-15%**	**2 577.7**	**0%**	**/**

3. ANTI-FRAUD POLICIES, MEASURES AND RESULTS — REVENUE

3.1. Anti-fraud measures in revenue by the EU institutions

3.1.1. Mutual Administrative Assistance (MAA) — Regulation 515/97

3.1.1.1. Legislative developments

Regulation (EU) 2015/1525[40], amending Regulation (EC) 515/97[41] on Mutual Administrative Assistance in customs matters, provides for the creation of two centralised databases containing information on container movements and on goods entering, leaving and transiting the EU. These databases became operational on 1 September 2016. In addition, the following acts were adopted in 2016 to foster mutual assistance in customs: Delegated Regulation (EU) 2016/757[42], Implementing Regulation (EU) 2016/345[43] and Implementing Regulation (EU) 2016/346[44].

3.1.1.2. Implementation of Article 43b of Regulation 515/97

Regulation (EU) 2015/1525 introduced a new Article (43b) requiring the Commission to assess the need to extend the container status message (CSM)[45] directory[46] and the import,

40 OJ L 243, 18.9.2015, p. 1.
41 OJ L 82, 22.3.1997, p. 1.
42 OJ L 126, 14.5.2016, p. 1.
43 OJ L 65, 11.3.2016, p. 38.
44 OJ L 65, 11.3.2016, p. 40.
45 See section 3.1.1.3.

export and transit (IET) directory to export data not limited to excisable goods. The Commission is also required to assess the feasibility of extending the transport directory to data on the import, export and transit of goods by land and air.

Given that these directories became operational only on 1 September 2016, it would be premature to expand them to other categories of data at this stage. However, the Commission is currently conducting the assessments, focusing in particular on the added value of the additional export data. In this context, internal consultations and consultation with the Member States' authorities are ongoing[47]. As to the feasibility of extending the transport directory to other means of transport, Regulation (EC) 515/97 already provides the legal basis for receiving data. The focus is currently on identifying sources of additional data, possibly using data collected under the Import Control System (ICS) II project. The Commission will present its findings in the next PIF report.

3.1.1.3. The Anti-Fraud Information System (AFIS)

The AFIS is an umbrella of anti-fraud applications operated by OLAF, using common technical infrastructure. It is an important IT tool for many administrations and other users involved in protecting the EU's financial interests. The AFIS also enables substantial economies of scale and synergies in the development, maintenance and operation of such a wide and diverse set of IT services and tools, aiming at:

- timely and secure exchange of fraud-related information between the competent national and EU administrations;
- the storage and analysis of relevant data.

The AFIS covers two major areas:

- mutual assistance in customs matters;
- irregularities management.

By the end of 2016, AFIS had 8 700 registered end-users on behalf of more than 1 800 competent services in Member States, non-EU partner countries, international organisations, Commission departments and other EU bodies. In 2016, AFIS users exchanged 16 900 mail messages. A total of 13 800 cases were available in the AFIS mutual assistance databases and modules.

The Irregularity Management System (IMS), operated under the AFIS platform, received 43 600 new communications on irregularities from Member States and candidate countries.

Two new IT systems provided for in the amended Council Regulation (EC) 515/97 have gone live:

- the Container Status Messages (CSM) directory;
- the Import, Export and Transit (IET) directory.

---

[46] The CSM directory contains information on the physical movements of any container imported by a maritime vessel into the EU, and of exported containers containing excise goods. This information, in the form of CSMs, is sent by the carriers directly to OLAF.

[47] The results will be discussed at the meeting of the Expert Group on Mutual Assistance in Customs Matters to be held on 29–30 June 2017.

The AFIS received 182 million CSMs in 2016. The IET directory contains declaration data on import and transit of goods and on the export of excise goods.

Some 2 million export declarations and related messages were processed. The Anti-Fraud Transit Information System (ATIS) received information on 6.7 million new transit consignments. These are also available in the IET directory.

The AFIS was used for secure access and exchange of information in eleven Joint Customs Operations (see next section).

3.1.1.4. Joint Customs Operations (JCOs)

JCOs are brief, coordinated and targeted operations implemented by customs authorities to combat illicit cross-border trafficking in goods.

OLAF coordinated and cooperated with Member States in 12 JCOs and other operational actions. One JCO was organised by the World Customs Organisation with intelligence support from OLAF. Four JCOs were organised in cooperation with four Member States and financed by OLAF.

To facilitate coordination in JCOs with a large number of participants, OLAF:

- provided intelligence, technical and/or financial support;
- ensured secure access and exchange of information via the AFIS;
- made its permanent operational coordination room available to the authorities involved.

Of the 12 JCOs and other actions, the following stand out:

The Magnum JCO targeted smuggling of tobacco products transported by road into EU territory across the EU's eastern border. It was coordinated by the Estonian customs administration and OLAF, with the involvement of five Member States. Around 11 million cigarettes were seized during the operation.

The Warehouse III JCO targeted smuggling and removal of excise goods (tobacco products, mineral oil/ fuels and certain alcohols) from duty and tax suspension arrangements. It was coordinated by the Finnish customs administration and OLAF with the involvement of all Member States and the support of Europol. The results of this operation are still under evaluation.

The Orion JCO targeted goods originating from non-EU countries and released into free circulation using customs procedure 42[48]. It was coordinated by the Greek customs administration and OLAF with the involvement of the customs authorities of 23 Member States in close cooperation with the tax authorities. Europol supported the operation. This JCO led to customs uncovering several instances of undervaluation and misclassification of goods at import, as well as a string of missing traders who 'disappeared' in order to evade customs duties and VAT.

[48] Customs procedure 42 provides for non-EU goods to be released into free circulation in an EU Member State exempted from import VAT on condition that the goods will be transported to another Member State in an intra-Community transaction.

The Wafers JCO targeted counterfeit semiconductors imported into the EU from Asia by post/express courier services. The results of this operation are still under evaluation. It was coordinated by the Dutch Customs and OLAF with the involvement of 12 Member States and the support of Europol, in close cooperation with the industry.

Operations Kerguelen, Kiribati, Killick, Kheops and Pascal — These regional maritime surveillance operations, coordinated by French customs targeted the detection of illicit trafficking of sensitive goods by sea, in the Atlantic and the Mediterranean. The operations resulted in seizures of over 8 tonnes of cannabis resin and 400 kg of cocaine and the arrest of 17 people.

The Hansa joint action, driven by the United Kingdom Customs in cooperation with Europol and the support of OLAF, targeted internal movement of illegal excisable goods, mainly cigarettes. The final evaluation is still ongoing.

Operation Octopus organised by French customs in cooperation with OLAF, targeted revenue fraud involving customs procedure 42 and helped uncover various fraudulent companies and large amounts of evaded customs duties and VAT. As a result of the increased controls, more than 6 000 counterfeit items were seized.

Operation Gryphon II, organised by the World Customs Organisation with the participation of OLAF, targeted the illicit tobacco trade. The operation resulted in seizures of 729 million cigarettes, 287 000 cigars and 250 tonnes of other tobacco products, as well as components of machines used to manufacture cigarettes, bulk cash and more than 12 million excise duty stamps.

3.1.2. Mutual Assistance and anti-fraud provisions in international agreements

In the context of Article 19 of Regulation (EC) 515/97 the list of mutual administrative assistance agreements[49] in force providing the legal basis for the exchange of information with third countries on fraud and irregularities was expanded to include the following partners in 2016: Kazakhstan, Ivory Coast, Ghana and Kosovo*. In addition, negotiations to update the previous agreement were finalised with Armenia. Negotiations with Mercosur (Argentina, Brazil, Paraguay and Uruguay) have made good progress.

The EU also made progress in ongoing negotiations on including an anti-fraud clause in free trade agreements with Japan, the US, Mexico, Mercosur and Tunisia.

3.1.3. Fight against illicit trade in tobacco products

The Commission is reviewing the preliminary outcome of its 2013 Communication *Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products — A comprehensive EU strategy*[50], which came with a comprehensive action plan. A progress report giving an overview of the main initiatives taken since then, an analysis of the illicit

[49] More than 70 agreements are currently in place, including major EU trade partners such as the US, China and Japan.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

[50] COM(2013) 324 final.

market in tobacco products and suggestions for further reflection and action was published in May 2017[51].

3.1.4. Fight against VAT fraud

The Commission adopted an action plan *Towards a single EU VAT area — Time to decide*[52] on 7 April 2016. It set out 20 measures to tackle the VAT gap and fight fraud[53]and proposed addressing the provisional VAT system's current exposure to so-called missing trader intra-Community fraud by setting up a definitive VAT system based on the destination principle and implementing more urgent measures to tackle the VAT gap.

The VAT gap report[54] published in 2016 revealed a VAT gap of EUR 159.5 billion. An expert group was set up under the Fiscalis programme to allow Member States to exchange good practice in measuring the VAT fraud gap.

On 21 December 2016, the Commission adopted a proposal for a Council Directive allowing a generalised reverse charge mechanism[55] (GRCM) to be applied temporarily if a certain number of Member States requests it.

Member States and the Commission continued their discussion on new ways to boost the activities of the Eurofisc network in order to detect fraud schemes more efficiently.

Negotiations on an EU agreement on administrative cooperation and recovery assistance in VAT with Norway were concluded and the agreement is set to be signed in 2017.

3.2. Member States' anti-fraud measures in revenue

Most Member States reported measures to fight customs fraud. Denmark and France reported on a national risk analysis; Italy and Portugal reported on a national customs risk assessment; while Austria and Slovenia reported on a national customs control strategy. Measures to fight organised and financial crime and anti-smuggling were reported by Bulgaria, Greece and Finland. Measures to fight tax evasion and VAT fraud were reported by Bulgaria, Czech Republic, Ireland, Lithuania, Latvia and Poland.

3.3. Statistics concerning detected irregularities and fraud in Revenue

3.3.1. Detected fraudulent irregularities[56]

The number of irregularities reported as fraudulent for 2016 amounts to 513 (FFL[57] is 11%). This is 32 % lower than the five-year average (749 irregularities for the period 2012-2016). The affected amount of TOR estimated and established (EUR 83 million, FAL[58] is 15%) in 2016 is 30 % lower than the five-year average (EUR 119 million).

---

51 COM(2017) 235 final.
52 COM(2016) 148 final.
53 https://ec.europa.eu/taxation_customs/business/vat/action-plan-vat_en
54 TAXUD/2015/CC/131,https://ec.europa.eu/taxation_customs/sites/taxation/files/2016-09_vat-gap-report_final.pdf.
55 Proposal for a Council Directive amending Directive 2006/112/EC, COM(2016) 811 final.
56 Information concerning recovery of TOR amounts affected by fraud and irregularities is given in the SWD, under footnote 1(ii).
57 See footnote 38.
58 See footnote 39.

Inspections by anti-fraud services and customs controls carried out at the time of goods clearance were equally successful methods of detecting fraudulent cases. In terms of amounts, inspections by anti-fraud services were the most fruitful.

Cases of undervaluation detected in the United Kingdom affecting TOR revenue

The Commission services' inspection on TOR in November 2016 in the UK found significant weaknesses in the management and control of undervalued imports of textiles and footwear.

OLAF also concluded an investigation in March 2017 on the undervaluation of textiles and footwear imported to the UK from the People's Republic of China. It found that appropriate measures were not taken to prevent systematically undervalued imports of textiles and footwear from China from entering the EU through the UK. This resulted in very significant losses to the EU budget between 2013 and 2016.

These elements led the Director-General for Budget to make a reservation in the 2016 Annual Activity report on the inaccuracy of the TOR amounts transferred to the EU budget by the United Kingdom since 2013.

The Commission is following up with the UK on the findings of its audit and the OLAF reports. In the event the UK does not take appropriate corrective action, the Commission will take all appropriate measures to protect the financial interests of the Union including, where appropriate, the legal action envisaged by the Treaties.

3.3.2. Detected and reported non-fraudulent irregularities

The number of irregularities not reported as fraudulent was 4 134, which is 9 % lower than the five-year average (4 532 for 2012-2016). The affected amount of TOR estimated and established was EUR 454 million, which is 28 % higher than the five-year average (EUR 355 million).

Although the total number of fraudulent and non-fraudulent cases dropped from 5 514 cases in 2015 to 4 647 in 2016 (down by 16 %), the total TOR amounts involved increased from EUR 445 million to EUR 537 million (up 21 %).

Non-fraudulent irregularities were primarily detected by means of post-clearance controls.

In 2016, solar panels were most affected by fraud and irregularities in monetary terms. In many instances irregularities involving solar panels were detected following a mutual assistance notice issued by OLAF. This underlines the importance of investigations conducted by OLAF to detect irregularities.

3.3.3. Results of the European Anti-Fraud Office[59]

OLAF opened 40 investigations into suspected evasion of import duties. It concluded 30 investigations and made 71 financial recommendations to EU national customs authorities for the recovery of evaded duties, worth EUR 103.7 million. Eight recommendations for judicial action were sent to EU national judicial authorities.

[59] https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2016_en.pdf

4. SECTORAL ANTI-FRAUD POLICIES, MEASURES AND RESULTS — EXPENDITURE

4.1. Agriculture — Sectoral anti-fraud policies, measures and results

4.1.1. Agriculture — Anti-fraud measures by Member States

Seven Member States reported taking anti-fraud measures specific to agricultural funds as follows: Germany organised anti-fraud training, Greece adopted measures on fraud prevention, Luxembourg focused on detecting fraud in agriculture, Poland carried out a fraud risk analysis for agriculture, Slovenia introduced a computerised accounting system, Slovakia introduced new internal procedures and checklists, and the United Kingdom implemented sectoral anti-fraud strategies.

4.1.2. Agriculture — Statistics on detected irregularities and fraud

The Common Agricultural Policy (CAP) is financed by two funds, the European Agricultural Guidance Fund (EAGF — about 80 % of the CAP budget) and the European Agricultural Fund for Rural Development (EAFRD — the remaining 20 %), which function differently. The EAGF follows an annual implementation, while the EAFRD finances multiannual programmes. The EAGF is divided into two main areas: direct payments to farmers and market support measures.

The trend over the last five years of irregularities detected and reported by Member States to the Commission reflects these differences, with the EAGF showing an even curve and the EAFRD reflecting the multiannual cycle. The pattern of irregularities detected by Member States confirms the higher inherent risk of EAFRD investments. However, detected irregularities related to market support measures also indicate that more could be done in this area.

4.1.2.1. Detected fraudulent irregularities

Of the irregularities reported as fraudulent by Member States over the last five years, 60 % concern the EAFRD and 40 % the EAGF. The FFL[60] is 12.5 %, while the FAL[61] is 24 %.

For the EAFRD, the most frequently detected *modus operandi* is the use of false or falsified supporting documentation. However, in the last two years, 'ethics and integrity' breaches (a category which includes cases of 'corruption' and 'conflicts of interest') have been rising. They were frequently detected in 2016 and may be linked to the decentralised management structure of many EAFRD programmes. On the other hand, the fact that so many cases are detected and reported also implies that Member States are paying increasing attention to these issues.

Fraudulent irregularities in the EAFRD over the last five years represent about 0.5 % of payments.

For the EAGF, over the last 5 years, fraudulent irregularities represent a smaller percentage of budget commitments than for the EAFRD. The impact on direct payments is 0.03 %.

However, the situation is different for market measures (which represent only 7 % of the EAGF commitments): the impact on the payments is 1.1 %. The main measures concerned are: 'Fruit and vegetables', 'Products of the wine-growing sector' and 'Pigmeat, eggs and

[60] See footnote 38.
[61] See footnote 39.

poultry, bee-keeping and other animal products'. The financial amounts reported mainly reflect significant financial corrections imposed by the Commission on the Member States, following its own audits. National authorities have to recover the unduly paid amounts from the beneficiaries. This shows that due to the Commission's audits the overall system is working properly, but that Member States could do more to ensure regularity and legality of expenditure in this area.

The most frequently detected *modus operandi* categories for the EAGF are 'false or falsified: declarations, supporting documents, request for aid' and 'declaration of fictitious product, species and/or land', in line with previous years.

4.1.2.2. Detected and reported non-fraudulent irregularities

Trends in non-fraudulent irregularities are as described in section 4.1.2.

For EAGF expenditure, there is again a significant difference between direct payments and market measures. While, for the former, the impact on payments over the last five years is 0.07 %, for the latter it is 1.5 %. For the EAFRD, the impact on 2012-2016 payments of non-fraudulent irregularities is 2.1 %.

4.1.2.3. Results from the European Anti-Fraud Office

Financial recommendations by OLAF over the last five years are stable at about EUR 60 million per year.

4.2. Cohesion policy and fisheries — Sectoral anti-fraud policies, measures and results

4.2.1. Cohesion policy and fisheries — Anti-fraud measures by Member States

The majority of Member States reported adopting measures in this area:

Belgium on conflict of interest, Bulgaria on administration of irregularities and ARACHNE, Denmark on managing suspected fraud cases, Germany on European Social Fund management and control systems as well as self-assessment of fraud risks in the European Regional and Development Fund, Ireland on anti-fraud measures specific to ERDF, Finland concerning their beneficiary information system, Croatia on irregularity management, Italy on preventing fraud in fisheries, Cyprus on a fraud risk self-assessment tool, Luxembourg on ARACHNE and a fraud risk self-assessment tool, Malta on irregularity reporting, the Netherlands and the United Kingdom on ARACHNE, Austria on a verification procedure, Poland on IT tools in public procurement, Slovenia on computerised accounting system, Finland on anti-fraud training, and Sweden on economic crime and risk analysis.

4.2.2. Cohesion policy and fisheries — Statistics on detected irregularities and fraud

In comparison with the other budget sectors, analysis of cohesion policy involves a higher level of complexity because the information received (reported irregularities) relates to different programming periods governed by different sets of rules.

Furthermore, the programming cycles are multiannual and this significantly affects the underlying trends. Given the similarity in the management of the funds, fisheries and cohesion policy are analysed together.

In 2016, 8 497 irregularities were detected and reported (22 % less than in 2015[62], but 25 % more than the average for the last five years). They concern four different programming periods, with the largest share relating to 2007-2013 (97 %) and only 115 to the 2014-2020 programme. The financial amounts affected by irregularities in 2016 came to EUR 2.06 billion, remaining fairly stable (5 % less than in 2015 and 8 % more than the average of the last five years).

No major shifts in trends were identified in comparison to previous years, in terms of types of irregularities detected and detection and reporting efficiency.

4.2.2.1. Detected fraudulent irregularities

407 fraudulent irregularities were detected and reported, 4 % more than in 2015, while still over 17 % more than the average of the last five years.

The bulk of reported irregularities were for 2007-2013, therefore this year's analysis focused on the whole programming cycle[63]. For the whole period, 1 750 fraudulent irregularities were detected and reported by national authorities, worth EUR 1.48 billion, with a fraud detection rate of 0.42 %.

The detection rate is higher for programmes contributing to the 'convergence' objective. The European Territorial Cooperation programmes (ETC), by contrast, the detection rate is anomalously low (0.1 %).

The priorities areas with the highest fraud indicators are: 'Tourism', 'Research and technological development (R&TD)', 'Transport', 'Investment in social infrastructure' and 'Technical Assistance Fisheries'.

4.2.2.2. Detected and reported non-fraudulent irregularities

8 090 non-fraudulent irregularities were detected and reported, almost 23 % less than in 2015 and 26 % more than the average of the last five years.

Over the 2007-2013 programming period, 35 360 non-fraudulent irregularities were detected and reported, worth almost EUR 7.3 billion, an irregularity detection rate of 2.1 %. The priorities areas with the highest indicators are the same as for fraudulent irregularities.

4.2.2.3. Results from the European Anti-Fraud Office

The bulk of OLAF's financial recommendations concerns cohesion policy. OLAF recommended recovery of EUR 353 million.

4.3. Indirect management (Pre-accession) — Sectoral anti-fraud policies, measures and results

4.3.1. Indirect management (pre-accession) — Statistics on detected irregularities and fraud

The analysis of irregularities relating to indirect management focuses on Pre-accession instruments.

---

[62] 2015 was an unusual year: see sections 5.1 and 5.3.2 of the *2015 Annual Report to the European Parliament and the Council on the Protection of the EU financial interests and the fight against fraud*, (COM(2016) 472 final), http://ec.europa.eu/anti-fraud/sites/antifraud/files/pifreport_2015_en.pdf.

[63] The programming period closure started at the end of March 2017.

Reported irregularities still concern two main periods. The 2000-2006 Pre-Accession Assistance (PAA) programmes, aimed at preparing the accession waves of 2004 and 2007, and the 2007-2013 Pre-accession instruments (IPA) used in the European Neighbourhood policy, which mainly address the Balkan countries and Turkey.

Overall, reported irregularities were unchanged from 2015, while the five year trend (2012-2016) shows a steady decline, due to the phasing out of initiatives linked to the latest enlargement waves. In 2016, only eight irregularities, involving EUR 2 million, were reported in relation to PAA (as against 15 in 2015); 111, affecting EUR 8.3 million, were reported in relation to the IPA (as against 109 in 2015).

Regarding PAA, only three fraudulent irregularities were detected and reported, worth EUR 1.8 million. In relation to the IPA, the number of fraudulent irregularities detected increased to 25 (from 21 in 2015), involving EUR 1.2 million.

The main area concerned is still rural development support.

4.3.2. Results from the European Anti-Fraud Office

As a result of its investigations in these areas, OLAF recommended that the Commission recover EUR 7.1 million.

4.4. Direct management — Sectoral anti-fraud policies, measures and results

4.4.1. Direct management — Statistics on detected irregularities and fraud

Statistics on direct management are based on recovery orders issued by Commission departments that are recorded in the Commission's Accrual-Based Accounting System, ABAC.

4.4.1.1. Detected fraudulent irregularities

In 2016, ABAC recorded 49 recovery items classed as fraudulent[64], which accounted for EUR 6.25 million. Comparing this to the total funds effectively disbursed, the fraud detection rate is 0.03 %, a level that has remained stable over the past five years.

4.4.1.2. Detected and reported non-fraudulent irregularities

Regarding non-fraudulent irregularities, 1 861 recovery items totalling EUR 78 million were recorded in 2016. Over a five-year period, the irregularity detection rate remained stable at around 0.5 %.

4.4.1.3. Results from the European Anti-Fraud Office

Following investigations in these areas, OLAF recommended the recovery of EUR 22.3 million.

5. RECOVERY AND OTHER PREVENTIVE AND CORRECTIVE MEASURES

Detailed information on recoveries, financial corrections and other preventive and corrective measures (interruptions and suspension of payments) are published in the Annual Management and Performance Report, which as from 2016 includes the former annual

[64] Referred to in the system as 'OLAF notified' cases.

Communication from the Commission to the European Parliament, the Council and the European Court of Auditors on the protection of the EU budget.[65]

6. COOPERATION WITH THE MEMBER STATES

The 2016 meeting of the Advisory Committee for Coordination of Fraud Prevention (COCOLAF) bringing together Member States experts provided an opportunity to discuss the main developments in the fight against fraud and the preparation of the report *Protection of the European Union's financial interests — Fight against fraud 2015*, required under Article 325 TFEU.

The COCOLAF subgroups met in 2016 to:

- prepare the irregularity reporting guidance document and the launch of the new IMS;
- draw up fraud prevention documents;
- share media strategies;
- launch communication activities on fraud prevention and deterrence.

Two guidance documents were prepared under the subgroups:

- Reporting and Analysis sub-group: *Handbook on the requirement to report irregularities*[66], which provides guidance on common aspects of Member States' reporting of irregularities in connection with EU budget expenditure as part of shared management for the 2014-2020 programming period.
- Fraud Prevention sub-group: 'General Guidelines on National Anti-Fraud Strategies, for Member States drawing up their national strategy. The document is a revised and enlarged version of the 2014 guidelines: it is a more comprehensive document covering all shared management expenditure and includes concrete examples of Member States' best practices.

Both documents were drafted following a collaborative approach with Member States' experts, coordinated by OLAF.

The third AFCOS Group meeting took place on 27 October 2016 and was an opportunity for coordination services to discuss key factors for successful investigative cooperation with OLAF. OLAF presented several developments in different policy areas, e.g. the evaluation of Regulation 883/2013 and the European Public Prosecutor's Office (EPPO).

In addition, the OLAF Anti-Fraud Communicators' Network subgroup met in 2016 to discuss the role of investigative journalism in the fight against EU-wide fraud, share experience on a Transparency International anti-corruption project and participate in a hands-on session on how to develop a successful communication strategy, among other activities.

The Council's Working Party on Combating Fraud (GAF) exchanged views with the Commission on anti-fraud matters. Four GAF meetings took place in 2016: three under the Dutch presidency and one under the Slovak Presidency.

---

65 The AMPR is part of the EU budget integrated financial reporting package, COM(2017) 351 final.

66 This document still needs to be finalised and formally adopted.

7. EARLY DETECTION AND EXCLUSION SYSTEM (EDES)

The Early Detection and Exclusion System (EDES) which aims at reinforcing the protection of the EU's financial interests was introduced by the 2015 revision of the Financial Regulation[67] and entered into force on 1 January 2016.[68] EDES ensures:

- the early detection of economic operators representing risks to the EU's financial interests;
- the exclusion of unreliable economic operators from obtaining EU funds and/or the imposition of a financial penalty;
- the publication, in the most severe cases, on the Commission's website of information related to the exclusion and/or the financial penalty, in order to reinforce the deterrent effect.

This new system represents a significant improvement in the application of rules on administrative sanctions with respect to fundamental rights, independence and transparency.

EU institutions, agencies and bodies can now only decide to impose sanctions on unreliable economic operators after obtaining a recommendation[69] from the new centralised Panel[70]. The Panel assesses cases where there is no final judgment or final administrative decision. It has no investigative powers. In principle, the panel bases its assessment on facts and findings resulting from audits performed under the responsibility of the competent Commission service or investigations conducted by OLAF.

The Panel is composed of a standing high-level independent Chair who took office on 24 November 2016, two permanent Members representing the Commission, and one ad hoc Member representing the authorising officer of the service[71] requesting the recommendation. The Panel respects the right of defence of the economic operator concerned and applies the principle of proportionality[72].

In 2016, 21 cases relating to 33 economic operators were addressed to the Panel through its permanent secretariat by different authorising services, including 14 from the Commission, five from executive agencies, one from an office and one from a decentralised agency. In 2016 the Panel adopted three recommendations[73].

---

67 Regulation (EU, Euratom) No 2015/1929 of the European Parliament and of the Council of 28 October 2015, OJ L 286, 30.10.2015, p. 1.

68 Also see COM(2017) 351 final, Part 2/2, p. 79-80.

69 For the situations referred to in Article 106(1)(c) to (f) of the Financial Regulation (i.e. grave professional misconduct, fraud, serious breaches of contractual obligations, or irregularities).

70 Panel referred to in Article 108(5) to (10) of the Financial Regulation: Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, OJ L 298, 26.10.2012, p.1, lastly amended by Regulation (EU, Euratom) No 2015/1929 of the European Parliament and of the Council of 28 October 2015, OJ L 286, 30.10.2015, p. 1.

71 The authorising services can be that of EU institutions, agencies and bodies.

72 More information on the Panel is included in the SWD, footnote 1(iv).

73 As of 30 June 2017, the Panel had issued 17 recommendations, three of which were adopted in 2016. In one case, the facts presented to the Panel were not established. In three recommendations, the Panel concluded that no sanctions should be imposed, in the light of the remedial measures taken by the operator. For further details see the SWD on EDES and its annexes.

The Commission must also report on decisions taken by the authorising officers regarding[74]:

- non-exclusion of economic operators where it is indispensable to ensure continuity of service for a limited period and pending the adoption of remedial measures by the economic operators concerned;
- non-publication of information on administrative sanctions on the Commission website, either due to the need for confidentiality of investigations, or to respect the principle of proportionality where a natural person is concerned.

8. FOLLOW-UP TO THE EUROPEAN PARLIAMENT RESOLUTION ON THE PROTECTION OF THE EU'S FINANCIAL INTERESTS — FIGHT AGAINST FRAUD — ANNUAL REPORT 2015

The Commission gives a warm welcome to European Parliament resolution and in particular its support for the recent Commission initiatives in the fight against fraud, the EPPO and the PIF Directive. The Commission notes the generally constructive and positive tone of the resolution and can give a positive follow-up to a good number of the recommendations.

(a) Detection and reporting of irregularities

The Commission stresses that interpreting an increase in irregularities reported by Member States as a negative development, or a decrease as a positive development, is too simplistic and might be misleading.

National Anti-Fraud Strategies are only compulsory for candidate countries. The Commission is encouraging Member States to draft such strategies and supports them by facilitating the exchange of best practices and know-how[75].

For the detection of irregularities, the Commission has already made specific IT tools available to Member States, such as ARACHNE, IMS and the Fraud Risk Assessment Tool.

(b) Revenue — own resources

The Commission stresses that it is implementing the action plan *VAT — Towards a single EU VAT area* and the *20 measures to tackle the VAT gap* published on 6 April 2016[76].

The Commission is committed to fighting trade in illegal and counterfeit goods and is continuously working with the Member States to develop a common risk management framework to ensure equivalent levels of risk-based customs control throughout the EU. The Commission regularly carries out on-the-spot inspections in Member States aiming to ensure that national management and control systems comply with EU customs law.

(c) Expenditure

The Commission takes note of the European Parliament's interest in more detailed information on recovery from legal residents of non-EU countries of mismanaged EU funds under direct management and will try to elaborate more on this specific aspect in next year's report, within the limits of the information available.

---

74 Data provided in the SWD footnote 1(iv).
75 See section 2.2.1.1.
76 See section 3.1.4.

As regards systematic analysis of public procurement errors, sufficient data is required to perform meaningful analysis. In addition to the irregularity reporting related to EU funds, to gather such data, the Commission has taken steps to explore ways of setting up an irregularity database at EU level that would also include public procurement irregularities not related to EU funds. To this end, a feasibility study is planned to be finalised by June 2017.

The Commission will attempt to look in more depth into the high level of fraudulent cases in R&TD, innovation and entrepreneurship[77].

(d) Problems identified and measures required

- *Better reporting:* Regarding the request for uniform reporting principles in all Member States, the Commission is finalising a working document prepared in cooperation with experts from the Member States on the reporting of irregularities, dealing specifically with the issues which have caused the greatest problems.

  The Commission is also of the opinion that the establishment of an anti-fraud coordination service (AFCOS) in all Member States already an important step in the right direction. The AFCOS network could be an appropriate framework for such cooperation to develop.

- *Better controls:* The Commission has already taken specific actions, under the current legal framework, to strengthen its supervisory role, aiming to improve the Member States' management and control systems and reduce the error rates.

  The *Hercule III* programme is currently subject to an independent mid-term evaluation. The Commission will submit the results to the European Parliament and the Council by 31 December 2017.

- *The PIF Directive and EPPO Regulation:* The Commission welcomes the political agreement reached by the Council and European Parliament on the PIF Directive and looks forward to its adoption. It supports the establishment of the EPPO with as many Member States as possible participating, while taking the view that the EPPO could be effective even if not all Member States participate, and supports the current efforts to establish enhanced cooperation.

- *Tobacco:* In response to the European Parliament's request, from today's perspective, the anti-fraud agreements with JTI, BAT and ITL are due to expire in 2022 and 2030 respectively. The Commission has just presented a report on the implementation of the 2013 strategy[78]. This report includes lessons learned with regard to the phenomenon of 'cheap white' cigarettes. On the basis of stakeholders' responses, once its evaluation is complete, the Commission may consider further measures in 2018.

(e) Investigations and the role of OLAF

OLAF has steadily reduced the overall length of its investigation cases from an average of 23.6 months in 2012 to 21 months in 2015.

The Commission is currently evaluating Regulation 883/2013, and will submit an evaluation report to the European Parliament and the Council by October 2017.

---

[77] An in-depth descriptive analysis is available in the SWD, footnote 1(ii). See sections 4.2.2.3 and 4.2.2.4.

[78] COM(2013) 324 final.

The procedure for the appointment of a new OLAF Director-General has already started and the European Parliament and the Council are fully involved.

9. CONCLUSIONS AND RECOMMENDATIONS

Adapting legal and administrative measures to target fraud and irregularities and protect the EU's financial interests is a continuous, ongoing process. As the European integration project moves forward and as the economic international landscape changes, new challenges emerge. Dealing with them requires new instruments and tools.

New trends and patterns have emerged in the ways in which fraud is committed[79]. Fraudsters exploit all opportunities offered by the single market, the globalised economy and new technology.

As shown by this and previous years' reports, Member States have been focusing their efforts in particular on preventive and detection measures. At EU level, European legislators, following specific initiatives by the European Commission, are trying to address the threats posed by the increasing cross-border dimension of fraudulent activities[80]. The establishment of the EPPO will provide a more efficient action to counter those fraudulent activities.

9.1. Revenue

The measures taken at EU level in 2016 further strengthened the protection of the EU's financial interests. The revised Regulation 515/97 serves as a powerful tool for stepping up the fight against customs fraud. The joint customs operations (JCOs) conducted by OLAF continue to be an important source of information for detecting irregularities in transactions involving certain types of goods.

China was the country of origin with the highest level of fraud and irregularities detected both in number of cases and established amounts.

Customs control strategy involves a combination of different controls. Post-clearance controls have been reported as the most effective method of detection, both in terms of the number of cases detected and in terms of amounts. However, controls before and during clearance of goods and inspections carried out by anti-fraud services are indispensable for the detection of certain types of existing fraud, new fraud patterns and, generally, for the detection of all types of fraud.

The TOR inspections carried out in 2016 on control strategy in customs valuation showed that flaws in the management and control of undervalued imports of textiles and footwear may have significant negative consequences for the EU budget. Appropriate risk profiles need to be in place; undervalued imports need to be systematically challenged and customs values corrected in line with EU regulations.

Recommendation 1

Member States are invited to review their management and control strategy with regard to customs valuation. With a view to protecting the EU's financial interests, they are requested

[79] See *The OLAF Report 2016*, pages 12-22: https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2016_en.pdf.

[80] *The OLAF Report 2016*.

to review their national procedures and control systems, in particular by

- including in their risk management system EU-wide risk profiles based on 'clean average prices' and systematically challenging potentially undervalued goods detected by means of risk profiles;
- not releasing the goods unless the declarants of potentially undervalued goods remove the authorities' reasonable doubts about the accuracy of the declared value or provide a guarantee fully covering the customs debt which may be incurred;
- applying the customs valuation methodology provided by customs law.

9.2. Expenditure

As OLAF's investigations have shown, public procurement, which remains the largest channel of public spending, is an attractive marketplace for fraudsters, who use corruption and offshore accounts to facilitate fraud. Many procurement fraud cases are transnational, as the new fraud scenarios often involve a contracting authority from one Member State and bidders from several other Member States who subcontract their works to companies in different countries[81].

Over the last five years, 20 % of all reported irregularities have been related to breaches of public procurement rules, accounting for 30 % of all reported irregular financial amounts.

The Public Procurement Directives should have been transposed by 18 April 2016, to introduce a modernised and streamlined legal framework. Eleven Member States have yet to transpose the three Public Procurement Directives in full.

Recommendation 2

The Commission calls on the Member States to:

- fully transpose Directives 2014/23/EU, 2014/24/EU and 2014/25/EU and put their implementation high on the political agenda;
- enforce the new Directives with a focus on transparency and integrity in public procurement, prevention and detection of fraud and corruption and better monitoring of public procurement systems;
- make use of the possibilities offered by simpler rules and fully realise the potential of e-procurement, which will become mandatory by October 2018.

Looking at the detections reported by national authorities over the last five years for the main expenditure sectors, there is no significant divergence from known patterns. There are small variations in annual programmes, such as those financed by the EAGF, from one year to another. Multiannual programmes follow a different pattern, linked to the programming cycle, with a low number in the first years of the programme increasing towards its closure.

This year's analysis has been further deepened and refined to enable better targeting of specific areas at risk. This was possible because of the quality of the reported data, which is progressively improving. However, more improvements could be made.

Recommendation 3

[81] *The OLAF Report 2016*.

- When reporting irregularities (fraudulent and non-fraudulent), all competent authorities are asked to provide information about the location and, for cohesion and fisheries policies, the priority area of the measures/projects affected.
- When updating irregularities previously reported, Member States are also asked to provide this information if they have not done so already.

Direct payments financed by the EAGF form a relatively low-risk policy area, in terms of fraud and irregularities detected and reported by Member States. Fraud detection in market support measures is higher than in any other policy areas[82].

For EAFRD programmes, the level of irregularities and fraud detection by the competent authorities is similar to that of other shared management areas.

For cohesion policy, analysis of the 2007-2013 programming period points to a higher detection rate for convergence objective programmes. An unusually low detection rate is found for ETC programmes.

Specific priorities are identified as riskier[83].

Recommendation 4

- All Member States are invited to take into account the findings of this report in their fraud risk assessments for the programming period 2014-2020 and to pay particular attention to the priorities highlighted and to interventions which are similar in scope and nature.
- In view of the low detection results for ETC programmes and considering the increasing threat of transnational fraud, Member States are asked to increase their attention and cooperation.
- All Member States are asked to review their fraud risk assessments in relation to market support measures, taking into account the information highlighted in this report.

9.3. The years ahead

There is increasing awareness of the threats posed by fraudsters and the difficulties for single national authorities of coping with the cross-border dimension of the schemes put in place.

This translates into growing willingness to share information and best practices and, within adequate legal frameworks, relevant data. The EU and its Member States are now better equipped than a few years ago and there is increasing commitment to do even more.

In 2017, the Council and European Parliament will adopt the PIF Directive, further harmonising their approaches and embracing the European dimension of combating VAT fraud.

At least twenty Member States will move even further, setting up the EPPO on the basis of 'enhanced cooperation', to specifically address fraud and other crimes affecting the EU's financial interests. When the EPPO is established, there will be two EU bodies conducting investigations in this area. OLAF and the EPPO will need to work in partnership to increase the protection of the EU's financial interests within their respective remits for administrative and respectively criminal investigations. The Commission is committed to maintaining a

[82] See section 4.1.2 for the specific market support measures identified.
[83] See section 4.2.2.

strong OLAF and the ongoing evaluation of Regulation 883/2013 will offer a new opportunity for much needed reflection on how to further strengthen its investigative powers.

ANNEX 1 — IRREGULARITIES REPORTED AS FRAUDULENT IN 2016

The number of irregularities reported as fraudulent measures the results of Member States' work to counter fraud and other illegal activities affecting the EU's financial interests. Therefore, the figures should not be interpreted as indicating the level of fraud in the Member States' territories. Totals differ from Table 1 as Annex 1 does not include third countries (pre-accession) and direct expenditure.

Member States	Agriculture		Internal policies		Cohesion Policy & Fisheries		Pre-Accession		TOTAL EXPENDITURE		REVENUE	
	N	€	N	€	N	€	N	€	N	€	N	€
Belgique/België									0	0	36	9 261 635
Bulgaria	60	12 107 506			5	608 311	2	1 438	67	12 717 255	11	436 567
Ceská republika	14	852 246			37	30 467 351			51	31 319 598	2	140 600
Danmark	4	254 730							4	254 730	5	8 581 374
Deutschland	3	231 833			24	5 508 712			27	5 740 545	93	5 112 337
Eesti	5	1 735 030			9	3 958 131			14	5 693 160	1	0
Éire/Ireland	2	38 015							2	38 015	3	445 574
Ellada					17	3 401 448			17	3 401 448	30	5 594 313
España	10	580 768			7	5 213 134			17	5 793 902	42	2 972 087
France	22	3 375 812							22	3 375 812	83	28 785 027
Hrvatska	10	2 575 582			1	92 949	1	1 006	12	2 669 536	5	342 006
Italia	20	2 707 009							20	2 707 009	22	6 548 191
Kypros									0	0	7	332 446
Latvija	12	987 285			12	10 601 187			24	11 588 471	12	661 068
Lietuva	11	2 087 218			3	359 879			14	2 447 097	10	266 102
Luxembourg									0	0	0	0
Magyarország	24	1 154 158			21	1 844 119			45	2 998 277	2	88 762
Malta									0	0	1	167 040
Nederland					2				2	0	6	261 626
Österreich	2	27 444							2	27 444	14	5 716 261
Polska	97	13 020 953			56	33 262 948			153	46 283 901	92	3 101 717
Portugal	4	6 033 837			11	8 850 629			15	14 884 466	0	0
Romania	108	14 007 684			95	48 222 873	3	1 828 769	206	64 059 326	16	2 943 686
Slovenija					2	660 070			2	660 070	0	0
Slovensko	1	1 483			99	82 310 323			100	82 311 807	3	707 196
Suomi/Finland									0	0	6	119 457
Sverige	1								1	0	2	101 720
United Kingdom	3	80 766			6	1 542 723			9	1 623 489	9	297 577
TOTAL	**413**	**61 859 359**	**0**	**0**	**407**	**236 904 788**	**6**	**1 831 212**	**826**	**300 595 358**	**513**	**82 984 369**

ANNEX 2 — IRREGULARITIES NOT REPORTED AS FRAUDULENT IN 2016

Totals differ from Table 2 as Annex 2 does not include third countries (pre-accession) and direct expenditure.

Member States	Agriculture		Internal policies		Cohesion Policy & Fisheries		Pre-Accession		TOTAL EXPENDITURE		REVENUE	
	N	€	N	€	N	€	N	€	N	€	N	€
Belgique/België	21	442 748			58	3 239 754			79	3 682 502	167	6 679 740
Bulgaria	40	3 713 584			147	33 901 405	33	218 544	220	37 833 532	2	52 150
Ceská republika	42	2 747 385			414	112 332 254			456	115 079 639	80	5 298 065
Danmark	23	3 532 670			14	629 377			37	4 162 048	73	3 720 877
Deutschland	69	3 045 188	1	178 812	260	24 973 617			330	28 197 616	1 489	67 203 731
Eesti	18	713 094			30	1 514 040			48	2 227 134	3	63 879
Éire/Ireland	58	1 380 576			66	8 187 661			124	9 568 237	28	4 561 472
Ellada	108	2 051 777			554	183 569 916			662	185 621 694	8	8 599 250
España	311	21 701 167			2 687	313 038 531			2 998	334 739 698	242	41 581 643
France	207	9 590 957			80	8 970 768			287	18 561 726	234	21 343 994
Hrvatska	23	500 251			7	2 220 316	8	164 783	38	2 885 350	12	589 781
Italia	703	62 263 456			158	50 150 868			861	112 414 324	89	17 235 008
Kypros					7	314 400			7	314 400	0	0
Latvija	15	620 012			179	40 519 313			194	41 139 324	15	2 523 277
Lietuva	92	4 578 948	3	463 921	31	3 901 424			126	8 944 293	16	1 055 777
Luxembourg									0	0	0	0
Magyarország	157	6 434 407			522	105 695 234			679	112 129 641	14	4 126 454
Malta					13	10 955 650			13	10 955 650	0	0
Nederland	44	1 324 326			55	3 760 864			99	5 085 190	517	147 056 822
Österreich	10	257 725			33	2 143 370			43	2 401 095	47	10 535 675
Polska	316	21 718 907			1 077	305 831 256			1 393	327 550 164	74	4 084 106
Portugal	450	18 726 879			171	11 417 924			621	30 144 803	15	6 461 250
Romania	595	41 369 126			557	109 492 694	2	146 543	1 154	151 008 362	41	3 243 332
Slovenija	11	429 072			24	4 348 776			35	4 777 848	1	25 222
Slovensko	35	2 252 313			428	445 621 389			463	447 873 702	13	292 640
Suomi/Finland	21	390 814			15	497 452			36	888 266	34	2 000 001
Sverige	4	93 164			5	212 081			9	305 245	96	6 360 043
United Kingdom	47	1 379 771			498	38 815 499			545	40 195 270	824	89 063 434
TOTAL	**3 420**	**211 258 317**	**4**	**642 732**	**8 090**	**1 826 255 834**	**43**	**529 869**	**11 557**	**2 038 686 753**	**4 134**	**453 757 623**